

As Reported by the Committee of Conference

129th General Assembly

Regular Session

2011-2012

Am. Sub. H. B. No. 487

Representative Amstutz (By Request)

Cosponsors: Representatives Beck, Blair, Buchy, Combs, McClain, Sears,

Sprague, Stebelton, Terhar, Wachtmann

Senators Bacon, Coley, Eklund, Jones, Lehner, Niehaus

—

A B I L L

To amend sections 7.10, 7.16, 9.34, 102.02, 103.05, 1
105.41, 109.57, 109.572, 109.801, 119.032, 121.04, 2
121.08, 121.083, 121.084, 122.07, 123.01, 123.011, 3
123.07, 123.09, 123.10, 123.101, 123.13, 123.14, 4
123.15, 123.152, 123.17, 123.21, 123.48, 123.77, 5
124.04, 124.06, 124.11, 124.12, 124.14, 124.231, 6
124.241, 124.25, 124.26, 124.27, 124.30, 124.31, 7
125.082, 125.14, 126.14, 135.35, 140.01, 140.03, 8
140.05, 140.08, 145.01, 145.012, 149.43, 151.01, 9
152.18, 152.24, 153.01, 153.011, 153.013, 153.02, 10
153.04, 153.06, 153.07, 153.08, 153.09, 153.11, 11
153.12, 153.14, 153.16, 153.17, 153.502, 153.503, 12
153.53, 154.01, 167.04, 173.14, 173.21, 173.23, 13
173.26, 173.27, 173.391, 173.394, 173.40, 173.42, 14
173.45, 173.46, 185.01, 185.02, 185.03, 185.05, 15
185.06, 185.07, 185.09, 185.12, 306.04, 306.36, 16
306.55, 313.121, 313.122, 313.16, 329.01, 329.40, 17
329.41, 329.42, 329.43, 329.44, 329.45, 329.46, 18
330.04, 339.091, 340.03, 340.05, 340.091, 705.18, 19
749.04, 749.05, 749.18, 901.54, 924.51, 955.16, 20
955.26, 991.02, 1121.23, 1155.03, 1163.05, 21

| | |
|--|----|
| 1315.141, 1317.05, 1321.37, 1321.53, 1321.531, | 22 |
| 1322.03, 1322.031, 1345.05, 1501.04, 1502.01, | 23 |
| 1502.02, 1502.03, 1502.04, 1502.05, 1502.06, | 24 |
| 1502.12, 1502.99, 1503.012, 1503.43, 1506.42, | 25 |
| 1509.071, 1509.36, 1533.10, 1541.26, 1551.33, | 26 |
| 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, | 27 |
| 1571.14, 1707.08, 1707.391, 1724.03, 1733.47, | 28 |
| 1751.01, 1751.02, 1751.13, 1761.26, 1901.06, | 29 |
| 1901.18, 1907.13, 1909.11, 1923.01, 1923.02, | 30 |
| 1923.061, 1923.15, 2151.33, 2151.412, 2151.86, | 31 |
| 2152.121, 2152.22, 2301.01, 2301.03, 2301.18, | 32 |
| 2301.20, 2301.21, 2301.22, 2301.23, 2301.24, | 33 |
| 2301.25, 2301.26, 2301.27, 2301.271, 2301.571, | 34 |
| 2305.01, 2305.02, 2307.89, 2317.02, 2317.422, | 35 |
| 2317.56, 2319.27, 2501.02, 2501.16, 2501.17, | 36 |
| 2503.01, 2743.02, 2743.09, 2743.10, 2743.48, | 37 |
| 2746.01, 2746.03, 2746.04, 2901.01, 2903.33, | 38 |
| 2907.29, 2909.21, 2909.28, 2927.023, 2929.01, | 39 |
| 2929.19, 2935.01, 2935.03, 2939.11, 2945.371, | 40 |
| 2945.38, 2945.39, 2945.40, 2945.401, 2961.22, | 41 |
| 2967.03, 2967.05, 2967.14, 2967.19, 2967.191, | 42 |
| 2967.26, 2967.28, 2981.11, 2981.14, 3109.14, | 43 |
| 3125.41, 3301.55, 3304.14, 3304.16, 3304.181, | 44 |
| 3304.182, 3305.01, 3305.02, 3305.03, 3305.04, | 45 |
| 3305.05, 3305.053, 3305.06, 3313.65, 3313.71, | 46 |
| 3313.976, 3313.978, 3313.979, 3318.034, 3318.08, | 47 |
| 3318.10, 3318.30, 3318.31, 3318.36, 3318.37, | 48 |
| 3318.70, 3333.04, 3333.041, 3333.123, 3333.21, | 49 |
| 3333.60, 3333.61, 3333.71, 3333.72 3334.08, | 50 |
| 3345.16, 3345.28, 3345.50, 3345.51, 3345.54, | 51 |
| 3345.69, 3345.692, 3347.03, 3383.02, 3383.07, | 52 |
| 3517.20, 3701.021, 3701.023, 3701.024, 3701.025, | 53 |
| 3701.03, 3701.05, 3701.07, 3701.072, 3701.11, | 54 |

| | |
|---|----|
| 3701.132, 3701.146, 3701.161, 3701.20, 3701.201, | 55 |
| 3701.21, 3701.221, 3701.23, 3701.232, 3701.24, | 56 |
| 3701.241, 3701.242, 3701.248, 3701.341, 3701.342, | 57 |
| 3701.343, 3701.344, 3701.345, 3701.347, 3701.352, | 58 |
| 3701.40, 3701.503, 3701.507, 3701.508, 3701.509, | 59 |
| 3701.57, 3701.63, 3701.74, 3701.87, 3701.881, | 60 |
| 3702.141, 3702.31, 3702.51, 3702.52, 3702.522, | 61 |
| 3702.523, 3702.524, 3702.525, 3702.526, 3702.53, | 62 |
| 3702.531, 3702.54, 3702.55, 3702.56, 3702.57, | 63 |
| 3702.59, 3702.592, 3702.593, 3702.594, 3702.60, | 64 |
| 3702.62, 3703.01, 3703.03, 3703.04, 3703.05, | 65 |
| 3703.06, 3703.07, 3703.08, 3703.10, 3703.21, | 66 |
| 3703.99, 3704.035, 3705.24, 3705.242, 3705.30, | 67 |
| 3706.19, 3709.03, 3709.04, 3709.06, 3709.085, | 68 |
| 3709.09, 3709.092, 3709.32, 3709.35, 3710.01, | 69 |
| 3710.02, 3710.04, 3710.05, 3710.051, 3710.06, | 70 |
| 3710.07, 3710.08, 3710.09, 3710.10, 3710.12, | 71 |
| 3710.13, 3710.17, 3711.04, 3711.06, 3711.08, | 72 |
| 3711.12, 3711.21, 3712.03, 3712.04, 3712.09, | 73 |
| 3713.01, 3713.02, 3713.03, 3713.04, 3713.05, | 74 |
| 3713.06, 3713.07, 3713.08, 3713.09, 3713.10, | 75 |
| 3714.073, 3715.01, 3715.025, 3715.60, 3715.61, | 76 |
| 3715.62, 3715.68, 3715.87, 3716.01, 3716.03, | 77 |
| 3717.01, 3717.04, 3717.05, 3717.07, 3717.45, | 78 |
| 3717.51, 3718.02, 3718.021, 3718.022, 3718.05, | 79 |
| 3718.06, 3718.07, 3718.09, 3721.01, 3721.011, | 80 |
| 3721.02, 3721.03, 3721.032, 3721.04, 3721.07, | 81 |
| 3721.071, 3721.121, 3721.13, 3721.21, 3721.28, | 82 |
| 3721.29, 3721.50, 3721.51, 3723.06, 3723.07, | 83 |
| 3723.09, 3725.02, 3727.01, 3727.42, 3729.01, | 84 |
| 3729.02, 3729.03, 3729.04, 3729.07, 3729.08, | 85 |
| 3730.10, 3733.02, 3733.021, 3733.022, 3733.024, | 86 |
| 3733.025, 3733.03, 3733.04, 3733.05, 3733.06, | 87 |

| | |
|---|-----|
| 3733.07, 3733.08, 3733.09, 3733.091, 3733.10, | 88 |
| 3733.101, 3733.11, 3733.12, 3733.121, 3733.122, | 89 |
| 3733.123, 3733.13, 3733.14, 3733.15, 3733.17, | 90 |
| 3733.18, 3733.19, 3733.20, 3733.41, 3733.42, | 91 |
| 3734.01, 3734.131, 3734.15, 3734.51, 3734.55, | 92 |
| 3734.79, 3734.82, 3735.37, 3737.83, 3737.841, | 93 |
| 3742.01, 3742.02, 3742.03, 3742.04, 3742.05, | 94 |
| 3742.30, 3742.31, 3742.32, 3742.47, 3742.50, | 95 |
| 3743.04, 3743.06, 3743.19, 3743.25, 3745.01, | 96 |
| 3745.05, 3745.11, 3745.112, 3748.04, 3748.05, | 97 |
| 3748.07, 3748.10, 3748.12, 3748.13, 3748.15, | 98 |
| 3748.20, 3749.02, 3749.03, 3749.04, 3752.06, | 99 |
| 3770.06, 3781.03, 3781.06, 3781.102, 3781.11, | 100 |
| 3781.112, 3783.05, 3791.02, 3791.04, 3791.05, | 101 |
| 3791.07, 3791.11, 3791.12, 3793.04, 3793.09, | 102 |
| 3905.36, 4104.01, 4104.02, 4104.06, 4104.07, | 103 |
| 4104.08, 4104.09, 4104.10, 4104.101, 4104.12, | 104 |
| 4104.15, 4104.16, 4104.17, 4104.18, 4104.19, | 105 |
| 4104.21, 4104.33, 4104.42, 4104.43, 4104.44, | 106 |
| 4104.48, 4105.01, 4105.02, 4105.03, 4105.04, | 107 |
| 4105.05, 4105.06, 4105.09, 4105.11, 4105.12, | 108 |
| 4105.13, 4105.15, 4105.16, 4105.17, 4105.191, | 109 |
| 4105.20, 4105.21, 4115.10, 4115.101, 4121.123, | 110 |
| 4121.30, 4123.20, 4123.35, 4123.54, 4123.57, | 111 |
| 4141.35, 4163.07, 4169.02, 4169.03, 4169.04, | 112 |
| 4171.04, 4301.30, 4303.181, 4303.22, 4313.02, | 113 |
| 4501.01, 4501.06, 4501.271, 4503.031, 4503.061, | 114 |
| 4503.062, 4503.81, 4506.01, 4506.03, 4506.22, | 115 |
| 4506.25, 4507.01, 4507.011, 4507.12, 4507.51, | 116 |
| 4508.02, 4510.037, 4510.038, 4511.191, 4511.78, | 117 |
| 4511.98, 4513.18, 4513.263, 4513.50, 4712.01, | 118 |
| 4723.481, 4730.42, 4731.052, 4731.22, 4735.01, | 119 |
| 4735.02, 4735.052, 4735.10, 4735.13, 4735.14, | 120 |

| | |
|--|-----|
| 4735.141, 4735.142, 4735.74, 4736.01, 4740.03, | 121 |
| 4740.11, 4740.14, 4743.05, 4763.05, 4765.07, | 122 |
| 4773.08, 4781.01, 4781.02, 4781.04, 4781.07, | 123 |
| 4781.09, 4781.14, 4781.15, 4781.16, 4781.99, | 124 |
| 4905.01, 4905.02, 4905.03, 4905.05, 4905.06, | 125 |
| 4905.402, 4905.54, 4905.57, 4905.58, 4905.84, | 126 |
| 4905.90, 4907.01, 4907.02, 4907.04, 4907.08, | 127 |
| 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, | 128 |
| 4907.49, 4907.57, 4907.59, 4907.60, 4907.61, | 129 |
| 4907.62, 4909.01, 4909.02, 4909.03, 4909.17, | 130 |
| 4909.22, 4909.24, 4909.28, 4911.01, 4927.01, | 131 |
| 4929.01, 4929.02, 4929.041, 4933.18, 4933.19, | 132 |
| 4939.01, 4953.04, 4961.03, 4965.54, 5101.01, | 133 |
| 5101.46, 5101.60, 5101.61, 5104.012, 5104.013, | 134 |
| 5104.051, 5104.09, 5104.37, 5107.05, 5107.16, | 135 |
| 5107.17, 5111.01, 5111.013, 5111.014, 5111.0115, | 136 |
| 5111.0120, 5111.031, 5111.032, 5111.033, 5111.034, | 137 |
| 5111.06, 5111.091, 5111.113, 5111.16, 5111.161, | 138 |
| 5111.171, 5111.20, 5111.222, 5111.23, 5111.242, | 139 |
| 5111.254, 5111.862, 5111.874, 5111.877, 5111.878, | 140 |
| 5111.89, 5111.894, 5111.941, 5111.97, 5112.31, | 141 |
| 5112.33, 5112.341, 5112.37, 5112.371, 5112.39, | 142 |
| 5119.22, 5119.61, 5119.69, 5119.691, 5119.99, | 143 |
| 5120.036, 5120.105, 5120.132, 5120.66, 5122.31, | 144 |
| 5123.01, 5123.033, 5123.042, 5123.044, 5123.0412, | 145 |
| 5123.0414, 5123.0415, 5123.081, 5123.16, 5123.161, | 146 |
| 5123.162, 5123.163, 5123.164, 5123.166, 5123.169, | 147 |
| 5123.171, 5123.19, 5123.31, 5123.38, 5123.41, | 148 |
| 5123.50, 5123.51, 5123.542, 5123.61, 5123.89, | 149 |
| 5126.023, 5126.0220, 5126.0221, 5126.043, | 150 |
| 5126.046, 5126.055, 5126.13, 5126.15, 5126.20, | 151 |
| 5126.21, 5126.22, 5126.25, 5126.251, 5126.51, | 152 |
| 5139.41, 5139.43, 5149.311, 5155.14, 5501.04, | 153 |

| | |
|--|-----|
| 5501.07, 5502.01, 5502.011, 5503.02, 5503.04, | 154 |
| 5503.21, 5503.22, 5503.23, 5503.34, 5701.13, | 155 |
| 5703.05, 5705.08, 5705.19, 5705.25, 5705.28, | 156 |
| 5705.30, 5705.34, 5705.35, 5705.38, 5709.084, | 157 |
| 5709.12, 5709.121, 5709.212, 5709.62, 5709.63, | 158 |
| 5709.632, 5709.73, 5713.03, 5719.13, 5725.14, | 159 |
| 5725.15, 5725.16, 5725.17, 5725.22, 5725.221, | 160 |
| 5731.39, 5733.064, 5739.01, 5739.02, 5743.03, | 161 |
| 5743.031, 5751.033, 5751.12, 5753.03, 6109.21, | 162 |
| 6111.46, 6117.39, and 6119.11; to amend, for the | 163 |
| purpose of adopting new section numbers as | 164 |
| indicated in parentheses, sections 123.011 | 165 |
| (123.22), 123.024 (123.06), 123.04 (123.02), | 166 |
| 123.07 (123.03), 123.08 (123.18), 123.09 (123.04), | 167 |
| 123.10 (123.05), 123.101 (123.27), 123.11 | 168 |
| (123.07), 123.13 (123.08), 123.14 (123.09), 123.15 | 169 |
| (123.10), 123.17 (123.24), 123.21 (123.11), 123.46 | 170 |
| (123.12), 123.47 (123.13), 123.48 (123.14), 123.49 | 171 |
| (123.15), 123.77 (123.17), 185.01 (3701.92), | 172 |
| 185.02 (3701.923), 185.03 (3701.924), 185.05 | 173 |
| (3701.925), 185.06 (3701.926), 185.07 (3701.927), | 174 |
| 185.09 (3701.928), 185.12 (3701.929), 1502.01 | 175 |
| (3736.01), 1502.02 (3736.03), 1502.03 (3736.02), | 176 |
| 1502.04 (3736.04), 1502.05 (3736.05), 1502.06 | 177 |
| (3736.06), 1502.07 (3736.07), 1502.12 (3734.822), | 178 |
| 1502.99 (3736.99), 3702.522 (3702.521), 3702.523 | 179 |
| (3702.522), 3702.524 (3702.523), 3702.525 | 180 |
| (3702.524), 3702.526 (3702.525), 3733.02 | 181 |
| (4781.26), 3733.021 (4781.31), 3733.022 (4781.32), | 182 |
| 3733.024 (4781.33), 3733.025 (4781.34), 3733.03 | 183 |
| (4781.27), 3733.04 (4781.28), 3733.05 (4781.29), | 184 |
| 3733.06 (4781.30), 3733.07 (4781.301), 3733.08 | 185 |
| (4781.35), 3733.09 (4781.36), 3733.091 (4781.37), | 186 |

| | |
|---|-----|
| 3733.10 (4781.38), 3733.101 (4781.39), 3733.11 | 187 |
| (4781.40), 3733.12 (4781.41), 3733.121 (4781.42), | 188 |
| 3733.122 (4781.43), 3733.123 (4781.44), 3733.13 | 189 |
| (4781.45), 3733.14 (4781.46), 3733.15 (4781.47), | 190 |
| 3733.16 (4781.48), 3733.17 (4781.49), 3733.18 | 191 |
| (4781.50), 3733.19 (4781.51), 3733.20 (4781.52), | 192 |
| 5123.169 (5123.1610), 5503.21 (5502.05), 5503.22 | 193 |
| (5502.06), and 5503.23 (5502.07); to enact new | 194 |
| sections 123.21, 3701.33, 3701.34, 3702.526, | 195 |
| 4905.80, 4905.81, 4921.01, 4921.03, 4921.05, | 196 |
| 4921.07, 4921.09, 4921.11, 4921.13, 4921.15, | 197 |
| 4921.16, 4921.19, 4921.25, 4921.30, 4921.32, | 198 |
| 4921.36, 4921.38, 4923.01, 4923.02, 4923.04, | 199 |
| 4923.06, 4923.07, 4923.09, 4923.11, 4923.99, | 200 |
| 5123.169, and 5123.192 and sections 101.312, | 201 |
| 121.35, 122.862, 123.20, 123.201, 123.23, 123.26, | 202 |
| 127.163, 127.164, 166.35, 191.01, 191.02, 191.04, | 203 |
| 191.06, 505.59, 901.53, 1533.081, 3302.043, | 204 |
| 3305.031, 3305.032, 3356.10, 3366.05, 3375.405, | 205 |
| 3701.77, 3701.771, 3701.772, 3701.773, 3701.774, | 206 |
| 3701.775, 3701.921, 3701.922, 3701.93, 3701.931, | 207 |
| 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, | 208 |
| 3701.937, 3701.938, 3701.9310, 3701.9311, | 209 |
| 3701.9312, 3701.9314, 3702.511, 3702.527, | 210 |
| 3793.041, 3798.01, 3798.02, 3798.03, 3798.04, | 211 |
| 3798.06, 3798.07, 3798.08, 3798.10, 3798.12, | 212 |
| 3798.13, 3798.14, 3798.15, 3798.16, 4731.297, | 213 |
| 4781.121, 4781.54, 4921.21, 4921.34, 4923.15, | 214 |
| 4929.042, 5111.246, 5111.946, 5111.96, 5112.331, | 215 |
| 5139.511, 5705.252, 5705.72, and 5713.012; and to | 216 |
| repeal sections 185.04, 185.08, 185.10, 185.11, | 217 |
| 2301.19, 2909.32, 2909.33, 2909.34, 3301.68, | 218 |
| 3333.049, 3333.0411, 3333.33, 3333.70, 3333.80, | 219 |

| | |
|---|-----|
| 3334.111, 3354.23, 3701.02, 3701.032, 3701.12, | 220 |
| 3701.33, 3701.34, 3701.35, 3702.521, 3702.5210, | 221 |
| 3702.5211, 3702.5212, 3702.5213, 3702.58, | 222 |
| 3702.591, 3733.01, 3733.031, 3745.111, 3781.183, | 223 |
| 3791.043, 4113.11, 4121.18, 4905.80, 4905.801, | 224 |
| 4905.81, 4905.82, 4905.83, 4919.75, 4919.76, | 225 |
| 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, | 226 |
| 4921.02, 4921.03, 4921.04, 4921.05, 4921.06, | 227 |
| 4921.07, 4921.08, 4921.09, 4921.10, 4921.101, | 228 |
| 4921.11, 4921.12, 4921.13, 4921.14, 4921.15, | 229 |
| 4921.16, 4921.17, 4921.18, 4921.19, 4921.20, | 230 |
| 4921.23, 4921.24, 4921.25, 4921.26, 4921.27, | 231 |
| 4921.28, 4921.30, 4921.31, 4921.32, 4921.35, | 232 |
| 4921.36, 4921.37, 4921.38, 4921.39, 4921.40, | 233 |
| 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, | 234 |
| 4923.05, 4923.06, 4923.07, 4923.08, 4923.09, | 235 |
| 4923.10, 4923.11, 4923.12, 4923.13, 4923.14, | 236 |
| 4923.17, 4923.20, 4923.26, 4923.99, 5101.97, | 237 |
| 5111.651, 5119.614, 5119.692, 5119.693, 5119.70, | 238 |
| 5119.701, 5119.71, 5119.711, 5119.712, 5119.72, | 239 |
| 5119.73, 5119.731, 5119.74, 5119.75, 5119.76, | 240 |
| 5119.77, 5119.78, 5119.79, 5119.80, 5119.81, | 241 |
| 5119.82, 5119.83, 5119.84, 5119.85, 5119.86, | 242 |
| 5119.87, 5119.88, 5123.082, 5123.083, 5123.192, | 243 |
| 5126.0222, 5126.252, 5126.26, 5126.27, 5126.28, | 244 |
| 5126.281, 5126.29, and 5501.09 of the Revised | 245 |
| Code; to repeal section 3356.10 of the Revised | 246 |
| Code five years after the effective date of that | 247 |
| section; to amend Section 753.20 of Am. Sub. H.B. | 248 |
| 114 of the 129th General Assembly, Section 205.10 | 249 |
| of Am. Sub. H.B. 114 of the 129th General | 250 |
| Assembly, as subsequently amended, Section 201 of | 251 |
| Sub. H.B. 123 of the 129th General Assembly, | 252 |

| | |
|--|-----|
| Section 1 of H.B. 124 of the 129th General | 253 |
| Assembly, Sections 205.10, 207.10, 207.10.80, | 254 |
| 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, | 255 |
| 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, | 256 |
| 243.10, 245.10, 261.10.40, 261.10.70, 261.20.40, | 257 |
| 261.20.50, 261.20.60, 261.20.80, 261.20.90, | 258 |
| 261.30.10, 261.30.20, 261.30.30, 261.30.40, | 259 |
| 261.30.60, 261.30.70, 261.30.80, 261.30.90, | 260 |
| 261.40.10, 263.10, 263.10.30, 263.10.90, | 261 |
| 263.20.40, 263.20.70, 267.10, 267.10.10, | 262 |
| 267.10.20, 267.10.40, 267.30.20, 267.30.40, | 263 |
| 267.40.40, 279.10, 283.10, 285.10, 287.10, 291.10, | 264 |
| 305.10, 307.10, 309.10, 309.30.10, 309.30.30, | 265 |
| 309.30.33, 309.30.53, 309.30.73, 309.35.73, | 266 |
| 309.60.20, 313.10, 315.10, 323.10, 327.10, 337.10, | 267 |
| 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, | 268 |
| 371.30.30, 371.50.61, 371.50.65, 371.60.80, | 269 |
| 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, | 270 |
| 415.10, 503.50, 521.70, 701.40, and 753.25 of Am. | 271 |
| Sub. H.B. 153 of the 129th General Assembly, | 272 |
| Sections 247.10, 261.10, and 261.20.93 of Am. Sub. | 273 |
| H.B. 153 of the 129th General Assembly, as | 274 |
| subsequently amended, Section 8 of Sub. H.B. 369 | 275 |
| of the 129th General Assembly, Section 205.80 of | 276 |
| Sub. H.B. 482 of the 129th General Assembly, | 277 |
| Section 4 of Sub. S.B. 171 of the 129th General | 278 |
| Assembly, Section 3 of Am. Sub. S.B. 160 of the | 279 |
| 121st General Assembly, and Section 3 of Am. Sub. | 280 |
| S.B. 38 of the 120th General Assembly; to repeal | 281 |
| Sections 261.10.10, 261.10.20, 261.10.30, | 282 |
| 261.10.50, 261.10.60, 261.10.80, 261.10.90, | 283 |
| 261.20.10, 261.20.20, 261.20.70, 261.30.50, and | 284 |
| 263.10.80 of Am. Sub. H.B. 153 of the 129th | 285 |

General Assembly; and Section 2 of Am. Sub. S.B. 286
63 of the 121st General Assembly and to amend the 287
versions of sections 5122.31, 5123.19, and 5123.61 288
of the Revised Code that are scheduled to take 289
effect October 1, 2012, to continue the provisions 290
of this act on and after that effective date; to 291
make operating and other appropriations and to 292
provide authorization and conditions for the 293
operation of state programs. 294

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

Section 101.01. That sections 7.10, 7.16, 9.34, 102.02, 295
103.05, 105.41, 109.57, 109.572, 109.801, 119.032, 121.04, 121.08, 296
121.083, 121.084, 122.07, 123.01, 123.011, 123.07, 123.09, 123.10, 297
123.101, 123.13, 123.14, 123.15, 123.152, 123.17, 123.21, 123.48, 298
123.77, 124.04, 124.06, 124.11, 124.12, 124.14, 124.231, 124.241, 299
124.25, 124.26, 124.27, 124.30, 124.31, 125.082, 125.14, 126.14, 300
135.35, 140.01, 140.03, 140.05, 140.08, 145.01, 145.012, 149.43, 301
151.01, 152.18, 152.24, 153.01, 153.011, 153.013, 153.02, 153.04, 302
153.06, 153.07, 153.08, 153.09, 153.11, 153.12, 153.14, 153.16, 303
153.17, 153.502, 153.503, 153.53, 154.01, 167.04, 173.14, 173.21, 304
173.23, 173.26, 173.27, 173.391, 173.394, 173.40, 173.42, 173.45, 305
173.46, 185.01, 185.02, 185.03, 185.05, 185.06, 185.07, 185.09, 306
185.12, 306.04, 306.36, 306.55, 313.121, 313.122, 313.16, 329.01, 307
329.40, 329.41, 329.42, 329.43, 329.44, 329.45, 329.46, 330.04, 308
339.091, 340.03, 340.05, 340.091, 705.18, 749.04, 749.05, 749.18, 309
901.54, 924.51, 955.16, 955.26, 991.02, 1121.23, 1155.03, 1163.05, 310
1315.141, 1317.05, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 311
1345.05, 1501.04, 1502.01, 1502.02, 1502.03, 1502.04, 1502.05, 312
1502.06, 1502.12, 1502.99, 1503.012, 1503.43, 1506.42, 1509.071, 313
1509.36, 1533.10, 1541.26, 1551.33, 1555.02, 1555.03, 1555.04, 314
1555.05, 1555.06, 1571.14, 1707.08, 1707.391, 1724.03, 1733.47, 315

1751.01, 1751.02, 1751.13, 1761.26, 1901.06, 1901.18, 1907.13, 316
1909.11, 1923.01, 1923.02, 1923.061, 1923.15, 2151.33, 2151.412, 317
2151.86, 2152.121, 2152.22, 2301.01, 2301.03, 2301.18, 2301.20, 318
2301.21, 2301.22, 2301.23, 2301.24, 2301.25, 2301.26, 2301.27, 319
2301.271, 2301.571, 2305.01, 2305.02, 2307.89, 2317.02, 2317.422, 320
2317.56, 2319.27, 2501.02, 2501.16, 2501.17, 2503.01, 2743.02, 321
2743.09, 2743.10, 2743.48, 2746.01, 2746.03, 2746.04, 2901.01, 322
2903.33, 2907.29, 2909.21, 2909.28, 2927.023, 2929.01, 2929.19, 323
2935.01, 2935.03, 2939.11, 2945.371, 2945.38, 2945.39, 2945.40, 324
2945.401, 2961.22, 2967.03, 2967.05, 2967.14, 2967.19, 2967.191, 325
2967.26, 2967.28, 2981.11, 2981.14, 3109.14, 3125.41, 3301.55, 326
3304.14, 3304.16, 3304.181, 3304.182, 3305.01, 3305.02, 3305.03, 327
3305.04, 3305.05, 3305.053, 3305.06, 3313.65, 3313.71, 3313.976, 328
3313.978, 3313.979, 3318.034, 3318.08, 3318.10, 3318.30, 3318.31, 329
3318.36, 3318.37, 3318.70, 3333.04, 3333.041, 3333.123, 3333.21, 330
3333.60, 3333.61, 3333.71, 3333.72, 3334.08, 3345.16, 3345.28, 331
3345.50, 3345.51, 3345.54, 3345.69, 3345.692, 3347.03, 3383.02, 332
3383.07, 3517.20, 3701.021, 3701.023, 3701.024, 3701.025, 3701.03, 333
3701.05, 3701.07, 3701.072, 3701.11, 3701.132, 3701.146, 3701.161, 334
3701.20, 3701.201, 3701.21, 3701.221, 3701.23, 3701.232, 3701.24, 335
3701.241, 3701.242, 3701.248, 3701.341, 3701.342, 3701.343, 336
3701.344, 3701.345, 3701.347, 3701.352, 3701.40, 3701.503, 337
3701.507, 3701.508, 3701.509, 3701.57, 3701.63, 3701.74, 3701.87, 338
3701.881, 3702.141, 3702.31, 3702.51, 3702.52, 3702.522, 3702.523, 339
3702.524, 3702.525, 3702.526, 3702.53, 3702.531, 3702.54, 3702.55, 340
3702.56, 3702.57, 3702.59, 3702.592, 3702.593, 3702.594, 3702.60, 341
3702.62, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 342
3703.08, 3703.10, 3703.21, 3703.99, 3704.035, 3705.24, 3705.242, 343
3705.30, 3706.19, 3709.03, 3709.04, 3709.06, 3709.085, 3709.09, 344
3709.092, 3709.32, 3709.35, 3710.01, 3710.02, 3710.04, 3710.05, 345
3710.051, 3710.06, 3710.07, 3710.08, 3710.09, 3710.10, 3710.12, 346
3710.13, 3710.17, 3711.04, 3711.06, 3711.08, 3711.12, 3711.21, 347

| | |
|--|-----|
| 3712.03, 3712.04, 3712.09, 3713.01, 3713.02, 3713.03, 3713.04, | 348 |
| 3713.05, 3713.06, 3713.07, 3713.08, 3713.09, 3713.10, 3714.073, | 349 |
| 3715.01, 3715.025, 3715.60, 3715.61, 3715.62, 3715.68, 3715.87, | 350 |
| 3716.01, 3716.03, 3717.01, 3717.04, 3717.05, 3717.07, 3717.45, | 351 |
| 3717.51, 3718.02, 3718.021, 3718.022, 3718.05, 3718.06, 3718.07, | 352 |
| 3718.09, 3721.01, 3721.011, 3721.02, 3721.03, 3721.032, 3721.04, | 353 |
| 3721.07, 3721.071, 3721.121, 3721.13, 3721.21, 3721.28, 3721.29, | 354 |
| 3721.50, 3721.51, 3723.06, 3723.07, 3723.09, 3725.02, 3727.01, | 355 |
| 3727.42, 3729.01, 3729.02, 3729.03, 3729.04, 3729.07, 3729.08, | 356 |
| 3730.10, 3733.02, 3733.021, 3733.022, 3733.024, 3733.025, 3733.03, | 357 |
| 3733.04, 3733.05, 3733.06, 3733.07, 3733.08, 3733.09, 3733.091, | 358 |
| 3733.10, 3733.101, 3733.11, 3733.12, 3733.121, 3733.122, 3733.123, | 359 |
| 3733.13, 3733.14, 3733.15, 3733.17, 3733.18, 3733.19, 3733.20, | 360 |
| 3733.41, 3733.42, 3734.01, 3734.131, 3734.15, 3734.51, 3734.55, | 361 |
| 3734.79, 3734.82, 3735.37, 3737.83, 3737.841, 3742.01, 3742.02, | 362 |
| 3742.03, 3742.04, 3742.05, 3742.30, 3742.31, 3742.32, 3742.47, | 363 |
| 3742.50, 3743.04, 3743.06, 3743.19, 3743.25, 3745.01, 3745.05, | 364 |
| 3745.11, 3745.112, 3748.04, 3748.05, 3748.07, 3748.10, 3748.12, | 365 |
| 3748.13, 3748.15, 3748.20, 3749.02, 3749.03, 3749.04, 3752.06, | 366 |
| 3770.06, 3781.03, 3781.06, 3781.102, 3781.11, 3781.112, 3783.05, | 367 |
| 3791.02, 3791.04, 3791.05, 3791.07, 3791.11, 3791.12, 3793.04, | 368 |
| 3793.09, 3905.36, 4104.01, 4104.02, 4104.06, 4104.07, 4104.08, | 369 |
| 4104.09, 4104.10, 4104.101, 4104.12, 4104.15, 4104.16, 4104.17, | 370 |
| 4104.18, 4104.19, 4104.21, 4104.33, 4104.42, 4104.43, 4104.44, | 371 |
| 4104.48, 4105.01, 4105.02, 4105.03, 4105.04, 4105.05, 4105.06, | 372 |
| 4105.09, 4105.11, 4105.12, 4105.13, 4105.15, 4105.16, 4105.17, | 373 |
| 4105.191, 4105.20, 4105.21, 4115.10, 4115.101, 4121.123, 4121.30, | 374 |
| 4123.20, 4123.35, 4123.54, 4123.57, 4141.35, 4163.07, 4169.02, | 375 |
| 4169.03, 4169.04, 4171.04, 4301.30, 4303.181, 4303.22, 4313.02, | 376 |
| 4501.01, 4501.06, 4501.271, 4503.031, 4503.061, 4503.062, 4503.81, | 377 |
| 4506.01, 4506.03, 4506.22, 4506.25, 4507.01, 4507.011, 4507.12, | 378 |
| 4507.51, 4508.02, 4510.037, 4510.038, 4511.191, 4511.78, 4511.98, | 379 |

4513.18, 4513.263, 4513.50, 4712.01, 4723.481, 4730.42, 4731.052, 380
4731.22, 4735.01, 4735.02, 4735.052, 4735.10, 4735.13, 4735.14, 381
4735.141, 4735.142, 4735.74, 4736.01, 4740.03, 4740.11, 4740.14, 382
4743.05, 4763.05, 4765.07, 4773.08, 4781.01, 4781.02, 4781.04, 383
4781.07, 4781.09, 4781.14, 4781.15, 4781.16, 4781.99, 4905.01, 384
4905.02, 4905.03, 4905.05, 4905.06, 4905.402, 4905.54, 4905.57, 385
4905.58, 4905.84, 4905.90, 4907.01, 4907.02, 4907.04, 4907.08, 386
4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 4907.49, 4907.57, 387
4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 4909.02, 4909.03, 388
4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 4927.01, 4929.01, 389
4929.02, 4929.041, 4933.18, 4933.19, 4939.01, 4953.04, 4961.03, 390
4965.54, 5101.01, 5101.46, 5101.60, 5101.61, 5104.012, 5104.013, 391
5104.051, 5104.09, 5104.37, 5107.05, 5107.16, 5107.17, 5111.01, 392
5111.013, 5111.014, 5111.0115, 5111.0120, 5111.031, 5111.032, 393
5111.033, 5111.034, 5111.06, 5111.091, 5111.113, 5111.16, 394
5111.161, 5111.171, 5111.20, 5111.222, 5111.23, 5111.242, 395
5111.254, 5111.862, 5111.874, 5111.877, 5111.878, 5111.89, 396
5111.894, 5111.941, 5111.97, 5112.31, 5112.33, 5112.341, 5112.37, 397
5112.371, 5112.39, 5119.22, 5119.61, 5119.69, 5119.691, 5119.99, 398
5120.036, 5120.105, 5120.132, 5120.66, 5122.31, 5123.01, 5123.033, 399
5123.042, 5123.044, 5123.0412, 5123.0414, 5123.0415, 5123.081, 400
5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 401
5123.169, 5123.171, 5123.19, 5123.31, 5123.38, 5123.41, 5123.50, 402
5123.51, 5123.542, 5123.61, 5123.89, 5126.023, 5126.0220, 403
5126.0221, 5126.043, 5126.046, 5126.055, 5126.13, 5126.15, 404
5126.20, 5126.21, 5126.22, 5126.25, 5126.251, 5126.51, 5139.41, 405
5139.43, 5149.311, 5155.14, 5501.04, 5501.07, 5502.01, 5502.011, 406
5503.02, 5503.04, 5503.21, 5503.22, 5503.23, 5503.34, 5701.13, 407
5703.05, 5705.08, 5705.19, 5705.25, 5705.28, 5705.30, 5705.34, 408
5705.35, 5705.38, 5709.084, 5709.12, 5709.121, 5709.212, 5709.62, 409
5709.63, 5709.632, 5709.73, 5713.03, 5719.13, 5725.14, 5725.15, 410
5725.16, 5725.17, 5725.22, 5725.221, 5731.39, 5733.064, 5739.01, 411

5739.02, 5743.03, 5743.031, 5751.033, 5751.12, 5753.03, 6109.21, 412
6111.46, 6117.39, and 6119.11 be amended; sections 123.011 413
(123.22), 123.024 (123.06), 123.04 (123.02), 123.07 (123.03), 414
123.08 (123.18), 123.09 (123.04), 123.10 (123.05), 123.101 415
(123.27), 123.11 (123.07), 123.13 (123.08), 123.14 (123.09), 416
123.15 (123.10), 123.17 (123.24), 123.21 (123.11), 123.46 417
(123.12), 123.47 (123.13), 123.48 (123.14), 123.49 (123.15), 418
123.77 (123.17), 185.01 (3701.92), 185.02 (3701.923), 185.03 419
(3701.924), 185.05 (3701.925), 185.06 (3701.926), 185.07 420
(3701.927), 185.09 (3701.928), 185.12 (3701.929), 1502.01 421
(3736.01), 1502.02 (3736.03), 1502.03 (3736.02), 1502.04 422
(3736.04), 1502.05 (3736.05), 1502.06 (3736.06), 1502.07 423
(3736.07), 1502.12 (3734.822), 1502.99 (3736.99), 3702.522 424
(3702.521), 3702.523 (3702.522), 3702.524 (3702.523), 3702.525 425
(3702.524), 3702.526 (3702.525), 3733.02 (4781.26), 3733.021 426
(4781.31), 3733.022 (4781.32), 3733.024 (4781.33), 3733.025 427
(4781.34), 3733.03 (4781.27), 3733.04 (4781.28), 3733.05 428
(4781.29), 3733.06 (4781.30), 3733.07 (4781.301), 3733.08 429
(4781.35), 3733.09 (4781.36), 3733.091 (4781.37), 3733.10 430
(4781.38), 3733.101 (4781.39), 3733.11 (4781.40), 3733.12 431
(4781.41), 3733.121 (4781.42), 3733.122 (4781.43), 3733.123 432
(4781.44), 3733.13 (4781.45), 3733.14 (4781.46), 3733.15 433
(4781.47), 3733.16 (4781.48), 3733.17 (4781.49), 3733.18 434
(4781.50), 3733.19 (4781.51), 3733.20 (4781.52), 5123.169 435
(5123.1610), 5503.21 (5502.05), 5503.22 (5502.06), and 5503.23 436
(5502.07) be amended for the purpose of adopting new section 437
numbers as indicated in parentheses; and new sections 123.21, 438
3701.33, 3701.34, 3702.526, 4905.80, 4905.81, 4921.01, 4921.03, 439
4921.05, 4921.07, 4921.09, 4921.11, 4921.13, 4921.15, 4921.16, 440
4921.19, 4921.25, 4921.30, 4921.32, 4921.36, 4921.38, 4923.01, 441
4923.02, 4923.04, 4923.06, 4923.07, 4923.09, 4923.11, 4923.99, 442
5123.169, and 5123.192 and sections 101.312, 121.35, 122.862, 443

123.20, 123.201, 123.23, 123.26, 127.163, 127.164, 166.35, 191.01, 444
191.02, 191.04, 191.06, 505.59, 901.53, 1533.081, 3302.043, 445
3305.031, 3305.032, 3356.10, 3366.05, 3375.405, 3701.77, 3701.771, 446
3701.772, 3701.773, 3701.774, 3701.775, 3701.921, 3701.922, 447
3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 448
3701.936, 3701.937, 3701.938, 3701.9310, 3701.9311, 3701.9312, 449
3701.9314, 3702.511, 3702.527, 3793.041, 3798.01, 3798.02, 450
3798.03, 3798.04, 3798.06, 3798.07, 3798.08, 3798.10, 3798.12, 451
3798.13, 3798.14, 3798.15, 3798.16, 4731.297, 4781.121, 4781.54, 452
4921.21, 4921.34, 4923.15, 4929.042, 5111.246, 5111.946, 5111.96, 453
5112.331, 5139.511, 5705.252, 5705.72, and 5713.012 of the Revised 454
Code be enacted to read as follows: 455

Sec. 7.10. For the publication of advertisements, notices, 456
and proclamations, except those relating to proposed amendments to 457
the Ohio Constitution, required to be published by a public 458
officer of the state, a benevolent or other public institution, a 459
trustee, assignee, executor, or administrator, or by or in any 460
court of record, except when the rate is otherwise fixed by law, 461
publishers of newspapers may charge and receive for such 462
advertisements, notices, and proclamations rates charged on annual 463
contracts by them for a like amount of space to other advertisers 464
who advertise in its general display advertising columns. 465

For the publication of advertisements, notices, or 466
proclamations required to be published by a public officer of a 467
county, municipal corporation, township, school, or other 468
political subdivision, publishers of newspapers shall establish a 469
government rate, which shall include free publication of 470
advertisements, notices, or proclamations on the newspaper's 471
internet web site, if the newspaper has one. The government rate 472
shall not exceed the lowest classified advertising rate and lowest 473
insert rate paid by other advertisers. 474

Legal advertising, except that relating to proposed 475
amendments to the Ohio Constitution, shall be set up in a compact 476
form, without unnecessary spaces, blanks, or headlines, and 477
printed in not smaller than six-point type. The type used must be 478
of such proportions that the body of the capital letter M is no 479
wider than it is high and all other letters and characters are in 480
proportion. 481

Except as provided in section 2701.09 of the Revised Code, 482
all legal advertisements or notices shall be printed in ~~newspapers~~ 483
a newspaper of general circulation ~~and also shall be posted on the~~ 484
~~state public notice web site created under section 125.182 of the~~ 485
~~Revised Code,~~ and on a the newspaper's internet web site, if the 486
newspaper has one. 487

Sec. 7.16. (A) As used in this section: 488

(1) "State agency" means any organized body, office, agency, 489
institution, or other entity established by the laws of the state 490
for the exercise of any function of state government, including 491
state institutions of higher education, as defined in section 492
3345.011 of the Revised Code. 493

(2) "Political subdivision" has the meaning defined in 494
section 2744.01 of the Revised Code. 495

(B) If a section of the Revised Code or an administrative 496
rule requires a state agency or a political subdivision ~~of the~~ 497
~~state~~ to publish a notice or advertisement two or more times in a 498
newspaper of general circulation and the section or administrative 499
rule refers to this section, the first publication of the notice 500
or advertisement shall be made in its entirety in a newspaper of 501
general circulation and may be made in a preprinted insert in the 502
newspaper, but the second publication otherwise required by that 503
section or administrative rule may be made in abbreviated form in 504
a newspaper of general circulation in the state or in the 505

political subdivision, as designated in that section or 506
administrative rule, and on the newspaper's internet web site, if 507
the newspaper has one. The state agency or political subdivision 508
may eliminate any further newspaper publications required by that 509
section or administrative rule, provided that the second, 510
abbreviated notice or advertisement meets all of the following 511
requirements: 512

(1) It is published in the newspaper of general circulation 513
in which the first publication of the notice or advertisement was 514
made and is published on that newspaper's internet web site, if 515
the newspaper has one. 516

(2) It is published on the state public notice web site 517
established under section 125.182 of the Revised Code. 518

(3) It includes a title, followed by a summary paragraph or 519
statement that clearly describes the specific purpose of the 520
notice or advertisement, and includes a statement that the notice 521
or advertisement is posted in its entirety on the state public 522
notice web site ~~established under section 125.182 of the Revised~~ 523
~~Code.~~ The notice or advertisement also may be posted on the state 524
agency's or political subdivision's internet web site. 525

~~(3)~~(4) It includes the internet addresses of the state public 526
notice web site, and of the newspaper's and state agency's or 527
political subdivision's internet web site if the notice or 528
advertisement is posted on those web sites, and the name, address, 529
telephone number, and electronic mail address of the state agency, 530
political subdivision, or other party responsible for publication 531
of the notice or advertisement. 532

~~(B)~~(C) A notice or advertisement published under this section 533
on an internet web site shall be published in its entirety in 534
accordance with the section of the Revised Code or the 535
administrative rule that requires the publication. 536

~~(C)(D)~~ If a state agency or political subdivision does not operate and maintain, or ceases to operate and maintain, an internet web site, and if the state public notice web site established under section 125.182 of the Revised Code is not operational, the state agency or political subdivision shall not publish a notice or advertisement under this section, but instead shall comply with the publication requirements of the section of the Revised Code or the administrative rule that refers to this section.

Sec. 9.34. (A) The fiscal year of the state ~~and of~~ every school district, and, beginning July 1, 2013, the city of Cincinnati, shall begin on the first day of July of each calendar year and end at the close of the thirtieth day of June of the succeeding calendar year. The fiscal year of every school library district, and all political subdivisions or taxing ~~districts~~ units except school districts and the city of Cincinnati, and of every officer, department, commission, board, or institution thereof, shall begin at the opening of the first day of January of each calendar year and end at the close of the succeeding thirty-first day of December. Except as otherwise provided for school districts and as otherwise provided in division (B) of this section, all laws relating to the levying of taxes, the collection, appropriation, or expenditure of revenues, or the making of financial reports or statements for a fiscal year or other year refer and apply to the fiscal year as defined in this division. Reports required by sections 3319.32 to 3319.37 of the Revised Code shall be for the school year as defined in section 3313.62 of the Revised Code.

(B) Nothing in this section prohibits a subdivision, other than a school district or county school financing district, from using a different fiscal year or other fiscal period for one or more of its funds, including when that fiscal year or period is

the same as the fiscal year of an entity providing money for the 569
fund or the fiscal period of a capital project. Use of a different 570
fiscal year or period shall be consistent with generally accepted 571
accounting principles, and shall be approved by the fiscal officer 572
of the subdivision and by the auditor of state. If a subdivision 573
uses a different fiscal year or period under this section, the 574
auditor of state may require the subdivision to continue to 575
maintain financial reports or statements on the basis of the 576
fiscal year prescribed by division (A) of this section. 577

(C) Taxes or other revenues collected in or on hand in any 578
fiscal year for the purposes of the next or any subsequent fiscal 579
year shall not be appropriated or expended prior to such next or 580
subsequent year. School district property taxes shall be subject 581
to appropriation as provided in division (B) of section 5705.35 of 582
the Revised Code. Budgets shall be designated and known by the 583
fiscal year for the purposes for which they are made. 584

(D) As used in this section, "fiscal officer," "school 585
library district," "subdivision," and "taxing ~~district~~ unit" have 586
the same meanings as in section 5705.01 of the Revised Code. 587

Sec. 101.312. (A) The person serving as the senate sergeant 588
at arms or employed as an assistant senate sergeant at arms has 589
all of the authority of a peace officer as specified in division 590
(B) of this section, and one of the following shall apply to that 591
person: 592

(1) The person is serving as the senate sergeant at arms or 593
is employed as an assistant senate sergeant at arms on the 594
effective date of this section and previously had been awarded a 595
certificate by the executive director of the Ohio peace officer 596
training commission attesting to the person's satisfactory 597
completion of an approved state, county, municipal, or department 598
of natural resources peace officer basic training program. 599

(2) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program, the person previously has been employed as a peace officer, the prior employment of the person as a peace officer contains no breaks in service that would require the person to receive updated training by the Ohio peace officer training academy, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(3) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program, the person previously has been employed as a peace officer, the prior employment of the person as a peace officer contains a break in service of one year or more but not more than four years that would require the person to receive updated training under state law, the person has received all updated training required by law, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(4) The person previously has been employed as a trooper of the state highway patrol, within one year prior to employment as the senate sergeant at arms the person had arrest authority as a trooper of the state highway patrol, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(5) The person previously has been employed as a trooper of the state highway patrol, the prior employment as a trooper of the state highway patrol contains a break in service of one year or

more but not more than four years that would require the person to 632
receive updated training under state law, the person has received 633
all updated training required by law, and the person has 634
successfully completed a firearms requalification program under 635
section 109.801 of the Revised Code. 636

(B) The senate sergeant at arms and an assistant senate 637
sergeant at arms have the authority specified under section 638
2935.03 of the Revised Code for peace officers to enforce all 639
state laws, municipal ordinances, and township resolutions and to 640
make arrests for any violation of those laws, ordinances, and 641
resolutions in the statehouse or anywhere in the state where the 642
senate sergeant at arms or the assistant sergeant at arms is 643
engaged in the performance of the senate sergeant at arms's or 644
assistant sergeant at arms's official duties. The jurisdiction of 645
the senate sergeant at arms and of an assistant senate sergeant at 646
arms is concurrent with that of peace officers of the county, 647
township, or municipal corporation in which the violation occurs 648
and with the state highway patrol. 649

(C) Upon receiving a written recommendation from the clerk of 650
the senate, the president of the senate may issue to the senate 651
sergeant at arms a commission indicating the sergeant at arms's 652
authority to make arrests as provided in this section. The 653
president of the senate, upon the recommendation of the senate 654
sergeant at arms, may issue to each assistant senate sergeant at 655
arms a commission indicating the assistant sergeant at arms's 656
authority to make arrests as provided in this section. The 657
president of the senate shall furnish a suitable badge to the 658
senate sergeant at arms and to each commissioned assistant senate 659
sergeant at arms as evidence of the senate sergeant at arms's or 660
assistant senate sergeant at arms's authority. 661

(D) In order to maintain employment as the senate sergeant at 662
arms or to be an assistant sergeant at arms with all of the 663

authority of a peace officer, the sergeant at arms or assistant 664
shall comply with all continuing professional training 665
requirements for peace officers established in rules that the 666
attorney general adopts under section 109.74 of the Revised Code 667
and shall comply with firearms regualification requirements 668
established under section 109.801 of the Revised Code. The senate 669
sergeant at arms or assistant sergeant at arms shall provide 670
appropriate proof of the sergeant at arms's or assistant's 671
compliance with the continuing professional training requirements 672
and firearms regualification requirements to the clerk of the 673
senate. The Ohio peace officer training academy, a state, county, 674
municipal, or department of natural resources training program, or 675
any other program offering continuing training of that nature 676
shall admit the senate sergeant at arms or an assistant senate 677
sergeant at arms to all necessary continuing training programs. 678

(E) This section does not affect or abridge the authority or 679
responsibility of the state highway patrol. 680

Sec. 102.02. (A) Except as otherwise provided in division (H) 681
of this section, all of the following shall file with the 682
appropriate ethics commission the disclosure statement described 683
in this division on a form prescribed by the appropriate 684
commission: every person who is elected to or is a candidate for a 685
state, county, or city office and every person who is appointed to 686
fill a vacancy for an unexpired term in such an elective office; 687
all members of the state board of education; the director, 688
assistant directors, deputy directors, division chiefs, or persons 689
of equivalent rank of any administrative department of the state; 690
the president or other chief administrative officer of every state 691
institution of higher education as defined in section 3345.011 of 692
the Revised Code; the executive director and the members of the 693
capitol square review and advisory board appointed or employed 694
pursuant to section 105.41 of the Revised Code; all members of the 695

Ohio casino control commission, the executive director of the 696
commission, all professional employees of the commission, and all 697
technical employees of the commission who perform an internal 698
audit function; the individuals set forth in division (B)(2) of 699
section 187.03 of the Revised Code; the chief executive officer 700
and the members of the board of each state retirement system; each 701
employee of a state retirement board who is a state retirement 702
system investment officer licensed pursuant to section 1707.163 of 703
the Revised Code; the members of the Ohio retirement study council 704
appointed pursuant to division (C) of section 171.01 of the 705
Revised Code; employees of the Ohio retirement study council, 706
other than employees who perform purely administrative or clerical 707
functions; the administrator of workers' compensation and each 708
member of the bureau of workers' compensation board of directors; 709
the bureau of workers' compensation director of investments; the 710
chief investment officer of the bureau of workers' compensation; 711
all members of the board of commissioners on grievances and 712
discipline of the supreme court and the ethics commission created 713
under section 102.05 of the Revised Code; every business manager, 714
treasurer, or superintendent of a city, local, exempted village, 715
joint vocational, or cooperative education school district or an 716
educational service center; every person who is elected to or is a 717
candidate for the office of member of a board of education of a 718
city, local, exempted village, joint vocational, or cooperative 719
education school district or of a governing board of an 720
educational service center that has a total student count of 721
twelve thousand or more as most recently determined by the 722
department of education pursuant to section 3317.03 of the Revised 723
Code; every person who is appointed to the board of education of a 724
municipal school district pursuant to division (B) or (F) of 725
section 3311.71 of the Revised Code; all members of the board of 726
directors of a sanitary district that is established under Chapter 727
6115. of the Revised Code and organized wholly for the purpose of 728

providing a water supply for domestic, municipal, and public use, 729
and that includes two municipal corporations in two counties; 730
every public official or employee who is paid a salary or wage in 731
accordance with schedule C of section 124.15 or schedule E-2 of 732
section 124.152 of the Revised Code; members of the board of 733
trustees and the executive director of the southern Ohio 734
agricultural and community development foundation; all members 735
appointed to the Ohio livestock care standards board under section 736
904.02 of the Revised Code; and every other public official or 737
employee who is designated by the appropriate ethics commission 738
pursuant to division (B) of this section. 739

The disclosure statement shall include all of the following: 740

(1) The name of the person filing the statement and each 741
member of the person's immediate family and all names under which 742
the person or members of the person's immediate family do 743
business; 744

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 745
and except as otherwise provided in section 102.022 of the Revised 746
Code, identification of every source of income, other than income 747
from a legislative agent identified in division (A)(2)(b) of this 748
section, received during the preceding calendar year, in the 749
person's own name or by any other person for the person's use or 750
benefit, by the person filing the statement, and a brief 751
description of the nature of the services for which the income was 752
received. If the person filing the statement is a member of the 753
general assembly, the statement shall identify the amount of every 754
source of income received in accordance with the following ranges 755
of amounts: zero or more, but less than one thousand dollars; one 756
thousand dollars or more, but less than ten thousand dollars; ten 757
thousand dollars or more, but less than twenty-five thousand 758
dollars; twenty-five thousand dollars or more, but less than fifty 759
thousand dollars; fifty thousand dollars or more, but less than 760

one hundred thousand dollars; and one hundred thousand dollars or 761
more. Division (A)(2)(a) of this section shall not be construed to 762
require a person filing the statement who derives income from a 763
business or profession to disclose the individual items of income 764
that constitute the gross income of that business or profession, 765
except for those individual items of income that are attributable 766
to the person's or, if the income is shared with the person, the 767
partner's, solicitation of services or goods or performance, 768
arrangement, or facilitation of services or provision of goods on 769
behalf of the business or profession of clients, including 770
corporate clients, who are legislative agents. A person who files 771
the statement under this section shall disclose the identity of 772
and the amount of income received from a person who the public 773
official or employee knows or has reason to know is doing or 774
seeking to do business of any kind with the public official's or 775
employee's agency. 776

(b) If the person filing the statement is a member of the 777
general assembly, the statement shall identify every source of 778
income and the amount of that income that was received from a 779
legislative agent during the preceding calendar year, in the 780
person's own name or by any other person for the person's use or 781
benefit, by the person filing the statement, and a brief 782
description of the nature of the services for which the income was 783
received. Division (A)(2)(b) of this section requires the 784
disclosure of clients of attorneys or persons licensed under 785
section 4732.12 of the Revised Code, or patients of persons 786
certified under section 4731.14 of the Revised Code, if those 787
clients or patients are legislative agents. Division (A)(2)(b) of 788
this section requires a person filing the statement who derives 789
income from a business or profession to disclose those individual 790
items of income that constitute the gross income of that business 791
or profession that are received from legislative agents. 792

(c) Except as otherwise provided in division (A)(2)(c) of 793
this section, division (A)(2)(a) of this section applies to 794
attorneys, physicians, and other persons who engage in the 795
practice of a profession and who, pursuant to a section of the 796
Revised Code, the common law of this state, a code of ethics 797
applicable to the profession, or otherwise, generally are required 798
not to reveal, disclose, or use confidences of clients, patients, 799
or other recipients of professional services except under 800
specified circumstances or generally are required to maintain 801
those types of confidences as privileged communications except 802
under specified circumstances. Division (A)(2)(a) of this section 803
does not require an attorney, physician, or other professional 804
subject to a confidentiality requirement as described in division 805
(A)(2)(c) of this section to disclose the name, other identity, or 806
address of a client, patient, or other recipient of professional 807
services if the disclosure would threaten the client, patient, or 808
other recipient of professional services, would reveal details of 809
the subject matter for which legal, medical, or professional 810
advice or other services were sought, or would reveal an otherwise 811
privileged communication involving the client, patient, or other 812
recipient of professional services. Division (A)(2)(a) of this 813
section does not require an attorney, physician, or other 814
professional subject to a confidentiality requirement as described 815
in division (A)(2)(c) of this section to disclose in the brief 816
description of the nature of services required by division 817
(A)(2)(a) of this section any information pertaining to specific 818
professional services rendered for a client, patient, or other 819
recipient of professional services that would reveal details of 820
the subject matter for which legal, medical, or professional 821
advice was sought or would reveal an otherwise privileged 822
communication involving the client, patient, or other recipient of 823
professional services. 824

(3) The name of every corporation on file with the secretary 825

of state that is incorporated in this state or holds a certificate 826
of compliance authorizing it to do business in this state, trust, 827
business trust, partnership, or association that transacts 828
business in this state in which the person filing the statement or 829
any other person for the person's use and benefit had during the 830
preceding calendar year an investment of over one thousand dollars 831
at fair market value as of the thirty-first day of December of the 832
preceding calendar year, or the date of disposition, whichever is 833
earlier, or in which the person holds any office or has a 834
fiduciary relationship, and a description of the nature of the 835
investment, office, or relationship. Division (A)(3) of this 836
section does not require disclosure of the name of any bank, 837
savings and loan association, credit union, or building and loan 838
association with which the person filing the statement has a 839
deposit or a withdrawable share account. 840

(4) All fee simple and leasehold interests to which the 841
person filing the statement holds legal title to or a beneficial 842
interest in real property located within the state, excluding the 843
person's residence and property used primarily for personal 844
recreation; 845

(5) The names of all persons residing or transacting business 846
in the state to whom the person filing the statement owes, in the 847
person's own name or in the name of any other person, more than 848
one thousand dollars. Division (A)(5) of this section shall not be 849
construed to require the disclosure of debts owed by the person 850
resulting from the ordinary conduct of a business or profession or 851
debts on the person's residence or real property used primarily 852
for personal recreation, except that the superintendent of 853
financial institutions shall disclose the names of all 854
state-chartered savings and loan associations and of all service 855
corporations subject to regulation under division (E)(2) of 856
section 1151.34 of the Revised Code to whom the superintendent in 857

the superintendent's own name or in the name of any other person 858
owes any money, and that the superintendent and any deputy 859
superintendent of banks shall disclose the names of all 860
state-chartered banks and all bank subsidiary corporations subject 861
to regulation under section 1109.44 of the Revised Code to whom 862
the superintendent or deputy superintendent owes any money. 863

(6) The names of all persons residing or transacting business 864
in the state, other than a depository excluded under division 865
(A)(3) of this section, who owe more than one thousand dollars to 866
the person filing the statement, either in the person's own name 867
or to any person for the person's use or benefit. Division (A)(6) 868
of this section shall not be construed to require the disclosure 869
of clients of attorneys or persons licensed under section 4732.12 870
or 4732.15 of the Revised Code, or patients of persons certified 871
under section 4731.14 of the Revised Code, nor the disclosure of 872
debts owed to the person resulting from the ordinary conduct of a 873
business or profession. 874

(7) Except as otherwise provided in section 102.022 of the 875
Revised Code, the source of each gift of over seventy-five 876
dollars, or of each gift of over twenty-five dollars received by a 877
member of the general assembly from a legislative agent, received 878
by the person in the person's own name or by any other person for 879
the person's use or benefit during the preceding calendar year, 880
except gifts received by will or by virtue of section 2105.06 of 881
the Revised Code, or received from spouses, parents, grandparents, 882
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 883
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 884
fathers-in-law, mothers-in-law, or any person to whom the person 885
filing the statement stands in loco parentis, or received by way 886
of distribution from any inter vivos or testamentary trust 887
established by a spouse or by an ancestor; 888

(8) Except as otherwise provided in section 102.022 of the 889

Revised Code, identification of the source and amount of every 890
payment of expenses incurred for travel to destinations inside or 891
outside this state that is received by the person in the person's 892
own name or by any other person for the person's use or benefit 893
and that is incurred in connection with the person's official 894
duties, except for expenses for travel to meetings or conventions 895
of a national or state organization to which any state agency, 896
including, but not limited to, any legislative agency or state 897
institution of higher education as defined in section 3345.011 of 898
the Revised Code, pays membership dues, or any political 899
subdivision or any office or agency of a political subdivision 900
pays membership dues; 901

(9) Except as otherwise provided in section 102.022 of the 902
Revised Code, identification of the source of payment of expenses 903
for meals and other food and beverages, other than for meals and 904
other food and beverages provided at a meeting at which the person 905
participated in a panel, seminar, or speaking engagement or at a 906
meeting or convention of a national or state organization to which 907
any state agency, including, but not limited to, any legislative 908
agency or state institution of higher education as defined in 909
section 3345.011 of the Revised Code, pays membership dues, or any 910
political subdivision or any office or agency of a political 911
subdivision pays membership dues, that are incurred in connection 912
with the person's official duties and that exceed one hundred 913
dollars aggregated per calendar year; 914

(10) If the disclosure statement is filed by a public 915
official or employee described in division (B)(2) of section 916
101.73 of the Revised Code or division (B)(2) of section 121.63 of 917
the Revised Code who receives a statement from a legislative 918
agent, executive agency lobbyist, or employer that contains the 919
information described in division (F)(2) of section 101.73 of the 920
Revised Code or division (G)(2) of section 121.63 of the Revised 921

Code, all of the nondisputed information contained in the 922
statement delivered to that public official or employee by the 923
legislative agent, executive agency lobbyist, or employer under 924
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 925
the Revised Code. 926

A person may file a statement required by this section in 927
person or by mail. A person who is a candidate for elective office 928
shall file the statement no later than the thirtieth day before 929
the primary, special, or general election at which the candidacy 930
is to be voted on, whichever election occurs soonest, except that 931
a person who is a write-in candidate shall file the statement no 932
later than the twentieth day before the earliest election at which 933
the person's candidacy is to be voted on. A person who holds 934
elective office shall file the statement on or before the 935
fifteenth day of April of each year unless the person is a 936
candidate for office. A person who is appointed to fill a vacancy 937
for an unexpired term in an elective office shall file the 938
statement within fifteen days after the person qualifies for 939
office. Other persons shall file an annual statement on or before 940
the fifteenth day of April or, if appointed or employed after that 941
date, within ninety days after appointment or employment. No 942
person shall be required to file with the appropriate ethics 943
commission more than one statement or pay more than one filing fee 944
for any one calendar year. 945

The appropriate ethics commission, for good cause, may extend 946
for a reasonable time the deadline for filing a statement under 947
this section. 948

A statement filed under this section is subject to public 949
inspection at locations designated by the appropriate ethics 950
commission except as otherwise provided in this section. 951

(B) The Ohio ethics commission, the joint legislative ethics 952
committee, and the board of commissioners on grievances and 953

discipline of the supreme court, using the rule-making procedures 954
of Chapter 119. of the Revised Code, may require any class of 955
public officials or employees under its jurisdiction and not 956
specifically excluded by this section whose positions involve a 957
substantial and material exercise of administrative discretion in 958
the formulation of public policy, expenditure of public funds, 959
enforcement of laws and rules of the state or a county or city, or 960
the execution of other public trusts, to file an annual statement 961
on or before the fifteenth day of April under division (A) of this 962
section. The appropriate ethics commission shall send the public 963
officials or employees written notice of the requirement by the 964
fifteenth day of February of each year the filing is required 965
unless the public official or employee is appointed after that 966
date, in which case the notice shall be sent within thirty days 967
after appointment, and the filing shall be made not later than 968
ninety days after appointment. 969

Except for disclosure statements filed by members of the 970
board of trustees and the executive director of the southern Ohio 971
agricultural and community development foundation, disclosure 972
statements filed under this division with the Ohio ethics 973
commission by members of boards, commissions, or bureaus of the 974
state for which no compensation is received other than reasonable 975
and necessary expenses shall be kept confidential. Disclosure 976
statements filed with the Ohio ethics commission under division 977
(A) of this section by business managers, treasurers, and 978
superintendents of city, local, exempted village, joint 979
vocational, or cooperative education school districts or 980
educational service centers shall be kept confidential, except 981
that any person conducting an audit of any such school district or 982
educational service center pursuant to section 115.56 or Chapter 983
117. of the Revised Code may examine the disclosure statement of 984
any business manager, treasurer, or superintendent of that school 985
district or educational service center. Disclosure statements 986

filed with the Ohio ethics commission under division (A) of this 987
section by the individuals set forth in division (B)(2) of section 988
187.03 of the Revised Code shall be kept confidential. The Ohio 989
ethics commission shall examine each disclosure statement required 990
to be kept confidential to determine whether a potential conflict 991
of interest exists for the person who filed the disclosure 992
statement. A potential conflict of interest exists if the private 993
interests of the person, as indicated by the person's disclosure 994
statement, might interfere with the public interests the person is 995
required to serve in the exercise of the person's authority and 996
duties in the person's office or position of employment. If the 997
commission determines that a potential conflict of interest 998
exists, it shall notify the person who filed the disclosure 999
statement and shall make the portions of the disclosure statement 1000
that indicate a potential conflict of interest subject to public 1001
inspection in the same manner as is provided for other disclosure 1002
statements. Any portion of the disclosure statement that the 1003
commission determines does not indicate a potential conflict of 1004
interest shall be kept confidential by the commission and shall 1005
not be made subject to public inspection, except as is necessary 1006
for the enforcement of Chapters 102. and 2921. of the Revised Code 1007
and except as otherwise provided in this division. 1008

(C) No person shall knowingly fail to file, on or before the 1009
applicable filing deadline established under this section, a 1010
statement that is required by this section. 1011

(D) No person shall knowingly file a false statement that is 1012
required to be filed under this section. 1013

(E)(1) Except as provided in divisions (E)(2) and (3) of this 1014
section, the statement required by division (A) or (B) of this 1015
section shall be accompanied by a filing fee of ~~forty~~ sixty 1016
dollars. 1017

(2) The statement required by division (A) of this section 1018

shall be accompanied by the following filing fee to be paid by the 1019
person who is elected or appointed to, or is a candidate for, any 1020
of the following offices: 1021

| | | |
|---|-----------------------------|------|
| For state office, except member of the | | 1022 |
| state board of education | \$95 | 1023 |
| For office of member of general assembly | \$40 | 1024 |
| For county office | \$60 | 1025 |
| For city office | \$35 | 1026 |
| For office of member of the state board | | 1027 |
| of education | \$25 <u>\$35</u> | 1028 |
| For office of member of the Ohio | | 1029 |
| livestock care standards board | \$..... | 1030 |
| For office of member of a city, local, | | 1031 |
| exempted village, or cooperative | | 1032 |
| education board of | | 1033 |
| education or educational service | | 1034 |
| center governing board | \$30 | 1035 |
| For position of business manager, | | 1036 |
| treasurer, or superintendent of a | | 1037 |
| city, local, exempted village, joint | | 1038 |
| vocational, or cooperative education | | 1039 |
| school district or | | 1040 |
| educational service center | \$30 | 1041 |

(3) No judge of a court of record or candidate for judge of a 1042
court of record, and no referee or magistrate serving a court of 1043
record, shall be required to pay the fee required under division 1044
(E)(1) or (2) or (F) of this section. 1045

(4) For any public official who is appointed to a nonelective 1046
office of the state and for any employee who holds a nonelective 1047
position in a public agency of the state, the state agency that is 1048
the primary employer of the state official or employee shall pay 1049
the fee required under division (E)(1) or (F) of this section. 1050

(F) If a statement required to be filed under this section is 1051
not filed by the date on which it is required to be filed, the 1052
appropriate ethics commission shall assess the person required to 1053
file the statement a late filing fee of ten dollars for each day 1054
the statement is not filed, except that the total amount of the 1055
late filing fee shall not exceed two hundred fifty dollars. 1056

(G)(1) The appropriate ethics commission other than the Ohio 1057
ethics commission and the joint legislative ethics committee shall 1058
deposit all fees it receives under divisions (E) and (F) of this 1059
section into the general revenue fund of the state. 1060

(2) The Ohio ethics commission shall deposit all receipts, 1061
including, but not limited to, fees it receives under divisions 1062
(E) and (F) of this section, investigative or other fees, costs, 1063
or other funds it receives as a result of court orders, and all 1064
moneys it receives from settlements under division (G) of section 1065
102.06 of the Revised Code, into the Ohio ethics commission fund, 1066
which is hereby created in the state treasury. All moneys credited 1067
to the fund shall be used solely for expenses related to the 1068
operation and statutory functions of the commission. 1069

(3) The joint legislative ethics committee shall deposit all 1070
receipts it receives from the payment of financial disclosure 1071
statement filing fees under divisions (E) and (F) of this section 1072
into the joint legislative ethics committee investigative fund. 1073

(H) Division (A) of this section does not apply to a person 1074
elected or appointed to the office of precinct, ward, or district 1075
committee member under Chapter 3517. of the Revised Code; a 1076
presidential elector; a delegate to a national convention; village 1077
or township officials and employees; any physician or psychiatrist 1078
who is paid a salary or wage in accordance with schedule C of 1079
section 124.15 or schedule E-2 of section 124.152 of the Revised 1080
Code and whose primary duties do not require the exercise of 1081
administrative discretion; or any member of a board, commission, 1082

or bureau of any county or city who receives less than one 1083
thousand dollars per year for serving in that position. 1084

Sec. 103.05. (A) The director of the legislative service 1085
commission shall be the codifier of the rules of the 1086
administrative agencies of the state. When a rule is filed under 1087
section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code, 1088
the director or the director's designee shall examine the rule. If 1089
the rule is not numbered or if the numbering of the rule is not in 1090
conformity with the system established by the director, the 1091
director shall give the rule its proper number by designating the 1092
proper number on the left hand margin of the rule. The number 1093
shall be the official administrative code number of the rule. Any 1094
number so assigned shall be published in any publication of the 1095
administrative code. Rules of the administrative code shall be 1096
cited and referred to by such official numbers. 1097

The legislative service commission shall, pursuant to section 1098
111.15 of the Revised Code, adopt, amend, and rescind any rules 1099
that are necessary to provide a uniform administrative code; to 1100
provide standards for use by the director in determining whether 1101
to include in the administrative code the full text of, or a 1102
reference to, any rule filed with the commission; to permit the 1103
director to discharge the director's duties and exercise the 1104
director's powers as described in this section; and to permit the 1105
director to discharge the director's duties and exercise the 1106
director's powers with respect to establishing and maintaining, 1107
and enhancing and improving, the electronic rule-filing system 1108
under section 103.0511 of the Revised Code. 1109

When the commission adopts rules to provide standards for use 1110
by the director in determining whether to include the full text 1111
of, or a reference to, a rule in the administrative code, it shall 1112
consider all of the following: 1113

| | |
|---|--|
| (1) Whether the rule applies uniformly to all citizens of the state; | 1114 1115 |
| (2) Whether the rule applies uniformly to all political subdivisions of the state; | 1116 1117 |
| (3) Whether the rule affects the health, welfare, and safety of the citizens of the state; | 1118 1119 |
| (4) Whether the rule applies only to the internal affairs of the agency adopting the rule; | 1120 1121 |
| (5) The number of persons affected by the rule; | 1122 |
| (6) Whether the rule affects the statutory or constitutional rights of any person. | 1123 1124 |
| The director or the director's designee shall accept any rule that is filed under section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code. If the director or the director's designee accepts a rule that is not in compliance with the rules of the commission, the director shall give notice of the noncompliance in electronic form to the agency that filed the rule within thirty days after the date on which the rule is filed. The notice shall indicate why the rule does not comply with the rules of the commission and how the rule can be brought into compliance. The failure of the director to give an agency notice within the thirty-day period shall presumptively establish that the rule complies with the rules of the commission. | 1125 1126 1127 1128 1129 1130 1131 1132 1133 1134 1135 1136 |
| (B) <u>Any person may publish an acceptable code.</u> The director shall approve as acceptable any <u>person's</u> publication of the code conforming to the requirements of this division. | 1137 1138 1139 |
| An Ohio administrative code approved as acceptable by the director shall: | 1140 1141 |
| (1) Contain a compilation of the full text of, or a reference to, each rule filed under sections 111.15, 119.04, 4141.14, and | 1142 1143 |

| | |
|---|------|
| 5703.14 of the Revised Code; | 1144 |
| (2) Presumptively establish the rules of all agencies | 1145 |
| adopting rules under section 111.15, 4141.14, 5703.14, or Chapter | 1146 |
| 119. of the Revised Code that are in effect on the day of its | 1147 |
| initial publication; | 1148 |
| (3) Contain the full text of, or a reference to, each rule | 1149 |
| adopted after its initial publication and be updated at least | 1150 |
| quarterly; | 1151 |
| (4) Contain an index of the rules and references to rules | 1152 |
| that are included in the code and each supplement using terms | 1153 |
| easily understood by the general public; | 1154 |
| (5) Be published in electronic or print format following, to | 1155 |
| the extent possible, the subject matter arrangement of the Revised | 1156 |
| Code; | 1157 |
| (6) Be numbered according to the numbering system devised by | 1158 |
| the director. | 1159 |
| (C) If the director does not approve as acceptable any | 1160 |
| publication of the administrative code, the The director, subject | 1161 |
| to division (D) of this section, may prepare and publish the code, | 1162 |
| or contract with any person under this division to prepare and | 1163 |
| publish the code. Any code published under this division shall | 1164 |
| include all of the requirements of division (B) of this section. | 1165 |
| In addition, the director shall furnish any code or supplement | 1166 |
| published under this division to any person who requests the code | 1167 |
| or supplement upon payment of a charge established by the | 1168 |
| director, not to exceed the cost of preparation and publication. | 1169 |
| Upon the request of the director of the legislative service | 1170 |
| commission under this division, the director of administrative | 1171 |
| services, in accordance with the competitive selection procedure | 1172 |
| of Chapter 125. of the Revised Code, shall let a contract for the | 1173 |
| compilation, preparation, and printing or publication of the | 1174 |

administrative code and supplements. 1175

~~(D) The director shall not prepare and publish the 1176
administrative code in a print mode or any other mode under 1177
division (B) or (C) of this section unless no other person is 1178
willing and qualified to publish a version of the code in that 1179
mode that the director has approved as acceptable. 1180~~

Sec. 105.41. (A) There is hereby created in the legislative 1181
branch of government the capitol square review and advisory board, 1182
consisting of ~~thirteen~~ twelve members as follows: 1183

(1) Two members of the senate, appointed by the president of 1184
the senate, both of whom shall not be members of the same 1185
political party; 1186

(2) Two members of the house of representatives, appointed by 1187
the speaker of the house of representatives, both of whom shall 1188
not be members of the same political party; 1189

(3) ~~Five~~ Four members appointed by the governor, with the 1190
advice and consent of the senate, not more than three of whom 1191
shall be members of the same political party, one of whom shall be 1192
the chief of staff of the governor's office, one of whom shall 1193
represent the Ohio arts council, one of whom shall represent the 1194
Ohio historical society, ~~one of whom shall represent the Ohio~~ 1195
~~building authority,~~ and one of whom shall represent the public at 1196
large; 1197

(4) One member, who shall be a former president of the 1198
senate, appointed by the current president of the senate. If the 1199
current president of the senate, in the current president's 1200
discretion, decides for any reason not to make the appointment or 1201
if no person is eligible or available to serve, the seat shall 1202
remain vacant. 1203

(5) One member, who shall be a former speaker of the house of 1204

representatives, appointed by the current speaker of the house of 1205
representatives. If the current speaker of the house of 1206
representatives, in the current speaker's discretion, decides for 1207
any reason not to make the appointment or if no person is eligible 1208
or available to serve, the seat shall remain vacant. 1209

(6) The clerk of the senate and the clerk of the house of 1210
representatives. 1211

(B) Terms of office of each appointed member of the board 1212
shall be for three years, except that members of the general 1213
assembly appointed to the board shall be members of the board only 1214
so long as they are members of the general assembly and the chief 1215
of staff of the governor's office shall be a member of the board 1216
only so long as the appointing governor remains in office. Each 1217
member shall hold office from the date of the member's appointment 1218
until the end of the term for which the member was appointed. In 1219
case of a vacancy occurring on the board, the president of the 1220
senate, the speaker of the house of representatives, or the 1221
governor, as the case may be, shall in the same manner prescribed 1222
for the regular appointment to the commission, fill the vacancy by 1223
appointing a member. Any member appointed to fill a vacancy 1224
occurring prior to the expiration of the term for which the 1225
member's predecessor was appointed shall hold office for the 1226
remainder of the term. Any appointed member shall continue in 1227
office subsequent to the expiration date of the member's term 1228
until the member's successor takes office, or until a period of 1229
sixty days has elapsed, whichever occurs first. 1230

(C) The board shall hold meetings in a manner and at times 1231
prescribed by the rules adopted by the board. A majority of the 1232
board constitutes a quorum, and no action shall be taken by the 1233
board unless approved by at least six members or by at least seven 1234
members if a person is appointed under division (A)(4) or (5) of 1235
this section. At its first meeting, the board shall adopt rules 1236

for the conduct of its business and the election of its officers, 1237
and shall organize by selecting a chairperson and other officers 1238
as it considers necessary. Board members shall serve without 1239
compensation but shall be reimbursed for actual and necessary 1240
expenses incurred in the performance of their duties. 1241

(D) The board may do any of the following: 1242

(1) Employ or hire on a consulting basis professional, 1243
technical, and clerical employees as are necessary for the 1244
performance of its duties. All employees of the board are in the 1245
unclassified service and serve at the pleasure of the board. For 1246
purposes of section 4117.01 of the Revised Code, employees of the 1247
board shall be considered employees of the general assembly, 1248
except that employees who are covered by a collective bargaining 1249
agreement on ~~the effective date of this amendment~~ September 29, 1250
2011, shall remain subject to the agreement until the agreement 1251
expires on its terms, and the agreement shall not be extended or 1252
renewed. Upon expiration of the agreement, the employees are 1253
considered employees of the general assembly for purposes of 1254
section 4117.01 of the Revised Code and are in the unclassified 1255
service and serve at the pleasure of the board. 1256

(2) Hold public hearings at times and places as determined by 1257
the board; 1258

(3) Adopt, amend, or rescind rules necessary to accomplish 1259
the duties of the board as set forth in this section; 1260

(4) Sponsor, conduct, and support such social events as the 1261
board may authorize and consider appropriate for the employees of 1262
the board, employees and members of the general assembly, 1263
employees of persons under contract with the board or otherwise 1264
engaged to perform services on the premises of capitol square, or 1265
other persons as the board may consider appropriate. Subject to 1266
the requirements of Chapter 4303. of the Revised Code, the board 1267

may provide beer, wine, and intoxicating liquor, with or without 1268
charge, for those events and may use funds only from the sale of 1269
goods and services fund to purchase the beer, wine, and 1270
intoxicating liquor the board provides; 1271

(5) Purchase a warehouse in which to store items of the 1272
capitol collection trust and, whenever necessary, equipment or 1273
other property of the board. 1274

(E) The board shall do all of the following: 1275

(1) Have sole authority to coordinate and approve any 1276
improvements, additions, and renovations that are made to the 1277
capitol square. The improvements shall include, but not be limited 1278
to, the placement of monuments and sculpture on the capitol 1279
grounds. 1280

(2) Subject to section 3353.07 of the Revised Code, operate 1281
the capitol square, and have sole authority to regulate all uses 1282
of the capitol square. The uses shall include, but not be limited 1283
to, the casual and recreational use of the capitol square. 1284

(3) Employ, fix the compensation of, and prescribe the duties 1285
of the executive director of the board and other employees the 1286
board considers necessary for the performance of its powers and 1287
duties; 1288

(4) Establish and maintain the capitol collection trust. The 1289
capitol collection trust shall consist of furniture, antiques, and 1290
other items of personal property that the board shall store in 1291
suitable facilities until they are ready to be displayed in the 1292
capitol square. 1293

(5) Perform repair, construction, contracting, purchasing, 1294
maintenance, supervisory, and operating activities the board 1295
determines are necessary for the operation and maintenance of the 1296
capitol square; 1297

(6) Maintain and preserve the capitol square, in accordance 1298
with guidelines issued by the United States secretary of the 1299
interior for application of the secretary's standards for 1300
rehabilitation adopted in 36 C.F.R. part 67; 1301

(7) Plan and develop a center at the capitol building for the 1302
purpose of educating visitors about the history of Ohio, including 1303
its political, economic, and social development and the design and 1304
erection of the capitol building and its grounds. 1305

(F)(1) The board shall lease capital facilities improved or 1306
financed by the Ohio building authority pursuant to Chapter 152. 1307
of the Revised Code for the use of the board, and may enter into 1308
any other agreements with the authority ancillary to improvement, 1309
financing, or leasing of those capital facilities, including, but 1310
not limited to, any agreement required by the applicable bond 1311
proceedings authorized by Chapter 152. of the Revised Code. Any 1312
lease of capital facilities authorized by this section shall be 1313
governed by division (D) of section 152.24 of the Revised Code. 1314

(2) Fees, receipts, and revenues received by the board from 1315
the state underground parking garage constitute available receipts 1316
as defined in section 152.09 of the Revised Code, and may be 1317
pledged to the payment of bond service charges on obligations 1318
issued by the Ohio building authority pursuant to Chapter 152. of 1319
the Revised Code to improve, finance, or purchase capital 1320
facilities useful to the board. The authority may, with the 1321
consent of the board, provide in the bond proceedings for a pledge 1322
of all or a portion of those fees, receipts, and revenues as the 1323
authority determines. The authority may provide in the bond 1324
proceedings or by separate agreement with the board for the 1325
transfer of those fees, receipts, and revenues to the appropriate 1326
bond service fund or bond service reserve fund as required to pay 1327
the bond service charges when due, and any such provision for the 1328
transfer of those fees, receipts, and revenues shall be 1329

controlling notwithstanding any other provision of law pertaining 1330
to those fees, receipts, and revenues. 1331

(3) All moneys received by the treasurer of state on account 1332
of the board and required by the applicable bond proceedings or by 1333
separate agreement with the board to be deposited, transferred, or 1334
credited to the bond service fund or bond service reserve fund 1335
established by the bond proceedings shall be transferred by the 1336
treasurer of state to such fund, whether or not it is in the 1337
custody of the treasurer of state, without necessity for further 1338
appropriation, upon receipt of notice from the Ohio building 1339
authority as prescribed in the bond proceedings. 1340

(G) All (1) Except as otherwise provided in division (G)(2) 1341
of this section, all fees, receipts, and revenues received by the 1342
board from the state underground parking garage shall be deposited 1343
into the state treasury to the credit of the underground parking 1344
garage operating fund, which is hereby created, to be used for the 1345
purposes specified in division (F) of this section and for the 1346
operation and maintenance of the garage. All investment earnings 1347
of the fund shall be credited to the fund. 1348

(2) There is hereby created the parking garage automated 1349
equipment fund, which shall be in the custody of the treasurer of 1350
state but shall not be part of the state treasury. Money in the 1351
fund shall be used to purchase the automated teller machine 1352
quality dollar bills needed for operation of the parking garage 1353
automated equipment. The fund shall consist of fees, receipts, or 1354
revenues received by the board from the state underground parking 1355
garage; provided, however, that the total amount deposited into 1356
the fund at any one time shall not exceed ten thousand dollars. 1357
All investment earnings of the fund shall be credited to the fund. 1358

(H) All donations received by the board shall be deposited 1359
into the state treasury to the credit of the capitol square 1360
renovation gift fund, which is hereby created. The fund shall be 1361

used by the board as follows: 1362

(1) To provide part or all of the funding related to 1363
construction, goods, or services for the renovation of the capitol 1364
square; 1365

(2) To purchase art, antiques, and artifacts for display at 1366
the capitol square; 1367

(3) To award contracts or make grants to organizations for 1368
educating the public regarding the historical background and 1369
governmental functions of the capitol square. Chapters 125., 127., 1370
and 153. and section 3517.13 of the Revised Code do not apply to 1371
purchases made exclusively from the fund, notwithstanding anything 1372
to the contrary in those chapters or that section. All investment 1373
earnings of the fund shall be credited to the fund. 1374

(I) Except as provided in divisions (G), (H), and (J) of this 1375
section, all fees, receipts, and revenues received by the board 1376
shall be deposited into the state treasury to the credit of the 1377
sale of goods and services fund, which is hereby created. Money 1378
credited to the fund shall be used solely to pay costs of the 1379
board other than those specified in divisions (F) and (G) of this 1380
section. All investment earnings of the fund shall be credited to 1381
the fund. 1382

(J) There is hereby created in the state treasury the capitol 1383
square improvement fund, to be used by the board to pay 1384
construction, renovation, and other costs related to the capitol 1385
square for which money is not otherwise available to the board. 1386
Whenever the board determines that there is a need to incur those 1387
costs and that the unencumbered, unobligated balance to the credit 1388
of the underground parking garage operating fund exceeds the 1389
amount needed for the purposes specified in division (F) of this 1390
section and for the operation and maintenance of the garage, the 1391
board may request the director of budget and management to 1392

transfer from the underground parking garage operating fund to the 1393
capitol square improvement fund the amount needed to pay such 1394
construction, renovation, or other costs. The director then shall 1395
transfer the amount needed from the excess balance of the 1396
underground parking garage operating fund. 1397

(K) As the operation and maintenance of the capitol square 1398
constitute essential government functions of a public purpose, the 1399
board shall not be required to pay taxes or assessments upon the 1400
square, upon any property acquired or used by the board under this 1401
section, or upon any income generated by the operation of the 1402
square. 1403

(L) As used in this section, "capitol square" means the 1404
capitol building, senate building, capitol atrium, capitol 1405
grounds, the state underground parking garage, and the warehouse 1406
owned by the board. 1407

(M) The capitol annex shall be known as the senate building. 1408

Sec. 109.57. (A)(1) The superintendent of the bureau of 1409
criminal identification and investigation shall procure from 1410
wherever procurable and file for record photographs, pictures, 1411
descriptions, fingerprints, measurements, and other information 1412
that may be pertinent of all persons who have been convicted of 1413
committing within this state a felony, any crime constituting a 1414
misdemeanor on the first offense and a felony on subsequent 1415
offenses, or any misdemeanor described in division (A)(1)(a), 1416
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1417
Code, of all children under eighteen years of age who have been 1418
adjudicated delinquent children for committing within this state 1419
an act that would be a felony or an offense of violence if 1420
committed by an adult or who have been convicted of or pleaded 1421
guilty to committing within this state a felony or an offense of 1422
violence, and of all well-known and habitual criminals. The person 1423

in charge of any county, multicounty, municipal, municipal-county, 1424
or multicounty-municipal jail or workhouse, community-based 1425
correctional facility, halfway house, alternative residential 1426
facility, or state correctional institution and the person in 1427
charge of any state institution having custody of a person 1428
suspected of having committed a felony, any crime constituting a 1429
misdemeanor on the first offense and a felony on subsequent 1430
offenses, or any misdemeanor described in division (A)(1)(a), 1431
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1432
Code or having custody of a child under eighteen years of age with 1433
respect to whom there is probable cause to believe that the child 1434
may have committed an act that would be a felony or an offense of 1435
violence if committed by an adult shall furnish such material to 1436
the superintendent of the bureau. Fingerprints, photographs, or 1437
other descriptive information of a child who is under eighteen 1438
years of age, has not been arrested or otherwise taken into 1439
custody for committing an act that would be a felony or an offense 1440
of violence who is not in any other category of child specified in 1441
this division, if committed by an adult, has not been adjudicated 1442
a delinquent child for committing an act that would be a felony or 1443
an offense of violence if committed by an adult, has not been 1444
convicted of or pleaded guilty to committing a felony or an 1445
offense of violence, and is not a child with respect to whom there 1446
is probable cause to believe that the child may have committed an 1447
act that would be a felony or an offense of violence if committed 1448
by an adult shall not be procured by the superintendent or 1449
furnished by any person in charge of any county, multicounty, 1450
municipal, municipal-county, or multicounty-municipal jail or 1451
workhouse, community-based correctional facility, halfway house, 1452
alternative residential facility, or state correctional 1453
institution, except as authorized in section 2151.313 of the 1454
Revised Code. 1455

(2) Every clerk of a court of record in this state, other 1456

than the supreme court or a court of appeals, shall send to the 1457
superintendent of the bureau a weekly report containing a summary 1458
of each case involving a felony, involving any crime constituting 1459
a misdemeanor on the first offense and a felony on subsequent 1460
offenses, involving a misdemeanor described in division (A)(1)(a), 1461
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1462
Code, or involving an adjudication in a case in which a child 1463
under eighteen years of age was alleged to be a delinquent child 1464
for committing an act that would be a felony or an offense of 1465
violence if committed by an adult. The clerk of the court of 1466
common pleas shall include in the report and summary the clerk 1467
sends under this division all information described in divisions 1468
(A)(2)(a) to (f) of this section regarding a case before the court 1469
of appeals that is served by that clerk. The summary shall be 1470
written on the standard forms furnished by the superintendent 1471
pursuant to division (B) of this section and shall include the 1472
following information: 1473

(a) The incident tracking number contained on the standard 1474
forms furnished by the superintendent pursuant to division (B) of 1475
this section; 1476

(b) The style and number of the case; 1477

(c) The date of arrest, offense, summons, or arraignment; 1478

(d) The date that the person was convicted of or pleaded 1479
guilty to the offense, adjudicated a delinquent child for 1480
committing the act that would be a felony or an offense of 1481
violence if committed by an adult, found not guilty of the 1482
offense, or found not to be a delinquent child for committing an 1483
act that would be a felony or an offense of violence if committed 1484
by an adult, the date of an entry dismissing the charge, an entry 1485
declaring a mistrial of the offense in which the person is 1486
discharged, an entry finding that the person or child is not 1487
competent to stand trial, or an entry of a nolle prosequi, or the 1488

date of any other determination that constitutes final resolution 1489
of the case; 1490

(e) A statement of the original charge with the section of 1491
the Revised Code that was alleged to be violated; 1492

(f) If the person or child was convicted, pleaded guilty, or 1493
was adjudicated a delinquent child, the sentence or terms of 1494
probation imposed or any other disposition of the offender or the 1495
delinquent child. 1496

If the offense involved the disarming of a law enforcement 1497
officer or an attempt to disarm a law enforcement officer, the 1498
clerk shall clearly state that fact in the summary, and the 1499
superintendent shall ensure that a clear statement of that fact is 1500
placed in the bureau's records. 1501

(3) The superintendent shall cooperate with and assist 1502
sheriffs, chiefs of police, and other law enforcement officers in 1503
the establishment of a complete system of criminal identification 1504
and in obtaining fingerprints and other means of identification of 1505
all persons arrested on a charge of a felony, any crime 1506
constituting a misdemeanor on the first offense and a felony on 1507
subsequent offenses, or a misdemeanor described in division 1508
(A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of 1509
the Revised Code and of all children under eighteen years of age 1510
arrested or otherwise taken into custody for committing an act 1511
that would be a felony or an offense of violence if committed by 1512
an adult. The superintendent also shall file for record the 1513
fingerprint impressions of all persons confined in a county, 1514
multicounty, municipal, municipal-county, or multicounty-municipal 1515
jail or workhouse, community-based correctional facility, halfway 1516
house, alternative residential facility, or state correctional 1517
institution for the violation of state laws and of all children 1518
under eighteen years of age who are confined in a county, 1519
multicounty, municipal, municipal-county, or multicounty-municipal 1520

jail or workhouse, community-based correctional facility, halfway 1521
house, alternative residential facility, or state correctional 1522
institution or in any facility for delinquent children for 1523
committing an act that would be a felony or an offense of violence 1524
if committed by an adult, and any other information that the 1525
superintendent may receive from law enforcement officials of the 1526
state and its political subdivisions. 1527

(4) The superintendent shall carry out Chapter 2950. of the 1528
Revised Code with respect to the registration of persons who are 1529
convicted of or plead guilty to a sexually oriented offense or a 1530
child-victim oriented offense and with respect to all other duties 1531
imposed on the bureau under that chapter. 1532

(5) The bureau shall perform centralized recordkeeping 1533
functions for criminal history records and services in this state 1534
for purposes of the national crime prevention and privacy compact 1535
set forth in section 109.571 of the Revised Code and is the 1536
criminal history record repository as defined in that section for 1537
purposes of that compact. The superintendent or the 1538
superintendent's designee is the compact officer for purposes of 1539
that compact and shall carry out the responsibilities of the 1540
compact officer specified in that compact. 1541

(B) The superintendent shall prepare and furnish to every 1542
county, multicounty, municipal, municipal-county, or 1543
multicounty-municipal jail or workhouse, community-based 1544
correctional facility, halfway house, alternative residential 1545
facility, or state correctional institution and to every clerk of 1546
a court in this state specified in division (A)(2) of this section 1547
standard forms for reporting the information required under 1548
division (A) of this section. The standard forms that the 1549
superintendent prepares pursuant to this division may be in a 1550
tangible format, in an electronic format, or in both tangible 1551
formats and electronic formats. 1552

(C)(1) The superintendent may operate a center for 1553
electronic, automated, or other data processing for the storage 1554
and retrieval of information, data, and statistics pertaining to 1555
criminals and to children under eighteen years of age who are 1556
adjudicated delinquent children for committing an act that would 1557
be a felony or an offense of violence if committed by an adult, 1558
criminal activity, crime prevention, law enforcement, and criminal 1559
justice, and may establish and operate a statewide communications 1560
network to be known as the Ohio law enforcement gateway to gather 1561
and disseminate information, data, and statistics for the use of 1562
law enforcement agencies and for other uses specified in this 1563
division. The superintendent may gather, store, retrieve, and 1564
disseminate information, data, and statistics that pertain to 1565
children who are under eighteen years of age and that are gathered 1566
pursuant to sections 109.57 to 109.61 of the Revised Code together 1567
with information, data, and statistics that pertain to adults and 1568
that are gathered pursuant to those sections. 1569

(2) The superintendent or the superintendent's designee shall 1570
gather information of the nature described in division (C)(1) of 1571
this section that pertains to the offense and delinquency history 1572
of a person who has been convicted of, pleaded guilty to, or been 1573
adjudicated a delinquent child for committing a sexually oriented 1574
offense or a child-victim oriented offense for inclusion in the 1575
state registry of sex offenders and child-victim offenders 1576
maintained pursuant to division (A)(1) of section 2950.13 of the 1577
Revised Code and in the internet database operated pursuant to 1578
division (A)(13) of that section and for possible inclusion in the 1579
internet database operated pursuant to division (A)(11) of that 1580
section. 1581

(3) In addition to any other authorized use of information, 1582
data, and statistics of the nature described in division (C)(1) of 1583
this section, the superintendent or the superintendent's designee 1584

may provide and exchange the information, data, and statistics 1585
pursuant to the national crime prevention and privacy compact as 1586
described in division (A)(5) of this section. 1587

(4) The attorney general may adopt rules under Chapter 119. 1588
of the Revised Code establishing guidelines for the operation of 1589
and participation in the Ohio law enforcement gateway. The rules 1590
may include criteria for granting and restricting access to 1591
information gathered and disseminated through the Ohio law 1592
enforcement gateway. The attorney general shall permit the state 1593
medical board and board of nursing to access and view, but not 1594
alter, information gathered and disseminated through the Ohio law 1595
enforcement gateway. 1596

The attorney general may appoint a steering committee to 1597
advise the attorney general in the operation of the Ohio law 1598
enforcement gateway that is comprised of persons who are 1599
representatives of the criminal justice agencies in this state 1600
that use the Ohio law enforcement gateway and is chaired by the 1601
superintendent or the superintendent's designee. 1602

(D)(1) The following are not public records under section 1603
149.43 of the Revised Code: 1604

(a) Information and materials furnished to the superintendent 1605
pursuant to division (A) of this section; 1606

(b) Information, data, and statistics gathered or 1607
disseminated through the Ohio law enforcement gateway pursuant to 1608
division (C)(1) of this section; 1609

(c) Information and materials furnished to any board or 1610
person under division (F) or (G) of this section. 1611

(2) The superintendent or the superintendent's designee shall 1612
gather and retain information so furnished under division (A) of 1613
this section that pertains to the offense and delinquency history 1614
of a person who has been convicted of, pleaded guilty to, or been 1615

adjudicated a delinquent child for committing a sexually oriented 1616
offense or a child-victim oriented offense for the purposes 1617
described in division (C)(2) of this section. 1618

(E) The attorney general shall adopt rules, in accordance 1619
with Chapter 119. of the Revised Code, setting forth the procedure 1620
by which a person may receive or release information gathered by 1621
the superintendent pursuant to division (A) of this section. A 1622
reasonable fee may be charged for this service. If a temporary 1623
employment service submits a request for a determination of 1624
whether a person the service plans to refer to an employment 1625
position has been convicted of or pleaded guilty to an offense 1626
listed or described in division (A)(1), (2), or (3), ~~(4), (5), or~~ 1627
~~(6)~~ of section 109.572 of the Revised Code, the request shall be 1628
treated as a single request and only one fee shall be charged. 1629

(F)(1) As used in division (F)(2) of this section, "head 1630
start agency" means an entity in this state that has been approved 1631
to be an agency for purposes of subchapter II of the "Community 1632
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1633
as amended. 1634

(2)(a) In addition to or in conjunction with any request that 1635
is required to be made under section 109.572, 2151.86, 3301.32, 1636
3301.541, division (C) of section 3310.58, or section 3319.39, 1637
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 1638
~~5126.28, 5126.281~~, or 5153.111 of the Revised Code or that is made 1639
under section 3314.41, 3319.392, 3326.25, or 3328.20 of the 1640
Revised Code, the board of education of any school district; the 1641
director of developmental disabilities; any county board of 1642
developmental disabilities; any ~~entity under contract with a~~ 1643
~~county board of developmental disabilities~~ provider or 1644
subcontractor as defined in section 5123.081 of the Revised Code; 1645
the chief administrator of any chartered nonpublic school; the 1646
chief administrator of a registered private provider that is not 1647

also a chartered nonpublic school; the chief administrator of any 1648
home health agency; the chief administrator of or person operating 1649
any child day-care center, type A family day-care home, or type B 1650
family day-care home licensed or certified under Chapter 5104. of 1651
the Revised Code; the administrator of any type C family day-care 1652
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1653
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1654
general assembly; the chief administrator of any head start 1655
agency; the executive director of a public children services 1656
agency; a private company described in section 3314.41, 3319.392, 1657
3326.25, or 3328.20 of the Revised Code; or an employer described 1658
in division (J)(2) of section 3327.10 of the Revised Code may 1659
request that the superintendent of the bureau investigate and 1660
determine, with respect to any individual who has applied for 1661
employment in any position after October 2, 1989, or any 1662
individual wishing to apply for employment with a board of 1663
education may request, with regard to the individual, whether the 1664
bureau has any information gathered under division (A) of this 1665
section that pertains to that individual. On receipt of the 1666
request, the superintendent shall determine whether that 1667
information exists and, upon request of the person, board, or 1668
entity requesting information, also shall request from the federal 1669
bureau of investigation any criminal records it has pertaining to 1670
that individual. The superintendent or the superintendent's 1671
designee also may request criminal history records from other 1672
states or the federal government pursuant to the national crime 1673
prevention and privacy compact set forth in section 109.571 of the 1674
Revised Code. Within thirty days of the date that the 1675
superintendent receives a request, the superintendent shall send 1676
to the board, entity, or person a report of any information that 1677
the superintendent determines exists, including information 1678
contained in records that have been sealed under section 2953.32 1679
of the Revised Code, and, within thirty days of its receipt, shall 1680

send the board, entity, or person a report of any information 1681
received from the federal bureau of investigation, other than 1682
information the dissemination of which is prohibited by federal 1683
law. 1684

(b) When a board of education or a registered private 1685
provider is required to receive information under this section as 1686
a prerequisite to employment of an individual pursuant to division 1687
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 1688
may accept a certified copy of records that were issued by the 1689
bureau of criminal identification and investigation and that are 1690
presented by an individual applying for employment with the 1691
district in lieu of requesting that information itself. In such a 1692
case, the board shall accept the certified copy issued by the 1693
bureau in order to make a photocopy of it for that individual's 1694
employment application documents and shall return the certified 1695
copy to the individual. In a case of that nature, a district or 1696
provider only shall accept a certified copy of records of that 1697
nature within one year after the date of their issuance by the 1698
bureau. 1699

(c) Notwithstanding division (F)(2)(a) of this section, in 1700
the case of a request under section 3319.39, 3319.391, or 3327.10 1701
of the Revised Code only for criminal records maintained by the 1702
federal bureau of investigation, the superintendent shall not 1703
determine whether any information gathered under division (A) of 1704
this section exists on the person for whom the request is made. 1705

(3) The state board of education may request, with respect to 1706
any individual who has applied for employment after October 2, 1707
1989, in any position with the state board or the department of 1708
education, any information that a school district board of 1709
education is authorized to request under division (F)(2) of this 1710
section, and the superintendent of the bureau shall proceed as if 1711
the request has been received from a school district board of 1712

education under division (F)(2) of this section. 1713

(4) When the superintendent of the bureau receives a request 1714
for information under section 3319.291 of the Revised Code, the 1715
superintendent shall proceed as if the request has been received 1716
from a school district board of education and shall comply with 1717
divisions (F)(2)(a) and (c) of this section. 1718

(5) When a recipient of a classroom reading improvement grant 1719
paid under section 3301.86 of the Revised Code requests, with 1720
respect to any individual who applies to participate in providing 1721
any program or service funded in whole or in part by the grant, 1722
the information that a school district board of education is 1723
authorized to request under division (F)(2)(a) of this section, 1724
the superintendent of the bureau shall proceed as if the request 1725
has been received from a school district board of education under 1726
division (F)(2)(a) of this section. 1727

(G) In addition to or in conjunction with any request that is 1728
required to be made under section 3701.881, 3712.09, or 3721.121- 1729
~~5119.693, or 5119.85~~ of the Revised Code with respect to an 1730
individual who has applied for employment in a position that 1731
involves providing direct care to an older adult or adult 1732
resident, the chief administrator of a home health agency, hospice 1733
care program, home licensed under Chapter 3721. of the Revised 1734
Code, or adult day-care program operated pursuant to rules adopted 1735
under section 3721.04 of the Revised Code, ~~adult foster home, or~~ 1736
~~adult care facility~~ may request that the superintendent of the 1737
bureau investigate and determine, with respect to any individual 1738
who has applied after January 27, 1997, for employment in a 1739
position that does not involve providing direct care to an older 1740
adult or adult resident, whether the bureau has any information 1741
gathered under division (A) of this section that pertains to that 1742
individual. 1743

In addition to or in conjunction with any request that is 1744

required to be made under section 173.27 of the Revised Code with 1745
respect to an individual who has applied for employment in a 1746
position that involves providing ombudsperson services to 1747
residents of long-term care facilities or recipients of 1748
community-based long-term care services, the state long-term care 1749
ombudsperson, ombudsperson's designee, or director of health may 1750
request that the superintendent investigate and determine, with 1751
respect to any individual who has applied for employment in a 1752
position that does not involve providing such ombudsperson 1753
services, whether the bureau has any information gathered under 1754
division (A) of this section that pertains to that applicant. 1755

In addition to or in conjunction with any request that is 1756
required to be made under section 173.394 of the Revised Code with 1757
respect to an individual who has applied for employment in a 1758
position that involves providing direct care to an individual, the 1759
chief administrator of a community-based long-term care agency may 1760
request that the superintendent investigate and determine, with 1761
respect to any individual who has applied for employment in a 1762
position that does not involve providing direct care, whether the 1763
bureau has any information gathered under division (A) of this 1764
section that pertains to that applicant. 1765

On receipt of a request under this division, the 1766
superintendent shall determine whether that information exists 1767
and, on request of the individual requesting information, shall 1768
also request from the federal bureau of investigation any criminal 1769
records it has pertaining to the applicant. The superintendent or 1770
the superintendent's designee also may request criminal history 1771
records from other states or the federal government pursuant to 1772
the national crime prevention and privacy compact set forth in 1773
section 109.571 of the Revised Code. Within thirty days of the 1774
date a request is received, the superintendent shall send to the 1775
requester a report of any information determined to exist, 1776

including information contained in records that have been sealed 1777
under section 2953.32 of the Revised Code, and, within thirty days 1778
of its receipt, shall send the requester a report of any 1779
information received from the federal bureau of investigation, 1780
other than information the dissemination of which is prohibited by 1781
federal law. 1782

(H) Information obtained by a government entity or person 1783
under this section is confidential and shall not be released or 1784
disseminated. 1785

(I) The superintendent may charge a reasonable fee for 1786
providing information or criminal records under division (F)(2) or 1787
(G) of this section. 1788

(J) As used in this section: 1789

(1) "Sexually oriented offense" and "child-victim oriented 1790
offense" have the same meanings as in section 2950.01 of the 1791
Revised Code. 1792

(2) "Registered private provider" means a nonpublic school or 1793
entity registered with the superintendent of public instruction 1794
under section 3310.41 of the Revised Code to participate in the 1795
autism scholarship program or section 3310.58 of the Revised Code 1796
to participate in the Jon Peterson special needs scholarship 1797
program. 1798

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1799
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 1800
a completed form prescribed pursuant to division (C)(1) of this 1801
section, and a set of fingerprint impressions obtained in the 1802
manner described in division (C)(2) of this section, the 1803
superintendent of the bureau of criminal identification and 1804
investigation shall conduct a criminal records check in the manner 1805
described in division (B) of this section to determine whether any 1806

information exists that indicates that the person who is the 1807
subject of the request previously has been convicted of or pleaded 1808
guilty to any of the following: 1809

(a) A violation of section 2903.01, 2903.02, 2903.03, 1810
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1811
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1812
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1813
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1814
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1815
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1816
2925.06, or 3716.11 of the Revised Code, felonious sexual 1817
penetration in violation of former section 2907.12 of the Revised 1818
Code, a violation of section 2905.04 of the Revised Code as it 1819
existed prior to July 1, 1996, a violation of section 2919.23 of 1820
the Revised Code that would have been a violation of section 1821
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1822
had the violation been committed prior to that date, or a 1823
violation of section 2925.11 of the Revised Code that is not a 1824
minor drug possession offense; 1825

(b) A violation of an existing or former law of this state, 1826
any other state, or the United States that is substantially 1827
equivalent to any of the offenses listed in division (A)(1)(a) of 1828
this section; 1829

(c) If the request is made pursuant to section 3319.39 of the 1830
Revised Code for an applicant who is a teacher, any offense 1831
specified in section 3319.31 of the Revised Code. 1832

~~(2) On receipt of a request pursuant to section 5123.081 of 1833
the Revised Code with respect to an applicant for employment in 1834
any position with the department of developmental disabilities, 1835
pursuant to section 5126.28 of the Revised Code with respect to an 1836
applicant for employment in any position with a county board of 1837
developmental disabilities, or pursuant to section 5126.281 of the 1838~~

~~Revised Code with respect to an applicant for employment in a
direct services position with an entity contracting with a county
board for employment, a completed form prescribed pursuant to
division (C)(1) of this section, and a set of fingerprint
impressions obtained in the manner described in division (C)(2) of
this section, the superintendent of the bureau of criminal
identification and investigation shall conduct a criminal records
check. The superintendent shall conduct the criminal records check
in the manner described in division (B) of this section to
determine whether any information exists that indicates that the
person who is the subject of the request has been convicted of or
pleaded guilty to any of the following:~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03,
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12,
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321,
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12,
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02,
2925.03, or 3716.11 of the Revised Code;~~

~~(b) An existing or former municipal ordinance or law of this
state, any other state, or the United States that is substantially
equivalent to any of the offenses listed in division (A)(2)(a) of
this section.~~

~~(3) On receipt of a request pursuant to section 173.27,
173.394, 3712.09, or 3721.121, 5119.693, or 5119.85 of the Revised
Code, a completed form prescribed pursuant to division (C)(1) of
this section, and a set of fingerprint impressions obtained in the
manner described in division (C)(2) of this section, the
superintendent of the bureau of criminal identification and
investigation shall conduct a criminal records check with respect
to any person who has applied for employment in a position for~~

which a criminal records check is required by those sections. The 1871
superintendent shall conduct the criminal records check in the 1872
manner described in division (B) of this section to determine 1873
whether any information exists that indicates that the person who 1874
is the subject of the request previously has been convicted of or 1875
pleaded guilty to any of the following: 1876

(a) A violation of section 2903.01, 2903.02, 2903.03, 1877
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1878
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1879
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1880
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1881
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1882
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1883
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1884
2925.22, 2925.23, or 3716.11 of the Revised Code; 1885

(b) An existing or former law of this state, any other state, 1886
or the United States that is substantially equivalent to any of 1887
the offenses listed in division (A)~~(3)~~(2)(a) of this section. 1888

~~(4) On receipt of a request pursuant to section 3701.881 of 1889
the Revised Code with respect to an applicant for employment with 1890
a home health agency as a person responsible for the care, 1891
custody, or control of a child, a completed form prescribed 1892
pursuant to division (C)(1) of this section, and a set of 1893
fingerprint impressions obtained in the manner described in 1894
division (C)(2) of this section, the superintendent of the bureau 1895
of criminal identification and investigation shall conduct a 1896
criminal records check. The superintendent shall conduct the 1897
criminal records check in the manner described in division (B) of 1898
this section to determine whether any information exists that 1899
indicates that the person who is the subject of the request 1900
previously has been convicted of or pleaded guilty to any of the 1901
following: 1902~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1903
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1904
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1905
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1906
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1907
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1908
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1909
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1910
violation of section 2925.11 of the Revised Code that is not a 1911
minor drug possession offense; 1912~~

~~(b) An existing or former law of this state, any other state, 1913
or the United States that is substantially equivalent to any of 1914
the offenses listed in division (A)(4)(a) of this section. 1915~~

~~(5)(3) On receipt of a request pursuant to section 173.27, 1916
173.394, 3701.881, 5111.032, 5111.033, ~~or~~ 5111.034, 5123.081, or 1917
5123.169 of the Revised Code, a completed form prescribed pursuant 1918
to division (C)(1) of this section, and a set of fingerprint 1919
impressions obtained in the manner described in division (C)(2) of 1920
this section, the superintendent of the bureau of criminal 1921
identification and investigation shall conduct a criminal records 1922
check of the person for whom the request is made. The 1923
superintendent shall conduct the criminal records check in the 1924
manner described in division (B) of this section to determine 1925
whether any information exists that indicates that the person who 1926
is the subject of the request previously has been convicted of, 1927
has pleaded guilty to, or has been found eligible for intervention 1928
in lieu of conviction for any of the following, regardless of the 1929
date of the conviction, the date of entry of the guilty plea, or 1930
the date the person was found eligible for intervention in lieu of 1931
conviction: 1932~~

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 1933
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 1934

2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 1935
2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 1936
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1937
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 1938
2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 1939
~~2909.05~~, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 1940
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 1941
2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 1942
2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 1943
2913.51, 2917.01, 2917.02, 2917.03, ~~2917.11~~, 2917.31, 2919.12, 1944
2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 1945
2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 1946
2921.34, 2921.35, 2921.36, ~~2923.01~~, ~~2923.02~~, ~~2923.03~~, 2921.51, 1947
2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 1948
2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 1949
2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 1950
2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the 1951
Revised Code, ~~felonious~~; 1952

(b) Felonious sexual penetration in violation of former 1953
section 2907.12 of the Revised Code, ~~a~~; 1954

(c) A violation of section 2905.04 of the Revised Code as it 1955
existed prior to July 1, 1996, ~~a violation of section 2919.23 of~~ 1956
~~the Revised Code that would have been a violation of section~~ 1957
~~2905.04 of the Revised Code as it existed prior to July 1, 1996,~~ 1958
~~had the violation been committed prior to that date;~~ 1959

~~(b)~~(d) A violation of section 2923.01, 2923.02, or 2923.03 of 1960
the Revised Code when the underlying offense that is the object of 1961
the conspiracy, attempt, or complicity is one of the offenses 1962
listed in divisions (A)(3)(a) to (c) of this section; 1963

(e) A violation of an existing or former municipal ordinance 1964
or law of this state, any other state, or the United States that 1965
is substantially equivalent to any of the offenses listed in 1966

~~division divisions (A)(5)(3)(a) to (d) of this section.~~ 1967

~~(6) On receipt of a request pursuant to section 3701.881 of 1968
the Revised Code with respect to an applicant for employment with 1969
a home health agency in a position that involves providing direct 1970
care to an older adult, a completed form prescribed pursuant to 1971
division (C)(1) of this section, and a set of fingerprint 1972
impressions obtained in the manner described in division (C)(2) of 1973
this section, the superintendent of the bureau of criminal 1974
identification and investigation shall conduct a criminal records 1975
check. The superintendent shall conduct the criminal records check 1976
in the manner described in division (B) of this section to 1977
determine whether any information exists that indicates that the 1978
person who is the subject of the request previously has been 1979
convicted of or pleaded guilty to any of the following: 1980~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1981
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1982
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1983
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1984
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1985
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1986
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1987
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1988
2925.22, 2925.23, or 3716.11 of the Revised Code; 1989~~

~~(b) An existing or former law of this state, any other state, 1990
or the United States that is substantially equivalent to any of 1991
the offenses listed in division (A)(6)(a) of this section. 1992~~

~~(7) When conducting a criminal records check upon a request 1993
pursuant to section 3319.39 of the Revised Code for an applicant 1994
who is a teacher, in addition to the determination made under 1995
division (A)(1) of this section, the superintendent shall 1996
determine whether any information exists that indicates that the 1997
person who is the subject of the request previously has been 1998~~

~~convicted of or pleaded guilty to any offense specified in section 1999
3319.31 of the Revised Code. 2000~~

~~(8)(4)~~ On receipt of a request pursuant to section 2151.86 of 2001
the Revised Code, a completed form prescribed pursuant to division 2002
(C)(1) of this section, and a set of fingerprint impressions 2003
obtained in the manner described in division (C)(2) of this 2004
section, the superintendent of the bureau of criminal 2005
identification and investigation shall conduct a criminal records 2006
check in the manner described in division (B) of this section to 2007
determine whether any information exists that indicates that the 2008
person who is the subject of the request previously has been 2009
convicted of or pleaded guilty to any of the following: 2010

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2011
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2012
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2013
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2014
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2015
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2016
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2017
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2018
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 2019
of the Revised Code, a violation of section 2905.04 of the Revised 2020
Code as it existed prior to July 1, 1996, a violation of section 2021
2919.23 of the Revised Code that would have been a violation of 2022
section 2905.04 of the Revised Code as it existed prior to July 1, 2023
1996, had the violation been committed prior to that date, a 2024
violation of section 2925.11 of the Revised Code that is not a 2025
minor drug possession offense, two or more OVI or OVUAC violations 2026
committed within the three years immediately preceding the 2027
submission of the application or petition that is the basis of the 2028
request, or felonious sexual penetration in violation of former 2029
section 2907.12 of the Revised Code; 2030

(b) A violation of an existing or former law of this state, 2031
any other state, or the United States that is substantially 2032
equivalent to any of the offenses listed in division (A)~~(8)~~(4)(a) 2033
of this section. 2034

~~(9)~~(5) Upon receipt of a request pursuant to section 5104.012 2035
or 5104.013 of the Revised Code, a completed form prescribed 2036
pursuant to division (C)(1) of this section, and a set of 2037
fingerprint impressions obtained in the manner described in 2038
division (C)(2) of this section, the superintendent of the bureau 2039
of criminal identification and investigation shall conduct a 2040
criminal records check in the manner described in division (B) of 2041
this section to determine whether any information exists that 2042
indicates that the person who is the subject of the request has 2043
been convicted of or pleaded guilty to any of the following: 2044

(a) A violation of section 2903.01, 2903.02, 2903.03, 2045
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2046
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2047
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2048
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2049
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2050
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2051
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2052
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2053
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2054
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 2055
3716.11 of the Revised Code, felonious sexual penetration in 2056
violation of former section 2907.12 of the Revised Code, a 2057
violation of section 2905.04 of the Revised Code as it existed 2058
prior to July 1, 1996, a violation of section 2919.23 of the 2059
Revised Code that would have been a violation of section 2905.04 2060
of the Revised Code as it existed prior to July 1, 1996, had the 2061
violation been committed prior to that date, a violation of 2062

section 2925.11 of the Revised Code that is not a minor drug 2063
possession offense, a violation of section 2923.02 or 2923.03 of 2064
the Revised Code that relates to a crime specified in this 2065
division, or a second violation of section 4511.19 of the Revised 2066
Code within five years of the date of application for licensure or 2067
certification. 2068

(b) A violation of an existing or former law of this state, 2069
any other state, or the United States that is substantially 2070
equivalent to any of the offenses or violations described in 2071
division (A)~~(9)~~(5)(a) of this section. 2072

~~(10)~~(6) Upon receipt of a request pursuant to section 2073
5153.111 of the Revised Code, a completed form prescribed pursuant 2074
to division (C)(1) of this section, and a set of fingerprint 2075
impressions obtained in the manner described in division (C)(2) of 2076
this section, the superintendent of the bureau of criminal 2077
identification and investigation shall conduct a criminal records 2078
check in the manner described in division (B) of this section to 2079
determine whether any information exists that indicates that the 2080
person who is the subject of the request previously has been 2081
convicted of or pleaded guilty to any of the following: 2082

(a) A violation of section 2903.01, 2903.02, 2903.03, 2083
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2084
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2085
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2086
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2087
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2088
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2089
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 2090
felonious sexual penetration in violation of former section 2091
2907.12 of the Revised Code, a violation of section 2905.04 of the 2092
Revised Code as it existed prior to July 1, 1996, a violation of 2093
section 2919.23 of the Revised Code that would have been a 2094

violation of section 2905.04 of the Revised Code as it existed 2095
prior to July 1, 1996, had the violation been committed prior to 2096
that date, or a violation of section 2925.11 of the Revised Code 2097
that is not a minor drug possession offense; 2098

(b) A violation of an existing or former law of this state, 2099
any other state, or the United States that is substantially 2100
equivalent to any of the offenses listed in division (A)~~(10)~~(6)(a) 2101
of this section. 2102

~~(11)~~(7) On receipt of a request for a criminal records check 2103
from an individual pursuant to section 4749.03 or 4749.06 of the 2104
Revised Code, accompanied by a completed copy of the form 2105
prescribed in division (C)(1) of this section and a set of 2106
fingerprint impressions obtained in a manner described in division 2107
(C)(2) of this section, the superintendent of the bureau of 2108
criminal identification and investigation shall conduct a criminal 2109
records check in the manner described in division (B) of this 2110
section to determine whether any information exists indicating 2111
that the person who is the subject of the request has been 2112
convicted of or pleaded guilty to a felony in this state or in any 2113
other state. If the individual indicates that a firearm will be 2114
carried in the course of business, the superintendent shall 2115
require information from the federal bureau of investigation as 2116
described in division (B)(2) of this section. The superintendent 2117
shall report the findings of the criminal records check and any 2118
information the federal bureau of investigation provides to the 2119
director of public safety. 2120

~~(12)~~(8) On receipt of a request pursuant to section 1321.37, 2121
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 2122
Code, a completed form prescribed pursuant to division (C)(1) of 2123
this section, and a set of fingerprint impressions obtained in the 2124
manner described in division (C)(2) of this section, the 2125
superintendent of the bureau of criminal identification and 2126

investigation shall conduct a criminal records check with respect 2127
to any person who has applied for a license, permit, or 2128
certification from the department of commerce or a division in the 2129
department. The superintendent shall conduct the criminal records 2130
check in the manner described in division (B) of this section to 2131
determine whether any information exists that indicates that the 2132
person who is the subject of the request previously has been 2133
convicted of or pleaded guilty to any of the following: a 2134
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2135
2925.03 of the Revised Code; any other criminal offense involving 2136
theft, receiving stolen property, embezzlement, forgery, fraud, 2137
passing bad checks, money laundering, or drug trafficking, or any 2138
criminal offense involving money or securities, as set forth in 2139
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 2140
the Revised Code; or any existing or former law of this state, any 2141
other state, or the United States that is substantially equivalent 2142
to those offenses. 2143

~~(13)~~(9) On receipt of a request for a criminal records check 2144
from the treasurer of state under section 113.041 of the Revised 2145
Code or from an individual under section 4701.08, 4715.101, 2146
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 2147
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 2148
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 2149
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 2150
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 2151
a completed form prescribed under division (C)(1) of this section 2152
and a set of fingerprint impressions obtained in the manner 2153
described in division (C)(2) of this section, the superintendent 2154
of the bureau of criminal identification and investigation shall 2155
conduct a criminal records check in the manner described in 2156
division (B) of this section to determine whether any information 2157
exists that indicates that the person who is the subject of the 2158
request has been convicted of or pleaded guilty to any criminal 2159

offense in this state or any other state. The superintendent shall 2160
send the results of a check requested under section 113.041 of the 2161
Revised Code to the treasurer of state and shall send the results 2162
of a check requested under any of the other listed sections to the 2163
licensing board specified by the individual in the request. 2164

~~(14)~~(10) On receipt of a request pursuant to section 1121.23, 2165
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 2166
Code, a completed form prescribed pursuant to division (C)(1) of 2167
this section, and a set of fingerprint impressions obtained in the 2168
manner described in division (C)(2) of this section, the 2169
superintendent of the bureau of criminal identification and 2170
investigation shall conduct a criminal records check in the manner 2171
described in division (B) of this section to determine whether any 2172
information exists that indicates that the person who is the 2173
subject of the request previously has been convicted of or pleaded 2174
guilty to any criminal offense under any existing or former law of 2175
this state, any other state, or the United States. 2176

~~(15)~~(11) On receipt of a request for a criminal records check 2177
from an appointing or licensing authority under section 3772.07 of 2178
the Revised Code, a completed form prescribed under division 2179
(C)(1) of this section, and a set of fingerprint impressions 2180
obtained in the manner prescribed in division (C)(2) of this 2181
section, the superintendent of the bureau of criminal 2182
identification and investigation shall conduct a criminal records 2183
check in the manner described in division (B) of this section to 2184
determine whether any information exists that indicates that the 2185
person who is the subject of the request previously has been 2186
convicted of or pleaded guilty or no contest to any offense under 2187
any existing or former law of this state, any other state, or the 2188
United States that is a disqualifying offense as defined in 2189
section 3772.07 of the Revised Code or substantially equivalent to 2190
such an offense. 2191

~~(16) Not later than thirty days after the date the
superintendent receives a request of a type described in division
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),
(14), or (15) of this section, the completed form, and the
fingerprint impressions, the superintendent shall send the person,
board, or entity that made the request any information, other than
information the dissemination of which is prohibited by federal
law, the superintendent determines exists with respect to the
person who is the subject of the request that indicates that the
person previously has been convicted of or pleaded guilty to any
offense listed or described in division (A)(1), (2), (3), (4),
(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this
section, as appropriate. The superintendent shall send the person,
board, or entity that made the request a copy of the list of
offenses specified in division (A)(1), (2), (3), (4), (5), (6),
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as
appropriate. If the request was made under section 3701.881 of the
Revised Code with regard to an applicant who may be both
responsible for the care, custody, or control of a child and
involved in providing direct care to an older adult, the
superintendent shall provide a list of the offenses specified in
divisions (A)(4) and (6) of this section.~~

~~Not later than thirty days after the superintendent receives
a request for a criminal records check pursuant to section 113.041
of the Revised Code, the completed form, and the fingerprint
impressions, the superintendent shall send the treasurer of state
any information, other than information the dissemination of which
is prohibited by federal law, the superintendent determines exist
with respect to the person who is the subject of the request that
indicates that the person previously has been convicted of or
pleaded guilty to any criminal offense in this state or any other
state.~~

(12) On receipt of a request pursuant to section 2151.33 or 2224
2151.412 of the Revised Code, a completed form prescribed pursuant 2225
to division (C)(1) of this section, and a set of fingerprint 2226
impressions obtained in the manner described in division (C)(2) of 2227
this section, the superintendent of the bureau of criminal 2228
identification and investigation shall conduct a criminal records 2229
check with respect to any person for whom a criminal records check 2230
is required by that section. The superintendent shall conduct the 2231
criminal records check in the manner described in division (B) of 2232
this section to determine whether any information exists that 2233
indicates that the person who is the subject of the request 2234
previously has been convicted of or pleaded guilty to any of the 2235
following: 2236

(a) A violation of section 2903.01, 2903.02, 2903.03, 2237
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2238
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2239
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2240
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2241
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2242
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2243
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2244
2925.22, 2925.23, or 3716.11 of the Revised Code; 2245

(b) An existing or former law of this state, any other state, 2246
or the United States that is substantially equivalent to any of 2247
the offenses listed in division (A)(12)(a) of this section. 2248

(B) The superintendent shall conduct any criminal records 2249
check requested under section 113.041, 121.08, 173.27, 173.394, 2250
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 2251
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 2252
3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061, 2253
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 2254
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 2255

~~4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06,~~ 2256
~~4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051,~~ 2257
~~4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013,~~ 2258
~~5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081,~~ 2259
~~5126.28, 5126.281, or 5153.111 of the Revised Code~~ to be conducted 2260
under this section as follows: 2261

(1) The superintendent shall review or cause to be reviewed 2262
any relevant information gathered and compiled by the bureau under 2263
division (A) of section 109.57 of the Revised Code that relates to 2264
the person who is the subject of the ~~request~~ criminal records 2265
check, including, if the criminal records check was requested 2266
under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 2267
1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 2268
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2269
3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 2270
5104.013, 5111.032, 5111.033, 5111.034, ~~5119.693, 5119.85,~~ 2271
5123.081, ~~5126.28, 5126.281,~~ 5123.169, or 5153.111 of the Revised 2272
Code, any relevant information contained in records that have been 2273
sealed under section 2953.32 of the Revised Code; 2274

(2) If the request received by the superintendent asks for 2275
information from the federal bureau of investigation, the 2276
superintendent shall request from the federal bureau of 2277
investigation any information it has with respect to the person 2278
who is the subject of the ~~request~~ criminal records check, 2279
including fingerprint-based checks of national crime information 2280
databases as described in 42 U.S.C. 671 if the request is made 2281
pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised 2282
Code or if any other Revised Code section requires 2283
fingerprint-based checks of that nature, and shall review or cause 2284
to be reviewed any information the superintendent receives from 2285
that bureau. If a request under section 3319.39 of the Revised 2286
Code asks only for information from the federal bureau of 2287

investigation, the superintendent shall not conduct the review 2288
prescribed by division (B)(1) of this section. 2289

(3) The superintendent or the superintendent's designee may 2290
request criminal history records from other states or the federal 2291
government pursuant to the national crime prevention and privacy 2292
compact set forth in section 109.571 of the Revised Code. 2293

(4) The superintendent shall include in the results of the 2294
criminal records check a list or description of the offenses 2295
listed or described in division (A)(1), (2), (3), (4), (5), (6), 2296
(7), (8), (9), (10), (11), or (12) of this section, whichever 2297
division requires the superintendent to conduct the criminal 2298
records check. The superintendent shall exclude from the results 2299
any information the dissemination of which is prohibited by 2300
federal law. 2301

(5) The superintendent shall send the results of the criminal 2302
records check to the person to whom it is to be sent not later 2303
than the following number of days after the date the 2304
superintendent receives the request for the criminal records 2305
check, the completed form prescribed under division (C)(1) of this 2306
section, and the set of fingerprint impressions obtained in the 2307
manner described in division (C)(2) of this section: 2308

(a) If the superintendent is required by division (A) of this 2309
section (other than division (A)(3) of this section) to conduct 2310
the criminal records check, thirty; 2311

(b) If the superintendent is required by division (A)(3) of 2312
this section to conduct the criminal records check, sixty. 2313

(C)(1) The superintendent shall prescribe a form to obtain 2314
the information necessary to conduct a criminal records check from 2315
any person for whom a criminal records check is ~~requested under~~ 2316
~~section 113.041 of the Revised Code or required by section 121.08,~~ 2317
~~173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53,~~ 2318

~~1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32,~~ 2319
~~3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08,~~ 2320
~~4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101,~~ 2321
~~4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2322
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2323
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2324
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2325
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2326
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2327
conducted under this section. The form that the superintendent 2328
prescribes pursuant to this division may be in a tangible format, 2329
in an electronic format, or in both tangible and electronic 2330
formats. 2331

(2) The superintendent shall prescribe standard impression 2332
sheets to obtain the fingerprint impressions of any person for 2333
whom a criminal records check is ~~requested under section 113.041~~ 2334
~~of the Revised Code or required by section 121.08, 173.27,~~ 2335
~~173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531,~~ 2336
~~1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541,~~ 2337
~~3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101,~~ 2338
~~4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14,~~ 2339
~~4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2340
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2341
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2342
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2343
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2344
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2345
conducted under this section. Any person for whom a records check 2346
is ~~requested under or required by any of those sections to be~~ 2347
conducted under this section shall obtain the fingerprint 2348
impressions at a county sheriff's office, municipal police 2349
department, or any other entity with the ability to make 2350
fingerprint impressions on the standard impression sheets 2351

prescribed by the superintendent. The office, department, or 2352
entity may charge the person a reasonable fee for making the 2353
impressions. The standard impression sheets the superintendent 2354
prescribes pursuant to this division may be in a tangible format, 2355
in an electronic format, or in both tangible and electronic 2356
formats. 2357

(3) Subject to division (D) of this section, the 2358
superintendent shall prescribe and charge a reasonable fee for 2359
providing a criminal records check ~~requested under section~~ 2360
~~113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05,~~ 2361
~~1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26,~~ 2362
~~2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121,~~ 2363
~~3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501,~~ 2364
~~4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171,~~ 2365
~~4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202,~~ 2366
~~4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061,~~ 2367
~~4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091,~~ 2368
~~5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693,~~ 2369
~~5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised~~ 2370
~~Code under this section.~~ The person ~~making a~~ requesting the 2371
criminal records ~~request under any of those sections~~ check shall 2372
pay the fee prescribed pursuant to this division. ~~A person making~~ 2373
~~a request under section 3701.881 of the Revised Code for a~~ 2374
~~criminal records check for an applicant who may be both~~ 2375
~~responsible for the care, custody, or control of a child and~~ 2376
~~involved in providing direct care to an older adult shall pay one~~ 2377
~~fee for the request.~~ In the case of a request under section 2378
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2379
2151.412, or 5111.032 of the Revised Code, the fee shall be paid 2380
in the manner specified in that section. 2381

(4) The superintendent of the bureau of criminal 2382
identification and investigation may prescribe methods of 2383

forwarding fingerprint impressions and information necessary to 2384
conduct a criminal records check, which methods shall include, but 2385
not be limited to, an electronic method. 2386

(D) ~~A determination whether any information exists that~~ 2387
~~indicates that a person previously has been convicted of or~~ 2388
~~pleaded guilty to any offense listed or described in division~~ 2389
~~(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or~~ 2390
~~(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b),~~ 2391
~~(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15)~~ 2392
~~of this section, or that indicates that a person previously has~~ 2393
~~been convicted of or pleaded guilty to any criminal offense in~~ 2394
~~this state or any other state regarding a criminal records check~~ 2395
~~of a type described in division (A)(13) of this section, and that~~ 2396
~~is made by the superintendent with respect to information~~ 2397
~~considered in~~ The results of a criminal records check in 2398
~~accordance with~~ conducted under this section ~~is, other than a~~ 2399
criminal records check specified in division (A)(7) of this 2400
section, are valid for the person who is the subject of the 2401
criminal records check for a period of one year from the date upon 2402
which the superintendent ~~makes the determination~~ completes the 2403
criminal records check. ~~During the~~ If during that period in which 2404
~~the determination in regard to a person is valid, if the~~ 2405
superintendent receives another request under this section ~~is made~~ 2406
for a criminal records check to be conducted under this section 2407
for that person, the superintendent shall provide the ~~information~~ 2408
~~that is the basis for the superintendent's initial determination~~ 2409
results from the previous criminal records check of the person at 2410
a lower fee than the fee prescribed for the initial criminal 2411
records check. 2412

(E) When the superintendent receives a request for 2413
information from a registered private provider, the superintendent 2414
shall proceed as if the request was received from a school 2415

district board of education under section 3319.39 of the Revised Code. The superintendent shall apply division (A)~~(7)~~(1)(c) of this section to any such request for an applicant who is a teacher.

(F) As used in this section:

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

~~(3) "Older adult" means a person age sixty or older.~~

~~(4)~~ "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

~~(5)~~(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

Sec. 109.801. (A)(1) Each year, any of the following persons who are authorized to carry firearms in the course of their official duties shall complete successfully a firearms requalification program approved by the executive director of the Ohio peace officer training commission in accordance with rules adopted by the attorney general pursuant to section 109.743 of the Revised Code: any peace officer, sheriff, chief of police of an organized police department of a municipal corporation or

township, chief of police of a township police district or joint 2446
police district police force, superintendent of the state highway 2447
patrol, state highway patrol trooper, or chief of police of a 2448
university or college police department; any parole or probation 2449
officer who carries a firearm in the course of official duties; 2450
the house of representatives sergeant at arms if the house of 2451
representatives sergeant at arms has arrest authority pursuant to 2452
division (E)(1) of section 101.311 of the Revised Code; any 2453
assistant house of representatives sergeant at arms; the senate 2454
sergeant at arms; any assistant senate sergeant at arms; or any 2455
employee of the department of youth services who is designated 2456
pursuant to division (A)(2) of section 5139.53 of the Revised Code 2457
as being authorized to carry a firearm while on duty as described 2458
in that division. 2459

(2) No person listed in division (A)(1) of this section shall 2460
carry a firearm during the course of official duties if the person 2461
does not comply with division (A)(1) of this section. 2462

(B) The hours that a sheriff spends attending a firearms 2463
requalification program required by division (A) of this section 2464
are in addition to the sixteen hours of continuing education that 2465
are required by division (E) of section 311.01 of the Revised 2466
Code. 2467

(C) As used in this section, "firearm" has the same meaning 2468
as in section 2923.11 of the Revised Code. 2469

Sec. 119.032. (A) As used in this section: 2470

(1) "Agency" includes both an agency as defined in division 2471
(A)(2) of section 111.15 and an agency as defined in division (A) 2472
of section 119.01 of the Revised Code. 2473

(2) "Review date" means the review date assigned to a rule by 2474
an agency under division (B) or (E)(2) of this section or under 2475

section 111.15, 119.04, or 4141.14 of the Revised Code or a review 2476
date assigned to a rule by the joint committee on agency rule 2477
review under division (B) of this section. 2478

(3)(a) "Rule" means only a rule whose adoption, amendment, or 2479
rescission is subject to review under division (D) of section 2480
111.15 or division (H) of section 119.03 of the Revised Code. 2481

(b) "Rule" does not include ~~a rule adopted, amended, or~~ 2482
~~rescinded by the department of taxation under section 5703.14 of~~ 2483
~~the Revised Code,~~ a rule of a state college or university, 2484
community college district, technical college district, or state 2485
community college, or a rule that is consistent with and 2486
equivalent to the form required by a federal law and that does not 2487
exceed the minimum scope and intent of that federal law. 2488

(B) Not later than March 25, 1997, each agency shall assign a 2489
review date to each of its rules that is currently in effect and 2490
shall notify the joint committee on agency rule review of the 2491
review date for each such rule. The agency shall assign review 2492
dates to its rules so that approximately one-fifth of the rules 2493
are scheduled for review during each calendar year of the 2494
five-year period that begins March 25, 1997, except that an 2495
agency, with the joint committee's approval, may set a review 2496
schedule for the agency's rules in which there is no requirement 2497
that approximately one-fifth of the agency's rules be assigned a 2498
review date during each calendar year of the five-year period but 2499
in which all of the agency's rules are assigned a review date 2500
during that five-year period. An agency may change the review 2501
dates it has assigned to specific rules so long as the agency 2502
complies with the five-year time deadline specified in this 2503
division. 2504

Upon the request of the agency that adopted the rule, the 2505
joint committee on agency rule review may extend a review date of 2506
a rule to a date that is not later than one hundred eighty days 2507

after the original review date assigned to the rule by the agency 2508
under this division, division (E)(2) of this section, or section 2509
111.15, 119.04, or 4141.14 of the Revised Code. The joint 2510
committee may further extend a review date that has been extended 2511
under this paragraph if appropriate under the circumstances. 2512

(C) Prior to the review date of a rule, the agency that 2513
adopted the rule shall review the rule to determine all of the 2514
following: 2515

(1) Whether the rule should be continued without amendment, 2516
be amended, or be rescinded, taking into consideration the 2517
purpose, scope, and intent of the statute under which the rule was 2518
adopted; 2519

(2) Whether the rule needs amendment or rescission to give 2520
more flexibility at the local level; 2521

(3) Whether the rule needs amendment or rescission to 2522
eliminate unnecessary paperwork, or whether the rule incorporates 2523
a text or other material by reference and, if so, whether the text 2524
or other material incorporated by reference is deposited or 2525
displayed as required by section 121.74 of the Revised Code and 2526
whether the incorporation by reference meets the standards stated 2527
in sections 121.72, 121.75, and 121.76 of the Revised Code; 2528

(4) Whether the rule duplicates, overlaps with, or conflicts 2529
with other rules; 2530

(5) Whether the rule has an adverse impact on businesses, 2531
reviewing the rule as if it were a draft rule being reviewed under 2532
sections 107.52 and 107.53 of the Revised Code, and whether any 2533
such adverse impact has been eliminated or reduced. 2534

(D) In making the review required under division (C) of this 2535
section, the agency shall consider the continued need for the 2536
rule, the nature of any complaints or comments received concerning 2537
the rule, and any relevant factors that have changed in the 2538

subject matter area affected by the rule. 2539

(E)(1) On or before the designated review date of a rule, the 2540
agency that adopted the rule shall proceed under division (E)(2) 2541
or (5) of this section to indicate that the agency has reviewed 2542
the rule. 2543

(2) If the agency has determined that the rule does not need 2544
to be amended or rescinded, the agency shall file all the 2545
following, in electronic form, with the joint committee on agency 2546
rule review, the secretary of state, and the director of the 2547
legislative service commission: a copy of the rule, a statement of 2548
the agency's determination, and an accurate rule summary and 2549
fiscal analysis for the rule as described in section 127.18 of the 2550
Revised Code. The agency shall assign a new review date to the 2551
rule, which shall not be later than five years after the rule's 2552
immediately preceding review date. After the joint committee has 2553
reviewed such a rule for the first time, including any rule that 2554
was in effect on September 26, 1996, the agency in its subsequent 2555
reviews of the rule may provide the same fiscal analysis it 2556
provided to the joint committee during its immediately preceding 2557
review of the rule unless any of the conditions described in 2558
division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of 2559
the Revised Code, as they relate to the rule, have appreciably 2560
changed since the joint committee's immediately preceding review 2561
of the rule. If any of these conditions, as they relate to the 2562
rule, have appreciably changed, the agency shall provide the joint 2563
committee with an updated fiscal analysis for the rule. If no 2564
review date is assigned to a rule, or if a review date assigned to 2565
a rule exceeds the five-year maximum, the review date for the rule 2566
is five years after its immediately preceding review date. The 2567
joint committee shall give public notice in the register of Ohio 2568
of the agency's determination after receiving a notice from the 2569
agency under division (E)(2) of this section. The joint committee 2570

shall transmit a copy of the notice in electronic form to the 2571
director of the legislative service commission. The director shall 2572
publish the notice in the register of Ohio for four consecutive 2573
weeks after its receipt. 2574

(3) During the ninety-day period following the date the joint 2575
committee receives a notice under division (E)(2) of this section 2576
but after the four-week period described in division (E)(2) of 2577
this section has ended, the joint committee, by a two-thirds vote 2578
of the members present, may recommend the adoption of a concurrent 2579
resolution invalidating the rule if the joint committee determines 2580
that any of the following apply: 2581

(a) The agency improperly applied the criteria described in 2582
divisions (C) and (D) of this section in reviewing the rule and in 2583
recommending its continuance without amendment or rescission. 2584

(b) The agency failed to file proper notice with the joint 2585
committee regarding the rule, or if the rule incorporates a text 2586
or other material by reference, the agency failed to file, or to 2587
deposit or display, the text or other material incorporated by 2588
reference as required by section 121.73 or 121.74 of the Revised 2589
Code or the incorporation by reference fails to meet the standards 2590
stated in section 121.72, 121.75, or 121.76 of the Revised Code. 2591

(c) The rule has an adverse impact on businesses, as 2592
determined under section 107.52 of the Revised Code, and the 2593
agency has not eliminated or reduced that impact as required under 2594
section 121.82 of the Revised Code. 2595

(4) If the joint committee does not take the action described 2596
in division (E)(3) of this section regarding a rule during the 2597
ninety-day period after the date the joint committee receives a 2598
notice under division (E)(2) of this section regarding that rule, 2599
the rule shall continue in effect without amendment and shall be 2600
next reviewed by the joint committee by the date designated by the 2601

agency in the notice provided to the joint committee under 2602
division (E)(2) of this section. 2603

(5) If the agency has determined that a rule reviewed under 2604
division (C) of this section needs to be amended or rescinded, the 2605
agency, on or before the rule's review date, shall file the rule 2606
as amended or rescinded in accordance with section 111.15, 119.03, 2607
or 4141.14 of the Revised Code, as applicable. 2608

(6) Each agency shall provide the joint committee with a copy 2609
of the rules that it has determined are rules described in 2610
division (A)(3)(b) of this section. At a time the joint committee 2611
designates, each agency shall appear before the joint committee 2612
and explain why it has determined that such rules are rules 2613
described in division (A)(3)(b) of this section. The joint 2614
committee, by a two-thirds vote of the members present, may 2615
determine that any of such rules are rules described in division 2616
(A)(3)(a) of this section. After the joint committee has made such 2617
a determination relating to a rule, the agency shall thereafter 2618
treat the rule as a rule described in division (A)(3)(a) of this 2619
section. 2620

(F) If an agency fails to provide the notice to the joint 2621
committee required under division (E)(2) of this section regarding 2622
a rule or otherwise fails by the rule's review date to take any 2623
action regarding the rule required by this section , the joint 2624
committee, by a majority vote of the members present, may 2625
recommend the adoption of a concurrent resolution invalidating the 2626
rule. The joint committee shall not recommend the adoption of such 2627
a resolution until it has afforded the agency the opportunity to 2628
appear before the joint committee to show cause why the joint 2629
committee should not recommend the adoption of such a resolution 2630
regarding that rule. 2631

(G) If the joint committee recommends adoption of a 2632
concurrent resolution invalidating a rule under division (E)(3) or 2633

(F) of this section, the adoption of the concurrent resolution 2634
shall be in the manner described in division (I) of section 119.03 2635
of the Revised Code. 2636

Sec. 121.04. Offices are created within the several 2637
departments as follows: 2638

In the department of commerce: 2639

Commissioner of securities; 2640

Superintendent of real estate and professional 2641
licensing;

Superintendent of financial institutions; 2642

State fire marshal; 2643

Superintendent of ~~labor~~ industrial compliance; 2644

Superintendent of liquor control; 2645

Superintendent of unclaimed funds. 2646

In the department of administrative services: 2647

~~State architect and engineer;~~ 2648

Equal employment opportunity coordinator. 2649

In the department of agriculture: 2650

Chiefs of divisions as follows: 2651

Administration; 2652

Animal health; 2653

Livestock environmental permitting; 2654

Dairy; 2655

Food safety; 2656

Plant health; 2657

Markets; 2658

Meat inspection; 2659

Consumer protection laboratory; 2660

Amusement ride safety; 2661

Enforcement; 2662

| | |
|--|------|
| Weights and measures. | 2663 |
| In the department of natural resources: | 2664 |
| Chiefs of divisions as follows: | 2665 |
| Mineral resources management; | 2666 |
| Oil and gas resources management; | 2667 |
| Forestry; | 2668 |
| Natural areas and preserves; | 2669 |
| Wildlife; | 2670 |
| Geological survey; | 2671 |
| Parks and recreation; | 2672 |
| Watercraft; | 2673 |
| Recycling and litter prevention; | 2674 |
| Soil and water resources; | 2675 |
| Engineering. | 2676 |
| In the department of insurance: | 2677 |
| Deputy superintendent of insurance; | 2678 |
| Assistant superintendent of insurance, technical; | 2679 |
| Assistant superintendent of insurance, administrative; | 2680 |
| Assistant superintendent of insurance, research. | 2681 |
| | |
| Sec. 121.08. (A) There is hereby created in the department of | 2682 |
| commerce the position of deputy director of administration. This | 2683 |
| officer shall be appointed by the director of commerce, serve | 2684 |
| under the director's direction, supervision, and control, perform | 2685 |
| the duties the director prescribes, and hold office during the | 2686 |
| director's pleasure. The director of commerce may designate an | 2687 |
| assistant director of commerce to serve as the deputy director of | 2688 |
| administration. The deputy director of administration shall | 2689 |
| perform the duties prescribed by the director of commerce in | 2690 |
| supervising the activities of the division of administration of | 2691 |
| the department of commerce. | 2692 |
| | |
| (B) Except as provided in section 121.07 of the Revised Code, | 2693 |

the department of commerce shall have all powers and perform all 2694
duties vested in the deputy director of administration, the state 2695
fire marshal, the superintendent of financial institutions, the 2696
superintendent of real estate and professional licensing, the 2697
superintendent of liquor control, the superintendent of ~~labor~~ 2698
industrial compliance, the superintendent of unclaimed funds, and 2699
the commissioner of securities, and shall have all powers and 2700
perform all duties vested by law in all officers, deputies, and 2701
employees of those offices. Except as provided in section 121.07 2702
of the Revised Code, wherever powers are conferred or duties 2703
imposed upon any of those officers, the powers and duties shall be 2704
construed as vested in the department of commerce. 2705

(C)(1) There is hereby created in the department of commerce 2706
a division of financial institutions, which shall have all powers 2707
and perform all duties vested by law in the superintendent of 2708
financial institutions. Wherever powers are conferred or duties 2709
imposed upon the superintendent of financial institutions, those 2710
powers and duties shall be construed as vested in the division of 2711
financial institutions. The division of financial institutions 2712
shall be administered by the superintendent of financial 2713
institutions. 2714

(2) All provisions of law governing the superintendent of 2715
financial institutions shall apply to and govern the 2716
superintendent of financial institutions provided for in this 2717
section; all authority vested by law in the superintendent of 2718
financial institutions with respect to the management of the 2719
division of financial institutions shall be construed as vested in 2720
the superintendent of financial institutions created by this 2721
section with respect to the division of financial institutions 2722
provided for in this section; and all rights, privileges, and 2723
emoluments conferred by law upon the superintendent of financial 2724
institutions shall be construed as conferred upon the 2725

superintendent of financial institutions as head of the division 2726
of financial institutions. The director of commerce shall not 2727
transfer from the division of financial institutions any of the 2728
functions specified in division (C)(2) of this section. 2729

(D) There is hereby created in the department of commerce a 2730
division of liquor control, which shall have all powers and 2731
perform all duties vested by law in the superintendent of liquor 2732
control. Wherever powers are conferred or duties are imposed upon 2733
the superintendent of liquor control, those powers and duties 2734
shall be construed as vested in the division of liquor control. 2735
The division of liquor control shall be administered by the 2736
superintendent of liquor control. 2737

(E) The director of commerce shall not be interested, 2738
directly or indirectly, in any firm or corporation which is a 2739
dealer in securities as defined in sections 1707.01 and 1707.14 of 2740
the Revised Code, or in any firm or corporation licensed under 2741
sections 1321.01 to 1321.19 of the Revised Code. 2742

(F) The director of commerce shall not have any official 2743
connection with a savings and loan association, a savings bank, a 2744
bank, a bank holding company, a savings and loan association 2745
holding company, a consumer finance company, or a credit union 2746
that is under the supervision of the division of financial 2747
institutions, or a subsidiary of any of the preceding entities, or 2748
be interested in the business thereof. 2749

(G) There is hereby created in the state treasury the 2750
division of administration fund. The fund shall receive 2751
assessments on the operating funds of the department of commerce 2752
in accordance with procedures prescribed by the director of 2753
commerce and approved by the director of budget and management. 2754
All operating expenses of the division of administration shall be 2755
paid from the division of administration fund. 2756

(H) There is hereby created in the department of commerce a 2757
division of real estate and professional licensing, which shall be 2758
under the control and supervision of the director of commerce. The 2759
division of real estate and professional licensing shall be 2760
administered by the superintendent of real estate and professional 2761
licensing. The superintendent of real estate and professional 2762
licensing shall exercise the powers and perform the functions and 2763
duties delegated to the superintendent under Chapters 4735., 2764
4763., and 4767. of the Revised Code. 2765

(I) There is hereby created in the department of commerce a 2766
division of ~~labor~~ industrial compliance, which shall have all 2767
powers and perform all duties vested by law in the superintendent 2768
of ~~labor~~ industrial compliance. Wherever powers are conferred or 2769
duties imposed upon the superintendent of ~~labor~~ industrial 2770
compliance, those powers and duties shall be construed as vested 2771
in the division of ~~labor~~ industrial compliance. The division of 2772
~~labor~~ industrial compliance shall be under the control and 2773
supervision of the director of commerce and be administered by the 2774
superintendent of ~~labor~~ industrial compliance. 2775

(J) There is hereby created in the department of commerce a 2776
division of unclaimed funds, which shall have all powers and 2777
perform all duties delegated to or vested by law in the 2778
superintendent of unclaimed funds. Wherever powers are conferred 2779
or duties imposed upon the superintendent of unclaimed funds, 2780
those powers and duties shall be construed as vested in the 2781
division of unclaimed funds. The division of unclaimed funds shall 2782
be under the control and supervision of the director of commerce 2783
and shall be administered by the superintendent of unclaimed 2784
funds. The superintendent of unclaimed funds shall exercise the 2785
powers and perform the functions and duties delegated to the 2786
superintendent by the director of commerce under section 121.07 2787
and Chapter 169. of the Revised Code, and as may otherwise be 2788

provided by law. 2789

(K) The department of commerce or a division of the 2790
department created by the Revised Code that is acting with 2791
authorization on the department's behalf may request from the 2792
bureau of criminal identification and investigation pursuant to 2793
section 109.572 of the Revised Code, or coordinate with 2794
appropriate federal, state, and local government agencies to 2795
accomplish, criminal records checks for the persons whose 2796
identities are required to be disclosed by an applicant for the 2797
issuance or transfer of a permit, license, certificate of 2798
registration, or certification issued or transferred by the 2799
department or division. At or before the time of making a request 2800
for a criminal records check, the department or division may 2801
require any person whose identity is required to be disclosed by 2802
an applicant for the issuance or transfer of such a license, 2803
permit, certificate of registration, or certification to submit to 2804
the department or division valid fingerprint impressions in a 2805
format and by any media or means acceptable to the bureau of 2806
criminal identification and investigation and, when applicable, 2807
the federal bureau of investigation. The department or division 2808
may cause the bureau of criminal identification and investigation 2809
to conduct a criminal records check through the federal bureau of 2810
investigation only if the person for whom the criminal records 2811
check would be conducted resides or works outside of this state or 2812
has resided or worked outside of this state during the preceding 2813
five years, or if a criminal records check conducted by the bureau 2814
of criminal identification and investigation within this state 2815
indicates that the person may have a criminal record outside of 2816
this state. 2817

In the case of a criminal records check under section 109.572 2818
of the Revised Code, the department or division shall forward to 2819
the bureau of criminal identification and investigation the 2820

requisite form, fingerprint impressions, and fee described in 2821
division (C) of that section. When requested by the department or 2822
division in accordance with this section, the bureau of criminal 2823
identification and investigation shall request from the federal 2824
bureau of investigation any information it has with respect to the 2825
person who is the subject of the requested criminal records check 2826
and shall forward the requisite fingerprint impressions and 2827
information to the federal bureau of investigation for that 2828
criminal records check. After conducting a criminal records check 2829
or receiving the results of a criminal records check from the 2830
federal bureau of investigation, the bureau of criminal 2831
identification and investigation shall provide the results to the 2832
department or division. 2833

The department or division may require any person about whom 2834
a criminal records check is requested to pay to the department or 2835
division the amount necessary to cover the fee charged to the 2836
department or division by the bureau of criminal identification 2837
and investigation under division (C)(3) of section 109.572 of the 2838
Revised Code, including, when applicable, any fee for a criminal 2839
records check conducted by the federal bureau of investigation. 2840

Sec. 121.083. The superintendent of ~~labor~~ industrial 2841
compliance in the department of commerce shall do all of the 2842
following: 2843

(A) Administer and enforce the general laws of this state 2844
pertaining to buildings, pressure piping, boilers, bedding, 2845
upholstered furniture, and stuffed toys, steam engineering, 2846
elevators, plumbing, licensed occupations regulated by the 2847
department, and travel agents, as they apply to plans review, 2848
inspection, code enforcement, testing, licensing, registration, 2849
and certification. 2850

(B) Exercise the powers and perform the duties delegated to 2851

| | |
|--|------|
| the superintendent by the director of commerce under Chapters | 2852 |
| 4109., 4111., and 4115. of the Revised Code. | 2853 |
| (C) Collect and collate statistics as are necessary. | 2854 |
| (D) Examine and license persons who desire to act as steam | 2855 |
| engineers, to operate steam boilers, and to act as inspectors of | 2856 |
| steam boilers, provide for the scope, conduct, and time of such | 2857 |
| examinations, provide for, regulate, and enforce the renewal and | 2858 |
| revocation of such licenses, inspect and examine steam boilers and | 2859 |
| make, publish, and enforce rules and orders for the construction, | 2860 |
| installation, inspection, and operation of steam boilers, and do, | 2861 |
| require, and enforce all things necessary to make such | 2862 |
| examination, inspection, and requirement efficient. | 2863 |
| (E) Rent and furnish offices as needed in cities in this | 2864 |
| state for the conduct of its affairs. | 2865 |
| (F) Oversee a chief of construction and compliance, a chief | 2866 |
| of operations and maintenance, a chief of licensing and | 2867 |
| certification, a chief of worker protection, and other designees | 2868 |
| appointed by the director to perform the duties described in this | 2869 |
| section. | 2870 |
| (G) Enforce the rules the board of building standards adopts | 2871 |
| pursuant to division (A)(2) of section 4104.43 of the Revised Code | 2872 |
| under the circumstances described in division (D) of that section. | 2873 |
| (H) Accept submissions, establish a fee for submissions, and | 2874 |
| review submissions of certified welding and brazing procedure | 2875 |
| specifications, procedure qualification records, and performance | 2876 |
| qualification records for building services piping as required by | 2877 |
| section 4104.44 of the Revised Code. | 2878 |
| Sec. 121.084. (A) All moneys collected under sections | 2879 |
| 3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, | 2880 |
| 4169.03, 4171.04, and 5104.051 of the Revised Code, and any other | 2881 |

moneys collected by the division of ~~labor~~ industrial compliance 2882
shall be paid into the state treasury to the credit of the ~~labor~~ 2883
industrial compliance operating fund, which is hereby created. The 2884
department of commerce shall use the moneys in the fund for paying 2885
the operating expenses of the division and the administrative 2886
assessment described in division (B) of this section. 2887

(B) The director of commerce, with the approval of the 2888
director of budget and management, shall prescribe procedures for 2889
assessing the ~~labor~~ industrial compliance operating fund a 2890
proportionate share of the administrative costs of the department 2891
of commerce. The assessment shall be made in accordance with those 2892
procedures and be paid from the ~~labor~~ industrial compliance 2893
operating fund to the division of administration fund created in 2894
section 121.08 of the Revised Code. 2895

Sec. 121.35. (A) Subject to division (B) of this section, the 2896
following state agencies shall collaborate to revise and make more 2897
uniform the eligibility standards and eligibility determination 2898
procedures of programs the state agencies administer: 2899

(1) The department of aging; 2900
2901

(2) The department of alcohol and drug addiction services; 2902

(3) The department of development; 2903

(4) The department of developmental disabilities; 2904

(5) The department of education; 2905

(6) The department of health; 2906

(7) The department of job and family services; 2907

(8) The department of mental health; 2908

(9) The rehabilitation services commission. 2909

(B) In revising eligibility standards and eligibility 2910

determination procedures, a state agency shall not make any 2911
program's eligibility standards or eligibility determination 2912
procedures inconsistent with state or federal law. To the extent 2913
authorized by state and federal law, the revisions may provide for 2914
the state agencies to share administrative operations. 2915

Sec. 122.07. (A) The department of development may do ~~either~~ 2916
any of the following: 2917

(1) Disseminate information concerning the industrial, 2918
commercial, governmental, educational, cultural, recreational, 2919
agricultural, and other advantages and attractions of the state; 2920

(2) Provide technical assistance to public and private 2921
agencies in the preparation of promotional programs designed to 2922
attract business, industry, and tourists to the state; 2923

(3) Enter into cooperative or contractual agreements, through 2924
the director of development, with any individual, organization, or 2925
business to create, administer, or otherwise be involved with Ohio 2926
tourism-related promotional programs. Compensation under such 2927
agreements shall be determined by the director and may include 2928
deferred compensation. This compensation is payable from the 2929
travel and tourism cooperative projects fund of the department. 2930
Any excess revenue generated under such a cooperative or 2931
contractual agreement shall be remitted to the fund to be 2932
reinvested in ongoing tourism marketing initiatives as authorized 2933
by law. 2934

(B) Records related to tourism market research submitted to 2935
or generated by the research office of the division of travel and 2936
tourism of the department of development, and any information 2937
taken for any purpose from such research, are not public records 2938
for the purposes of section 149.43 of the Revised Code. The 2939
department may use, however, such tourism market research in a 2940
public report if the director of the department determines that 2941

issuing and distributing the report would promote or market the 2942
state's travel and tourism industry or otherwise advance the 2943
purposes of this section. 2944

Sec. 122.862. There is hereby established in the state 2945
treasury the SellOhio global initiative fund. 2946

Sec. 123.01. (A) The department of administrative services, 2947
in addition to those powers enumerated in Chapters 124. and 125. 2948
of the Revised Code and provided elsewhere by law, shall exercise 2949
the following powers: 2950

(1) ~~To prepare, or contract to be prepared, by licensed 2951
engineers or architects, surveys, general and detailed plans, 2952
specifications, bills of materials, and estimates of cost for any 2953
projects, improvements, or public buildings to be constructed by 2954
state agencies that may be authorized by legislative 2955
appropriations or any other funds made available therefor, 2956
provided that the construction of the projects, improvements, or 2957
public buildings is a statutory duty of the department. This 2958
section does not require the independent employment of an 2959
architect or engineer as provided by section 153.01 of the Revised 2960
Code in the cases to which that section applies nor affect or 2961
alter the existing powers of the director of transportation. 2962~~

~~(2) To have general supervision over the construction of any 2963
projects, improvements, or public buildings constructed for a 2964
state agency and over the inspection of materials previous to 2965
their incorporation into those projects, improvements, or 2966
buildings; 2967~~

~~(3) To make contracts for and supervise the construction of 2968
any projects and improvements or the construction and repair of 2969
buildings under the control of a state agency, except contracts 2970
for the repair of buildings under the management and control of 2971~~

~~the departments of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.~~

~~(4) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;~~

~~(5)(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;~~

~~(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency;~~

~~(7)~~(3) To erect, supervise, and maintain all public monuments 3004
and memorials erected by the state, except where the supervision 3005
and maintenance is otherwise provided by law; 3006

~~(8)~~(4) To procure, by lease, storage accommodations for a 3007
state agency; 3008

~~(9)~~(5) To lease or grant easements or licenses for 3009
unproductive and unused lands or other property under the control 3010
of a state agency. Such leases, easements, or licenses ~~shall~~ may 3011
be granted to any person or entity, shall be for a period not to 3012
exceed fifteen years, and shall be executed for the state by the 3013
director of administrative services ~~and the governor and shall be~~ 3014
~~approved as to form by the attorney general, provided that leases,~~ 3015
~~easements, or licenses may be granted to any county, township,~~ 3016
~~municipal corporation, port authority, water or sewer district,~~ 3017
~~school district, library district, health district, park district,~~ 3018
~~soil and water conservation district, conservancy district, or~~ 3019
~~other political subdivision or taxing district, or any agency of~~ 3020
~~the United States government, for the exclusive use of that~~ 3021
~~agency, political subdivision, or taxing district, without any~~ 3022
~~right of sublease or assignment, for a period not to exceed~~ 3023
~~fifteen years, and,~~ provided that the director shall grant leases, 3024
easements, or licenses of university land for periods not to 3025
exceed twenty-five years for purposes approved by the respective 3026
university's board of trustees wherein the uses are compatible 3027
with the uses and needs of the university and may grant leases of 3028
university land for periods not to exceed forty years for purposes 3029
approved by the respective university's board of trustees pursuant 3030
to section ~~123.77~~ 123.17 of the Revised Code. 3031

~~(10)~~(6) To lease space for the use of a state agency; 3032

~~(11)~~(7) To have general supervision and care of the 3033
storerooms, offices, and buildings leased for the use of a state 3034
agency; 3035

| | |
|---|--|
| (12) (8) To exercise general custodial care of all real property of the state; | 3036 3037 |
| (13) (9) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use; | 3038 3039 3040 3041 |
| (14) (10) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost. | 3042 3043 3044 3045 3046 3047 3048 3049 3050 3051 |
| (a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications: | 3052 3053 3054 3055 3056 3057 |
| (i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement; | 3058 3059 |
| (ii) Details to scale and full sized, so drawn and represented as to be easily understood; | 3060 3061 |
| (iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction; | 3062 3063 |
| (iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford | 3064 3065 3066 |

bidders all needed information; 3067

(v) A full and accurate estimate of each item of expense and 3068
of the aggregate cost thereof. 3069

(b) The department shall give public notice, in such 3070
newspaper, in such form, and with such phraseology as the director 3071
of administrative services prescribes, published once each week 3072
for four consecutive weeks, of the time when and place where bids 3073
will be received for entering into an agreement to lease to a 3074
state agency a building, structure, or other improvement. The last 3075
publication shall be at least eight days preceding the day for 3076
opening the bids. The bids shall contain the terms upon which the 3077
builder would propose to lease the building, structure, or other 3078
improvement to the state agency. The form of the bid approved by 3079
the department shall be used, and a bid is invalid and shall not 3080
be considered unless that form is used without change, alteration, 3081
or addition. Before submitting bids pursuant to this section, any 3082
builder shall comply with Chapter 153. of the Revised Code. 3083

(c) On the day and at the place named for receiving bids for 3084
entering into lease agreements with a state agency, the director 3085
of administrative services shall open the bids and shall publicly 3086
proceed immediately to tabulate the bids upon duplicate sheets. No 3087
lease agreement shall be entered into until the bureau of workers' 3088
compensation has certified that the person to be awarded the lease 3089
agreement has complied with Chapter 4123. of the Revised Code, 3090
until, if the builder submitting the lowest and best bid is a 3091
foreign corporation, the secretary of state has certified that the 3092
corporation is authorized to do business in this state, until, if 3093
the builder submitting the lowest and best bid is a person 3094
nonresident of this state, the person has filed with the secretary 3095
of state a power of attorney designating the secretary of state as 3096
its agent for the purpose of accepting service of summons in any 3097
action brought under Chapter 4123. of the Revised Code, and until 3098

the agreement is submitted to the attorney general and the 3099
attorney general's approval is certified thereon. Within thirty 3100
days after the day on which the bids are received, the department 3101
shall investigate the bids received and shall determine that the 3102
bureau and the secretary of state have made the certifications 3103
required by this section of the builder who has submitted the 3104
lowest and best bid. Within ten days of the completion of the 3105
investigation of the bids, the department shall award the lease 3106
agreement to the builder who has submitted the lowest and best bid 3107
and who has been certified by the bureau and secretary of state as 3108
required by this section. If bidding for the lease agreement has 3109
been conducted upon the basis of basic plans, specifications, 3110
bills of materials, and estimates of costs, upon the award to the 3111
builder the department, or the builder with the approval of the 3112
department, shall appoint an architect or engineer licensed in 3113
this state to prepare such further detailed plans, specifications, 3114
and bills of materials as are required to construct the building, 3115
structure, or improvement. The department shall adopt such rules 3116
as are necessary to give effect to this section. The department 3117
may reject any bid. Where there is reason to believe there is 3118
collusion or combination among bidders, the bids of those 3119
concerned therein shall be rejected. 3120

~~(15)~~(11) To acquire by purchase, gift, devise, or grant and 3121
to transfer, lease, or otherwise dispose of all real property 3122
required to assist in the development of a conversion facility as 3123
defined in section 5709.30 of the Revised Code as that section 3124
existed before its repeal by Amended Substitute House Bill 95 of 3125
the 125th general assembly; 3126

~~(16)~~(12) To lease for a period not to exceed forty years, 3127
notwithstanding any other division of this section, the 3128
state-owned property located at 408-450 East Town Street, 3129
Columbus, Ohio, formerly the state school for the deaf, to a 3130

developer in accordance with this section. "Developer," as used in 3131
this section, has the same meaning as in section 123.77 of the 3132
Revised Code. 3133

Such a lease shall be for the purpose of development of the 3134
land for use by senior citizens by constructing, altering, 3135
renovating, repairing, expanding, and improving the site as it 3136
existed on June 25, 1982. A developer desiring to lease the land 3137
shall prepare for submission to the department a plan for 3138
development. Plans shall include provisions for roads, sewers, 3139
water lines, waste disposal, water supply, and similar matters to 3140
meet the requirements of state and local laws. The plans shall 3141
also include provision for protection of the property by insurance 3142
or otherwise, and plans for financing the development, and shall 3143
set forth details of the developer's financial responsibility. 3144

The department may employ, as employees or consultants, 3145
persons needed to assist in reviewing the development plans. Those 3146
persons may include attorneys, financial experts, engineers, and 3147
other necessary experts. The department shall review the 3148
development plans and may enter into a lease if it finds all of 3149
the following: 3150

(a) The best interests of the state will be promoted by 3151
entering into a lease with the developer; 3152

(b) The development plans are satisfactory; 3153

(c) The developer has established the developer's financial 3154
responsibility and satisfactory plans for financing the 3155
development. 3156

The lease shall contain a provision that construction or 3157
renovation of the buildings, roads, structures, and other 3158
necessary facilities shall begin within one year after the date of 3159
the lease and shall proceed according to a schedule agreed to 3160
between the department and the developer or the lease will be 3161

terminated. The lease shall contain such conditions and 3162
stipulations as the director considers necessary to preserve the 3163
best interest of the state. Moneys received by the state pursuant 3164
to this lease shall be paid into the general revenue fund. The 3165
lease shall provide that at the end of the lease period the 3166
buildings, structures, and related improvements shall become the 3167
property of the state without cost. 3168

~~(17)~~(13) To manage the use of space owned and controlled by 3169
the department, including space in property under the jurisdiction 3170
of the Ohio building authority, by doing all of the following: 3171

(a) Biennially implementing, by state agency location, a 3172
census of agency employees assigned space; 3173

(b) Periodically in the discretion of the director of 3174
administrative services: 3175

(i) Requiring each state agency to categorize the use of 3176
space allotted to the agency between office space, common areas, 3177
storage space, and other uses, and to report its findings to the 3178
department; 3179

(ii) Creating and updating a master space utilization plan 3180
for all space allotted to state agencies. The plan shall 3181
incorporate space utilization metrics. 3182

(iii) Conducting a cost-benefit analysis to determine the 3183
effectiveness of state-owned buildings; 3184

(iv) Assessing the alternatives associated with consolidating 3185
the commercial leases for buildings located in Columbus. 3186

(c) Commissioning a comprehensive space utilization and 3187
capacity study in order to determine the feasibility of 3188
consolidating existing commercially leased space used by state 3189
agencies into a new state-owned facility. 3190

(14) To adopt rules to ensure that energy efficiency and 3191

| | |
|---|------|
| <u>conservation is considered in the purchase of products and</u> | 3192 |
| <u>equipment, except motor vehicles, by any state agency, department,</u> | 3193 |
| <u>division, bureau, office, unit, board, commission, authority,</u> | 3194 |
| <u>quasi-governmental entity, or institution. The department may</u> | 3195 |
| <u>require minimum energy efficiency standards for purchased products</u> | 3196 |
| <u>and equipment based on federal testing and labeling if available</u> | 3197 |
| <u>or on standards developed by the department. When possible, the</u> | 3198 |
| <u>rules shall apply to the competitive selection of energy consuming</u> | 3199 |
| <u>systems, components, and equipment under Chapter 125. of the</u> | 3200 |
| <u>Revised Code.</u> | 3201 |
| <u>(15) To ensure energy efficient and energy conserving</u> | 3202 |
| <u>purchasing practices by doing all of the following:</u> | 3203 |
| <u>(a) Identifying available energy efficiency and conservation</u> | 3204 |
| <u>opportunities;</u> | 3205 |
| <u>(b) Providing for interchange of information among purchasing</u> | 3206 |
| <u>agencies;</u> | 3207 |
| <u>(c) Identifying laws, policies, rules, and procedures that</u> | 3208 |
| <u>should be modified;</u> | 3209 |
| <u>(d) Monitoring experience with and the cost-effectiveness of</u> | 3210 |
| <u>this state's purchase and use of motor vehicles and of major</u> | 3211 |
| <u>energy-consuming systems, components, equipment, and products</u> | 3212 |
| <u>having a significant impact on energy consumption by the</u> | 3213 |
| <u>government;</u> | 3214 |
| <u>(e) Providing technical assistance and training to state</u> | 3215 |
| <u>employees involved in the purchasing process;</u> | 3216 |
| <u>(f) Working with the department of development to make</u> | 3217 |
| <u>recommendations regarding planning and implementation of</u> | 3218 |
| <u>purchasing policies and procedures that are supportive of energy</u> | 3219 |
| <u>efficiency and conservation.</u> | 3220 |
| <u>(16) To require all state agencies, departments, divisions,</u> | 3221 |

bureaus, offices, units, commissions, boards, authorities, 3222
quasi-governmental entities, institutions, and state institutions 3223
of higher education to implement procedures to ensure that all of 3224
the passenger automobiles they acquire in each fiscal year, except 3225
for those passenger automobiles acquired for use in law 3226
enforcement or emergency rescue work, achieve a fleet average fuel 3227
economy of not less than the fleet average fuel economy for that 3228
fiscal year as the department shall prescribe by rule. The 3229
department shall adopt the rule prior to the beginning of the 3230
fiscal year, in accordance with the average fuel economy standards 3231
established by federal law for passenger automobiles manufactured 3232
during the model year that begins during the fiscal year. 3233

Each state agency, department, division, bureau, office, 3234
unit, commission, board, authority, quasi-governmental entity, 3235
institution, and state institution of higher education shall 3236
determine its fleet average fuel economy by dividing the total 3237
number of passenger vehicles acquired during the fiscal year, 3238
except for those passenger vehicles acquired for use in law 3239
enforcement or emergency rescue work, by a sum of terms, each of 3240
which is a fraction created by dividing the number of passenger 3241
vehicles of a given make, model, and year, except for passenger 3242
vehicles acquired for use in law enforcement or emergency rescue 3243
work, acquired during the fiscal year by the fuel economy measured 3244
by the administrator of the United States environmental protection 3245
agency, for the given make, model, and year of vehicle, that 3246
constitutes an average fuel economy for combined city and highway 3247
driving. 3248

As used in division (A)(16) of this section, "acquired" means 3249
leased for a period of sixty continuous days or more, or 3250
purchased. 3251

(B) This section and section 125.02 of the Revised Code shall 3252
not interfere with any of the following: 3253

(1) The power of the adjutant general to purchase military 3254
supplies, or with the custody of the adjutant general of property 3255
leased, purchased, or constructed by the state and used for 3256
military purposes, or with the functions of the adjutant general 3257
as director of state armories; 3258

(2) The power of the director of transportation in acquiring 3259
rights-of-way for the state highway system, or the leasing of 3260
lands for division or resident district offices, or the leasing of 3261
lands or buildings required in the maintenance operations of the 3262
department of transportation, or the purchase of real property for 3263
garage sites or division or resident district offices, or in 3264
preparing plans and specifications for and constructing such 3265
buildings as the director may require in the administration of the 3266
department; 3267

(3) The power of the director of public safety and the 3268
registrar of motor vehicles to purchase or lease real property and 3269
buildings to be used solely as locations to which a deputy 3270
registrar is assigned pursuant to division (B) of section 4507.011 3271
of the Revised Code and from which the deputy registrar is to 3272
conduct the deputy registrar's business, the power of the director 3273
of public safety to purchase or lease real property and buildings 3274
to be used as locations for division or district offices as 3275
required in the maintenance of operations of the department of 3276
public safety, and the power of the superintendent of the state 3277
highway patrol in the purchase or leasing of real property and 3278
buildings needed by the patrol, to negotiate the sale of real 3279
property owned by the patrol, to rent or lease real property owned 3280
or leased by the patrol, and to make or cause to be made repairs 3281
to all property owned or under the control of the patrol; 3282

(4) The power of the division of liquor control in the 3283
leasing or purchasing of retail outlets and warehouse facilities 3284
for the use of the division; 3285

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody and repair of, office space used for the purposes of the joint legislative ethics committee are not subject to the control and jurisdiction of the department of administrative services.

If the joint legislative ethics committee so requests, the committee and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the committee that the department is authorized under this section to perform.

(D) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. ~~123.04~~ 123.02. The director of administrative services shall be appointed superintendent of public works and shall have the care and control of the public works of the state and shall

protect, maintain, and keep them in repair. 3317

Subject to the approval of the governor, the director may 3318
purchase on behalf of the state such real or personal property, 3319
rights, or privileges as are necessary, in the director's 3320
judgment, to acquire in the maintenance of the public works or 3321
their improvement. 3322

Any instrument by which the state or an agency of the state 3323
acquires real property pursuant to this section shall identify the 3324
agency of the state that has the use and benefit of the real 3325
property as specified in section 5301.012 of the Revised Code. 3326

Sec. ~~123.07~~ 123.03. The director of administrative services 3327
may maintain an action in the name of the state for violations of 3328
any law relating to the public works for an injury to property 3329
pertaining to the public works, or for any other cause which is 3330
necessary in the performance of ~~his~~ the director's duties. 3331

Sec. ~~123.09~~ 123.04. The director of administrative services 3332
shall have supervision of the public works of the state and shall 3333
make such rules and regulations for the ~~improvement,~~ maintenance, 3334
and operation of the public works as are necessary. 3335

Sec. ~~123.10~~ 123.05. (A) The director of administrative 3336
services shall regulate the rate of tolls to be collected on the 3337
public works of the state, and shall fix all rentals and collect 3338
all tolls, rents, fines, commissions, fees, and other revenues 3339
arising from any source in the public works, including the sale, 3340
~~construction,~~ purchase, or rental of property, except that the 3341
director shall not collect a commission or fee from a real estate 3342
broker or the private owner when real property is leased or rented 3343
to the state. 3344

~~(B) There is hereby created in the state treasury the state 3345~~

~~architect's fund which shall consist of money received by the 3346
department of administrative services under division (A) of this 3347
section, fees paid under section 123.17 of the Revised Code, 3348
transfers of money to the fund authorized by the general assembly, 3349
and such amount of the investment earnings of the administrative 3350
building fund created in division (F) of section 154.24 of the 3351
Revised Code as the director of budget and management determines 3352
to be appropriate and in excess of the amounts required to meet 3353
estimated federal arbitrage rebate requirements. Money in the fund 3354
shall be used by the department of administrative services for the 3355
following purposes: 3356~~

~~(1) To pay personnel and other administrative expenses of the 3357
department; 3358~~

~~(2) To pay the cost of conducting evaluations of public 3359
works; 3360~~

~~(3) To pay the cost of building design specifications; 3361~~

~~(4) To pay the cost of providing project management services; 3362~~

~~(5) To pay the cost of operating the local administration 3363
competency certification program prescribed by section 123.17 of 3364
the Revised Code; 3365~~

~~(6) Any other purposes that the director of administrative 3366
services determines to be necessary for the department to execute 3367
its duties under this chapter. 3368~~

Sec. 123.024 123.06. (A) The department of administrative 3369
services shall assign and make available, at state expense, 3370
suitable office space in state-owned facilities to accommodate the 3371
office operations of the state headquarters of both of the 3372
following: 3373

(1) All veterans organizations in this state that either are 3374
incorporated and issued a charter by the congress of the United 3375

States or are recognized by the United States department of 3376
veterans affairs; 3377

(2) The auxiliary organizations of veterans organizations 3378
described in division (A)(1) of this section. 3379

(B) The department may situate office space for each 3380
auxiliary organization of a veterans organization with or near the 3381
office space of that veterans organization. 3382

Sec. ~~123.11~~ 123.07. Each state agency and any county, 3383
township, or municipal corporation owning, leasing, or controlling 3384
the operation of parking spaces for use by its employees may 3385
provide preferential parking for those vehicles used in carpools, 3386
vanpools, and buspools. The department of administrative services 3387
shall coordinate the efforts of the state agencies in providing 3388
preferential parking for such vehicles. 3389

Sec. ~~123.13~~ 123.08. The director of administrative services 3390
shall appoint such ~~foreman forepersons, patrolmen patrol officers,~~ 3391
lock tenders, inspectors, engineers, and all other employees as 3392
are necessary for the ~~improvement,~~ maintenance, and operation of 3393
the public works. They shall be assigned to duty under the 3394
supervision of the director, under rules and regulations 3395
prescribed by ~~him~~ the director. Any such employee, when deemed 3396
necessary by the director, shall give proper bond to the state, 3397
conditioned for the faithful performance of ~~his~~ the employee's 3398
duties. Such bonds may, in the discretion of the director, be 3399
individual, schedule, or blanket bonds. 3400

Sec. ~~123.14~~ 123.09. All claims against the state for the 3401
~~improvement,~~ repair, maintenance, and operation of the public 3402
works of Ohio, including salary and expenses of all employees 3403
engaged in such work, shall be paid upon the order of the director 3404
of administrative services. 3405

Sec. ~~123.15~~ 123.10. (A) As used in this section and section 3406
~~123.21~~ 123.11 of the Revised Code, "public exigency" means an 3407
injury or obstruction that occurs in any public works of the state 3408
maintained by the director of administrative services and that 3409
materially impairs its immediate use or places in jeopardy 3410
property adjacent to it; an immediate danger of such an injury or 3411
obstruction; or an injury or obstruction, or an immediate danger 3412
of an injury or obstruction, that occurs ~~during the process of~~ 3413
~~construction of~~ in any public works of the state maintained by the 3414
director of administrative services and that materially impairs 3415
its immediate use or places in jeopardy property adjacent to it. 3416

(B) ~~The~~ When a declaration of public exigency is issued 3417
pursuant to division (C) of this section, the director of 3418
administrative services may request the Ohio facilities 3419
construction commission to enter into contracts with proper 3420
persons for the performance of labor, the furnishing of materials, 3421
or the construction of any structures and buildings necessary to 3422
the maintenance, control, and management of the public works of 3423
the state or any part of those public works. ~~Except as provided in~~ 3424
~~division (C) of this section for public exigencies, the director~~ 3425
~~shall advertise, award, and administer those~~ Any contracts in 3426
~~accordance with the requirements~~ awarded for the work performed 3427
pursuant to the declaration of a public exigency may be awarded 3428
without competitive bidding or selection as set forth in Chapter 3429
153. of the Revised Code. 3430

(C) The director of administrative services may issue a 3431
declaration of a public exigency on the director's own initiative 3432
or upon the request of the director of any state agency. The 3433
director's declaration shall identify the specific injury, 3434
obstruction, or danger that is the subject of the declaration and 3435
shall set forth a dollar limitation for the repair, removal, or 3436
prevention of that exigency under the declaration. 3437

Before any project to repair, remove, or prevent a public 3438
exigency under the director's declaration may begin, the director 3439
shall send notice of the project, in writing, to the director of 3440
budget and management and to the members of the controlling board. 3441
That notice shall detail the project to be undertaken to address 3442
the public exigency and shall include a copy of the director's 3443
declaration that establishes the monetary limitations on that 3444
project. 3445

Sec. ~~123.21~~ 123.11. When a public exigency, as defined in 3446
division (A) of section ~~123.15~~ 123.10 of the Revised Code, exists, 3447
the director of administrative services may take possession of 3448
lands and use them, or materials and other property necessary for 3449
the maintenance, protection, or repair of the public works, in 3450
accordance with sections 163.01 to 163.22 of the Revised Code. 3451

Sec. ~~123.46~~ 123.12. No land lease or sale of state lands 3452
shall be made by the director of administrative services except 3453
upon the written approval of the governor and the attorney 3454
general. 3455

Sec. ~~123.47~~ 123.13. Except as otherwise provided by law, the 3456
director of administrative services shall have the custody and 3457
control of the books, records, papers, surveys, maps, plats, and 3458
documents that pertain to any of the public works of this state. 3459

Sec. ~~123.48~~ 123.14. The director of administrative services 3460
shall make an annual report to the governor containing a statement 3461
of the expenses of the public works under ~~his~~ the director's 3462
supervision during the preceding year, setting forth an account of 3463
moneys expended on each of the public works during the year, and 3464
such other information and records as ~~he~~ the director deems 3465
proper. Such report shall contain a statement of the moneys 3466

received from all sources and an estimate of the appropriations 3467
necessary to maintain the public works and keep them in repair. 3468
The report shall also contain a list of all persons regularly 3469
employed, together with the salary, compensation, or allowance 3470
paid each. 3471

~~He~~ The director shall further from time to time when ~~he~~ the 3472
director deems it necessary, or when called upon by the governor, 3473
to do so, make such other reports as are proper, touching on the 3474
general condition and welfare of the public works and the 3475
drainage, leaseholds, and water powers incident thereto. 3476

Sec. ~~123.49~~ 123.15. The department of administrative services 3477
may adopt, amend, and rescind rules pertaining to lands under the 3478
supervision of the department in accordance with Chapter 119. of 3479
the Revised Code. 3480

Sec. 123.152. (A) As used in this section, "EDGE business 3481
enterprise" means a sole proprietorship, association, partnership, 3482
corporation, limited liability corporation, or joint venture 3483
certified as a participant in the encouraging diversity, growth, 3484
and equity program by the director of administrative services 3485
under this section of the Revised Code. 3486

(B) The director of administrative services shall establish a 3487
business assistance program known as the encouraging diversity, 3488
growth, and equity program and shall adopt rules in accordance 3489
with Chapter 119. of the Revised Code to administer the program 3490
that do all of the following: 3491

(1) Establish procedures by which a sole proprietorship, 3492
association, partnership, corporation, limited liability 3493
corporation, or joint venture may apply for certification as an 3494
EDGE business enterprise; 3495

(2) Except as provided in division (B)(14) of this section, 3496

establish agency procurement goals for contracting with EDGE 3497
business enterprises in the award of contracts under Chapters 3498
123., 125., and 153. of the Revised Code based on the availability 3499
of eligible program participants by region or geographic area, as 3500
determined by the director, and by standard industrial code or 3501
equivalent code classification. 3502

(a) Goals established under division (B)(2) of this section 3503
shall be based on a percentage level of participation and a 3504
percentage of contractor availability. 3505

(b) Goals established under division (B)(2) of this section 3506
shall be applied at the contract level, relative to an overall 3507
dollar goal for each state agency, in accordance with the 3508
following certification categories: construction, architecture, 3509
and engineering; professional services; goods and services; and 3510
information technology services. 3511

(3) Establish a system of certifying EDGE business 3512
enterprises based on a requirement that the business owner or 3513
owners show both social and economic disadvantage based on the 3514
following, as determined to be sufficient by the director: 3515

(a) Relative wealth of the business seeking certification as 3516
well as the personal wealth of the owner or owners of the 3517
business; 3518

(b) Social disadvantage based on any of the following: 3519

(i) A rebuttable presumption when the business owner or 3520
owners demonstrate membership in a racial minority group or show 3521
personal disadvantage due to color, ethnic origin, gender, 3522
physical disability, long-term residence in an environment 3523
isolated from the mainstream of American society, location in an 3524
area of high unemployment; 3525

(ii) Some other demonstration of personal disadvantage not 3526
common to other small businesses; 3527

| | |
|--|------------------------------|
| (iii) By business location in a qualified census tract. | 3528 |
| (c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts. | 3529 3530 3531 3532 |
| (4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification; | 3533 3534 3535 |
| (5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director; | 3536 3537 3538 3539 |
| (6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services; | 3540 3541 3542 3543 |
| (7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section; | 3544 3545 3546 |
| (8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals; | 3547 3548 |
| (9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program; | 3549 3550 3551 |
| (10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes; | 3552 3553 3554 |
| (11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise; | 3555 3556 3557 |

(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio ~~school~~ facilities construction commission created in section ~~3318.30~~ 123.20 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.

(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

Sec. ~~123.77~~ 123.17. The department of administrative services may lease land belonging to or under the control or jurisdiction of a state university, not required nor to be required for use of the university, to a developer in accordance with this section. "Developer," as used in this section, means a person, partnership, association, corporation, or community improvement corporation established pursuant to Chapter 1724. of the Revised Code who or which submits a development plan to the department as provided in this section and requests the department to enter into a lease.

3589

Such a lease of university land shall be for the purpose of
development of the land by establishing, constructing, altering,
repairing, expanding, and improving industrial, distribution,
commercial, or research facilities. A developer desiring to lease
land of the university for such development shall prepare and
submit to the department of administrative services and to the
board of trustees of the university a plan for such development.
Plans shall include provisions for roads, streets, sewers, water
lines, waste disposal, water supply, and similar matters to meet
the requirements of state and local laws. The plans shall also
include provision for protection of the property by insurance or
otherwise and plans for financing the development, and shall set
forth details of the developer's financial responsibility.

3590
3591
3592
3593
3594
3595
3596
3597
3598
3599
3600
3601
3602

The department of administrative services may employ as
employees or consultants, persons needed to assist it in reviewing
the development plans. Such persons may include attorneys,
financial experts, engineers, and other necessary experts. The
department of administrative services shall review the development
plans and may enter into a lease if it finds that:

3603
3604
3605
3606
3607
3608

(A) The best interests of the university will be promoted by
entering into a lease with the developer.

3609
3610

(B) The development plans are satisfactory.

3611

(C) The developer has established ~~his~~ the developer's
financial responsibility and satisfactory plans for financing the
development.

3612
3613
3614

(D) The university board of trustees approves the lease.

3615

A lease may be entered into pursuant to this section for an
annual rent agreed to between the department and the developer for
a maximum term of forty years and may be renewed for a like or
lesser term. The lease shall contain a provision that construction

3616
3617
3618
3619

of buildings, structures, roads, and other necessary facilities 3620
shall begin within one year after the date of the lease and shall 3621
proceed according to a schedule agreed to between the department 3622
and the developer or the lease will be terminated. Moneys received 3623
by the state pursuant to such leases shall be paid into the state 3624
treasury as an addition to the appropriation made to the 3625
university which has control or jurisdiction of the land or to 3626
which the land belongs. 3627

Sec. ~~123.08~~ 123.18. The director of administrative services 3628
may administer oaths to persons required by law to file affidavits 3629
or statements in the department of administrative services and to 3630
witnesses who are examined in matters pertaining to the 3631
administration of the public works. 3632

Sec. 123.20. (A) There is hereby created the Ohio facilities 3633
construction commission. The commission shall administer the 3634
design and construction of improvements to public facilities of 3635
the state in accordance with this chapter and other provisions of 3636
the Revised Code. 3637

The commission is a body corporate and politic, an agency of 3638
state government and an instrumentality of the state, performing 3639
essential governmental functions of this state. The carrying out 3640
of the purposes and the exercise by the commission of its powers 3641
are essential public functions and public purposes of the state. 3642
The commission may, in its own name, sue and be sued, enter into 3643
contracts, and perform all the powers and duties given to it by 3644
the Revised Code, but it does not have and shall not exercise the 3645
power of eminent domain. In its discretion and as it determines 3646
appropriate, the commission may delegate to any of its members, 3647
executive director, or other employees any of the commission's 3648
powers and duties to carry out its functions. 3649

(B) The commission shall consist of three members: the 3650
director of the office of budget and management and the director 3651
of administrative services, or their designees, and a member whom 3652
the governor shall appoint. 3653

Members of the commission shall serve without compensation. 3654

Within sixty days after the effective date of this section, 3655
the commission shall meet and organize by electing voting members 3656
as the chairperson and vice-chairperson of the commission, who 3657
shall hold their offices until the next organizational meeting of 3658
the commission. Organizational meetings of the commission shall be 3659
held at the first meeting of each calendar year. At each 3660
organizational meeting, the commission shall elect from among its 3661
voting members a chairperson and vice-chairperson, who shall serve 3662
until the next annual organizational meeting. The commission shall 3663
adopt rules pursuant to Chapter 119. of the Revised Code for the 3664
conduct of its internal business and shall keep a journal of its 3665
proceedings. Including the organizational meeting, the commission 3666
shall meet at least once each calendar year. 3667

Two members of the commission constitute a quorum, and the 3668
affirmative vote of two members is necessary for approval of any 3669
action taken by the commission. A vacancy in the membership of the 3670
commission does not impair a quorum from exercising all the rights 3671
and performing all the duties of the commission. Meetings of the 3672
commission may be held anywhere in the state and shall be held in 3673
compliance with section 121.22 of the Revised Code. 3674

(C) Within sixty days after the effective date of this 3675
section, the governor shall appoint a member to the commission. 3676
The initial appointment shall be for a term ending three years 3677
after the effective date of this section, with subsequent terms 3678
ending three years after they begin, on the same day of the same 3679
month as the initial term. 3680

A vacancy for the member appointed by the governor shall be 3681
filled in the same manner as provided for the original 3682
appointment. The appointed member shall hold office for the 3683
remainder of the term for which the vacancy existed. After the 3684
expiration of the term, the appointed member shall continue in 3685
office for a period of sixty days or until the appointed member's 3686
successor takes office, whichever period is shorter. 3687

(D) The commission shall file an annual report of its 3688
activities and finances with the governor, speaker of the house of 3689
representatives, president of the senate, and chairpersons of the 3690
house and senate finance committees. 3691

(E) The commission shall be exempt from the requirements of 3692
sections 101.82 to 101.87 of the Revised Code. 3693

Sec. 123.201. There is hereby created in the state treasury 3694
the Ohio facilities construction commission fund, consisting of 3695
transfers of moneys authorized by the general assembly and 3696
revenues received by the Ohio facilities construction commission 3697
under section 123.21 of the Revised Code. Investment earnings on 3698
moneys in the fund shall be credited to the fund. Moneys in the 3699
fund may be used by the commission, in performing its duties under 3700
this chapter, to pay personnel and other administrative expenses, 3701
to pay the cost of preparing building design specifications, to 3702
pay the cost of providing project management services, and for 3703
other purposes determined by the commission to be necessary to 3704
fulfill its duties under this chapter. 3705

Sec. 123.21. (A) The Ohio facilities construction commission 3706
may perform any act and ensure the performance of any function 3707
necessary or appropriate to carry out the purposes of, and 3708
exercise the powers granted under this chapter or any other 3709
provision of the Revised Code, including any of the following: 3710

(1) Prepare, or contract to be prepared, by licensed 3711
engineers or architects, surveys, general and detailed plans, 3712
specifications, bills of materials, and estimates of cost for any 3713
projects, improvements, or public buildings to be constructed by 3714
state agencies that may be authorized by legislative 3715
appropriations or any other funds made available therefor, 3716
provided that the construction of the projects, improvements, or 3717
public buildings is a statutory duty of the commission. This 3718
section does not require the independent employment of an 3719
architect or engineer as provided by section 153.01 of the Revised 3720
Code in the cases to which section 153.01 of the Revised Code 3721
applies. This section does not affect or alter the existing powers 3722
of the director of transportation, the director of public safety, 3723
or the superintendent of the state highway patrol. 3724

(2) Have general supervision over the construction of any 3725
projects, improvements, or public buildings constructed for a 3726
state agency and over the inspection of materials prior to their 3727
incorporation into those projects, improvements, or buildings. 3728

(3) Make contracts for and supervise the design and 3729
construction of any projects and improvements or the construction 3730
and repair of buildings under the control of a state agency. All 3731
such contracts may be based in whole or in part on the unit price 3732
or maximum estimated cost, with payment computed and made upon 3733
actual quantities or units. 3734

(4) Adopt, amend, and rescind rules pertaining to the 3735
administration of the construction of the public works of the 3736
state as required by law, in accordance with Chapter 119. of the 3737
Revised Code. 3738

(5) Contract with, retain the services of, or designate, and 3739
fix the compensation of, such agents, accountants, consultants, 3740
advisers, and other independent contractors as may be necessary or 3741
desirable to carry out the programs authorized under this chapter, 3742

or authorize the executive director to perform such powers and 3743
duties. 3744

(6) Receive and accept any gifts, grants, donations, and 3745
pledges, and receipts therefrom, to be used for the programs 3746
authorized under this chapter. 3747

(7) Make and enter into all contracts, commitments, and 3748
agreements, and execute all instruments, necessary or incidental 3749
to the performance of its duties and the execution of its rights 3750
and powers under this chapter, or authorize the executive director 3751
to perform such powers and duties. 3752

(8) Debar a contractor as provided in section 153.02 of the 3753
Revised Code. 3754

(B) The commission shall appoint and fix the compensation of 3755
an executive director who shall serve at the pleasure of the 3756
commission. The executive director shall exercise all powers that 3757
the commission possesses, supervise the operations of the 3758
commission, and perform such other duties as delegated by the 3759
commission. The executive director also shall employ and fix the 3760
compensation of such employees as will facilitate the activities 3761
and purposes of the commission, who shall serve at the pleasure of 3762
the executive director. The employees of the commission are exempt 3763
from Chapter 4117. of the Revised Code and are not considered 3764
public employees as defined in section 4117.01 of the Revised 3765
Code. Any agreement entered into prior to July 1, 2012, between 3766
the office of collective bargaining and the exclusive 3767
representative for employees of the commission is binding and 3768
shall continue to have effect. 3769

(C) The attorney general shall serve as the legal 3770
representative for the commission and may appoint other counsel as 3771
necessary for that purpose in accordance with section 109.07 of 3772
the Revised Code. 3773

| | |
|--|--------------------------------------|
| Sec. 123.011 <u>123.22</u>. (A) As used in this section: | 3774 |
| (1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter. | 3775 3776 |
| (2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions. | 3777 3778 3779 3780 3781 |
| (3) "Energy performance index" means a number describing the energy requirements of a facility per square foot of floor space or per cubic foot of occupied volume as appropriate under defined internal and external ambient conditions over an entire seasonal cycle. | 3782 3783 3784 3785 3786 |
| (4) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment. | 3787 3788 3789 3790 |
| (5) "Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the appropriate study period. | 3791 3792 3793 3794 |
| (6) "Political subdivision" means a county, township, municipal corporation, board of education of any school district, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. | 3795 3796 3797 3798 3799 |
| (7) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state. | 3800 3801 3802 |
| (8) "State institution of higher education" has the same | 3803 |

meaning as in section 3345.011 of the Revised Code. 3804

~~(B) There is hereby created within the department of 3805
administrative services the office of energy services. The office 3806
shall be under the supervision of a manager, who shall be 3807
appointed by the director of administrative services. The director 3808
shall assign to the office such number of employees and furnish 3809
such equipment and supplies as are necessary for the performance 3810
of the office's duties. 3811~~

The office Ohio facilities construction commission shall 3812
develop energy efficiency and conservation programs ~~in each of the 3813
following areas:~~ 3814

- ~~(1) New for new construction design and review;~~ 3815
- ~~(2) Existing and for existing building audit and retrofit;~~ 3816
- ~~(3) Energy efficient procurement;~~ 3817
- ~~(4) Alternative fuel vehicles. 3818~~

The office commission may accept and administer grants from 3819
public and private sources for carrying out any of its duties 3820
under this section. 3821

(C) No state agency, department, division, bureau, office, 3822
unit, board, commission, authority, quasi-governmental entity, or 3823
institution, ~~including those agencies otherwise excluded from the 3824
jurisdiction of the department under division (A)(3) of section 3825
123.01 of the Revised Code,~~ shall lease, construct, or cause to be 3826
leased or constructed, within the limits prescribed in this 3827
section, a state-funded facility, without a proper life-cycle cost 3828
analysis or, in the case of a lease, an energy consumption 3829
analysis, as computed or prepared by a qualified architect or 3830
engineer in accordance with the rules required by division (D) of 3831
this section. 3832

Construction shall proceed only upon the disclosure to the 3833

office, for the facility chosen, of the life-cycle costs as 3834
determined in this section and the capitalization of the initial 3835
construction costs of the building. The results of life-cycle cost 3836
analysis shall be a primary consideration in the selection of a 3837
building design. That analysis shall be required only for 3838
construction of buildings with an area of five thousand square 3839
feet or greater. An energy consumption analysis for the term of a 3840
proposed lease shall be required only for the leasing of an area 3841
of twenty thousand square feet or greater within a given building 3842
boundary. That analysis shall be a primary consideration in the 3843
selection of a facility to be leased. 3844

Nothing in this section shall deprive or limit any state 3845
agency that has review authority over design, construction, or 3846
leasing plans from requiring a life-cycle cost analysis or energy 3847
consumption analysis. 3848

(D) For the purposes of assisting the ~~department~~ commission 3849
in its responsibility for state-funded facilities pursuant to 3850
section ~~123.01~~ 123.21 of the Revised Code and of cost-effectively 3851
reducing the energy consumption of those and any other 3852
state-funded facilities, thereby promoting fiscal, economic, and 3853
environmental benefits to this state, the ~~office~~ commission shall 3854
promulgate rules specifying cost-effective, energy efficiency and 3855
conservation standards that may govern the lease, design, 3856
construction, operation, and maintenance of all state-funded 3857
facilities, except facilities of state institutions of higher 3858
education or facilities operated by a political subdivision. The 3859
office of energy efficiency in the department of development shall 3860
cooperate in providing information and technical expertise to the 3861
office of energy services to ensure promulgation of rules of 3862
maximum effectiveness. The standards prescribed by rules 3863
promulgated under this division may draw from or incorporate, by 3864
reference or otherwise and in whole or in part, standards already 3865

developed or implemented by any competent, public or private 3866
standards organization or program. The rules also may include any 3867
of the following: 3868

(1) Specifications for a life-cycle cost analysis that shall 3869
determine, for the economic life of such state-funded facility, 3870
the reasonably expected costs of facility ownership, operation, 3871
and maintenance including labor and materials. Life-cycle cost may 3872
be expressed as an annual cost for each year of the facility's 3873
use. 3874

A life-cycle cost analysis additionally may include an energy 3875
consumption analysis that conforms to division (D)(2) of this 3876
section. 3877

(2) Specifications for an energy consumption analysis of the 3878
facility's heating, refrigeration, ventilation, cooling, lighting, 3879
hot water, and other major energy consuming systems, components, 3880
and equipment. 3881

A life-cycle cost analysis and energy consumption analysis 3882
shall be based on the best currently available methods of 3883
analysis, such as those of the national institute of standards and 3884
technology, the United States department of energy or other 3885
federal agencies, professional societies, and directions developed 3886
by the department. 3887

(3) Specifications for energy performance indices, to be used 3888
to audit and evaluate competing design proposals submitted to the 3889
state. 3890

(4) A requirement that, not later than two years after April 3891
6, 2007, each state-funded facility, except a facility of a state 3892
institution of higher education or a facility operated by a 3893
political subdivision, is managed by at least one building 3894
operator certified under the building operator certification 3895
program or any equivalent program or standards as shall be 3896

prescribed in the rules and considered reasonably equivalent. 3897

(5) An application process by which a manager of a specified 3898
state-funded facility, except a facility of a state institution of 3899
higher education or a facility operated by a political 3900
subdivision, may apply for a waiver of compliance with any 3901
provision of the rules required by divisions (D)(1) to (4) of this 3902
section. 3903

~~(E) The office of energy services shall promulgate rules to 3904
ensure that energy efficiency and conservation will be considered 3905
in the purchase of products and equipment, except motor vehicles, 3906
by any state agency, department, division, bureau, office, unit, 3907
board, commission, authority, quasi-governmental entity, or 3908
institution. Minimum energy efficiency standards for purchased 3909
products and equipment may be required, based on federal testing 3910
and labeling where available or on standards developed by the 3911
office. The rules shall apply to the competitive selection of 3912
energy consuming systems, components, and equipment under Chapter 3913
125. of the Revised Code where possible. 3914~~

~~The office also shall ensure energy efficient and energy 3915
conserving purchasing practices by doing all of the following: 3916~~

~~(1) Cooperatively with the office of energy efficiency, 3917
identifying available energy efficiency and conservation 3918
opportunities; 3919~~

~~(2) Providing for interchange of information among purchasing 3920
agencies; 3921~~

~~(3) Identifying laws, policies, rules, and procedures that 3922
need modification; 3923~~

~~(4) Monitoring experience with and the cost effectiveness of 3924
this state's purchase and use of motor vehicles and of major 3925
energy consuming systems, components, equipment, and products 3926
having a significant impact on energy consumption by government; 3927~~

~~(5) Cooperatively with the office of energy efficiency, 3928
providing technical assistance and training to state employees 3929
involved in the purchasing process. 3930~~

~~The department of development shall make recommendations to 3931
the office regarding planning and implementation of purchasing 3932
policies and procedures supportive of energy efficiency and 3933
conservation. 3934~~

~~(F)(1) The office of energy services shall require all state 3935
agencies, departments, divisions, bureaus, offices, units, 3936
commissions, boards, authorities, quasi governmental entities, 3937
institutions, and state institutions of higher education to 3938
implement procedures ensuring that all their passenger automobiles 3939
acquired in each fiscal year, except for those passenger 3940
automobiles acquired for use in law enforcement or emergency 3941
rescue work, achieve a fleet average fuel economy of not less than 3942
the fleet average fuel economy for that fiscal year as shall be 3943
prescribed by the office by rule. The office shall promulgate the 3944
rule prior to the beginning of the fiscal year in accordance with 3945
the average fuel economy standards established pursuant to federal 3946
law for passenger automobiles manufactured during the model year 3947
that begins during the fiscal year. 3948~~

~~(2) Each state agency, department, division, bureau, office, 3949
unit, commission, board, authority, quasi governmental entity, 3950
institution, and state institution of higher education shall 3951
determine its fleet average fuel economy by dividing: 3952~~

~~(a) The total number of passenger vehicles acquired during 3953
the fiscal year, except for those passenger vehicles acquired for 3954
use in law enforcement or emergency rescue work, by 3955~~

~~(b) A sum of terms, each of which is a fraction created by 3956
dividing: 3957~~

~~(i) The number of passenger vehicles of a given make, model, 3958~~

~~and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year, by~~ 3959
3960
3961

~~(ii) The fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.~~ 3962
3963
3964
3965

~~As used in division (F)(2) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.~~ 3966
3967
3968

~~(G)(E) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of a rule promulgated pursuant to division (D) or (F) of this section.~~ 3969
3970
3971
3972
3973

Sec. 123.23. (A) As used in this section, "public exigency" means an injury or obstruction that occurs in any public works of the state that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs during the process of construction of any public works and that materially impairs its immediate use or places in jeopardy property adjacent to it. 3974
3975
3976
3977
3978
3979
3980
3981
3982

(B) When a declaration of a public exigency is issued pursuant to division (C) of this section, the executive director of the Ohio facilities construction commission may enter into contracts with proper persons for the performance of labor, the furnishing of materials, or the construction of any structures and buildings necessary to the maintenance, control, and management of the public works of the state or any part of those public works. 3983
3984
3985
3986
3987
3988
3989

Any contracts awarded for the work performed pursuant to the 3990
declaration of a public exigency may be awarded without 3991
competitive bidding or selection as otherwise required by Chapter 3992
153. of the Revised Code. 3993

(C) The executive director of the commission may issue a 3994
declaration of a public exigency on the executive director's own 3995
initiative, or upon the request of the director of any state 3996
agency, university, or instrumentality. The executive director's 3997
declaration shall identify the specific injury, obstruction, or 3998
danger that is the subject of the declaration and shall set forth 3999
a dollar limitation for the repair, removal, or prevention of that 4000
exigency under the declaration. 4001

Before any project to repair, remove, or prevent a public 4002
exigency under the executive director's declaration may begin, the 4003
executive director shall send notice of the project, in writing, 4004
to the director of budget and management and to the members of the 4005
controlling board. The notice shall detail the project to be 4006
undertaken to address the public exigency and shall include a copy 4007
of the director's declaration that establishes the monetary 4008
limitations on that project. 4009

Sec. ~~123.17~~ 123.24. (A) As used in this section, "institution 4010
of higher education" means a state university or college, as 4011
defined in section 3345.12 of the Revised Code, or a state 4012
community college. 4013

(B) ~~Not later than December 30, 2005, the state architect~~ The 4014
Ohio facilities construction commission shall establish a local 4015
administration competency certification program to certify 4016
institutions of higher education to administer capital facilities 4017
projects pursuant to section 3345.51 of the Revised Code without 4018
the supervision, control, or approval of the ~~department of~~ 4019
~~administrative services~~ commission. The program shall offer 4020

instruction in the administration of capital facilities projects 4021
for employees of institutions of higher education who are 4022
responsible for such administration and who are selected by their 4023
employing institutions to participate in the program. 4024

(C) The program shall provide instruction about the 4025
provisions of Chapters 9., 123., and 153. of the Revised Code and 4026
any rules or policies adopted by the ~~department~~ commission 4027
regarding the planning, design, and construction of capital 4028
facilities, including all of the following: 4029

- (1) The planning, design, and construction process; 4030
- (2) Contract requirements; 4031
- (3) Construction management; 4032
- (4) Project management. 4033

(D) The ~~state architect~~ commission shall award local 4034
administration competency certification to any institution of 4035
higher education if all of the following apply: 4036

(1) The institution applied for certification on a form and 4037
in a manner prescribed by the ~~state architect~~ commission. 4038

(2) The ~~state architect~~ commission determines that a 4039
sufficient number of the institution's employees, representing a 4040
sufficient number of employee classifications, responsible for the 4041
administration of capital facilities projects have successfully 4042
completed the certification program to ensure that any capital 4043
facilities project undertaken by the institution will be 4044
administered successfully and in accordance with all provisions of 4045
the Revised Code, and the board of trustees of the institution 4046
provides written assurance to the ~~state architect~~ commission that 4047
the institution will select new employees to participate in the 4048
certification program as necessary to compensate for employee 4049
turnover. 4050

(3) The ~~state architect~~ commission determines that the 4051
employees of the institution enrolled in the program demonstrate 4052
successful completion of the competency certification training and 4053
a satisfactory level of knowledge of and competency in the 4054
requirements for administering capital facilities projects. 4055

(4) The institution pays the fee prescribed by division (F) 4056
of this section. 4057

(5) The board of trustees of the institution provides written 4058
assurance to the ~~state architect~~ commission that the institution 4059
will conduct biennial audits of the institution's administration 4060
of capital facilities projects in accordance with division (C) of 4061
section 3345.51 of the Revised Code. 4062

(6) The board of trustees of the institution agrees in 4063
writing to indemnify and hold harmless the state and the 4064
~~department~~ commission for any claim of injury, loss, or damage 4065
that results from the institution's administration of a capital 4066
facilities project. 4067

(E) Local administration competency certification granted 4068
under this section shall remain in effect for as long as the ~~state~~ 4069
~~architect~~ commission determines that both of the following apply: 4070

(1) The institution of higher education maintains a 4071
sufficient number of employees responsible for the administration 4072
of capital facilities projects who have successfully completed the 4073
certification program and have demonstrated a satisfactory level 4074
of knowledge of and competency in the requirements for 4075
administering capital facilities projects; 4076

(2) The institution is performing the biennial audits 4077
prescribed in division (C) of section 3345.51 of the Revised Code. 4078

If the ~~state architect~~ commission determines that an 4079
institution of higher education has failed to comply with the 4080
conditions of division (E)(1) or (2) of this section, the ~~state~~ 4081

~~architect~~ commission shall revoke the institution's certification 4082
and shall notify the board of trustees of the institution in 4083
writing of the revocation. 4084

(F) The ~~state architect~~ commission shall establish, subject 4085
to the approval of the director of budget and management, the 4086
amount of the fee required to be paid by any institution of higher 4087
education that seeks certification under this section. The amount 4088
of the fees shall be set to cover the costs to implement this 4089
section, including the costs for materials and the competency 4090
certification training sessions. Any fees received under this 4091
section shall be paid into the state treasury to the credit of the 4092
~~state architect's~~ commission's fund established under section 4093
~~123.10~~ 123.201 of the Revised Code. 4094

(G) Nothing in this section shall prohibit an institution 4095
that administers a capital facilities project under section 4096
3345.51 of the Revised Code from requesting guidance or other 4097
services from the ~~department of administrative services~~ 4098
commission. 4099

Sec. 123.26. (A) The executive director of the Ohio 4100
facilities construction commission shall regulate the rate of 4101
tolls to be collected on the construction or improvement of the 4102
public works of the state, and shall fix all rentals and collect 4103
all tolls, rents, fines, commissions, fees, and other revenues 4104
arising from any source in the construction or improvement of the 4105
public works of the state. 4106

(B) Deposits made to the commission's fund in the state 4107
treasury under section 123.201 of the Revised Code shall consist 4108
of money received by the commission under division (A) of this 4109
section, fees paid under section 123.24 of the Revised Code, 4110
transfers of money to the fund authorized by the general assembly, 4111
and such amount of the investment earnings of the administrative 4112

building fund created in division (F) of section 154.24 of the 4113
Revised Code as the director of budget and management determines 4114
to be appropriate and in excess of the amounts required to meet 4115
estimated federal arbitrage rebate requirements. Money in the fund 4116
shall be used by the commission for the following purposes: 4117

(1) To pay personnel and other administrative expenses of the 4118
commission; 4119

(2) To pay the cost of conducting evaluations of public 4120
works; 4121

(3) To pay the cost of building design specifications; 4122

(4) To pay the cost of providing project management services; 4123

(5) To pay the cost of operating the local administration 4124
competency certification program prescribed by section 123.24 of 4125
the Revised Code; and 4126

(6) Any other purposes that the executive director of the 4127
commission determines to be necessary for the commission to 4128
execute its duties under this chapter. 4129

Sec. ~~123.101~~ 123.27. (A) As used in this section: 4130

"Capital facilities project" means the construction, 4131
reconstruction, improvement, enlargement, alteration, or repair of 4132
a building by a public entity. 4133

"Public entity" includes a state agency and a state 4134
institution of higher education. 4135

"State institution of higher education" has the same meaning 4136
as in section 3345.011 of the Revised Code. 4137

(B) Commencing not later than July 1, 2012, and upon 4138
completion of a capital facilities project that is funded wholly 4139
or in part using state funds, each public entity shall submit a 4140
report about the project to the executive director of 4141

~~administrative services~~ the Ohio facilities construction 4142
commission. The report shall be submitted in Ohio administrative 4143
knowledge system capital improvement format or in a manner 4144
determined by the executive director and not later than thirty 4145
days after the project is complete. The report shall provide the 4146
total original contract bid, total cost of change orders, total 4147
actual cost of the project, total costs incurred for mediation and 4148
litigation services, and any other data requested by the executive 4149
director. The first report submitted pursuant to this division 4150
shall include information about any capital facilities project 4151
completed on or after July 1, 2011. Any capital facilities project 4152
that is funded wholly or in part through appropriations made to 4153
the Ohio school facilities commission, the Ohio public works 4154
commission, or the Ohio cultural facilities commission, or for 4155
which a joint use agreement has been entered into with any public 4156
entity, is exempt from the reporting requirement prescribed under 4157
this division. 4158

(C) Commencing not later than July 1, 2012, and annually 4159
thereafter, the attorney general shall report to the executive 4160
director of the Ohio facilities construction commission on any 4161
mediation and litigation costs associated with capital facilities 4162
projects for which a judgment has been rendered. The report shall 4163
be submitted in a manner prescribed by the executive director and 4164
shall contain any information requested by the executive director 4165
related to capital facilities project mediation and litigation 4166
costs. 4167

(D) As soon as practicable after such information is made 4168
available, the executive director of ~~administrative services~~ the 4169
Ohio facilities construction commission shall incorporate the 4170
information reported pursuant to divisions (B) and (C) of this 4171
section into the Ohio administrative knowledge system. 4172

Sec. 124.04. In addition to those powers enumerated in 4173
Chapters 123. and 125. of the Revised Code and as provided 4174
elsewhere by law, the powers, duties, and functions of the 4175
department of administrative services not specifically vested in 4176
and assigned to, or to be performed by, the state personnel board 4177
of review are hereby vested in and assigned to, and shall be 4178
performed by, the director of administrative services. These 4179
powers, duties, and functions shall include, but shall not be 4180
limited to, the following powers, duties, and functions: 4181

(A) To prepare, conduct, and grade all competitive 4182
examinations for positions in the classified ~~state~~ service of the 4183
state; 4184

(B) To prepare, conduct, and grade all noncompetitive 4185
examinations for positions in the classified ~~state~~ service of the 4186
state; 4187

(C) To prepare eligible lists containing the names of persons 4188
qualified for appointment to positions in the classified ~~state~~ 4189
service of the state; 4190

(D) To prepare or amend, in accordance with section 124.14 of 4191
the Revised Code, specifications descriptive of duties, 4192
responsibilities, requirements, and desirable qualifications of 4193
the various classifications of positions in the ~~state~~ service of 4194
the state; 4195

(E) To allocate and reallocate, upon the motion of the 4196
director or upon request of an appointing authority and in 4197
accordance with section 124.14 of the Revised Code, any position, 4198
office, or employment in the ~~state~~ service of the state to the 4199
appropriate classification on the basis of the duties, 4200
responsibilities, requirements, and qualifications of that 4201
position, office, or employment; 4202

| | |
|---|------|
| (F) To develop and conduct personnel recruitment services <u>and</u> | 4203 |
| <u>assist appointing authorities in recruiting qualified applicants</u> | 4204 |
| for positions in the state service <u>of the state</u> ; | 4205 |
| (G) To conduct research on specifications, classifications, | 4206 |
| and salaries of positions in the state service <u>of the state</u> ; | 4207 |
| (H) To develop and conduct personnel training programs, | 4208 |
| including supervisory training programs and best practices plans, | 4209 |
| and to develop merit hiring processes, in cooperation with | 4210 |
| appointing authorities <u>for positions in the service of the state</u> ; | 4211 |
| (I) To include periodically in communications sent to state | 4212 |
| employees both of the following: | 4213 |
| (1) Information developed under section 2108.34 of the | 4214 |
| Revised Code promoting the donation of anatomical gifts under | 4215 |
| Chapter 2108. of the Revised Code; | 4216 |
| (2) Information about the liver or kidney donor and bone | 4217 |
| marrow donor leave granted under section 124.139 of the Revised | 4218 |
| Code. | 4219 |
| (J) To enter into agreements with universities and colleges | 4220 |
| for in-service training of officers and employees in the civil | 4221 |
| service and to assist appointing authorities in recruiting | 4222 |
| qualified applicants ; | 4223 |
| (K) To appoint examiners, inspectors, clerks, and other | 4224 |
| assistants necessary in the exercise of the powers and performance | 4225 |
| of the duties and functions which the director is by law | 4226 |
| authorized and required to exercise and perform, and to prescribe | 4227 |
| the duties of all of those employees; | 4228 |
| (L) To maintain a journal, which shall be open to public | 4229 |
| inspection, in which the director shall keep a record of the | 4230 |
| director's final decision pertaining to the classification or | 4231 |
| reclassification of positions in the classified civil service of | 4232 |

the state and assignment or reassignment of employees in the 4233
classified civil service of the state to specific position 4234
classifications; 4235

(M) To delegate any of the powers, functions, or duties 4236
granted or assigned to the director under this chapter to any 4237
other state agency of this state as the director considers 4238
necessary; 4239

(N) To delegate any of the powers, functions, or duties 4240
granted or assigned to the director under this chapter to any 4241
political subdivision with the concurrence of the legislative 4242
authority of the political subdivision. 4243

(O) To administer a state equal employment opportunity 4244
program. 4245

Sec. 124.06. No person shall be appointed, removed, 4246
transferred, laid off, suspended, reinstated, promoted, or reduced 4247
as an officer or employee in the civil service, in any manner or 4248
by any means other than those prescribed in this chapter, and the 4249
rules of the director of administrative services for positions in 4250
the service of the state or the municipal or civil service 4251
township civil service commission within their respective 4252
jurisdictions. 4253

Sec. 124.11. The civil service of the state and the several 4254
counties, cities, civil service townships, city health districts, 4255
general health districts, and city school districts of the state 4256
shall be divided into the unclassified service and the classified 4257
service. 4258

(A) The unclassified service shall comprise the following 4259
positions, which shall not be included in the classified service, 4260
and which shall be exempt from all examinations required by this 4261
chapter: 4262

| | |
|--|------------------------------|
| (1) All officers elected by popular vote or persons appointed to fill vacancies in those offices; | 4263 4264 |
| (2) All election officers as defined in section 3501.01 of the Revised Code; | 4265 4266 |
| (3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent; | 4267 4268 4269 |
| (b) The heads of all departments appointed by a board of county commissioners; | 4270 4271 |
| (c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district; | 4272 4273 4274 4275 |
| Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service. | 4276 4277 4278 4279 |
| (4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors; | 4280 4281 4282 |
| (5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties; | 4283 4284 4285 |
| (6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department; | 4286 4287 4288 |
| (7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with | 4289 4290 4291 4292 |

the public school system, colleges, and universities, as 4293
determined by the governing body of the public school system, 4294
colleges, and universities; 4295

(b) The library staff of any library in the state supported 4296
wholly or in part at public expense. 4297

(8) Four clerical and administrative support employees for 4298
each of the elective state officers, four clerical and 4299
administrative support employees for each board of county 4300
commissioners and one such employee for each county commissioner, 4301
and four clerical and administrative support employees for other 4302
elective officers and each of the principal appointive executive 4303
officers, boards, or commissions, except for civil service 4304
commissions, that are authorized to appoint such clerical and 4305
administrative support employees; 4306

(9) The deputies and assistants of state agencies authorized 4307
to act for and on behalf of the agency, or holding a fiduciary or 4308
administrative relation to that agency and those persons employed 4309
by and directly responsible to elected county officials or a 4310
county administrator and holding a fiduciary or administrative 4311
relationship to such elected county officials or county 4312
administrator, and the employees of such county officials whose 4313
fitness would be impracticable to determine by competitive 4314
examination, provided that division (A)(9) of this section shall 4315
not affect those persons in county employment in the classified 4316
service as of September 19, 1961. Nothing in division (A)(9) of 4317
this section applies to any position in a county department of job 4318
and family services created pursuant to Chapter 329. of the 4319
Revised Code. 4320

(10) Bailiffs, constables, official stenographers, and 4321
commissioners of courts of record, deputies of clerks of the 4322
courts of common pleas who supervise or who handle public moneys 4323
or secured documents, and such officers and employees of courts of 4324

record and such deputies of clerks of the courts of common pleas 4325
as the ~~director of administrative services~~ appointing authority 4326
finds it impracticable to determine their fitness by competitive 4327
examination; 4328

(11) Assistants to the attorney general, special counsel 4329
appointed or employed by the attorney general, assistants to 4330
county prosecuting attorneys, and assistants to city directors of 4331
law; 4332

(12) Such teachers and employees in the agricultural 4333
experiment stations; such students in normal schools, colleges, 4334
and universities of the state who are employed by the state or a 4335
political subdivision of the state in student or intern 4336
classifications; and such unskilled labor positions as the 4337
director of administrative services, with respect to positions in 4338
the service of the state, or any municipal civil service 4339
commission may find it impracticable to include in the competitive 4340
classified service; provided such exemptions shall be by order of 4341
the commission or the director, duly entered on the record of the 4342
commission or the director with the reasons for each such 4343
exemption; 4344

(13) Any physician or dentist who is a full-time employee of 4345
the department of mental health, the department of developmental 4346
disabilities, or an institution under the jurisdiction of either 4347
department; and physicians who are in residency programs at the 4348
institutions; 4349

(14) Up to twenty positions at each institution under the 4350
jurisdiction of the department of mental health or the department 4351
of developmental disabilities that the department director 4352
determines to be primarily administrative or managerial; and up to 4353
fifteen positions in any division of either department, excluding 4354
administrative assistants to the director and division chiefs, 4355
which are within the immediate staff of a division chief and which 4356

| | |
|--|------|
| the director determines to be primarily and distinctively | 4357 |
| administrative and managerial; | 4358 |
| (15) Noncitizens of the United States employed by the state, | 4359 |
| or its counties or cities, as physicians or nurses who are duly | 4360 |
| licensed to practice their respective professions under the laws | 4361 |
| of this state, or medical assistants, in mental or chronic disease | 4362 |
| hospitals, or institutions; | 4363 |
| (16) Employees of the governor's office; | 4364 |
| (17) Fire chiefs and chiefs of police in civil service | 4365 |
| townships appointed by boards of township trustees under section | 4366 |
| 505.38 or 505.49 of the Revised Code; | 4367 |
| (18) Executive directors, deputy directors, and program | 4368 |
| directors employed by boards of alcohol, drug addiction, and | 4369 |
| mental health services under Chapter 340. of the Revised Code, and | 4370 |
| secretaries of the executive directors, deputy directors, and | 4371 |
| program directors; | 4372 |
| (19) Superintendents, and management employees as defined in | 4373 |
| section 5126.20 of the Revised Code, of county boards of | 4374 |
| developmental disabilities; | 4375 |
| (20) Physicians, nurses, and other employees of a county | 4376 |
| hospital who are appointed pursuant to sections 339.03 and 339.06 | 4377 |
| of the Revised Code; | 4378 |
| (21) The executive director of the state medical board, who | 4379 |
| is appointed pursuant to division (B) of section 4731.05 of the | 4380 |
| Revised Code; | 4381 |
| (22) County directors of job and family services as provided | 4382 |
| in section 329.02 of the Revised Code and administrators appointed | 4383 |
| under section 329.021 of the Revised Code; | 4384 |
| (23) A director of economic development who is hired pursuant | 4385 |
| to division (A) of section 307.07 of the Revised Code; | 4386 |

(24) Chiefs of construction and compliance, of operations and 4387
maintenance, of worker protection, and of licensing and 4388
certification in the division of ~~labor~~ industrial compliance in 4389
the department of commerce; 4390

(25) The executive director of a county transit system 4391
appointed under division (A) of section 306.04 of the Revised 4392
Code; 4393

(26) Up to five positions at each of the administrative 4394
departments listed in section 121.02 of the Revised Code and at 4395
the department of taxation, department of the adjutant general, 4396
department of education, Ohio board of regents, bureau of workers' 4397
compensation, industrial commission, state lottery commission, and 4398
public utilities commission of Ohio that the head of that 4399
administrative department or of that other state agency determines 4400
to be involved in policy development and implementation. The head 4401
of the administrative department or other state agency shall set 4402
the compensation for employees in these positions at a rate that 4403
is not less than the minimum compensation specified in pay range 4404
41 but not more than the maximum compensation specified in pay 4405
range 44 of salary schedule E-2 in section 124.152 of the Revised 4406
Code. The authority to establish positions in the unclassified 4407
service under division (A)(26) of this section is in addition to 4408
and does not limit any other authority that an administrative 4409
department or state agency has under the Revised Code to establish 4410
positions, appoint employees, or set compensation. 4411

(27) Employees of the department of agriculture employed 4412
under section 901.09 of the Revised Code; 4413

(28) For cities, counties, civil service townships, city 4414
health districts, general health districts, and city school 4415
districts, the deputies and assistants of elective or principal 4416
executive officers authorized to act for and in the place of their 4417
principals or holding a fiduciary relation to their principals; 4418

(29) Employees who receive intermittent or temporary 4419
appointments under division (B) of section 124.30 of the Revised 4420
Code; 4421

(30) Employees appointed to administrative staff positions 4422
for which an appointing authority is given specific statutory 4423
authority to set compensation; 4424

(31) Employees appointed to highway patrol cadet or highway 4425
patrol cadet candidate classifications; 4426

(32) Employees placed in the unclassified service by another 4427
section of the Revised Code. 4428

(B) The classified service shall comprise all persons in the 4429
employ of the state and the several counties, cities, city health 4430
districts, general health districts, and city school districts of 4431
the state, not specifically included in the unclassified service. 4432
Upon the creation by the board of trustees of a civil service 4433
township civil service commission, the classified service shall 4434
also comprise, except as otherwise provided in division (A)(17) or 4435
(C) of this section, all persons in the employ of a civil service 4436
township police or fire department having ten or more full-time 4437
paid employees. The classified service consists of two classes, 4438
which shall be designated as the competitive class and the 4439
unskilled labor class. 4440

(1) The competitive class shall include all positions and 4441
employments in the state and the counties, cities, city health 4442
districts, general health districts, and city school districts of 4443
the state, and, upon the creation by the board of trustees of a 4444
civil service township of a township civil service commission, all 4445
positions in a civil service township police or fire department 4446
having ten or more full-time paid employees, for which it is 4447
practicable to determine the merit and fitness of applicants by 4448
competitive examinations. Appointments shall be made to, or 4449

employment shall be given in, all positions in the competitive 4450
class that are not filled by promotion, reinstatement, transfer, 4451
or reduction, as provided in this chapter, and the rules of the 4452
director of administrative services, by appointment from those 4453
certified to the appointing officer in accordance with this 4454
chapter. 4455

(2) The unskilled labor class shall include ordinary 4456
unskilled laborers. Vacancies in the labor class for positions in 4457
service of the state shall be filled by appointment from lists of 4458
applicants registered by the director or the director's designee. 4459
Vacancies in the labor class for all other positions shall be 4460
filled by appointment from lists of applicants registered by a 4461
commission. The director or the commission, as applicable, by 4462
rule, shall require an applicant for registration in the labor 4463
class to furnish evidence or take tests as the director or 4464
commission considers proper with respect to age, residence, 4465
physical condition, ability to labor, honesty, sobriety, industry, 4466
capacity, and experience in the work or employment for which 4467
application is made. Laborers who fulfill the requirements shall 4468
be placed on the eligible list for the kind of labor or employment 4469
sought, and preference shall be given in employment in accordance 4470
with the rating received from that evidence or in those tests. 4471
Upon the request of an appointing officer, stating the kind of 4472
labor needed, the pay and probable length of employment, and the 4473
number to be employed, the director or commission, as applicable, 4474
shall certify from the highest on the list double the number to be 4475
employed; from this number, the appointing officer shall appoint 4476
the number actually needed for the particular work. If more than 4477
one applicant receives the same rating, priority in time of 4478
application shall determine the order in which their names shall 4479
be certified for appointment. 4480

(C) A municipal or civil service township civil service 4481

commission may place volunteer firefighters who are paid on a 4482
fee-for-service basis in either the classified or the unclassified 4483
civil service. 4484

(D)(1) This division does not apply to persons in the 4485
unclassified service who have the right to resume positions in the 4486
classified service under sections 4121.121, 5119.071, 5120.38, 4487
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 4488
Code or to cities, counties, or political subdivisions of the 4489
state. 4490

~~An appointing authority whose employees are paid directly by~~ 4491
~~warrant of the director of budget and management may appoint a~~ 4492
~~person who holds a certified position in the classified service~~ 4493
~~within the appointing authority's agency to a position in the~~ 4494
~~unclassified service within that agency. (2) A person appointed~~ 4495
~~pursuant to this division who holds a position in the classified~~ 4496
~~service of the state and who is appointed~~ to a position in the 4497
unclassified service shall retain the right to resume the position 4498
and status held by the person in the classified service 4499
immediately prior to the person's appointment to the position in 4500
the unclassified service, regardless of the number of positions 4501
the person held in the unclassified service. An employee's right 4502
to resume a position in the classified service may only be 4503
exercised when an appointing authority demotes the employee to a 4504
pay range lower than the employee's current pay range or revokes 4505
the employee's appointment to the unclassified service- and: 4506

(a) That person held a certified position prior to July 1, 4507
2007, in the classified service within the appointing authority's 4508
agency; or 4509

(b) That person held a permanent position on or after July 1, 4510
2007, in the classified service within the appointing authority's 4511
agency. 4512

(3) An employee forfeits the right to resume a position in 4513
the classified service when ~~the~~: 4514

(a) ~~The~~ employee is removed from the position in the 4515
unclassified service due to incompetence, inefficiency, 4516
dishonesty, drunkenness, immoral conduct, insubordination, 4517
discourteous treatment of the public, neglect of duty, violation 4518
of this chapter or the rules of the director of administrative 4519
services, any other failure of good behavior, any other acts of 4520
misfeasance, malfeasance, or nonfeasance in office, or conviction 4521
of a felony. ~~An employee also forfeits the right to resume a~~ 4522
~~position in the classified service upon; or~~ 4523

(b) Upon transfer to a different agency. 4524

(4) Reinstatement to a position in the classified service 4525
shall be to a position substantially equal to that position in the 4526
classified service held previously, as certified by the director 4527
of administrative services. If the position the person previously 4528
held in the classified service has been placed in the unclassified 4529
service or is otherwise unavailable, the person shall be appointed 4530
to a position in the classified service within the appointing 4531
authority's agency that the director of administrative services 4532
certifies is comparable in compensation to the position the person 4533
previously held in the classified service. Service in the position 4534
in the unclassified service shall be counted as service in the 4535
position in the classified service held by the person immediately 4536
prior to the person's appointment to the position in the 4537
unclassified service. When a person is reinstated to a position in 4538
the classified service as provided in this division, the person is 4539
entitled to all rights, status, and benefits accruing to the 4540
position in the classified service during the person's time of 4541
service in the position in the unclassified service. 4542

Sec. 124.12. (A) Within ninety days after an appointing 4543

authority appoints an employee to an unclassified position in the 4544
service of the state, the appointing authority shall notify the 4545
department of administrative services of that appointment. 4546

(B) On the date an appointing authority appoints an employee 4547
to an unclassified position in the state service, the appointing 4548
authority shall provide the employee with written information 4549
describing the nature of employment in the unclassified civil 4550
service. Within thirty days after the date an appointing authority 4551
appoints an employee to an unclassified position in the state 4552
service, the appointing authority shall provide the employee with 4553
written information describing the duties of that position. 4554
Failure of the appointing authority to provide the written 4555
information described in this division to the employee does not 4556
confer any additional rights upon the employee in any appellate 4557
body with jurisdiction over an appeal of the employee. 4558

(C) The department shall develop and provide each appointing 4559
authority in the ~~state~~ service of the state with a general written 4560
description of the nature of employment in the unclassified civil 4561
service that shall be provided to employees under division (B) of 4562
this section. 4563

Sec. 124.14. (A)(1) The director of administrative services 4564
shall establish, and may modify or rescind, by rule, a job 4565
classification plan for all positions, offices, and employments 4566
the salaries of which are paid in whole or in part by the state. 4567
The director shall group jobs within a classification so that the 4568
positions are similar enough in duties and responsibilities to be 4569
described by the same title, to have the same pay assigned with 4570
equity, and to have the same qualifications for selection applied. 4571
The director shall, by rule, assign a classification title to each 4572
classification within the classification plan. However, the 4573
director shall consider in establishing classifications, including 4574

classifications with parenthetical titles, and assigning pay 4575
ranges such factors as duties performed only on one shift, special 4576
skills in short supply in the labor market, recruitment problems, 4577
separation rates, comparative salary rates, the amount of training 4578
required, and other conditions affecting employment. The director 4579
shall describe the duties and responsibilities of the class, 4580
establish the qualifications for being employed in each position 4581
in the class, and file with the secretary of state a copy of 4582
specifications for all of the classifications. The director shall 4583
file new, additional, or revised specifications with the secretary 4584
of state before they are used. 4585

The director shall, by rule, assign each classification, 4586
either on a statewide basis or in particular counties or state 4587
institutions, to a pay range established under section 124.15 or 4588
section 124.152 of the Revised Code. The director may assign a 4589
classification to a pay range on a temporary basis for a period of 4590
six months. The director may establish, by rule adopted under 4591
Chapter 119. of the Revised Code, experimental classification 4592
plans for some or all employees paid directly by warrant of the 4593
director of budget and management. The rule shall include 4594
specifications for each classification within the plan and shall 4595
specifically address compensation ranges, and methods for 4596
advancing within the ranges, for the classifications, which may be 4597
assigned to pay ranges other than the pay ranges established under 4598
section 124.15 or 124.152 of the Revised Code. 4599

(2) The director of administrative services may reassign to a 4600
proper classification those positions that have been assigned to 4601
an improper classification. If the compensation of an employee in 4602
such a reassigned position exceeds the maximum rate of pay for the 4603
employee's new classification, the employee shall be placed in pay 4604
step X and shall not receive an increase in compensation until the 4605
maximum rate of pay for that classification exceeds the employee's 4606

compensation. 4607

(3) The director may reassign an exempt employee, as defined 4608
in section 124.152 of the Revised Code, to a bargaining unit 4609
classification if the director determines that the bargaining unit 4610
classification is the proper classification for that employee. 4611
Notwithstanding Chapter 4117. of the Revised Code or instruments 4612
and contracts negotiated under it, these placements are at the 4613
director's discretion. 4614

(4) The director shall, by rule, assign related 4615
classifications, which form a career progression, to a 4616
classification series. The director shall, by rule, assign each 4617
classification in the classification plan a five-digit number, the 4618
first four digits of which shall denote the classification series 4619
to which the classification is assigned. When a career progression 4620
encompasses more than ten classifications, the director shall, by 4621
rule, identify the additional classifications belonging to a 4622
classification series. The additional classifications shall be 4623
part of the classification series, notwithstanding the fact that 4624
the first four digits of the number assigned to the additional 4625
classifications do not correspond to the first four digits of the 4626
numbers assigned to other classifications in the classification 4627
series. 4628

~~(5) The director may establish, modify, or rescind a 4629
classification plan for county agencies that elect not to use the 4630
services and facilities of a county personnel department. The 4631
director shall establish any such classification plan by means of 4632
rules adopted under Chapter 119. of the Revised Code. The rules 4633
shall include a methodology for the establishment of titles unique 4634
to county agencies, the use of state classification titles and 4635
classification specifications for common positions, the criteria 4636
for a county to meet in establishing its own classification plan, 4637
and the establishment of what constitutes a classification series 4638~~

~~for county agencies. The director may assess a county agency that chooses to use the classification plan a usage fee the director determines. All usage fees the department of administrative services receives shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.~~

(B) Division (A) of this section and sections 124.15 and 124.152 of the Revised Code do not apply to the following persons, positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

~~(3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;~~

~~(4)~~ Any position for which the authority to determine compensation is given by law to another individual or entity;

~~(5)~~(4) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director may employ a consulting agency to aid and assist the director in carrying out this section.

(D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the

appointing authorities of the affected employees thirty days 4669
before a hearing on the proposed rule. The appointing authorities 4670
shall notify the affected employees regarding the proposed rule. 4671
The director also shall send those appointing authorities notice 4672
of any final rule that is adopted within ten days after adoption. 4673

(2) When the director proposes to reclassify any employee in 4674
the service of the state so that the employee is adversely 4675
affected, the director shall give to the employee affected and to 4676
the employee's appointing authority a written notice setting forth 4677
the proposed new classification, pay range, and salary. Upon the 4678
request of any classified employee in the service of the state who 4679
is not serving in a probationary period, the director shall 4680
perform a job audit to review the classification of the employee's 4681
position to determine whether the position is properly classified. 4682
The director shall give to the employee affected and to the 4683
employee's appointing authority a written notice of the director's 4684
determination whether or not to reclassify the position or to 4685
reassign the employee to another classification. An employee or 4686
appointing authority desiring a hearing shall file a written 4687
request for the hearing with the state personnel board of review 4688
within thirty days after receiving the notice. The board shall set 4689
the matter for a hearing and notify the employee and appointing 4690
authority of the time and place of the hearing. The employee, the 4691
appointing authority, or any authorized representative of the 4692
employee who wishes to submit facts for the consideration of the 4693
board shall be afforded reasonable opportunity to do so. After the 4694
hearing, the board shall consider anew the reclassification and 4695
may order the reclassification of the employee and require the 4696
director to assign the employee to such appropriate classification 4697
as the facts and evidence warrant. As provided in division (A)(1) 4698
of section 124.03 of the Revised Code, the board may determine the 4699
most appropriate classification for the position of any employee 4700
coming before the board, with or without a job audit. The board 4701

shall disallow any reclassification or reassignment classification 4702
of any employee when it finds that changes have been made in the 4703
duties and responsibilities of any particular employee for 4704
political, religious, or other unjust reasons. 4705

(E)(1) Employees of each county department of job and family 4706
services shall be paid a salary or wage established by the board 4707
of county commissioners. The provisions of section 124.18 of the 4708
Revised Code concerning the standard work week apply to employees 4709
of county departments of job and family services. A board of 4710
county commissioners may do either of the following: 4711

(a) Notwithstanding any other section of the Revised Code, 4712
supplement the sick leave, vacation leave, personal leave, and 4713
other benefits of any employee of the county department of job and 4714
family services of that county, if the employee is eligible for 4715
the supplement under a written policy providing for the 4716
supplement; 4717

(b) Notwithstanding any other section of the Revised Code, 4718
establish alternative schedules of sick leave, vacation leave, 4719
personal leave, or other benefits for employees not inconsistent 4720
with the provisions of a collective bargaining agreement covering 4721
the affected employees. 4722

(2) Division (E)(1) of this section does not apply to 4723
employees for whom the state employment relations board 4724
establishes appropriate bargaining units pursuant to section 4725
4117.06 of the Revised Code, except in either of the following 4726
situations: 4727

(a) The employees for whom the state employment relations 4728
board establishes appropriate bargaining units elect no 4729
representative in a board-conducted representation election. 4730

(b) After the state employment relations board establishes 4731
appropriate bargaining units for such employees, all employee 4732

organizations withdraw from a representation election. 4733

(F)(1) Notwithstanding any contrary provision of sections 4734
124.01 to 124.64 of the Revised Code, the board of trustees of 4735
each state university or college, as defined in section 3345.12 of 4736
the Revised Code, shall carry out all matters of governance 4737
involving the officers and employees of the university or college, 4738
including, but not limited to, the powers, duties, and functions 4739
of the department of administrative services and the director of 4740
administrative services specified in this chapter. Officers and 4741
employees of a state university or college shall have the right of 4742
appeal to the state personnel board of review as provided in this 4743
chapter. 4744

(2) Each board of trustees shall adopt rules under section 4745
111.15 of the Revised Code to carry out the matters of governance 4746
described in division (F)(1) of this section. Until the board of 4747
trustees adopts those rules, a state university or college shall 4748
continue to operate pursuant to the applicable rules adopted by 4749
the director of administrative services under this chapter. 4750

(G)(1) Each board of county commissioners may, by a 4751
resolution adopted by a majority of its members, establish a 4752
county personnel department to exercise the powers, duties, and 4753
functions specified in division (G) of this section. As used in 4754
division (G) of this section, "county personnel department" means 4755
a county personnel department established by a board of county 4756
commissioners under division (G)(1) of this section. 4757

(2)(a) Each board of county commissioners, by a resolution 4758
adopted by a majority of its members, may designate the county 4759
personnel department of the county to exercise the powers, duties, 4760
and functions specified in sections 124.01 to 124.64 and Chapter 4761
325. of the Revised Code with regard to employees in the service 4762
of the county, except for the powers and duties of the state 4763
personnel board of review, which powers and duties shall not be 4764

construed as having been modified or diminished in any manner by 4765
division (G)(2) of this section, with respect to the employees for 4766
whom the board of county commissioners is the appointing authority 4767
or co-appointing authority. 4768

(b) Nothing in division (G)(2) of this section shall be 4769
construed to limit the right of any employee who possesses the 4770
right of appeal to the state personnel board of review to continue 4771
to possess that right of appeal. 4772

(c) Any board of county commissioners that has established a 4773
county personnel department may contract with the department of 4774
administrative services, in accordance with division (H) of this 4775
section, another political subdivision, or an appropriate public 4776
or private entity to provide competitive testing services or other 4777
appropriate services. 4778

(3) After the county personnel department of a county has 4779
been established as described in division (G)(2) of this section, 4780
any elected official, board, agency, or other appointing authority 4781
of that county, upon written notification to the county personnel 4782
department, may elect to use the services and facilities of the 4783
county personnel department. Upon receipt of the notification by 4784
the county personnel department, the county personnel department 4785
shall exercise the powers, duties, and functions as described in 4786
division (G)(2) of this section with respect to the employees of 4787
that elected official, board, agency, or other appointing 4788
authority. 4789

(4) Each board of county commissioners, by a resolution 4790
adopted by a majority of its members, may disband the county 4791
personnel department. 4792

(5) Any elected official, board, agency, or appointing 4793
authority of a county may end its involvement with a county 4794
personnel department upon actual receipt by the department of a 4795

certified copy of the notification that contains the decision to 4796
no longer participate. 4797

~~(6) The director of administrative services may, by rule 4798
adopted in accordance with Chapter 119. of the Revised Code, 4799
prescribe criteria and procedures for the following: 4800~~

~~(a) A requirement that each county personnel department, in 4801
carrying out its duties, shall adhere to merit system principles 4802
with regard to employees of county departments of job and family 4803
services, child support enforcement agencies, and public child 4804
welfare agencies so that there is no threatened loss of federal 4805
funding for these agencies, and a requirement that the county be 4806
is financially liable to the state for any loss of federal funds 4807
due to the action or inaction of the county personnel department. 4808
The costs associated with audits conducted to monitor compliance 4809
with division (G)(6)(a) of this section shall be reimbursed to the 4810
department of administrative services as determined by the 4811
director. All money the department receives for these audits shall 4812
be paid into the state treasury to the credit of the human 4813
resources fund created in section 124.07 of the Revised Code. 4814~~

~~(b) Authorization for the director of administrative services 4815
to conduct periodic audits and reviews of county personnel 4816
departments to guarantee the uniform application of the powers, 4817
duties, and functions exercised pursuant to division (G)(2)(a) of 4818
this section. The costs of the audits and reviews shall be 4819
reimbursed to the department of administrative services as 4820
determined by the director by the county for which the services 4821
are performed. All money the department receives shall be paid 4822
into the state treasury to the credit of the human resources fund 4823
created in section 124.07 of the Revised Code. 4824~~

(H) County agencies may contract with the department of 4825
administrative services for any human resources services, 4826
including, but not limited to, establishment and modification of 4827

job classification plans, competitive testing services, and 4828
periodic audits and reviews of the county's uniform application of 4829
the powers, duties, and functions specified in sections 124.01 to 4830
124.64 and Chapter 325. of the Revised Code with regard to 4831
employees in the service of the county. Nothing in this division 4832
modifies the powers and duties of the state personnel board of 4833
review with respect to employees in the service of the county. 4834
Nothing in this division limits the right of any employee who 4835
possesses the right of appeal to the state personnel board of 4836
review to continue to possess that right of appeal. 4837

(I) The director of administrative services shall establish 4838
the rate and method of compensation for all employees who are paid 4839
directly by warrant of the director of budget and management and 4840
who are serving in positions that the director of administrative 4841
services has determined impracticable to include in the state job 4842
classification plan. This division does not apply to elected 4843
officials, legislative employees, employees of the legislative 4844
service commission, employees who are in the unclassified civil 4845
service and exempt from collective bargaining coverage in the 4846
office of the secretary of state, auditor of state, treasurer of 4847
state, and attorney general, employees of the courts, employees of 4848
the bureau of workers' compensation whose compensation the 4849
administrator of workers' compensation establishes under division 4850
(B) of section 4121.121 of the Revised Code, or employees of an 4851
appointing authority authorized by law to fix the compensation of 4852
those employees. 4853

~~(I)~~(J) The director of administrative services shall set the 4854
rate of compensation for all intermittent, seasonal, temporary, 4855
emergency, and casual employees in the service of the state who 4856
are not considered public employees under section 4117.01 of the 4857
Revised Code. Those employees are not entitled to receive employee 4858
benefits. This rate of compensation shall be equitable in terms of 4859

the rate of employees serving in the same or similar 4860
classifications. This division does not apply to elected 4861
officials, legislative employees, employees of the legislative 4862
service commission, employees who are in the unclassified civil 4863
service and exempt from collective bargaining coverage in the 4864
office of the secretary of state, auditor of state, treasurer of 4865
state, and attorney general, employees of the courts, employees of 4866
the bureau of workers' compensation whose compensation the 4867
administrator establishes under division (B) of section 4121.121 4868
of the Revised Code, or employees of an appointing authority 4869
authorized by law to fix the compensation of those employees. 4870

Sec. 124.231. (A) As used in this section, "legally blind 4871
person" means any person who qualifies as being blind under any 4872
Ohio or federal statute, or any rule adopted thereunder. As used 4873
in this section, "legally deaf person" means any person who 4874
qualifies as being deaf under any Ohio or federal statute, or any 4875
rule adopted thereunder. 4876

(B) When an examination is to be administered under sections 4877
124.01 to ~~124.64~~ 124.31 of the Revised Code, the director of 4878
administrative services or the director's designee shall whenever 4879
practicable arrange for special examinations to be administered to 4880
legally blind or legally deaf persons applying for positions in 4881
the classified service of the state to ensure that the abilities 4882
of such applicants are properly assessed and that such applicants 4883
are not subject to discrimination because they are legally blind 4884
or legally deaf persons. 4885

Sec. 124.241. As used in this section, "professional 4886
employee" has the same meaning as in section 5126.20 of the 4887
Revised Code and "registered service employee" means a service 4888
employee, as defined in section 5126.20 of the Revised Code, who 4889
is registered under section 5126.25 of the Revised Code. 4890

County boards of developmental disabilities may hire 4891
professional employees and registered service employees in the 4892
classified service on the basis of the candidates' qualifications 4893
rather than on the basis of the results of ~~an~~ a civil service 4894
~~examination administered by the director of administrative~~ 4895
~~services pursuant to, as described in division (D) of~~ section 4896
124.23 of the Revised Code. 4897

Sec. 124.25. The director of administrative services shall 4898
require persons applying for an examination for original 4899
appointment in the service of the state to file with the director 4900
or the director's designee, within reasonable time prior to the 4901
examination, a formal application, in which the applicant shall 4902
state the applicant's name, address, and such other information as 4903
may reasonably be required concerning the applicant's education 4904
and experience. No inquiry shall be made as to religious or 4905
political affiliations or as to racial or ethnic origin of the 4906
applicant, except as necessary to gather equal employment 4907
opportunity or other statistics that, when compiled, will not 4908
identify any specific individual. 4909

Blank forms for applications shall be furnished by the 4910
director or the director's designee without charge to any person 4911
requesting the same. The director or the director's designee may 4912
require in connection with such application such certificate of 4913
persons having knowledge of the applicant as the good of the 4914
service demands. The director or the director's designee may 4915
refuse to appoint or examine an applicant, or, after an 4916
examination, refuse to certify the applicant as eligible, who is 4917
found to lack any of the established preliminary requirements for 4918
the examination, who is addicted to the habitual use of 4919
intoxicating liquors or drugs to excess, who has a pattern of poor 4920
work habits and performance with previous employers, who has been 4921
convicted of a felony, who has been guilty of infamous or 4922

notoriously disgraceful conduct, who has been dismissed from 4923
either branch of the civil service for delinquency or misconduct, 4924
or who has made false statements of any material fact, or 4925
practiced, or attempted to practice, any deception or fraud in the 4926
application or examination, in establishing eligibility, or 4927
securing an appointment. 4928

Sec. 124.26. From the returns of ~~the~~ examinations for 4929
positions in the service of the state, the director of 4930
administrative services or the director's designee shall prepare 4931
an eligible list of the persons whose general average standing 4932
upon examinations for the class or position is not less than the 4933
minimum fixed by the rules of the director, and who are otherwise 4934
eligible. Those persons shall take rank upon the eligible list as 4935
candidates in the order of their relative excellence as determined 4936
by the examination without reference to priority of the time of 4937
examination. If two or more applicants receive the same mark in an 4938
open competitive examination, priority in the time of filing the 4939
application with the director or the director's designee shall 4940
determine the order in which their names shall be placed on the 4941
eligible list, except that applicants eligible for veteran's 4942
preference under section 124.23 of the Revised Code shall receive 4943
priority in rank on the eligible list over nonveterans on the list 4944
with a rating equal to that of the veteran. Ties among veterans 4945
shall be decided by priority of filing the application. 4946

- An eligible list expires upon the filling or closing of the 4947
position. An expired eligible list may be used to fill a position 4948
of the same classification within the same appointing authority 4949
for which the list was created. But, in no event shall an expired 4950
list be used more than one year past its expiration date. 4951

Sec. 124.27. (A) Appointments to all positions in the 4952
classified civil service, that are not filled by promotion, 4953

transfer, or reduction, as provided in sections 124.01 to 124.64 4954
of the Revised Code and the rules of the director prescribed under 4955
those sections, shall be made only from those persons whose names 4956
take rank order on an eligible list, and no employment, except as 4957
provided in those sections, shall be otherwise given in the 4958
classified civil service ~~of this state or any political~~ 4959
~~subdivision of the state~~. The appointing authority shall appoint 4960
in the following manner: each time a selection is made, it shall 4961
be from one of the names that ranks in the top ten names on the 4962
eligible list or the top twenty-five per cent of the eligible 4963
list, whichever is greater. ~~But, in~~ In the event that ten or fewer 4964
names are on the eligible list, the appointing authority may 4965
select any of the listed candidates. Each person who qualifies for 4966
the veteran's preference under section 124.23 of the Revised Code, 4967
who is a resident of this state, and whose name is on the eligible 4968
list for a position is entitled to preference in original 4969
appointment to any such competitive position in the classified 4970
civil service of the state ~~and its civil divisions~~ over all other 4971
persons who are eligible for those appointments and who are 4972
standing on the relevant eligible list with a rating equal to that 4973
of the person qualifying for the veteran's preference. 4974

(B) All original and promotional appointments in the 4975
classified civil service, including appointments made pursuant to 4976
section 124.30 of the Revised Code, but not intermittent 4977
appointments, shall be for a probationary period, not less than 4978
sixty days nor more than one year, to be fixed by the rules of the 4979
director for appointments in the civil service of the state, 4980
except as provided in section 124.231 of the Revised Code, and 4981
except for original appointments to a police department as a 4982
police officer or to a fire department as a firefighter which 4983
shall be for a probationary period of one year. No appointment or 4984
promotion is final until the appointee has satisfactorily served 4985
the probationary period. If the service of the probationary 4986

employee is unsatisfactory, the employee may be removed or reduced 4987
at any time during the probationary period. If the appointing 4988
authority decides to remove a probationary employee in the service 4989
of the state, the appointing authority shall communicate the 4990
removal to the director. A probationary employee duly removed or 4991
reduced in position for unsatisfactory service does not have the 4992
right to appeal the removal or reduction under section 124.34 of 4993
the Revised Code. 4994

Sec. 124.30. (A) ~~Positions~~ Classified positions in the 4995
~~classified~~ civil service may be filled without competition as 4996
follows: 4997

(1) Whenever there are urgent reasons for filling a vacancy 4998
in any position in the classified civil service and the director 4999
of administrative services is unable to certify to the appointing 5000
authority, upon its request, a list of persons eligible for 5001
appointment to the position after a competitive examination, the 5002
appointing authority may fill the position by noncompetitive 5003
examination. 5004

A temporary appointment may be made without regard to the 5005
rules of sections 124.01 to 124.64 of the Revised Code. Except as 5006
otherwise provided in this division, the temporary appointment may 5007
not continue longer than one hundred twenty days, and in no case 5008
shall successive temporary appointments be made. A temporary 5009
appointment longer than one hundred twenty days may be made if 5010
necessary by reason of sickness, disability, or other approved 5011
leave of absence of regular officers or employees, in which case 5012
it may continue during the period of sickness, disability, or 5013
other approved leave of absence, subject to the rules of the 5014
director. 5015

(2) In case of a vacancy in a position in the classified 5016
civil service where peculiar and exceptional qualifications of a 5017

scientific, managerial, professional, or educational character are 5018
required, and upon satisfactory evidence that for specified 5019
reasons competition in this special case is impracticable and that 5020
the position can best be filled by a selection of some designated 5021
person of high and recognized attainments in those qualities, the 5022
director may suspend the provisions of sections 124.01 to 124.64 5023
of the Revised Code that require competition in this special case, 5024
but no suspension shall be general in its application. All such 5025
cases of suspension shall be reported in the annual report of the 5026
director with the reasons for each suspension. The director shall 5027
suspend the provisions when the director of job and family 5028
services provides the certification under section 5101.051 of the 5029
Revised Code that a position with the department of job and family 5030
services can best be filled if the provisions are suspended. 5031

(3) The acceptance or refusal by an eligible person of a 5032
temporary appointment shall not affect the person's standing on 5033
the eligible list for permanent appointment, nor shall the period 5034
of temporary service be counted as a part of the probationary 5035
service in case of subsequent appointment to a permanent position. 5036

(B) Persons who receive temporary or intermittent 5037
appointments are in the unclassified civil service and serve at 5038
the pleasure of their appointing authority. 5039

Sec. 124.31. Vacancies in positions in the classified civil 5040
service of the state shall be filled insofar as practicable by 5041
promotions. The director of administrative services shall provide 5042
in the director's rules for keeping a record of efficiency for 5043
each employee in the classified civil service of the state, and 5044
for making promotions in the classified civil service of the state 5045
on the basis of merit and by conduct and capacity in office. 5046

Sec. 125.082. (A) When purchasing equipment, materials, or 5047

supplies, the general assembly; the offices of all elected state 5048
officers; all departments, boards, offices, commissions, agencies, 5049
institutions, including, without limitation, state-supported 5050
institutions of higher education, and other instrumentalities of 5051
this state; the supreme court; all courts of appeals; and all 5052
courts of common pleas, may purchase recycled products in 5053
accordance with the guidelines adopted under division (B) of this 5054
section if the products are available and meet the performance 5055
specifications of the procuring entities. Purchases of recycled 5056
products shall comply with any rules adopted under division (C) of 5057
this section. 5058

(B) The director of administrative services shall adopt rules 5059
in accordance with Chapter 119. of the Revised Code establishing 5060
guidelines for the procurement of recycled products pursuant to 5061
division (A) of this section. To the extent practicable, the 5062
guidelines shall do all of the following: 5063

(1) Be consistent with and substantially equivalent to any 5064
relevant regulations adopted by the administrator of the United 5065
States environmental protection agency pursuant to the "Resource 5066
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 5067
6921, as amended; 5068

(2) Establish the minimum percentage of recycled materials 5069
the various products shall contain in order to be considered 5070
"recycled" for the purposes of division (A) of this section; 5071

(3) So far as practicable and economically feasible, 5072
incorporate specifications for recycled-content materials to 5073
promote the use and purchase of recycled products by state 5074
agencies. 5075

(C) The director may adopt rules in accordance with Chapter 5076
119. of the Revised Code establishing a maximum percentage by 5077
which the cost of recycled products purchased under division (A) 5078

of this section may exceed the cost of comparable products made of 5079
virgin materials. 5080

(D) The department of administrative services and the 5081
~~department of natural resources~~ environmental protection agency 5082
annually shall prepare and submit to the governor, president of 5083
the senate, and speaker of the house of representatives a report 5084
that describes, so far as practicable, the value and types of 5085
recycled products that are purchased with moneys disbursed from 5086
the state treasury by the general assembly; the offices of all 5087
elected state officers; and all departments, boards, offices, 5088
commissions, agencies, and institutions of this state. 5089

Sec. 125.14. (A) The director of administrative services 5090
shall allocate any proceeds from the transfer, sale, or lease of 5091
excess and surplus supplies in the following manner: 5092

(1) Except as otherwise provided in division (A)(2) of this 5093
section, the proceeds of such a transfer, sale, or lease shall be 5094
paid into the state treasury to the credit of the investment 5095
recovery fund, which is hereby created. 5096

(2) Except as otherwise provided in division (A)(2) of this 5097
section, when supplies originally were purchased with funds from 5098
nongeneral revenue fund sources, the director shall determine what 5099
fund or account originally was used to purchase the supplies, and 5100
the credit for the proceeds from any transfer, sale, or lease of 5101
those supplies shall be transferred to that fund or account. If 5102
the director cannot determine which fund or account originally was 5103
used to purchase the supplies, if the fund or account is no longer 5104
active, or if the proceeds from the transfer, sale, or lease of a 5105
unit of supplies are less than one hundred dollars or any larger 5106
amount the director may establish with the approval of the 5107
director of budget and management, then the proceeds from the 5108
transfer, sale, or lease of such supplies shall be paid into the 5109

state treasury to the credit of the investment recovery fund. 5110

(B) The investment recovery fund shall be used to pay for the 5111
operating expenses of the state surplus property program. Any 5112
amounts in excess of these operating expenses shall periodically 5113
be transferred to the general revenue fund of the state. If 5114
proceeds paid into the investment recovery fund are insufficient 5115
to pay for the program's operating expenses, a service fee may be 5116
charged to state agencies to eliminate the deficit. 5117

(C) Proceeds from the sale of recyclable goods and materials 5118
shall be paid into the state treasury to the credit of the 5119
recycled materials fund, which is hereby created, except that the 5120
director of ~~natural resources~~ environmental protection, upon 5121
request, may grant an exemption from this requirement. The ~~chief~~ 5122
~~of the division of recycling and litter prevention in the~~ 5123
~~department of natural resources~~ director shall administer the fund 5124
for the benefit of recycling programs in state agencies. 5125

Sec. 126.14. The release of any money appropriated for the 5126
purchase of real estate shall be approved by the controlling 5127
board. The release of money appropriated for all other capital 5128
projects is also subject to the approval of the controlling board, 5129
except that the director of budget and management may approve the 5130
release of money appropriated for specific projects in accordance 5131
with the requirements of this section and except that the director 5132
of budget and management may approve the release of unencumbered 5133
capital balances, for a project to repair, remove, or prevent a 5134
public exigency declared to exist by the director of 5135
administrative services under section ~~123.15~~ 123.10 of the Revised 5136
Code, or by the executive director of the Ohio facilities 5137
construction commission under section 123.23 of the Revised Code, 5138
in the amount designated in that declaration. 5139

Within sixty days after the effective date of any act 5140

appropriating money for capital projects, the director shall 5141
determine which appropriations are for general projects and which 5142
are for specific projects. Specific projects may include specific 5143
higher education projects that are to be funded from general 5144
purpose appropriations from the higher education improvement fund 5145
or the higher education improvement taxable fund created in 5146
section 154.21 of the Revised Code. Upon determining which 5147
projects are general and which are specific, the director shall 5148
submit to the controlling board a list that includes a brief 5149
description of and the estimated expenditures for each specific 5150
project. The release of money for any specific higher education 5151
projects that are to be funded from general purpose appropriations 5152
from the higher education improvement fund or the higher education 5153
improvement taxable fund but that are not included on the list, 5154
and the release of money for any specific higher education 5155
projects included on the list that will exceed the estimated 5156
expenditures by more than ten per cent, are subject to the 5157
approval of the controlling board. 5158

The director may create new appropriation items and make 5159
transfers of appropriations to them for specific higher education 5160
projects included on the list that are to be funded from general 5161
purpose appropriations for basic renovations that are made from 5162
the higher education improvement fund or the higher education 5163
improvement taxable fund. 5164

Sec. 127.163. At the time an agency submits a request to the 5165
controlling board to approve the making of a purchase, if the 5166
requested purchase is to be made from a supplier who is not 5167
headquartered in this state but has a presence in this state, the 5168
agency shall include in the request the following information: 5169

(A) The address or addresses of the supplier's places of 5170
business in this state; 5171

| | |
|--|--|
| <u>(B) The total number of employees the supplier employs in each of its places of business in this state;</u> | 5172 5173 |
| <u>(C) The percentage of the requested purchase to be completed by employees of the supplier located in this state;</u> | 5174 5175 |
| <u>(D) A list of any suppliers, subcontractors, or other entities the supplier intends to use to fulfill the requested purchase that includes all of the following:</u> | 5176 5177 5178 |
| <u>(1) The address or addresses of the places of business in this state of each potential supplier, subcontractor, or entity;</u> | 5179 5180 |
| <u>(2) The number of employees that each potential supplier, subcontractor, or entity employs in each of its places of business in this state;</u> | 5181 5182 5183 |
| <u>(3) The percentage of the requested purchase to be completed by employees of the potential supplier, subcontractor, or entity located in this state.</u> | 5184 5185 5186 |
| Sec. 127.164. <u>(A) Prior to submitting a request to approve the making of a purchase to the controlling board, an agency shall contact any entity headquartered in this state that the agency approached related to the proposed purchase or to whom the agency sent a request for proposals but who did not respond to the request for proposals and ascertain why the entity did not respond.</u> | 5187 5188 5189 5190 5191 5192 5193 |
| <u>(B) At the time an agency submits a request to the controlling board to approve the making of a purchase, the agency shall submit to the board, as part of the request, the information that the agency collected under division (A) of this section.</u> | 5194 5195 5196 5197 |
| Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when | 5198 5199 5200 |

required by section 135.352 of the Revised Code. The following 5201
classifications of securities and obligations are eligible for 5202
such deposit or investment: 5203

(1) United States treasury bills, notes, bonds, or any other 5204
obligation or security issued by the United States treasury, any 5205
other obligation guaranteed as to principal or interest by the 5206
United States, or any book entry, zero-coupon United States 5207
treasury security that is a direct obligation of the United 5208
States. 5209

Nothing in the classification of eligible securities and 5210
obligations set forth in divisions (A)(2) to (11) of this section 5211
shall be construed to authorize any investment in stripped 5212
principal or interest obligations of such eligible securities and 5213
obligations. 5214

(2) Bonds, notes, debentures, or any other obligations or 5215
securities issued by any federal government agency or 5216
instrumentality, including, but not limited to, the federal 5217
national mortgage association, federal home loan bank, federal 5218
farm credit bank, federal home loan mortgage corporation, 5219
government national mortgage association, and student loan 5220
marketing association. All federal agency securities shall be 5221
direct issuances of federal government agencies or 5222
instrumentalities. 5223

(3) Time certificates of deposit or savings or deposit 5224
accounts, including, but not limited to, passbook accounts, in any 5225
eligible institution mentioned in section 135.32 of the Revised 5226
Code; 5227

(4) Bonds and other obligations of this state or the 5228
political subdivisions of this state; 5229

(5) No-load money market mutual funds consisting exclusively 5230
of obligations described in division (A)(1) or (2) of this section 5231

and repurchase agreements secured by such obligations, provided 5232
that investments in securities described in this division are made 5233
only through eligible institutions mentioned in section 135.32 of 5234
the Revised Code; 5235

(6) The Ohio subdivision's fund as provided in section 135.45 5236
of the Revised Code; 5237

(7) Securities lending agreements with any eligible 5238
institution mentioned in section 135.32 of the Revised Code that 5239
is a member of the federal reserve system or federal home loan 5240
bank or with any recognized United States government securities 5241
dealer meeting the description in division (J)(1) of this section, 5242
under the terms of which agreements the investing authority lends 5243
securities and the eligible institution or dealer agrees to 5244
simultaneously exchange similar securities or cash, equal value 5245
for equal value. 5246

Securities and cash received as collateral for a securities 5247
lending agreement are not inactive moneys of the county or moneys 5248
of a county public library fund. The investment of cash collateral 5249
received pursuant to a securities lending agreement may be 5250
invested only in instruments specified by the investing authority 5251
in the written investment policy described in division (K) of this 5252
section. 5253

(8) Up to twenty-five per cent of the county's total average 5254
portfolio in either of the following investments: 5255

(a) Commercial paper notes issued by an entity that is 5256
defined in division (D) of section 1705.01 of the Revised Code and 5257
that has assets exceeding five hundred million dollars, to which 5258
notes all of the following apply: 5259

(i) The notes are rated at the time of purchase in the 5260
highest classification established by at least two nationally 5261
recognized standard rating services. 5262

| | |
|--|--|
| (ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation. | 5263 5264 5265 |
| (iii) The notes mature not later than two hundred seventy days after purchase. | 5266 5267 |
| (b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply: | 5268 5269 5270 |
| (i) The obligations are eligible for purchase by the federal reserve system. | 5271 5272 |
| (ii) The obligations mature not later than one hundred eighty days after purchase. | 5273 5274 |
| No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state. | 5275 5276 5277 5278 5279 5280 5281 |
| (9) Up to fifteen per cent of the county's total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply: | 5282 5283 5284 5285 5286 5287 5288 |
| (a) The notes are rated in the second highest or higher category by at least two nationally recognized standard rating services at the time of purchase. | 5289 5290 5291 |
| (b) The notes mature not later than two years after purchase. | 5292 |

(10) No-load money market mutual funds rated in the highest 5293
category at the time of purchase by at least one nationally 5294
recognized standard rating service and consisting exclusively of 5295
obligations described in division (A)(1), (2), or (6) of section 5296
135.143 of the Revised Code; 5297

(11) Debt interests rated at the time of purchase in the 5298
three highest categories by two nationally recognized standard 5299
rating services and issued by foreign nations diplomatically 5300
recognized by the United States government. All interest and 5301
principal shall be denominated and payable in United States funds. 5302
The investments made under division (A)(11) of this section shall 5303
not exceed in the aggregate one per cent of a county's total 5304
average portfolio. 5305

The investing authority shall invest under division (A)(11) 5306
of this section in a debt interest issued by a foreign nation only 5307
if the debt interest is backed by the full faith and credit of 5308
that foreign nation, there is no prior history of default, and the 5309
debt interest matures not later than five years after purchase. 5310
For purposes of division (A)(11) of this section, a debt interest 5311
is rated in the three highest categories by two nationally 5312
recognized standard rating services if either the debt interest 5313
itself or the issuer of the debt interest is rated, or is 5314
implicitly rated, at the time of purchase in the three highest 5315
categories by two nationally recognized standard rating services. 5316

(12) A current unpaid or delinquent tax line of credit 5317
authorized under division (G) of section 135.341 of the Revised 5318
Code, provided that all of the conditions for entering into such a 5319
line of credit under that division are satisfied, or bonds and 5320
other obligations of a county land reutilization corporation 5321
organized under Chapter 1724. of the Revised Code, if the county 5322
land reutilization corporation is located wholly or partly within 5323
the same county as the investing authority. 5324

(B) Nothing in the classifications of eligible obligations 5325
and securities set forth in divisions (A)(1) to (11) of this 5326
section shall be construed to authorize investment in a 5327
derivative, and no investing authority shall invest any county 5328
inactive moneys or any moneys in a county public library fund in a 5329
derivative. For purposes of this division, "derivative" means a 5330
financial instrument or contract or obligation whose value or 5331
return is based upon or linked to another asset or index, or both, 5332
separate from the financial instrument, contract, or obligation 5333
itself. Any security, obligation, trust account, or other 5334
instrument that is created from an issue of the United States 5335
treasury or is created from an obligation of a federal agency or 5336
instrumentality or is created from both is considered a derivative 5337
instrument. An eligible investment described in this section with 5338
a variable interest rate payment, based upon a single interest 5339
payment or single index comprised of other eligible investments 5340
provided for in division (A)(1) or (2) of this section, is not a 5341
derivative, provided that such variable rate investment has a 5342
maximum maturity of two years. A treasury inflation-protected 5343
security shall not be considered a derivative, provided the 5344
security matures not later than five years after purchase. 5345

(C) Except as provided in ~~divisions~~ division (D) ~~and (O)~~ of 5346
this section, any investment made pursuant to this section must 5347
mature within ~~ten~~ five years from the date of settlement, unless 5348
the investment is matched to a specific obligation or debt of the 5349
county or to a specific obligation or debt of a political 5350
subdivision of this state, and the investment is specifically 5351
approved by the investment advisory committee. 5352

(D) The investing authority may also enter into a written 5353
repurchase agreement with any eligible institution mentioned in 5354
section 135.32 of the Revised Code or any eligible securities 5355
dealer pursuant to division (J) of this section, under the terms 5356

of which agreement the investing authority purchases and the 5357
eligible institution or dealer agrees unconditionally to 5358
repurchase any of the securities listed in divisions (B)(1) to 5359
(5), except letters of credit described in division (B)(2), of 5360
section 135.18 of the Revised Code. The market value of securities 5361
subject to an overnight written repurchase agreement must exceed 5362
the principal value of the overnight written repurchase agreement 5363
by at least two per cent. A written repurchase agreement must 5364
exceed the principal value of the overnight written repurchase 5365
agreement, by at least two per cent. A written repurchase 5366
agreement shall not exceed thirty days, and the market value of 5367
securities subject to a written repurchase agreement must exceed 5368
the principal value of the written repurchase agreement by at 5369
least two per cent and be marked to market daily. All securities 5370
purchased pursuant to this division shall be delivered into the 5371
custody of the investing authority or the qualified custodian of 5372
the investing authority or an agent designated by the investing 5373
authority. A written repurchase agreement with an eligible 5374
securities dealer shall be transacted on a delivery versus payment 5375
basis. The agreement shall contain the requirement that for each 5376
transaction pursuant to the agreement the participating 5377
institution shall provide all of the following information: 5378

(1) The par value of the securities; 5379

(2) The type, rate, and maturity date of the securities; 5380

(3) A numerical identifier generally accepted in the 5381
securities industry that designates the securities. 5382

No investing authority shall enter into a written repurchase 5383
agreement under the terms of which the investing authority agrees 5384
to sell securities owned by the county to a purchaser and agrees 5385
with that purchaser to unconditionally repurchase those 5386
securities. 5387

(E) No investing authority shall make an investment under 5388
this section, unless the investing authority, at the time of 5389
making the investment, reasonably expects that the investment can 5390
be held until its maturity. The investing authority's written 5391
investment policy shall specify the conditions under which an 5392
investment may be redeemed or sold prior to maturity. 5393

(F) No investing authority shall pay a county's inactive 5394
moneys or moneys of a county public library fund into a fund 5395
established by another subdivision, treasurer, governing board, or 5396
investing authority, if that fund was established by the 5397
subdivision, treasurer, governing board, or investing authority 5398
for the purpose of investing or depositing the public moneys of 5399
other subdivisions. This division does not apply to the payment of 5400
public moneys into either of the following: 5401

(1) The Ohio subdivision's fund pursuant to division (A)(6) 5402
of this section; 5403

(2) A fund created solely for the purpose of acquiring, 5404
constructing, owning, leasing, or operating municipal utilities 5405
pursuant to the authority provided under section 715.02 of the 5406
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 5407

For purposes of division (F) of this section, "subdivision" 5408
includes a county. 5409

(G) The use of leverage, in which the county uses its current 5410
investment assets as collateral for the purpose of purchasing 5411
other assets, is prohibited. The issuance of taxable notes for the 5412
purpose of arbitrage is prohibited. Contracting to sell securities 5413
not owned by the county, for the purpose of purchasing such 5414
securities on the speculation that bond prices will decline, is 5415
prohibited. 5416

(H) Any securities, certificates of deposit, deposit 5417
accounts, or any other documents evidencing deposits or 5418

investments made under authority of this section shall be issued 5419
in the name of the county with the county treasurer or investing 5420
authority as the designated payee. If any such deposits or 5421
investments are registrable either as to principal or interest, or 5422
both, they shall be registered in the name of the treasurer. 5423

(I) The investing authority shall be responsible for the 5424
safekeeping of all documents evidencing a deposit or investment 5425
acquired under this section, including, but not limited to, 5426
safekeeping receipts evidencing securities deposited with a 5427
qualified trustee, as provided in section 135.37 of the Revised 5428
Code, and documents confirming the purchase of securities under 5429
any repurchase agreement under this section shall be deposited 5430
with a qualified trustee, provided, however, that the qualified 5431
trustee shall be required to report to the investing authority, 5432
auditor of state, or an authorized outside auditor at any time 5433
upon request as to the identity, market value, and location of the 5434
document evidencing each security, and that if the participating 5435
institution is a designated depository of the county for the 5436
current period of designation, the securities that are the subject 5437
of the repurchase agreement may be delivered to the treasurer or 5438
held in trust by the participating institution on behalf of the 5439
investing authority. 5440

Upon the expiration of the term of office of an investing 5441
authority or in the event of a vacancy in the office for any 5442
reason, the officer or the officer's legal representative shall 5443
transfer and deliver to the officer's successor all documents 5444
mentioned in this division for which the officer has been 5445
responsible for safekeeping. For all such documents transferred 5446
and delivered, the officer shall be credited with, and the 5447
officer's successor shall be charged with, the amount of moneys 5448
evidenced by such documents. 5449

(J)(1) All investments, except for investments in securities 5450

described in divisions (A)(5), (6), and (12) of this section, 5451
shall be made only through a member of the national association of 5452
securities dealers, through a bank, savings bank, or savings and 5453
loan association regulated by the superintendent of financial 5454
institutions, or through an institution regulated by the 5455
comptroller of the currency, federal deposit insurance 5456
corporation, or board of governors of the federal reserve system. 5457

(2) Payment for investments shall be made only upon the 5458
delivery of securities representing such investments to the 5459
treasurer, investing authority, or qualified trustee. If the 5460
securities transferred are not represented by a certificate, 5461
payment shall be made only upon receipt of confirmation of 5462
transfer from the custodian by the treasurer, governing board, or 5463
qualified trustee. 5464

(K)(1) Except as otherwise provided in division (K)(2) of 5465
this section, no investing authority shall make an investment or 5466
deposit under this section, unless there is on file with the 5467
auditor of state a written investment policy approved by the 5468
investing authority. The policy shall require that all entities 5469
conducting investment business with the investing authority shall 5470
sign the investment policy of that investing authority. All 5471
brokers, dealers, and financial institutions, described in 5472
division (J)(1) of this section, initiating transactions with the 5473
investing authority by giving advice or making investment 5474
recommendations shall sign the investing authority's investment 5475
policy thereby acknowledging their agreement to abide by the 5476
policy's contents. All brokers, dealers, and financial 5477
institutions, described in division (J)(1) of this section, 5478
executing transactions initiated by the investing authority, 5479
having read the policy's contents, shall sign the investment 5480
policy thereby acknowledging their comprehension and receipt. 5481

(2) If a written investment policy described in division 5482

(K)(1) of this section is not filed on behalf of the county with 5483
the auditor of state, the investing authority of that county shall 5484
invest the county's inactive moneys and moneys of the county 5485
public library fund only in time certificates of deposits or 5486
savings or deposit accounts pursuant to division (A)(3) of this 5487
section, no-load money market mutual funds pursuant to division 5488
(A)(5) of this section, or the Ohio subdivision's fund pursuant to 5489
division (A)(6) of this section. 5490

(L)(1) The investing authority shall establish and maintain 5491
an inventory of all obligations and securities acquired by the 5492
investing authority pursuant to this section. The inventory shall 5493
include a description of each obligation or security, including 5494
type, cost, par value, maturity date, settlement date, and any 5495
coupon rate. 5496

(2) The investing authority shall also keep a complete record 5497
of all purchases and sales of the obligations and securities made 5498
pursuant to this section. 5499

(3) The investing authority shall maintain a monthly 5500
portfolio report and issue a copy of the monthly portfolio report 5501
describing such investments to the county investment advisory 5502
committee, detailing the current inventory of all obligations and 5503
securities, all transactions during the month that affected the 5504
inventory, any income received from the obligations and 5505
securities, and any investment expenses paid, and stating the 5506
names of any persons effecting transactions on behalf of the 5507
investing authority. 5508

(4) The monthly portfolio report shall be a public record and 5509
available for inspection under section 149.43 of the Revised Code. 5510

(5) The inventory and the monthly portfolio report shall be 5511
filed with the board of county commissioners. The monthly 5512
portfolio report also shall be filed with the treasurer of state. 5513

(M) An investing authority may enter into a written 5514
investment or deposit agreement that includes a provision under 5515
which the parties agree to submit to nonbinding arbitration to 5516
settle any controversy that may arise out of the agreement, 5517
including any controversy pertaining to losses of public moneys 5518
resulting from investment or deposit. The arbitration provision 5519
shall be set forth entirely in the agreement, and the agreement 5520
shall include a conspicuous notice to the parties that any party 5521
to the arbitration may apply to the court of common pleas of the 5522
county in which the arbitration was held for an order to vacate, 5523
modify, or correct the award. Any such party may also apply to the 5524
court for an order to change venue to a court of common pleas 5525
located more than one hundred miles from the county in which the 5526
investing authority is located. 5527

For purposes of this division, "investment or deposit 5528
agreement" means any agreement between an investing authority and 5529
a person, under which agreement the person agrees to invest, 5530
deposit, or otherwise manage, on behalf of the investing 5531
authority, a county's inactive moneys or moneys in a county public 5532
library fund, or agrees to provide investment advice to the 5533
investing authority. 5534

(N) (1) An investment held in the county portfolio on 5535
September 27, 1996, that was a legal investment under the law as 5536
it existed before September 27, 1996, may be held until maturity, 5537
or if the investment does not have a maturity date the investment 5538
may be held until five years from September 27, 1996, regardless 5539
of whether the investment would qualify as a legal investment 5540
under the terms of this section as amended. 5541

~~(O) Upon a majority affirmative vote of the county investment 5542
advisory committee in support of such action, an investment 5543
authority may invest up to twenty five per cent of the county's 5544
total average portfolio of investments made under this section in 5545~~

~~securities and obligations that mature on a date that is more than~~ 5546
~~ten years from the date of settlement.~~ 5547

(2) An investment held in the county portfolio on the 5548
effective date of this amendment that was a legal investment under 5549
the law as it existed before the effective date of this amendment 5550
may be held until maturity. 5551

Sec. 140.01. As used in this chapter: 5552

(A) "Hospital agency" means any public hospital agency or any 5553
nonprofit hospital agency. 5554

(B) "Public hospital agency" means any county, board of 5555
county hospital trustees established pursuant to section 339.02 of 5556
the Revised Code, county hospital commission established pursuant 5557
to section 339.14 of the Revised Code, municipal corporation, new 5558
community authority organized under Chapter 349. of the Revised 5559
Code, joint township hospital district, state or municipal 5560
university or college operating or authorized to operate a 5561
hospital facility, or the state. 5562

(C) "Nonprofit hospital agency" means a corporation or 5563
association not for profit, no part of the net earnings of which 5564
inures or may lawfully inure to the benefit of any private 5565
shareholder or individual, that has authority to own or operate a 5566
hospital facility or provides or is to provide services to one or 5567
more other hospital agencies. 5568

(D) "Governing body" means, in the case of a county, the 5569
board of county commissioners or other legislative body; in the 5570
case of a board of county hospital trustees, the board; in the 5571
case of a county hospital commission, the commission; in the case 5572
of a municipal corporation, the council or other legislative 5573
authority; in the case of a new community authority, its board of 5574
trustees; in the case of a joint township hospital district, the 5575

joint township district hospital board; in the case of a state or 5576
municipal university or college, its board of trustees or board of 5577
directors; in the case of a nonprofit hospital agency, the board 5578
of trustees or other body having general management of the agency; 5579
and, in the case of the state, the director of development or the 5580
Ohio higher educational facility commission. 5581

(E) "Hospital facilities" means buildings, structures and 5582
other improvements, additions thereto and extensions thereof, 5583
furnishings, equipment, and real estate and interests in real 5584
estate, used or to be used for or in connection with one or more 5585
hospitals, emergency, intensive, intermediate, extended, 5586
long-term, or self-care facilities, diagnostic and treatment and 5587
out-patient facilities, facilities related to programs for home 5588
health services, clinics, laboratories, public health centers, 5589
research facilities, and rehabilitation facilities, for or 5590
pertaining to diagnosis, treatment, care, or rehabilitation of 5591
sick, ill, injured, infirm, impaired, disabled, or handicapped 5592
persons, or the prevention, detection, and control of disease, and 5593
also includes education, training, and food service facilities for 5594
health professions personnel, housing facilities for such 5595
personnel and their families, and parking and service facilities 5596
in connection with any of the foregoing; and includes any one, 5597
part of, or any combination of the foregoing; and further includes 5598
site improvements, utilities, machinery, facilities, furnishings, 5599
and any separate or connected buildings, structures, improvements, 5600
sites, utilities, facilities, or equipment to be used in, or in 5601
connection with the operation or maintenance of, or supplementing 5602
or otherwise related to the services or facilities to be provided 5603
by, any one or more of such hospital facilities. 5604

(F) "Costs of hospital facilities" means the costs of 5605
acquiring hospital facilities or interests in hospital facilities, 5606
including membership interests in nonprofit hospital agencies, 5607

costs of constructing hospital facilities, costs of improving one 5608
or more hospital facilities, including reconstructing, 5609
rehabilitating, remodeling, renovating, and enlarging, costs of 5610
equipping and furnishing such facilities, and all financing costs 5611
pertaining thereto, including, without limitation thereto, costs 5612
of engineering, architectural, and other professional services, 5613
designs, plans, specifications and surveys, and estimates of cost, 5614
costs of tests and inspections, the costs of any indemnity or 5615
surety bonds and premiums on insurance, all related direct or 5616
allocable administrative expenses pertaining thereto, fees and 5617
expenses of trustees, depositories, and paying agents for the 5618
obligations, cost of issuance of the obligations and financing 5619
charges and fees and expenses of financial advisors, attorneys, 5620
accountants, consultants and rating services in connection 5621
therewith, capitalized interest on the obligations, amounts 5622
necessary to establish reserves as required by the bond 5623
proceedings, the reimbursement of all moneys advanced or applied 5624
by the hospital agency or others or borrowed from others for the 5625
payment of any item or items of costs of such facilities, and all 5626
other expenses necessary or incident to planning or determining 5627
feasibility or practicability with respect to such facilities, and 5628
such other expenses as may be necessary or incident to the 5629
acquisition, construction, reconstruction, rehabilitation, 5630
remodeling, renovation, enlargement, improvement, equipment, and 5631
furnishing of such facilities, the financing thereof, and the 5632
placing of the same in use and operation, including any one, part 5633
of, or combination of such classes of costs and expenses, and 5634
means the costs of refinancing obligations issued by, or 5635
reimbursement of money advanced by, nonprofit hospital agencies or 5636
others the proceeds of which were used for the payment of costs of 5637
hospital facilities, if the governing body of the public hospital 5638
agency determines that the refinancing or reimbursement advances 5639
the purposes of this chapter, whether or not the refinancing or 5640

reimbursement is in conjunction with the acquisition or 5641
construction of additional hospital facilities. 5642

(G) "Hospital receipts" means all moneys received by or on 5643
behalf of a hospital agency from or in connection with the 5644
ownership, operation, acquisition, construction, improvement, 5645
equipping, or financing of any hospital facilities, including, 5646
without limitation thereto, any rentals and other moneys received 5647
from the lease, sale, or other disposition of hospital facilities, 5648
and any gifts, grants, interest subsidies, or other moneys 5649
received under any federal program for assistance in financing the 5650
costs of hospital facilities, and any other gifts, grants, and 5651
donations, and receipts therefrom, available for financing the 5652
costs of hospital facilities. 5653

(H) "Obligations" means bonds, notes, or other evidences of 5654
indebtedness or obligation, including interest coupons pertaining 5655
thereto, issued or issuable by a public hospital agency to pay 5656
costs of hospital facilities. 5657

(I) "Bond service charges" means principal, interest, and 5658
call premium, if any, required to be paid on obligations. 5659

(J) "Bond proceedings" means one or more ordinances, 5660
resolutions, trust agreements, indentures, and other agreements or 5661
documents, and amendments and supplements to the foregoing, or any 5662
combination thereof, authorizing or providing for the terms, 5663
including any variable interest rates, and conditions applicable 5664
to, or providing for the security of, obligations and the 5665
provisions contained in such obligations. 5666

(K) "Nursing home" has the same meaning as in division (A)(1) 5667
of section 5701.13 of the Revised Code. 5668

(L) "Residential care facility" has the same meaning as in 5669
division (A)(2) of section 5701.13 of the Revised Code. 5670

(M) ~~"Adult care facility" has the same meaning as in division~~ 5671

~~(A)(3) of section 5701.13 of the Revised Code.~~ 5672

~~(N)~~ "Independent living facility" means any self-care 5673
facility or other housing facility designed or used as a residence 5674
for elderly persons. An "independent living facility" does not 5675
include a residential facility, or that part of a residential 5676
facility, that is any of the following: 5677

(1) A hospital required to be certified by section 3727.02 of 5678
the Revised Code; 5679

(2) A nursing home or residential care facility; 5680

(3) ~~An adult care facility;~~ 5681

~~(4)~~ A facility operated by a hospice care program licensed 5682
under section 3712.04 of the Revised Code and used for the 5683
program's hospice patients; 5684

(4) A residential facility licensed by the department of 5685
mental health under section 5119.22 of the Revised Code that 5686
provides accommodations, supervision, and personal care services 5687
for three to sixteen unrelated adults; 5688

(5) A residential facility ~~for the mentally ill~~ licensed by 5689
the department of mental health under section 5119.22 of the 5690
Revised Code that is not a residential facility described in 5691
division (M)(4) of this section; 5692

(6) A facility licensed to provide methadone treatment under 5693
section 3793.11 of the Revised Code; 5694

(7) A facility certified as an alcohol and drug addiction 5695
program under section 3793.06 of the Revised Code; 5696

(8) A residential facility licensed under section 5123.19 of 5697
the Revised Code or a facility providing services under a contract 5698
with the department of developmental disabilities under section 5699
5123.18 of the Revised Code; 5700

(9) A residential facility used as part of a hospital to 5701

provide housing for staff of the hospital or students pursuing a 5702
course of study at the hospital. 5703

Sec. 140.03. (A) Two or more hospital agencies may enter into 5704
agreements for the acquisition, construction, reconstruction, 5705
rehabilitation, remodeling, renovating, enlarging, equipping, and 5706
furnishing of hospital facilities, or the management, operation, 5707
occupancy, use, maintenance, and repair of hospital facilities, or 5708
for participation in programs, projects, activities, and services 5709
useful to, connected with, supplementing, or otherwise related to 5710
the services provided by, or the operation of, hospital facilities 5711
operated by one or more participating hospital agencies, including 5712
any combination of such purposes, all in such manner as to promote 5713
the public purpose stated in section 140.02 of the Revised Code. A 5714
city health district; general health district; board of alcohol, 5715
drug addiction, and mental health services; county board of 5716
developmental disabilities; the department of mental health; the 5717
department of developmental disabilities; or any public body 5718
engaged in the education or training of health professions 5719
personnel may join in any such agreement for purposes related to 5720
its authority under laws applicable to it, and as such a 5721
participant shall be considered a public hospital agency or 5722
hospital agency for the purposes of this section. 5723

(B) An agreement entered into under authority of this section 5724
shall, where appropriate, provide for: 5725

(1) The manner in which the title to the hospital facilities, 5726
including the sites and interest in real estate pertaining 5727
thereto, is to be held, transferred, or disposed of; 5728

(2) Unless provided for by lease pursuant to section 140.05 5729
of the Revised Code, the method by which such hospital facilities 5730
are to be acquired, constructed, or otherwise improved and by 5731
which they shall be managed, occupied, maintained, and repaired, 5732

including the designation of one of the hospital agencies to have 5733
charge of the details of acquisition, construction, or improvement 5734
pursuant to the contracting procedures prescribed under the law 5735
applicable to one of the participating public hospital agencies; 5736

(3) The management or administration of any such programs, 5737
projects, activities, or services, which may include management or 5738
administration by one of said hospital agencies or a board or 5739
agency thereof; 5740

(4) Annual, or more frequent, reports to the participating 5741
hospital agencies as to the revenues and receipts pertaining to 5742
the subject of the agreement, the expenditures thereof, the status 5743
and application of other funds contributed under such agreement, 5744
and such other matters as may be specified by or pursuant to such 5745
agreement; 5746

(5) The manner of apportionment or sharing of costs of 5747
hospital facilities, any other applicable costs of management, 5748
operation, maintenance, and repair of hospital facilities, and 5749
costs for the programs, projects, activities, and services forming 5750
the subject of the agreement, which apportionment or sharing may 5751
be prescribed in fixed amounts, or determined by ratios, formulas, 5752
or otherwise, and paid as service charges, rentals, or in such 5753
other manner as provided in the agreement, and may include amounts 5754
sufficient to meet the bond service charges and other payments and 5755
deposits required under the bond proceedings for obligations 5756
issued to pay costs of hospital facilities. A hospital agency may 5757
commit itself to make such payments at least for so long as any 5758
such obligations are outstanding. In the apportionment, different 5759
classes of costs or expenses may be apportioned to one or more, 5760
all or less than all, of the participating hospital agencies as 5761
determined under such agreement. 5762

(C) An agreement entered into under authority of this section 5763
may provide for: 5764

- (1) An orderly process for making determinations or advising as to planning, execution, implementation, and operation, which may include designating one of the hospital agencies, or a board thereof, for any of such purposes, provisions for a committee, board, or commission, and for representation thereon, or as may otherwise be provided;
- (2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;
- (3) Standards or conditions for the admission or participation of patients and physicians;
- (4) Conditions for admittance of other hospital agencies to participation under the agreement;
- (5) Fixing or establishing the method of determining charges to be made for particular services;
- (6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from, the agreement, and the term of the agreement, or an indefinite term;
- (7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;
- (8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement;
- (9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter;
- (10) Such other matters as the parties thereto may agree upon

for the purposes of division (A) of this section. 5795

(D) For the purpose of paying or contributing its share under 5796
an agreement made under this section, a public hospital agency 5797
may: 5798

(1) Expend any moneys from its general fund, and from any 5799
other funds not otherwise restricted by law, but including funds 5800
for permanent improvements of hospital facilities of such public 5801
hospital agency where the contribution is to be made toward the 5802
costs of hospital facilities under the agreement, and including 5803
funds derived from levies for, or receipts available for, 5804
operating expenses of hospital facilities or services of such 5805
public hospital agency where the contribution or payment is to be 5806
made toward operating expenses of the hospital facilities or 5807
services under the agreement or for the services provided thereby; 5808

(2) Issue obligations under Chapter 133. or section 140.06, 5809
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 5810
3 of Article XVIII, Ohio Constitution, if applicable to such 5811
public hospital agency, to pay costs of hospital facilities, or 5812
issue obligations under any other provision of law authorizing 5813
such public hospital agency to issue obligations for any costs of 5814
hospital facilities; 5815

(3) Levy taxes under Chapter 5705. or section 513.13 or 5816
3709.29 of the Revised Code, if applicable to such public hospital 5817
agency, provided that the purpose of such levy may include the 5818
provision of funds for either or both permanent improvements and 5819
current expenses if required for the contribution or payment of 5820
such hospital agency under such agreement, and each such public 5821
hospital agency may issue notes in anticipation of any such levy, 5822
pursuant to the procedures provided in section 5705.191 of the 5823
Revised Code if the levy is solely for current expenses, and in 5824
section 5705.193 of the Revised Code if the levy is all or in part 5825
for permanent improvements; 5826

(4) Contribute real and personal property or interest therein 5827
without necessity for competitive bidding or public auction on 5828
disposition of such property. 5829

(E) Any funds provided by public hospital agencies that are 5830
parties to an agreement entered into under this section shall be 5831
transferred to and placed in a separate fund or funds of such 5832
participating public hospital agency as is designated under the 5833
agreement. The funds shall be applied for the purposes provided in 5834
such agreement and are subject to audit. Pursuant to any 5835
determinations to be made under such agreement, the funds shall be 5836
deposited, invested, and disbursed under the provisions of law 5837
applicable to the public hospital agency in whose custody the 5838
funds are held. This division is subject to the provisions of any 5839
applicable bond proceedings under section 133.08, 140.06, 339.15, 5840
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 5841
Constitution. The records and reports of such public hospital 5842
agency under Chapter 117. of the Revised Code and sections 3702.51 5843
to 3702.62 of the Revised Code, with respect to the funds shall be 5844
sufficient without necessity for reports thereon by the other 5845
public hospital agencies participating under such agreement. 5846

(F)(1) Prior to its entry into any such agreement, the public 5847
hospital agency must determine, and set forth in a resolution or 5848
ordinance, that the contribution to be made by it under such 5849
agreement will be fair consideration for value and benefit to be 5850
derived by it under such agreement and that the agreement will 5851
promote the public purpose stated in section 140.02 of the Revised 5852
Code. 5853

(2) If the agreement is with a board of county commissioners, 5854
board of county hospital trustees, or county hospital commission 5855
and is an initial agreement for the acquisition or operation of a 5856
county hospital operated by a board of county hospital trustees 5857
under section 339.06 of the Revised Code, the governing body of 5858

the public hospital agency shall submit the agreement, accompanied 5859
by the resolution or ordinance, to the board of county 5860
commissioners for review pursuant to section 339.091 of the 5861
Revised Code. The agreement may be entered into only if the board 5862
of county commissioners adopts a resolution under that section. 5863
The requirements of division (F)(2) of this section do not apply 5864
to the agreement if one or more hospitals classified as general 5865
hospitals by the ~~public~~ director of health council under section 5866
3701.07 of the Revised Code are operating in the same county as 5867
the county hospital. 5868

Sec. 140.05. (A)(1) A public hospital agency may lease any 5869
hospital facility to one or more hospital agencies for use as a 5870
hospital facility, or to one or more city or general health 5871
districts; boards of alcohol, drug addiction, and mental health 5872
services; county boards of developmental disabilities; the 5873
department of mental health; or the department of developmental 5874
disabilities, for uses which they are authorized to make thereof 5875
under the laws applicable to them, or any combination of them, and 5876
they may lease such facilities to or from a hospital agency for 5877
such uses, upon such terms and conditions as are agreed upon by 5878
the parties. Such lease may be for a term of fifty years or less 5879
and may provide for an option of the lessee to renew for a term of 5880
fifty years or less, as therein set forth. Prior to entering into 5881
such lease, the governing body of any public hospital agency 5882
granting such lease must determine, and set forth in a resolution 5883
or ordinance, that such lease will promote the public purpose 5884
stated in section 140.02 of the Revised Code and that the lessor 5885
public hospital agency will be duly benefited thereby. 5886

(2) If the lease is with a board of county commissioners, 5887
board of county hospital trustees, or county hospital commission 5888
and is an agreement for the initial lease of a county hospital 5889
operated by a board of county hospital trustees under section 5890

339.06 of the Revised Code, the governing body of the public 5891
hospital agency shall submit the agreement, accompanied by the 5892
resolution or ordinance, to the board of county commissioners for 5893
review pursuant to section 339.091 of the Revised Code. The 5894
agreement may be entered into only if the board of county 5895
commissioners adopts a resolution under that section. The 5896
requirements of division (A)(2) of this section do not apply to 5897
the lease if one or more hospitals classified as general hospitals 5898
by the ~~public~~ director of health council under section 3701.07 of 5899
the Revised Code are operating in the same county as the county 5900
hospital. 5901

(B) Any lease entered into pursuant to this section shall 5902
provide that in the event that the lessee fails faithfully and 5903
efficiently to administer, maintain, and operate such leased 5904
facilities as hospital facilities, or fails to provide the 5905
services thereof without regard to race, creed, color, or national 5906
origin, or fails to require that any hospital agency using such 5907
facilities or the services thereof shall not discriminate by 5908
reason of race, creed, color, or national origin, after an 5909
opportunity to be heard upon written charges, said lease may be 5910
terminated at the time, in the manner and with consequences 5911
therein provided. If any such lease does not contain terms to the 5912
effect provided in this division, it shall nevertheless be deemed 5913
to contain such terms which shall be implemented as determined by 5914
the governing body of the lessor. 5915

(C) Such lease may provide for rentals commencing at any time 5916
agreed upon, or advance rental, and continuing for such period 5917
therein provided, notwithstanding and without diminution, rebate, 5918
or setoff by reason of time of availability of the hospital 5919
facility for use, delays in construction, failure of completion, 5920
damage or destruction of the hospital facilities, or for any other 5921
reason. 5922

(D) Such lease may provide for the sale or transfer of title 5923
of the leased facilities pursuant to an option to purchase, 5924
lease-purchase, or installment purchase upon terms therein 5925
provided or to be determined as therein provided, which may 5926
include provision for the continued use thereof as a hospital 5927
facility for some reasonable period, taking into account efficient 5928
useful life and other factors, as is provided therein. 5929

(E) Such lease may be entered as part of or in connection 5930
with an agreement pursuant to section 140.03 of the Revised Code. 5931
Any hospital facilities which are the subject of an agreement 5932
entered into under section 140.03 of the Revised Code may be 5933
leased pursuant to this section. 5934

(F) If land acquired by a public hospital agency for a 5935
hospital facility is adjacent to an existing hospital facility 5936
owned by another hospital agency, the public hospital agency may, 5937
in connection with such acquisition or the leasing of such land 5938
and hospital facilities thereon to one or more hospital agencies, 5939
enter into an agreement with the hospital agency which owns such 5940
adjacent hospital facility for the use of common walls in the 5941
construction, operation, or maintenance of hospital facilities of 5942
the public hospital agency. For the purpose of construction, 5943
operation, or maintenance of hospital facilities, a public 5944
hospital agency may acquire by purchase, gift, lease, lease with 5945
option to purchase, lease-purchase, or installment purchase, 5946
easement deed, or other agreement, real estate and interests in 5947
real estate, including rights to use space over, under or upon 5948
real property owned by others, and support, access, common wall, 5949
and other rights in connection therewith. Any public hospital 5950
agency or other political subdivision or any public agency, board, 5951
commission, institution, body, or instrumentality may grant such 5952
real estate, interests, or rights to any hospital agency upon such 5953
terms as are agreed upon without necessity for competitive bidding 5954

or public auction. 5955

Sec. 140.08. (A) Except as otherwise provided in divisions 5956
(B)(1) and (2) of this section, all hospital facilities purchased, 5957
acquired, constructed, or owned by a public hospital agency, or 5958
financed in whole or in part by obligations issued by a public 5959
hospital agency, and used, or to be used when completed, as 5960
hospital facilities, and the income therefrom, are exempt from all 5961
taxation within this state, including ad valorem and excise taxes, 5962
notwithstanding any other provisions of law, and hospital agencies 5963
are exempt from taxes levied under Chapters 5739. and 5741. of the 5964
Revised Code. The obligations issued hereafter under section 5965
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 5966
Article XVIII, Ohio Constitution, to pay costs of hospital 5967
facilities or to refund such obligations, and the transfer 5968
thereof, and the interest and other income from such obligations, 5969
including any profit made on the sale thereof, is free from 5970
taxation within the state. 5971

(B)(1) Division (A) of this section does not exempt 5972
independent living facilities from taxes levied on property or 5973
taxes levied under Chapters 5739. and 5741. of the Revised Code. 5974
If an independent living facility or part of such facility becomes 5975
~~an adult care facility, nursing home, or residential care facility~~ 5976
on or after January 10, 1991, a nursing home, residential care 5977
facility, or residential facility described in division (M)(4) of 5978
section 140.01 of the Revised Code, that part of the independent 5979
living facility that is ~~an adult care facility,~~ a nursing home, or 5980
residential care facility, or residential facility described in 5981
division (M)(4) of section 140.01 of the Revised Code is exempt 5982
from taxation subject to division (B)(2) of this section on and 5983
after the date it becomes ~~an adult care facility,~~ a nursing home, 5984
~~or residential care facility, or residential facility described in~~ 5985
division (M)(4) of section 140.01 of the Revised Code. 5986

(2) Division (A) of this section exempts nursing homes, 5987
residential care facilities, and ~~adult care~~ residential facilities 5988
described in division (M)(4) of section 140.01 of the Revised Code 5989
from taxes levied on property and taxes levied under Chapters 5990
5739. and 5741. of the Revised Code only until all obligations 5991
issued to finance such homes or facilities, or all refunding or 5992
series of refundings of those obligations, are redeemed or 5993
otherwise retired. 5994

Sec. 145.01. As used in this chapter: 5995

(A) "Public employee" means: 5996

(1) Any person holding an office, not elective, under the 5997
state or any county, township, municipal corporation, park 5998
district, conservancy district, sanitary district, health 5999
district, metropolitan housing authority, state retirement board, 6000
Ohio historical society, public library, county law library, union 6001
cemetery, joint hospital, institutional commissary, state 6002
university, or board, bureau, commission, council, committee, 6003
authority, or administrative body as the same are, or have been, 6004
created by action of the general assembly or by the legislative 6005
authority of any of the units of local government named in 6006
division (A)(1) of this section, or employed and paid in whole or 6007
in part by the state or any of the authorities named in division 6008
(A)(1) of this section in any capacity not covered by section 6009
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 6010

(2) A person who is a member of the public employees 6011
retirement system and who continues to perform the same or similar 6012
duties under the direction of a contractor who has contracted to 6013
take over what before the date of the contract was a publicly 6014
operated function. The governmental unit with which the contract 6015
has been made shall be deemed the employer for the purposes of 6016
administering this chapter. 6017

(3) Any person who is an employee of a public employer, 6018
notwithstanding that the person's compensation for that employment 6019
is derived from funds of a person or entity other than the 6020
employer. Credit for such service shall be included as total 6021
service credit, provided that the employee makes the payments 6022
required by this chapter, and the employer makes the payments 6023
required by sections 145.48 and 145.51 of the Revised Code. 6024

(4) A person who elects in accordance with section 145.015 of 6025
the Revised Code to remain a contributing member of the public 6026
employees retirement system. 6027

(5) A person who is an employee of the legal rights service 6028
on September 30, 2012, and continues to be employed by the 6029
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 6030
153 of the 129th general assembly. The nonprofit entity is the 6031
employer for the purpose of this chapter. 6032

In all cases of doubt, the public employees retirement board 6033
shall determine whether any person is a public employee, and its 6034
decision is final. 6035

(B) "Member" means any public employee, other than a public 6036
employee excluded or exempted from membership in the retirement 6037
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 6038
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 6039
retirant who becomes a member under division (C) of section 145.38 6040
of the Revised Code. "Member" also includes a disability benefit 6041
recipient. 6042

(C) "Head of the department" means the elective or appointive 6043
head of the several executive, judicial, and administrative 6044
departments, institutions, boards, and commissions of the state 6045
and local government as the same are created and defined by the 6046
laws of this state or, in case of a charter government, by that 6047
charter. 6048

(D) "Employer" or "public employer" means the state or any 6049
county, township, municipal corporation, park district, 6050
conservancy district, sanitary district, health district, 6051
metropolitan housing authority, state retirement board, Ohio 6052
historical society, public library, county law library, union 6053
cemetery, joint hospital, institutional commissary, state medical 6054
university, state university, or board, bureau, commission, 6055
council, committee, authority, or administrative body as the same 6056
are, or have been, created by action of the general assembly or by 6057
the legislative authority of any of the units of local government 6058
named in this division not covered by section 742.01, 3307.01, 6059
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 6060
means the employer of any public employee. 6061

(E) "Prior service" means all service as a public employee 6062
rendered before January 1, 1935, and all service as an employee of 6063
any employer who comes within the state teachers retirement system 6064
or of the school employees retirement system or of any other 6065
retirement system established under the laws of this state 6066
rendered prior to January 1, 1935, provided that if the employee 6067
claiming the service was employed in any capacity covered by that 6068
other system after that other system was established, credit for 6069
the service may be allowed by the public employees retirement 6070
system only when the employee has made payment, to be computed on 6071
the salary earned from the date of appointment to the date 6072
membership was established in the public employees retirement 6073
system, at the rate in effect at the time of payment, and the 6074
employer has made payment of the corresponding full liability as 6075
provided by section 145.44 of the Revised Code. "Prior service" 6076
also means all service credited for active duty with the armed 6077
forces of the United States as provided in section 145.30 of the 6078
Revised Code. 6079

If an employee who has been granted prior service credit by 6080

the public employees retirement system for service rendered prior 6081
to January 1, 1935, as an employee of a board of education 6082
establishes, before retirement, one year or more of contributing 6083
service in the state teachers retirement system or school 6084
employees retirement system, then the prior service ceases to be 6085
the liability of this system. 6086

If the board determines that a position of any member in any 6087
calendar year prior to January 1, 1935, was a part-time position, 6088
the board shall determine what fractional part of a year's credit 6089
shall be allowed by the following formula: 6090

(1) When the member has been either elected or appointed to 6091
an office the term of which was two or more years and for which an 6092
annual salary is established, the fractional part of the year's 6093
credit shall be computed as follows: 6094

First, when the member's annual salary is one thousand 6095
dollars or less, the service credit for each such calendar year 6096
shall be forty per cent of a year. 6097

Second, for each full one hundred dollars of annual salary 6098
above one thousand dollars, the member's service credit for each 6099
such calendar year shall be increased by two and one-half per 6100
cent. 6101

(2) When the member is paid on a per diem basis, the service 6102
credit for any single year of the service shall be determined by 6103
using the number of days of service for which the compensation was 6104
received in any such year as a numerator and using two hundred 6105
fifty days as a denominator. 6106

(3) When the member is paid on an hourly basis, the service 6107
credit for any single year of the service shall be determined by 6108
using the number of hours of service for which the compensation 6109
was received in any such year as a numerator and using two 6110
thousand hours as a denominator. 6111

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that

all employees of that municipal retirement plan who have eighteen 6144
or more months of such employment, upon establishing membership in 6145
the public employees retirement system, shall make a payment of 6146
the contributions they would have paid had they been members of 6147
this system for the eighteen months of employment preceding the 6148
date membership was established. When that payment has been made 6149
by all such employee members, a corresponding payment shall be 6150
paid into the employers' accumulation fund by that municipal 6151
corporation as the employer of the employees. 6152

(3) Where a member also is a member of the state teachers 6153
retirement system or the school employees retirement system, or 6154
both, except in cases of retirement on a combined basis pursuant 6155
to section 145.37 of the Revised Code or as provided in section 6156
145.383 of the Revised Code, service credit for any period shall 6157
be credited on the basis of the ratio that contributions to the 6158
public employees retirement system bear to total contributions in 6159
all state retirement systems. 6160

(4) Not more than one year of credit may be given for any 6161
period of twelve months. 6162

(5) "Ohio service credit" means credit for service that was 6163
rendered to the state or any of its political subdivisions or any 6164
employer. 6165

(I) "Regular interest" means interest at any rates for the 6166
respective funds and accounts as the public employees retirement 6167
board may determine from time to time. 6168

(J) "Accumulated contributions" means the sum of all amounts 6169
credited to a contributor's individual account in the employees' 6170
savings fund together with any interest credited to the 6171
contributor's account under section 145.471 or 145.472 of the 6172
Revised Code. 6173

(K)(1) "Final average salary" means the quotient obtained by 6174

dividing by three the sum of the three full calendar years of 6175
contributing service in which the member's earnable salary was 6176
highest, except that if the member has a partial year of 6177
contributing service in the year the member's employment 6178
terminates and the member's earnable salary for the partial year 6179
is higher than for any comparable period in the three years, the 6180
member's earnable salary for the partial year shall be substituted 6181
for the member's earnable salary for the comparable period during 6182
the three years in which the member's earnable salary was lowest. 6183

(2) If a member has less than three years of contributing 6184
service, the member's final average salary shall be the member's 6185
total earnable salary divided by the total number of years, 6186
including any fraction of a year, of the member's contributing 6187
service. 6188

(3) For the purpose of calculating benefits payable to a 6189
member qualifying for service credit under division (Z) of this 6190
section, "final average salary" means the total earnable salary on 6191
which contributions were made divided by the total number of years 6192
during which contributions were made, including any fraction of a 6193
year. If contributions were made for less than twelve months, 6194
"final average salary" means the member's total earnable salary. 6195

(L) "Annuity" means payments for life derived from 6196
contributions made by a contributor and paid from the annuity and 6197
pension reserve fund as provided in this chapter. All annuities 6198
shall be paid in twelve equal monthly installments. 6199

(M) "Annuity reserve" means the present value, computed upon 6200
the basis of the mortality and other tables adopted by the board, 6201
of all payments to be made on account of any annuity, or benefit 6202
in lieu of any annuity, granted to a retirant as provided in this 6203
chapter. 6204

(N)(1) "Disability retirement" means retirement as provided 6205

in section 145.36 of the Revised Code. 6206

(2) "Disability allowance" means an allowance paid on account 6207
of disability under section 145.361 of the Revised Code. 6208

(3) "Disability benefit" means a benefit paid as disability 6209
retirement under section 145.36 of the Revised Code, as a 6210
disability allowance under section 145.361 of the Revised Code, or 6211
as a disability benefit under section 145.37 of the Revised Code. 6212

(4) "Disability benefit recipient" means a member who is 6213
receiving a disability benefit. 6214

(O) "Age and service retirement" means retirement as provided 6215
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 6216
the Revised Code. 6217

(P) "Pensions" means annual payments for life derived from 6218
contributions made by the employer that at the time of retirement 6219
are credited into the annuity and pension reserve fund from the 6220
employers' accumulation fund and paid from the annuity and pension 6221
reserve fund as provided in this chapter. All pensions shall be 6222
paid in twelve equal monthly installments. 6223

(Q) "Retirement allowance" means the pension plus that 6224
portion of the benefit derived from contributions made by the 6225
member. 6226

(R)(1) Except as otherwise provided in division (R) of this 6227
section, "earnable salary" means all salary, wages, and other 6228
earnings paid to a contributor by reason of employment in a 6229
position covered by the retirement system. The salary, wages, and 6230
other earnings shall be determined prior to determination of the 6231
amount required to be contributed to the employees' savings fund 6232
under section 145.47 of the Revised Code and without regard to 6233
whether any of the salary, wages, or other earnings are treated as 6234
deferred income for federal income tax purposes. "Earnable salary" 6235
includes the following: 6236

| | |
|--|--------------------------------------|
| (a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor; | 6237 6238 6239 |
| (b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary; | 6240 6241 6242 6243 6244 |
| (c) Allowances paid by the employer for full maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor; | 6245 6246 6247 6248 |
| (d) Fees and commissions paid under section 507.09 of the Revised Code; | 6249 6250 |
| (e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions; | 6251 6252 6253 6254 |
| (f) Amounts included pursuant to divisions (K)(3) and (Y) of this section. | 6255 6256 |
| (2) "Earnable salary" does not include any of the following: | 6257 |
| (a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary; | 6258 6259 6260 6261 |
| (b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance; | 6262 6263 6264 6265 6266 |

| | |
|--|------|
| (c) Incidental benefits, including lodging, food, laundry, | 6267 |
| parking, or services furnished by the employer, or use of the | 6268 |
| employer's property or equipment, or amounts paid by the employer | 6269 |
| to the contributor in lieu of providing the incidental benefits; | 6270 |
| (d) Reimbursement for job-related expenses authorized by the | 6271 |
| employer, including moving and travel expenses and expenses | 6272 |
| related to professional development; | 6273 |
| (e) Payments for accrued but unused sick leave, personal | 6274 |
| leave, or vacation that are made at any time other than in the | 6275 |
| year in which the sick leave, personal leave, or vacation was | 6276 |
| accrued; | 6277 |
| (f) Payments made to or on behalf of a contributor that are | 6278 |
| in excess of the annual compensation that may be taken into | 6279 |
| account by the retirement system under division (a)(17) of section | 6280 |
| 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 | 6281 |
| U.S.C.A. 401(a)(17), as amended; | 6282 |
| (g) Payments made under division (B), (C), or (E) of section | 6283 |
| 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill | 6284 |
| No. 3 of the 119th general assembly, Section 3 of Amended | 6285 |
| Substitute Senate Bill No. 164 of the 124th general assembly, or | 6286 |
| Amended Substitute House Bill No. 405 of the 124th general | 6287 |
| assembly; | 6288 |
| (h) Anything of value received by the contributor that is | 6289 |
| based on or attributable to retirement or an agreement to retire, | 6290 |
| except that payments made on or before January 1, 1989, that are | 6291 |
| based on or attributable to an agreement to retire shall be | 6292 |
| included in earnable salary if both of the following apply: | 6293 |
| (i) The payments are made in accordance with contract | 6294 |
| provisions that were in effect prior to January 1, 1986; | 6295 |
| (ii) The employer pays the retirement system an amount | 6296 |
| specified by the retirement board equal to the additional | 6297 |

liability resulting from the payments. 6298

(3) The retirement board shall determine by rule whether any 6299
compensation not enumerated in division (R) of this section is 6300
earnable salary, and its decision shall be final. 6301

(S) "Pension reserve" means the present value, computed upon 6302
the basis of the mortality and other tables adopted by the board, 6303
of all payments to be made on account of any retirement allowance 6304
or benefit in lieu of any retirement allowance, granted to a 6305
member or beneficiary under this chapter. 6306

(T)(1) "Contributing service" means all service credited to a 6307
member of the system since January 1, 1935, for which 6308
contributions are made as required by sections 145.47, 145.48, and 6309
145.483 of the Revised Code. In any year subsequent to 1934, 6310
credit for any service shall be allowed by the following formula: 6311

(a) For each month for which the member's earnable salary is 6312
two hundred fifty dollars or more, allow one month's credit. 6313

(b) For each month for which the member's earnable salary is 6314
less than two hundred fifty dollars, allow a fraction of a month's 6315
credit. The numerator of this fraction shall be the earnable 6316
salary during the month, and the denominator shall be two hundred 6317
fifty dollars, except that if the member's annual earnable salary 6318
is less than six hundred dollars, the member's credit shall not be 6319
reduced below twenty per cent of a year for a calendar year of 6320
employment during which the member worked each month. Division 6321
(T)(1)(b) of this section shall not reduce any credit earned 6322
before January 1, 1985. 6323

(2) Notwithstanding division (T)(1) of this section, an 6324
elected official who prior to January 1, 1980, was granted a full 6325
year of credit for each year of service as an elected official 6326
shall be considered to have earned a full year of credit for each 6327
year of service regardless of whether the service was full-time or 6328

part-time. The public employees retirement board has no authority 6329
to reduce the credit. 6330

(U) "State retirement board" means the public employees 6331
retirement board, the school employees retirement board, or the 6332
state teachers retirement board. 6333

(V) "Retirant" means any former member who retires and is 6334
receiving a monthly allowance as provided in sections 145.32, 6335
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 6336

(W) "Employer contribution" means the amount paid by an 6337
employer as determined under section 145.48 of the Revised Code. 6338

(X) "Public service terminates" means the last day for which 6339
a public employee is compensated for services performed for an 6340
employer or the date of the employee's death, whichever occurs 6341
first. 6342

(Y) When a member has been elected or appointed to an office, 6343
the term of which is two or more years, for which an annual salary 6344
is established, and in the event that the salary of the office is 6345
increased and the member is denied the additional salary by reason 6346
of any constitutional provision prohibiting an increase in salary 6347
during a term of office, the member may elect to have the amount 6348
of the member's contributions calculated upon the basis of the 6349
increased salary for the office. At the member's request, the 6350
board shall compute the total additional amount the member would 6351
have contributed, or the amount by which each of the member's 6352
contributions would have increased, had the member received the 6353
increased salary for the office the member holds. If the member 6354
elects to have the amount by which the member's contribution would 6355
have increased withheld from the member's salary, the member shall 6356
notify the employer, and the employer shall make the withholding 6357
and transmit it to the retirement system. A member who has not 6358
elected to have that amount withheld may elect at any time to make 6359

a payment to the retirement system equal to the additional amount 6360
the member's contribution would have increased, plus interest on 6361
that contribution, compounded annually at a rate established by 6362
the board and computed from the date on which the last 6363
contribution would have been withheld from the member's salary to 6364
the date of payment. A member may make a payment for part of the 6365
period for which the increased contribution was not withheld, in 6366
which case the interest shall be computed from the date the last 6367
contribution would have been withheld for the period for which the 6368
payment is made. Upon the payment of the increased contributions 6369
as provided in this division, the increased annual salary as 6370
provided by law for the office for the period for which the member 6371
paid increased contributions thereon shall be used in determining 6372
the member's earnable salary for the purpose of computing the 6373
member's final average salary. 6374

(Z) "Five years of service credit," for the exclusive purpose 6375
of satisfying the service credit requirements and of determining 6376
eligibility for benefits under section 145.33 of the Revised Code, 6377
means employment covered under this chapter or under a former 6378
retirement plan operated, recognized, or endorsed by the employer 6379
prior to coverage under this chapter or under a combination of the 6380
coverage. 6381

(AA) "Deputy sheriff" means any person who is commissioned 6382
and employed as a full-time peace officer by the sheriff of any 6383
county, and has been so employed since on or before December 31, 6384
1965; any person who is or has been commissioned and employed as a 6385
peace officer by the sheriff of any county since January 1, 1966, 6386
and who has received a certificate attesting to the person's 6387
satisfactory completion of the peace officer training school as 6388
required by section 109.77 of the Revised Code; or any person 6389
deputized by the sheriff of any county and employed pursuant to 6390
section 2301.12 of the Revised Code as a criminal bailiff or court 6391

constable who has received a certificate attesting to the person's 6392
satisfactory completion of the peace officer training school as 6393
required by section 109.77 of the Revised Code. 6394

(BB) "Township constable or police officer in a township 6395
police department or district" means any person who is 6396
commissioned and employed as a full-time peace officer pursuant to 6397
Chapter 505. or 509. of the Revised Code, who has received a 6398
certificate attesting to the person's satisfactory completion of 6399
the peace officer training school as required by section 109.77 of 6400
the Revised Code. 6401

(CC) "Drug agent" means any person who is either of the 6402
following: 6403

(1) Employed full time as a narcotics agent by a county 6404
narcotics agency created pursuant to section 307.15 of the Revised 6405
Code and has received a certificate attesting to the satisfactory 6406
completion of the peace officer training school as required by 6407
section 109.77 of the Revised Code; 6408

(2) Employed full time as an undercover drug agent as defined 6409
in section 109.79 of the Revised Code and is in compliance with 6410
section 109.77 of the Revised Code. 6411

(DD) "Department of public safety enforcement agent" means a 6412
full-time employee of the department of public safety who is 6413
designated under section 5502.14 of the Revised Code as an 6414
enforcement agent and who is in compliance with section 109.77 of 6415
the Revised Code. 6416

(EE) "Natural resources law enforcement staff officer" means 6417
a full-time employee of the department of natural resources who is 6418
designated a natural resources law enforcement staff officer under 6419
section 1501.013 of the Revised Code and is in compliance with 6420
section 109.77 of the Revised Code. 6421

(FF) "Park officer" means a full-time employee of the 6422

department of natural resources who is designated a park officer 6423
under section 1541.10 of the Revised Code and is in compliance 6424
with section 109.77 of the Revised Code. 6425

(GG) "Forest officer" means a full-time employee of the 6426
department of natural resources who is designated a forest officer 6427
under section 1503.29 of the Revised Code and is in compliance 6428
with section 109.77 of the Revised Code. 6429

(HH) "Preserve officer" means a full-time employee of the 6430
department of natural resources who is designated a preserve 6431
officer under section 1517.10 of the Revised Code and is in 6432
compliance with section 109.77 of the Revised Code. 6433

(II) "Wildlife officer" means a full-time employee of the 6434
department of natural resources who is designated a wildlife 6435
officer under section 1531.13 of the Revised Code and is in 6436
compliance with section 109.77 of the Revised Code. 6437

(JJ) "State watercraft officer" means a full-time employee of 6438
the department of natural resources who is designated a state 6439
watercraft officer under section 1547.521 of the Revised Code and 6440
is in compliance with section 109.77 of the Revised Code. 6441

(KK) "Park district police officer" means a full-time 6442
employee of a park district who is designated pursuant to section 6443
511.232 or 1545.13 of the Revised Code and is in compliance with 6444
section 109.77 of the Revised Code. 6445

(LL) "Conservancy district officer" means a full-time 6446
employee of a conservancy district who is designated pursuant to 6447
section 6101.75 of the Revised Code and is in compliance with 6448
section 109.77 of the Revised Code. 6449

(MM) "Municipal police officer" means a member of the 6450
organized police department of a municipal corporation who is 6451
employed full time, is in compliance with section 109.77 of the 6452
Revised Code, and is not a member of the Ohio police and fire 6453

pension fund. 6454

(NN) "Veterans' home police officer" means any person who is 6455
employed at a veterans' home as a police officer pursuant to 6456
section 5907.02 of the Revised Code and is in compliance with 6457
section 109.77 of the Revised Code. 6458

(OO) "Special police officer for a mental health institution" 6459
means any person who is designated as such pursuant to section 6460
5119.14 of the Revised Code and is in compliance with section 6461
109.77 of the Revised Code. 6462

(PP) "Special police officer for an institution for the 6463
mentally retarded and developmentally disabled" means any person 6464
who is designated as such pursuant to section 5123.13 of the 6465
Revised Code and is in compliance with section 109.77 of the 6466
Revised Code. 6467

(QQ) "State university law enforcement officer" means any 6468
person who is employed full time as a state university law 6469
enforcement officer pursuant to section 3345.04 of the Revised 6470
Code and who is in compliance with section 109.77 of the Revised 6471
Code. 6472

(RR) "House sergeant at arms" means any person appointed by 6473
the speaker of the house of representatives under division (B)(1) 6474
of section 101.311 of the Revised Code who has arrest authority 6475
under division (E)(1) of that section. 6476

(SS) "Assistant house sergeant at arms" means any person 6477
appointed by the house sergeant at arms under division (C)(1) of 6478
section 101.311 of the Revised Code. 6479

(TT) "Regional transit authority police officer" means a 6480
person who is employed full time as a regional transit authority 6481
police officer under division (Y) of section 306.35 of the Revised 6482
Code and is in compliance with section 109.77 of the Revised Code. 6483

(UU) "State highway patrol police officer" means a special 6484
police officer employed full time and designated by the 6485
superintendent of the state highway patrol pursuant to section 6486
5503.09 of the Revised Code or a person serving full time as a 6487
special police officer pursuant to that section on a permanent 6488
basis on October 21, 1997, who is in compliance with section 6489
109.77 of the Revised Code. 6490

(VV) "Municipal public safety director" means a person who 6491
serves full time as the public safety director of a municipal 6492
corporation with the duty of directing the activities of the 6493
municipal corporation's police department and fire department. 6494

(WW) Notwithstanding section 2901.01 of the Revised Code, 6495
"PERS law enforcement officer" means a sheriff or any of the 6496
following whose primary duties are to preserve the peace, protect 6497
life and property, and enforce the laws of this state: a deputy 6498
sheriff, township constable or police officer in a township police 6499
department or district, drug agent, department of public safety 6500
enforcement agent, natural resources law enforcement staff 6501
officer, park officer, forest officer, preserve officer, wildlife 6502
officer, state watercraft officer, park district police officer, 6503
conservancy district officer, veterans' home police officer, 6504
special police officer for a mental health institution, special 6505
police officer for an institution for the mentally retarded and 6506
developmentally disabled, state university law enforcement 6507
officer, municipal police officer, house sergeant at arms, 6508
assistant house sergeant at arms, regional transit authority 6509
police officer, or state highway patrol police officer. PERS law 6510
enforcement officer also includes a person serving as a municipal 6511
public safety director at any time during the period from 6512
September 29, 2005, to March 24, 2009, if the duties of that 6513
service were to preserve the peace, protect life and property, and 6514
enforce the laws of this state. 6515

(XX) "Hamilton county municipal court bailiff" means a person 6516
appointed by the clerk of courts of the Hamilton county municipal 6517
court under division (A)(3) of section 1901.32 of the Revised Code 6518
who is employed full time as a bailiff or deputy bailiff, who has 6519
received a certificate attesting to the person's satisfactory 6520
completion of the peace officer basic training described in 6521
division (D)(1) of section 109.77 of the Revised Code. 6522

(YY) "PERS public safety officer" means a Hamilton county 6523
municipal court bailiff, or any of the following whose primary 6524
duties are other than to preserve the peace, protect life and 6525
property, and enforce the laws of this state: a deputy sheriff, 6526
township constable or police officer in a township police 6527
department or district, drug agent, department of public safety 6528
enforcement agent, natural resources law enforcement staff 6529
officer, park officer, forest officer, preserve officer, wildlife 6530
officer, state watercraft officer, park district police officer, 6531
conservancy district officer, veterans' home police officer, 6532
special police officer for a mental health institution, special 6533
police officer for an institution for the mentally retarded and 6534
developmentally disabled, state university law enforcement 6535
officer, municipal police officer, house sergeant at arms, 6536
assistant house sergeant at arms, regional transit authority 6537
police officer, or state highway patrol police officer. "PERS 6538
public safety officer" also includes a person serving as a 6539
municipal public safety director at any time during the period 6540
from September 29, 2005, to March 24, 2009, if the duties of that 6541
service were other than to preserve the peace, protect life and 6542
property, and enforce the laws of this state. 6543

(ZZ) "Fiduciary" means a person who does any of the 6544
following: 6545

(1) Exercises any discretionary authority or control with 6546
respect to the management of the system or with respect to the 6547

management or disposition of its assets; 6548

(2) Renders investment advice for a fee, direct or indirect, 6549
with respect to money or property of the system; 6550

(3) Has any discretionary authority or responsibility in the 6551
administration of the system. 6552

(AAA) "Actuary" means an individual who satisfies all of the 6553
following requirements: 6554

(1) Is a member of the American academy of actuaries; 6555

(2) Is an associate or fellow of the society of actuaries; 6556

(3) Has a minimum of five years' experience in providing 6557
actuarial services to public retirement plans. 6558

(BBB) "PERS defined benefit plan" means the plan described in 6559
sections 145.201 to 145.79 of the Revised Code. 6560

(CCC) "PERS defined contribution plans" means the plan or 6561
plans established under section 145.81 of the Revised Code. 6562

Sec. 145.012. (A) "Public employee," as defined in division 6563
(A) of section 145.01 of the Revised Code, does not include any 6564
person: 6565

(1) Who is employed by a private, temporary-help service and 6566
performs services under the direction of a public employer or is 6567
employed on a contractual basis as an independent contractor under 6568
a personal service contract with a public employer; 6569

(2) Who is an emergency employee serving on a temporary basis 6570
in case of fire, snow, earthquake, flood, or other similar 6571
emergency; 6572

(3) Who is employed in a program established pursuant to the 6573
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 6574
1501; 6575

| | |
|--|--|
| (4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code; | 6576 6577 6578 6579 |
| (5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service; | 6580 6581 |
| (6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following: | 6582 6583 6584 6585 6586 |
| (a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system; | 6587 6588 6589 |
| (b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer; | 6590 6591 6592 6593 |
| (c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system. | 6594 6595 6596 |
| (7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate; | 6597 6598 6599 6600 6601 6602 |
| (8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code; | 6603 6604 |
| (9) Who is a member of the board of directors of a sanitary | 6605 |

district established under Chapter 6115. of the Revised Code; 6606

(10) Who is a member of the unemployment compensation 6607
advisory council; 6608

(11) Who is an employee, officer, or governor-appointed 6609
member of the board of directors of the nonprofit corporation 6610
formed under section 187.01 of the Revised Code; 6611

(12) Who is employed by the nonprofit entity established to 6612
provide advocacy services and a client assistance program for 6613
people with disabilities under Section 319.20 of Am. Sub. H.B. 153 6614
of the 129th general assembly and whose employment begins on or 6615
after October 1, 2012. 6616

(B) No inmate of a correctional institution operated by the 6617
department of rehabilitation and correction, no patient in a 6618
hospital for the mentally ill or criminally insane operated by the 6619
department of mental health, no resident in an institution for the 6620
mentally retarded operated by the department of developmental 6621
disabilities, no resident admitted as a patient of a veterans' 6622
home operated under Chapter 5907. of the Revised Code, and no 6623
resident of a county home shall be considered as a public employee 6624
for the purpose of establishing membership or calculating service 6625
credit or benefits under this chapter. Nothing in this division 6626
shall be construed to affect any service credit attained by any 6627
person who was a public employee before becoming an inmate, 6628
patient, or resident at any institution listed in this division, 6629
or the payment of any benefit for which such a person or such a 6630
person's beneficiaries otherwise would be eligible. 6631

Sec. 149.43. (A) As used in this section: 6632

(1) "Public record" means records kept by any public office, 6633
including, but not limited to, state, county, city, village, 6634
township, and school district units, and records pertaining to the 6635

| | |
|--|------|
| delivery of educational services by an alternative school in this | 6636 |
| state kept by the nonprofit or for-profit entity operating the | 6637 |
| alternative school pursuant to section 3313.533 of the Revised | 6638 |
| Code. "Public record" does not mean any of the following: | 6639 |
| (a) Medical records; | 6640 |
| (b) Records pertaining to probation and parole proceedings or | 6641 |
| to proceedings related to the imposition of community control | 6642 |
| sanctions and post-release control sanctions; | 6643 |
| (c) Records pertaining to actions under section 2151.85 and | 6644 |
| division (C) of section 2919.121 of the Revised Code and to | 6645 |
| appeals of actions arising under those sections; | 6646 |
| (d) Records pertaining to adoption proceedings, including the | 6647 |
| contents of an adoption file maintained by the department of | 6648 |
| health under section 3705.12 of the Revised Code; | 6649 |
| (e) Information in a record contained in the putative father | 6650 |
| registry established by section 3107.062 of the Revised Code, | 6651 |
| regardless of whether the information is held by the department of | 6652 |
| job and family services or, pursuant to section 3111.69 of the | 6653 |
| Revised Code, the office of child support in the department or a | 6654 |
| child support enforcement agency; | 6655 |
| (f) Records listed in division (A) of section 3107.42 of the | 6656 |
| Revised Code or specified in division (A) of section 3107.52 of | 6657 |
| the Revised Code; | 6658 |
| (g) Trial preparation records; | 6659 |
| (h) Confidential law enforcement investigatory records; | 6660 |
| (i) Records containing information that is confidential under | 6661 |
| section 2710.03 or 4112.05 of the Revised Code; | 6662 |
| (j) DNA records stored in the DNA database pursuant to | 6663 |
| section 109.573 of the Revised Code; | 6664 |
| (k) Inmate records released by the department of | 6665 |

rehabilitation and correction to the department of youth services 6666
or a court of record pursuant to division (E) of section 5120.21 6667
of the Revised Code; 6668

(l) Records maintained by the department of youth services 6669
pertaining to children in its custody released by the department 6670
of youth services to the department of rehabilitation and 6671
correction pursuant to section 5139.05 of the Revised Code; 6672

(m) Intellectual property records; 6673

(n) Donor profile records; 6674

(o) Records maintained by the department of job and family 6675
services pursuant to section 3121.894 of the Revised Code; 6676

(p) Peace officer, parole officer, probation officer, 6677
bailiff, prosecuting attorney, assistant prosecuting attorney, 6678
correctional employee, community-based correctional facility 6679
employee, youth services employee, firefighter, EMT, or 6680
investigator of the bureau of criminal identification and 6681
investigation residential and familial information; 6682

(q) In the case of a county hospital operated pursuant to 6683
Chapter 339. of the Revised Code or a municipal hospital operated 6684
pursuant to Chapter 749. of the Revised Code, information that 6685
constitutes a trade secret, as defined in section 1333.61 of the 6686
Revised Code; 6687

(r) Information pertaining to the recreational activities of 6688
a person under the age of eighteen; 6689

(s) Records provided to, statements made by review board 6690
members during meetings of, and all work products of a child 6691
fatality review board acting under sections 307.621 to 307.629 of 6692
the Revised Code, and child fatality review data submitted by the 6693
child fatality review board to the department of health or a 6694
national child death review database, other than the report 6695

prepared pursuant to division (A) of section 307.626 of the Revised Code; 6696
6697

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section; 6698
6699
6700
6701

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer; 6702
6703
6704
6705
6706

(v) Records the release of which is prohibited by state or federal law; 6707
6708

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code; 6709
6710
6711

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code; 6712
6713

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency; 6714
6715
6716
6717
6718
6719

(z) Records listed in section 5101.29 of the Revised Code; 6720

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section; 6721
6722
6723

(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally 6724
6725

owned or operated public utility. 6726

(2) "Confidential law enforcement investigatory record" means 6727
any record that pertains to a law enforcement matter of a 6728
criminal, quasi-criminal, civil, or administrative nature, but 6729
only to the extent that the release of the record would create a 6730
high probability of disclosure of any of the following: 6731

(a) The identity of a suspect who has not been charged with 6732
the offense to which the record pertains, or of an information 6733
source or witness to whom confidentiality has been reasonably 6734
promised; 6735

(b) Information provided by an information source or witness 6736
to whom confidentiality has been reasonably promised, which 6737
information would reasonably tend to disclose the source's or 6738
witness's identity; 6739

(c) Specific confidential investigatory techniques or 6740
procedures or specific investigatory work product; 6741

(d) Information that would endanger the life or physical 6742
safety of law enforcement personnel, a crime victim, a witness, or 6743
a confidential information source. 6744

(3) "Medical record" means any document or combination of 6745
documents, except births, deaths, and the fact of admission to or 6746
discharge from a hospital, that pertains to the medical history, 6747
diagnosis, prognosis, or medical condition of a patient and that 6748
is generated and maintained in the process of medical treatment. 6749

(4) "Trial preparation record" means any record that contains 6750
information that is specifically compiled in reasonable 6751
anticipation of, or in defense of, a civil or criminal action or 6752
proceeding, including the independent thought processes and 6753
personal trial preparation of an attorney. 6754

(5) "Intellectual property record" means a record, other than 6755

a financial or administrative record, that is produced or 6756
collected by or for faculty or staff of a state institution of 6757
higher learning in the conduct of or as a result of study or 6758
research on an educational, commercial, scientific, artistic, 6759
technical, or scholarly issue, regardless of whether the study or 6760
research was sponsored by the institution alone or in conjunction 6761
with a governmental body or private concern, and that has not been 6762
publicly released, published, or patented. 6763

(6) "Donor profile record" means all records about donors or 6764
potential donors to a public institution of higher education 6765
except the names and reported addresses of the actual donors and 6766
the date, amount, and conditions of the actual donation. 6767

(7) "Peace officer, parole officer, probation officer, 6768
bailiff, prosecuting attorney, assistant prosecuting attorney, 6769
correctional employee, community-based correctional facility 6770
employee, youth services employee, firefighter, EMT, or 6771
investigator of the bureau of criminal identification and 6772
investigation residential and familial information" means any 6773
information that discloses any of the following about a peace 6774
officer, parole officer, probation officer, bailiff, prosecuting 6775
attorney, assistant prosecuting attorney, correctional employee, 6776
community-based correctional facility employee, youth services 6777
employee, firefighter, EMT, or investigator of the bureau of 6778
criminal identification and investigation: 6779

(a) The address of the actual personal residence of a peace 6780
officer, parole officer, probation officer, bailiff, assistant 6781
prosecuting attorney, correctional employee, community-based 6782
correctional facility employee, youth services employee, 6783
firefighter, EMT, or an investigator of the bureau of criminal 6784
identification and investigation, except for the state or 6785
political subdivision in which the peace officer, parole officer, 6786
probation officer, bailiff, assistant prosecuting attorney, 6787

correctional employee, community-based correctional facility 6788
employee, youth services employee, firefighter, EMT, or 6789
investigator of the bureau of criminal identification and 6790
investigation resides; 6791

(b) Information compiled from referral to or participation in 6792
an employee assistance program; 6793

(c) The social security number, the residential telephone 6794
number, any bank account, debit card, charge card, or credit card 6795
number, or the emergency telephone number of, or any medical 6796
information pertaining to, a peace officer, parole officer, 6797
probation officer, bailiff, prosecuting attorney, assistant 6798
prosecuting attorney, correctional employee, community-based 6799
correctional facility employee, youth services employee, 6800
firefighter, EMT, or investigator of the bureau of criminal 6801
identification and investigation; 6802

(d) The name of any beneficiary of employment benefits, 6803
including, but not limited to, life insurance benefits, provided 6804
to a peace officer, parole officer, probation officer, bailiff, 6805
prosecuting attorney, assistant prosecuting attorney, correctional 6806
employee, community-based correctional facility employee, youth 6807
services employee, firefighter, EMT, or investigator of the bureau 6808
of criminal identification and investigation by the peace 6809
officer's, parole officer's, probation officer's, bailiff's, 6810
prosecuting attorney's, assistant prosecuting attorney's, 6811
correctional employee's, community-based correctional facility 6812
employee's, youth services employee's, firefighter's, EMT's, or 6813
investigator of the bureau of criminal identification and 6814
investigation's employer; 6815

(e) The identity and amount of any charitable or employment 6816
benefit deduction made by the peace officer's, parole officer's, 6817
probation officer's, bailiff's, prosecuting attorney's, assistant 6818
prosecuting attorney's, correctional employee's, community-based 6819

correctional facility employee's, youth services employee's, 6820
firefighter's, EMT's, or investigator of the bureau of criminal 6821
identification and investigation's employer from the peace 6822
officer's, parole officer's, probation officer's, bailiff's, 6823
prosecuting attorney's, assistant prosecuting attorney's, 6824
correctional employee's, community-based correctional facility 6825
employee's, youth services employee's, firefighter's, EMT's, or 6826
investigator of the bureau of criminal identification and 6827
investigation's compensation unless the amount of the deduction is 6828
required by state or federal law; 6829

(f) The name, the residential address, the name of the 6830
employer, the address of the employer, the social security number, 6831
the residential telephone number, any bank account, debit card, 6832
charge card, or credit card number, or the emergency telephone 6833
number of the spouse, a former spouse, or any child of a peace 6834
officer, parole officer, probation officer, bailiff, prosecuting 6835
attorney, assistant prosecuting attorney, correctional employee, 6836
community-based correctional facility employee, youth services 6837
employee, firefighter, EMT, or investigator of the bureau of 6838
criminal identification and investigation; 6839

(g) A photograph of a peace officer who holds a position or 6840
has an assignment that may include undercover or plain clothes 6841
positions or assignments as determined by the peace officer's 6842
appointing authority. 6843

As used in divisions (A)(7) and (B)(9) of this section, 6844
"peace officer" has the same meaning as in section 109.71 of the 6845
Revised Code and also includes the superintendent and troopers of 6846
the state highway patrol; it does not include the sheriff of a 6847
county or a supervisory employee who, in the absence of the 6848
sheriff, is authorized to stand in for, exercise the authority of, 6849
and perform the duties of the sheriff. 6850

As used in divisions (A)(7) and (B)(5) of this section, 6851

"correctional employee" means any employee of the department of 6852
rehabilitation and correction who in the course of performing the 6853
employee's job duties has or has had contact with inmates and 6854
persons under supervision. 6855

As used in divisions (A)(7) and (B)(5) of this section, 6856
"youth services employee" means any employee of the department of 6857
youth services who in the course of performing the employee's job 6858
duties has or has had contact with children committed to the 6859
custody of the department of youth services. 6860

As used in divisions (A)(7) and (B)(9) of this section, 6861
"firefighter" means any regular, paid or volunteer, member of a 6862
lawfully constituted fire department of a municipal corporation, 6863
township, fire district, or village. 6864

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 6865
means EMTs-basic, EMTs-I, and paramedics that provide emergency 6866
medical services for a public emergency medical service 6867
organization. "Emergency medical service organization," 6868
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 6869
section 4765.01 of the Revised Code. 6870

As used in divisions (A)(7) and (B)(9) of this section, 6871
"investigator of the bureau of criminal identification and 6872
investigation" has the meaning defined in section 2903.11 of the 6873
Revised Code. 6874

(8) "Information pertaining to the recreational activities of 6875
a person under the age of eighteen" means information that is kept 6876
in the ordinary course of business by a public office, that 6877
pertains to the recreational activities of a person under the age 6878
of eighteen years, and that discloses any of the following: 6879

(a) The address or telephone number of a person under the age 6880
of eighteen or the address or telephone number of that person's 6881
parent, guardian, custodian, or emergency contact person; 6882

(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 6883
6884

(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 6885
6886

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 6887
6888
6889
6890
6891
6892

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 6893
6894

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 6895
6896

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code. 6897
6898
6899
6900

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 6901
6902

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within 6903
6904
6905
6906
6907
6908
6909
6910
6911
6912
6913

the public record that is not exempt. When making that public 6914
record available for public inspection or copying that public 6915
record, the public office or the person responsible for the public 6916
record shall notify the requester of any redaction or make the 6917
redaction plainly visible. A redaction shall be deemed a denial of 6918
a request to inspect or copy the redacted information, except if 6919
federal or state law authorizes or requires a public office to 6920
make the redaction. 6921

(2) To facilitate broader access to public records, a public 6922
office or the person responsible for public records shall organize 6923
and maintain public records in a manner that they can be made 6924
available for inspection or copying in accordance with division 6925
(B) of this section. A public office also shall have available a 6926
copy of its current records retention schedule at a location 6927
readily available to the public. If a requester makes an ambiguous 6928
or overly broad request or has difficulty in making a request for 6929
copies or inspection of public records under this section such 6930
that the public office or the person responsible for the requested 6931
public record cannot reasonably identify what public records are 6932
being requested, the public office or the person responsible for 6933
the requested public record may deny the request but shall provide 6934
the requester with an opportunity to revise the request by 6935
informing the requester of the manner in which records are 6936
maintained by the public office and accessed in the ordinary 6937
course of the public office's or person's duties. 6938

(3) If a request is ultimately denied, in part or in whole, 6939
the public office or the person responsible for the requested 6940
public record shall provide the requester with an explanation, 6941
including legal authority, setting forth why the request was 6942
denied. If the initial request was provided in writing, the 6943
explanation also shall be provided to the requester in writing. 6944
The explanation shall not preclude the public office or the person 6945

responsible for the requested public record from relying upon 6946
additional reasons or legal authority in defending an action 6947
commenced under division (C) of this section. 6948

(4) Unless specifically required or authorized by state or 6949
federal law or in accordance with division (B) of this section, no 6950
public office or person responsible for public records may limit 6951
or condition the availability of public records by requiring 6952
disclosure of the requester's identity or the intended use of the 6953
requested public record. Any requirement that the requester 6954
disclose the requestor's identity or the intended use of the 6955
requested public record constitutes a denial of the request. 6956

(5) A public office or person responsible for public records 6957
may ask a requester to make the request in writing, may ask for 6958
the requester's identity, and may inquire about the intended use 6959
of the information requested, but may do so only after disclosing 6960
to the requester that a written request is not mandatory and that 6961
the requester may decline to reveal the requester's identity or 6962
the intended use and when a written request or disclosure of the 6963
identity or intended use would benefit the requester by enhancing 6964
the ability of the public office or person responsible for public 6965
records to identify, locate, or deliver the public records sought 6966
by the requester. 6967

(6) If any person chooses to obtain a copy of a public record 6968
in accordance with division (B) of this section, the public office 6969
or person responsible for the public record may require that 6970
person to pay in advance the cost involved in providing the copy 6971
of the public record in accordance with the choice made by the 6972
person seeking the copy under this division. The public office or 6973
the person responsible for the public record shall permit that 6974
person to choose to have the public record duplicated upon paper, 6975
upon the same medium upon which the public office or person 6976
responsible for the public record keeps it, or upon any other 6977

medium upon which the public office or person responsible for the 6978
public record determines that it reasonably can be duplicated as 6979
an integral part of the normal operations of the public office or 6980
person responsible for the public record. When the person seeking 6981
the copy makes a choice under this division, the public office or 6982
person responsible for the public record shall provide a copy of 6983
it in accordance with the choice made by the person seeking the 6984
copy. Nothing in this section requires a public office or person 6985
responsible for the public record to allow the person seeking a 6986
copy of the public record to make the copies of the public record. 6987

(7) Upon a request made in accordance with division (B) of 6988
this section and subject to division (B)(6) of this section, a 6989
public office or person responsible for public records shall 6990
transmit a copy of a public record to any person by United States 6991
mail or by any other means of delivery or transmission within a 6992
reasonable period of time after receiving the request for the 6993
copy. The public office or person responsible for the public 6994
record may require the person making the request to pay in advance 6995
the cost of postage if the copy is transmitted by United States 6996
mail or the cost of delivery if the copy is transmitted other than 6997
by United States mail, and to pay in advance the costs incurred 6998
for other supplies used in the mailing, delivery, or transmission. 6999

Any public office may adopt a policy and procedures that it 7000
will follow in transmitting, within a reasonable period of time 7001
after receiving a request, copies of public records by United 7002
States mail or by any other means of delivery or transmission 7003
pursuant to this division. A public office that adopts a policy 7004
and procedures under this division shall comply with them in 7005
performing its duties under this division. 7006

In any policy and procedures adopted under this division, a 7007
public office may limit the number of records requested by a 7008
person that the office will transmit by United States mail to ten 7009

per month, unless the person certifies to the office in writing 7010
that the person does not intend to use or forward the requested 7011
records, or the information contained in them, for commercial 7012
purposes. For purposes of this division, "commercial" shall be 7013
narrowly construed and does not include reporting or gathering 7014
news, reporting or gathering information to assist citizen 7015
oversight or understanding of the operation or activities of 7016
government, or nonprofit educational research. 7017

(8) A public office or person responsible for public records 7018
is not required to permit a person who is incarcerated pursuant to 7019
a criminal conviction or a juvenile adjudication to inspect or to 7020
obtain a copy of any public record concerning a criminal 7021
investigation or prosecution or concerning what would be a 7022
criminal investigation or prosecution if the subject of the 7023
investigation or prosecution were an adult, unless the request to 7024
inspect or to obtain a copy of the record is for the purpose of 7025
acquiring information that is subject to release as a public 7026
record under this section and the judge who imposed the sentence 7027
or made the adjudication with respect to the person, or the 7028
judge's successor in office, finds that the information sought in 7029
the public record is necessary to support what appears to be a 7030
justiciable claim of the person. 7031

(9)(a) Upon written request made and signed by a journalist 7032
on or after December 16, 1999, a public office, or person 7033
responsible for public records, having custody of the records of 7034
the agency employing a specified peace officer, parole officer, 7035
probation officer, bailiff, prosecuting attorney, assistant 7036
prosecuting attorney, correctional employee, community-based 7037
correctional facility employee, youth services employee, 7038
firefighter, EMT, or investigator of the bureau of criminal 7039
identification and investigation shall disclose to the journalist 7040
the address of the actual personal residence of the peace officer, 7041

parole officer, probation officer, bailiff, prosecuting attorney, 7042
assistant prosecuting attorney, correctional employee, 7043
community-based correctional facility employee, youth services 7044
employee, firefighter, EMT, or investigator of the bureau of 7045
criminal identification and investigation and, if the peace 7046
officer's, parole officer's, probation officer's, bailiff's, 7047
prosecuting attorney's, assistant prosecuting attorney's, 7048
correctional employee's, community-based correctional facility 7049
employee's, youth services employee's, firefighter's, EMT's, or 7050
investigator of the bureau of criminal identification and 7051
investigation's spouse, former spouse, or child is employed by a 7052
public office, the name and address of the employer of the peace 7053
officer's, parole officer's, probation officer's, bailiff's, 7054
prosecuting attorney's, assistant prosecuting attorney's, 7055
correctional employee's, community-based correctional facility 7056
employee's, youth services employee's, firefighter's, EMT's, or 7057
investigator of the bureau of criminal identification and 7058
investigation's spouse, former spouse, or child. The request shall 7059
include the journalist's name and title and the name and address 7060
of the journalist's employer and shall state that disclosure of 7061
the information sought would be in the public interest. 7062

(b) Division (B)(9)(a) of this section also applies to 7063
journalist requests for customer information maintained by a 7064
municipally owned or operated public utility, other than social 7065
security numbers and any private financial information such as 7066
credit reports, payment methods, credit card numbers, and bank 7067
account information. 7068

(c) As used in division (B)(9) of this section, "journalist" 7069
means a person engaged in, connected with, or employed by any news 7070
medium, including a newspaper, magazine, press association, news 7071
agency, or wire service, a radio or television station, or a 7072
similar medium, for the purpose of gathering, processing, 7073

transmitting, compiling, editing, or disseminating information for 7074
the general public. 7075

(C)(1) If a person allegedly is aggrieved by the failure of a 7076
public office or the person responsible for public records to 7077
promptly prepare a public record and to make it available to the 7078
person for inspection in accordance with division (B) of this 7079
section or by any other failure of a public office or the person 7080
responsible for public records to comply with an obligation in 7081
accordance with division (B) of this section, the person allegedly 7082
aggrieved may commence a mandamus action to obtain a judgment that 7083
orders the public office or the person responsible for the public 7084
record to comply with division (B) of this section, that awards 7085
court costs and reasonable attorney's fees to the person that 7086
instituted the mandamus action, and, if applicable, that includes 7087
an order fixing statutory damages under division (C)(1) of this 7088
section. The mandamus action may be commenced in the court of 7089
common pleas of the county in which division (B) of this section 7090
allegedly was not complied with, in the supreme court pursuant to 7091
its original jurisdiction under Section 2 of Article IV, Ohio 7092
Constitution, or in the court of appeals for the appellate 7093
district in which division (B) of this section allegedly was not 7094
complied with pursuant to its original jurisdiction under Section 7095
3 of Article IV, Ohio Constitution. 7096

If a requestor transmits a written request by hand delivery 7097
or certified mail to inspect or receive copies of any public 7098
record in a manner that fairly describes the public record or 7099
class of public records to the public office or person responsible 7100
for the requested public records, except as otherwise provided in 7101
this section, the requestor shall be entitled to recover the 7102
amount of statutory damages set forth in this division if a court 7103
determines that the public office or the person responsible for 7104
public records failed to comply with an obligation in accordance 7105

with division (B) of this section. 7106

The amount of statutory damages shall be fixed at one hundred 7107
dollars for each business day during which the public office or 7108
person responsible for the requested public records failed to 7109
comply with an obligation in accordance with division (B) of this 7110
section, beginning with the day on which the requester files a 7111
mandamus action to recover statutory damages, up to a maximum of 7112
one thousand dollars. The award of statutory damages shall not be 7113
construed as a penalty, but as compensation for injury arising 7114
from lost use of the requested information. The existence of this 7115
injury shall be conclusively presumed. The award of statutory 7116
damages shall be in addition to all other remedies authorized by 7117
this section. 7118

The court may reduce an award of statutory damages or not 7119
award statutory damages if the court determines both of the 7120
following: 7121

(a) That, based on the ordinary application of statutory law 7122
and case law as it existed at the time of the conduct or 7123
threatened conduct of the public office or person responsible for 7124
the requested public records that allegedly constitutes a failure 7125
to comply with an obligation in accordance with division (B) of 7126
this section and that was the basis of the mandamus action, a 7127
well-informed public office or person responsible for the 7128
requested public records reasonably would believe that the conduct 7129
or threatened conduct of the public office or person responsible 7130
for the requested public records did not constitute a failure to 7131
comply with an obligation in accordance with division (B) of this 7132
section; 7133

(b) That a well-informed public office or person responsible 7134
for the requested public records reasonably would believe that the 7135
conduct or threatened conduct of the public office or person 7136
responsible for the requested public records would serve the 7137

public policy that underlies the authority that is asserted as 7138
permitting that conduct or threatened conduct. 7139

(2)(a) If the court issues a writ of mandamus that orders the 7140
public office or the person responsible for the public record to 7141
comply with division (B) of this section and determines that the 7142
circumstances described in division (C)(1) of this section exist, 7143
the court shall determine and award to the relator all court 7144
costs. 7145

(b) If the court renders a judgment that orders the public 7146
office or the person responsible for the public record to comply 7147
with division (B) of this section, the court may award reasonable 7148
attorney's fees subject to reduction as described in division 7149
(C)(2)(c) of this section. The court shall award reasonable 7150
attorney's fees, subject to reduction as described in division 7151
(C)(2)(c) of this section when either of the following applies: 7152

(i) The public office or the person responsible for the 7153
public records failed to respond affirmatively or negatively to 7154
the public records request in accordance with the time allowed 7155
under division (B) of this section. 7156

(ii) The public office or the person responsible for the 7157
public records promised to permit the relator to inspect or 7158
receive copies of the public records requested within a specified 7159
period of time but failed to fulfill that promise within that 7160
specified period of time. 7161

(c) Court costs and reasonable attorney's fees awarded under 7162
this section shall be construed as remedial and not punitive. 7163
Reasonable attorney's fees shall include reasonable fees incurred 7164
to produce proof of the reasonableness and amount of the fees and 7165
to otherwise litigate entitlement to the fees. The court may 7166
reduce an award of attorney's fees to the relator or not award 7167
attorney's fees to the relator if the court determines both of the 7168

following: 7169

(i) That, based on the ordinary application of statutory law 7170
and case law as it existed at the time of the conduct or 7171
threatened conduct of the public office or person responsible for 7172
the requested public records that allegedly constitutes a failure 7173
to comply with an obligation in accordance with division (B) of 7174
this section and that was the basis of the mandamus action, a 7175
well-informed public office or person responsible for the 7176
requested public records reasonably would believe that the conduct 7177
or threatened conduct of the public office or person responsible 7178
for the requested public records did not constitute a failure to 7179
comply with an obligation in accordance with division (B) of this 7180
section; 7181

(ii) That a well-informed public office or person responsible 7182
for the requested public records reasonably would believe that the 7183
conduct or threatened conduct of the public office or person 7184
responsible for the requested public records as described in 7185
division (C)(2)(c)(i) of this section would serve the public 7186
policy that underlies the authority that is asserted as permitting 7187
that conduct or threatened conduct. 7188

(D) Chapter 1347. of the Revised Code does not limit the 7189
provisions of this section. 7190

(E)(1) To ensure that all employees of public offices are 7191
appropriately educated about a public office's obligations under 7192
division (B) of this section, all elected officials or their 7193
appropriate designees shall attend training approved by the 7194
attorney general as provided in section 109.43 of the Revised 7195
Code. In addition, all public offices shall adopt a public records 7196
policy in compliance with this section for responding to public 7197
records requests. In adopting a public records policy under this 7198
division, a public office may obtain guidance from the model 7199
public records policy developed and provided to the public office 7200

by the attorney general under section 109.43 of the Revised Code. 7201
Except as otherwise provided in this section, the policy may not 7202
limit the number of public records that the public office will 7203
make available to a single person, may not limit the number of 7204
public records that it will make available during a fixed period 7205
of time, and may not establish a fixed period of time before it 7206
will respond to a request for inspection or copying of public 7207
records, unless that period is less than eight hours. 7208

(2) The public office shall distribute the public records 7209
policy adopted by the public office under division (E)(1) of this 7210
section to the employee of the public office who is the records 7211
custodian or records manager or otherwise has custody of the 7212
records of that office. The public office shall require that 7213
employee to acknowledge receipt of the copy of the public records 7214
policy. The public office shall create a poster that describes its 7215
public records policy and shall post the poster in a conspicuous 7216
place in the public office and in all locations where the public 7217
office has branch offices. The public office may post its public 7218
records policy on the internet web site of the public office if 7219
the public office maintains an internet web site. A public office 7220
that has established a manual or handbook of its general policies 7221
and procedures for all employees of the public office shall 7222
include the public records policy of the public office in the 7223
manual or handbook. 7224

(F)(1) The bureau of motor vehicles may adopt rules pursuant 7225
to Chapter 119. of the Revised Code to reasonably limit the number 7226
of bulk commercial special extraction requests made by a person 7227
for the same records or for updated records during a calendar 7228
year. The rules may include provisions for charges to be made for 7229
bulk commercial special extraction requests for the actual cost of 7230
the bureau, plus special extraction costs, plus ten per cent. The 7231
bureau may charge for expenses for redacting information, the 7232

release of which is prohibited by law. 7233

(2) As used in division (F)(1) of this section: 7234

(a) "Actual cost" means the cost of depleted supplies, 7235
records storage media costs, actual mailing and alternative 7236
delivery costs, or other transmitting costs, and any direct 7237
equipment operating and maintenance costs, including actual costs 7238
paid to private contractors for copying services. 7239

(b) "Bulk commercial special extraction request" means a 7240
request for copies of a record for information in a format other 7241
than the format already available, or information that cannot be 7242
extracted without examination of all items in a records series, 7243
class of records, or data base by a person who intends to use or 7244
forward the copies for surveys, marketing, solicitation, or resale 7245
for commercial purposes. "Bulk commercial special extraction 7246
request" does not include a request by a person who gives 7247
assurance to the bureau that the person making the request does 7248
not intend to use or forward the requested copies for surveys, 7249
marketing, solicitation, or resale for commercial purposes. 7250

(c) "Commercial" means profit-seeking production, buying, or 7251
selling of any good, service, or other product. 7252

(d) "Special extraction costs" means the cost of the time 7253
spent by the lowest paid employee competent to perform the task, 7254
the actual amount paid to outside private contractors employed by 7255
the bureau, or the actual cost incurred to create computer 7256
programs to make the special extraction. "Special extraction 7257
costs" include any charges paid to a public agency for computer or 7258
records services. 7259

(3) For purposes of divisions (F)(1) and (2) of this section, 7260
"surveys, marketing, solicitation, or resale for commercial 7261
purposes" shall be narrowly construed and does not include 7262
reporting or gathering news, reporting or gathering information to 7263

assist citizen oversight or understanding of the operation or 7264
activities of government, or nonprofit educational research. 7265

Sec. 151.01. (A) As used in sections 151.01 to 151.11 and 7266
151.40 of the Revised Code and in the applicable bond proceedings 7267
unless otherwise provided: 7268

(1) "Bond proceedings" means the resolutions, orders, 7269
agreements, and credit enhancement facilities, and amendments and 7270
supplements to them, or any one or more or combination of them, 7271
authorizing, awarding, or providing for the terms and conditions 7272
applicable to or providing for the security or liquidity of, the 7273
particular obligations, and the provisions contained in those 7274
obligations. 7275

(2) "Bond service fund" means the respective bond service 7276
fund created by section 151.03, 151.04, 151.05, 151.06, 151.07, 7277
151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code, and 7278
any accounts in that fund, including all moneys and investments, 7279
and earnings from investments, credited and to be credited to that 7280
fund and accounts as and to the extent provided in the applicable 7281
bond proceedings. 7282

(3) "Capital facilities" means capital facilities or projects 7283
as referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 7284
151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code. 7285

(4) "Costs of capital facilities" means the costs of 7286
acquiring, constructing, reconstructing, rehabilitating, 7287
remodeling, renovating, enlarging, improving, equipping, or 7288
furnishing capital facilities, and of the financing of those 7289
costs. "Costs of capital facilities" includes, without limitation, 7290
and in addition to costs referred to in section 151.03, 151.04, 7291
151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 7292
of the Revised Code, the cost of clearance and preparation of the 7293
site and of any land to be used in connection with capital 7294

facilities, the cost of any indemnity and surety bonds and 7295
premiums on insurance, all related direct administrative expenses 7296
and allocable portions of direct costs of the issuing authority, 7297
costs of engineering and architectural services, designs, plans, 7298
specifications, surveys, and estimates of cost, financing costs, 7299
interest on obligations, including but not limited to, interest 7300
from ~~their~~ the date of their issuance to the time when interest is 7301
to be paid from sources other than proceeds of obligations, 7302
amounts necessary to establish any reserves as required by the 7303
bond proceedings, the reimbursement of all moneys advanced or 7304
applied by or borrowed from any person or governmental agency or 7305
entity for the payment of any item of costs of capital facilities, 7306
and all other expenses necessary or incident to planning or 7307
determining feasibility or practicability with respect to capital 7308
facilities, and such other expenses as may be necessary or 7309
incident to the acquisition, construction, reconstruction, 7310
rehabilitation, remodeling, renovation, enlargement, improvement, 7311
equipment, and furnishing of capital facilities, the financing of 7312
those costs, and the placing of the capital facilities in use and 7313
operation, including any one, part of, or combination of those 7314
classes of costs and expenses. For purposes of sections 122.085 to 7315
122.0820 of the Revised Code, "costs of capital facilities" 7316
includes "allowable costs" as defined in section 122.085 of the 7317
Revised Code. 7318

(5) "Credit enhancement facilities," "financing costs," and 7319
"interest" or "interest equivalent" have the same meanings as in 7320
section 133.01 of the Revised Code. 7321

(6) "Debt service" means principal, including any mandatory 7322
sinking fund or redemption requirements for retirement of 7323
obligations, interest and other accreted amounts, interest 7324
equivalent, and any redemption premium, payable on obligations. If 7325
not prohibited by the applicable bond proceedings, debt service 7326

may include costs relating to credit enhancement facilities that 7327
are related to and represent, or are intended to provide a source 7328
of payment of or limitation on, other debt service. 7329

(7) "Issuing authority" means the Ohio public facilities 7330
commission created in section 151.02 of the Revised Code for 7331
obligations issued under section 151.03, 151.04, 151.05, 151.07, 7332
151.08, 151.09, 151.10, or 151.11 of the Revised Code, or the 7333
treasurer of state, or the officer who by law performs the 7334
functions of that office, for obligations issued under section 7335
151.06 or 151.40 of the Revised Code. 7336

(8) "Net proceeds" means amounts received from the sale of 7337
obligations, excluding amounts used to refund or retire 7338
outstanding obligations, amounts required to be deposited into 7339
special funds pursuant to the applicable bond proceedings, and 7340
amounts to be used to pay financing costs. 7341

(9) "Obligations" means bonds, notes, or other evidences of 7342
obligation of the state, including any appertaining interest 7343
coupons, issued under Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of 7344
Article VIII, Ohio Constitution, and pursuant to sections 151.01 7345
to 151.11 or 151.40 of the Revised Code or other general assembly 7346
authorization. 7347

(10) "Principal amount" means the aggregate of the amount as 7348
stated or provided for in the applicable bond proceedings as the 7349
amount on which interest or interest equivalent on particular 7350
obligations is initially calculated. Principal amount does not 7351
include any premium paid to the state by the initial purchaser of 7352
the obligations. "Principal amount" of a capital appreciation 7353
bond, as defined in division (C) of section 3334.01 of the Revised 7354
Code, means its face amount, and "principal amount" of a zero 7355
coupon bond, as defined in division (J) of section 3334.01 of the 7356
Revised Code, means the discounted offering price at which the 7357
bond is initially sold to the public, disregarding any purchase 7358

price discount to the original purchaser, if provided for pursuant 7359
to the bond proceedings. 7360

(11) "Special funds" or "funds," unless the context indicates 7361
otherwise, means the bond service fund, and any other funds, 7362
including any reserve funds, created under the bond proceedings 7363
and stated to be special funds in those proceedings, including 7364
moneys and investments, and earnings from investments, credited 7365
and to be credited to the particular fund. Special funds do not 7366
include the school building program assistance fund created by 7367
section 3318.25 of the Revised Code, the higher education 7368
improvement fund created by division (F) of section 154.21 of the 7369
Revised Code, the higher education improvement taxable fund 7370
created by division (G) of section 154.21 of the Revised Code, the 7371
highway capital improvement bond fund created by section 5528.53 7372
of the Revised Code, the state parks and natural resources fund 7373
created by section 1557.02 of the Revised Code, the coal research 7374
and development fund created by section 1555.15 of the Revised 7375
Code, the clean Ohio conservation fund created by section 164.27 7376
of the Revised Code, the clean Ohio revitalization fund created by 7377
section 122.658 of the Revised Code, the job ready site 7378
development fund created by section 122.0820 of the Revised Code, 7379
the third frontier research and development fund created by 7380
section 184.19 of the Revised Code, the third frontier research 7381
and development taxable bond fund created by section 184.191 of 7382
the Revised Code, or other funds created by the bond proceedings 7383
that are not stated by those proceedings to be special funds. 7384

(B) Subject to Section 2l, 2m, 2n, 2o, 2p, 2q, or 15, and 7385
Section 17, of Article VIII, Ohio Constitution, the state, by the 7386
issuing authority, is authorized to issue and sell, as provided in 7387
sections 151.03 to 151.11 or 151.40 of the Revised Code, and in 7388
respective aggregate principal amounts as from time to time 7389
provided or authorized by the general assembly, general 7390

obligations of this state for the purpose of paying costs of 7391
capital facilities or projects identified by or pursuant to 7392
general assembly action. 7393

(C) Each issue of obligations shall be authorized by 7394
resolution or order of the issuing authority. The bond proceedings 7395
shall provide for or authorize the manner for determining the 7396
principal amount or maximum principal amount of obligations of an 7397
issue, the principal maturity or maturities, the interest rate or 7398
rates, the date of and the dates of payment of interest on the 7399
obligations, their denominations, and the place or places of 7400
payment of debt service which may be within or outside the state. 7401
Unless otherwise provided by law, the latest principal maturity 7402
may not be later than the earlier of the thirty-first day of 7403
December of the twenty-fifth calendar year after the year of 7404
issuance of the particular obligations or of the twenty-fifth 7405
calendar year after the year in which the original obligation to 7406
pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, 7407
and 9.983 of the Revised Code apply to obligations. The purpose of 7408
the obligations may be stated in the bond proceedings in general 7409
terms, such as, as applicable, "financing or assisting in the 7410
financing of projects as provided in Section 21 of Article VIII, 7411
Ohio Constitution," "financing or assisting in the financing of 7412
highway capital improvement projects as provided in Section 2m of 7413
Article VIII, Ohio Constitution," "paying costs of capital 7414
facilities for a system of common schools throughout the state as 7415
authorized by Section 2n of Article VIII, Ohio Constitution," 7416
"paying costs of capital facilities for state-supported and 7417
state-assisted institutions of higher education as authorized by 7418
Section 2n of Article VIII, Ohio Constitution," "paying costs of 7419
coal research and development as authorized by Section 15 of 7420
Article VIII, Ohio Constitution," "financing or assisting in the 7421
financing of local subdivision capital improvement projects as 7422
authorized by Section 2m of Article VIII, Ohio Constitution," 7423

"paying costs of conservation projects as authorized by Sections 7424
2o and 2q of Article VIII, Ohio Constitution," "paying costs of 7425
revitalization projects as authorized by Sections 2o and 2q of 7426
Article VIII, Ohio Constitution," "paying costs of preparing sites 7427
for industry, commerce, distribution, or research and development 7428
as authorized by Section 2p of Article VIII, Ohio Constitution," 7429
or "paying costs of research and development as authorized by 7430
Section 2p of Article VIII, Ohio Constitution." 7431

(D) The issuing authority may appoint or provide for the 7432
appointment of paying agents, bond registrars, securities 7433
depositories, clearing corporations, and transfer agents, and may 7434
without need for any other approval retain or contract for the 7435
services of underwriters, investment bankers, financial advisers, 7436
accounting experts, marketing, remarketing, indexing, and 7437
administrative agents, other consultants, and independent 7438
contractors, including printing services, as are necessary in the 7439
judgment of the issuing authority to carry out the issuing 7440
authority's functions under this chapter. When the issuing 7441
authority is the Ohio public facilities commission, the issuing 7442
authority also may without need for any other approval retain or 7443
contract for the services of attorneys and other professionals for 7444
that purpose. Financing costs are payable, as may be provided in 7445
the bond proceedings, from the proceeds of the obligations, from 7446
special funds, or from other moneys available for the purpose. 7447

(E) The bond proceedings may contain additional provisions 7448
customary or appropriate to the financing or to the obligations or 7449
to particular obligations including, but not limited to, 7450
provisions for: 7451

(1) The redemption of obligations prior to maturity at the 7452
option of the state or of the holder or upon the occurrence of 7453
certain conditions, and at particular price or prices and under 7454
particular terms and conditions; 7455

- (2) The form of and other terms of the obligations; 7456
- (3) The establishment, deposit, investment, and application 7457
of special funds, and the safeguarding of moneys on hand or on 7458
deposit, in lieu of the applicability of provisions of Chapter 7459
131. or 135. of the Revised Code, but subject to any special 7460
provisions of sections 151.01 to 151.11 or 151.40 of the Revised 7461
Code with respect to the application of particular funds or 7462
moneys. Any financial institution that acts as a depository of any 7463
moneys in special funds or other funds under the bond proceedings 7464
may furnish indemnifying bonds or pledge securities as required by 7465
the issuing authority. 7466
- (4) Any or every provision of the bond proceedings being 7467
binding upon the issuing authority and upon such governmental 7468
agency or entity, officer, board, commission, authority, agency, 7469
department, institution, district, or other person or body as may 7470
from time to time be authorized to take actions as may be 7471
necessary to perform all or any part of the duty required by the 7472
provision; 7473
- (5) The maintenance of each pledge or instrument comprising 7474
part of the bond proceedings until the state has fully paid or 7475
provided for the payment of the debt service on the obligations or 7476
met other stated conditions; 7477
- (6) In the event of default in any payments required to be 7478
made by the bond proceedings, or by any other agreement of the 7479
issuing authority made as part of a contract under which the 7480
obligations were issued or secured, including a credit enhancement 7481
facility, the enforcement of those payments by mandamus, a suit in 7482
equity, an action at law, or any combination of those remedial 7483
actions; 7484
- (7) The rights and remedies of the holders or owners of 7485
obligations or of book-entry interests in them, and of third 7486

parties under any credit enhancement facility, and provisions for 7487
protecting and enforcing those rights and remedies, including 7488
limitations on rights of individual holders or owners; 7489

(8) The replacement of mutilated, destroyed, lost, or stolen 7490
obligations; 7491

(9) The funding, refunding, or advance refunding, or other 7492
provision for payment, of obligations that will then no longer be 7493
outstanding for purposes of this section or of the applicable bond 7494
proceedings; 7495

(10) Amendment of the bond proceedings; 7496

(11) Any other or additional agreements with the owners of 7497
obligations, and such other provisions as the issuing authority 7498
determines, including limitations, conditions, or qualifications, 7499
relating to any of the foregoing. 7500

(F) The great seal of the state or a facsimile of it may be 7501
affixed to or printed on the obligations. The obligations 7502
requiring execution by or for the issuing authority shall be 7503
signed as provided in the bond proceedings. Any obligations may be 7504
signed by the individual who on the date of execution is the 7505
authorized signer although on the date of these obligations that 7506
individual is not an authorized signer. In case the individual 7507
whose signature or facsimile signature appears on any obligation 7508
ceases to be an authorized signer before delivery of the 7509
obligation, that signature or facsimile is nevertheless valid and 7510
sufficient for all purposes as if that individual had remained the 7511
authorized signer until delivery. 7512

(G) Obligations are investment securities under Chapter 1308. 7513
of the Revised Code. Obligations may be issued in bearer or in 7514
registered form, registrable as to principal alone or as to both 7515
principal and interest, or both, or in certificated or 7516
uncertificated form, as the issuing authority determines. 7517

Provision may be made for the exchange, conversion, or transfer of obligations and for reasonable charges for registration, exchange, conversion, and transfer. Pending preparation of final obligations, the issuing authority may provide for the issuance of interim instruments to be exchanged for the final obligations.

(H) Obligations may be sold at public sale or at private sale, in such manner, and at such price at, above or below par, all as determined by and provided by the issuing authority in the bond proceedings.

(I) Except to the extent that rights are restricted by the bond proceedings, any owner of obligations or provider of a credit enhancement facility may by any suitable form of legal proceedings protect and enforce any rights relating to obligations or that facility under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all applicable duties of the issuing authority and the state. Each duty of the issuing authority and that authority's officers, staff, and employees, and of each state entity or agency, or using district or using institution, and its officers, members, staff, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the entity or individual having authority to perform that duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The individuals who are from time to time the issuing authority, members or officers of the issuing authority, or those members' designees acting pursuant to section 151.02 of the Revised Code, or the issuing authority's officers, staff, or employees, are not liable in their personal capacities on any obligations or otherwise under the bond proceedings.

(J)(1) Subject to Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15, and Section 17, of Article VIII, Ohio Constitution and sections

151.01 to 151.11 or 151.40 of the Revised Code, the issuing 7550
authority may, in addition to the authority referred to in 7551
division (B) of this section, authorize and provide for the 7552
issuance of: 7553

(a) Obligations in the form of bond anticipation notes, and 7554
may provide for the renewal of those notes from time to time by 7555
the issuance of new notes. The holders of notes or appertaining 7556
interest coupons have the right to have debt service on those 7557
notes paid solely from the moneys and special funds that are or 7558
may be pledged to that payment, including the proceeds of bonds or 7559
renewal notes or both, as the issuing authority provides in the 7560
bond proceedings authorizing the notes. Notes may be additionally 7561
secured by covenants of the issuing authority to the effect that 7562
the issuing authority and the state will do all things necessary 7563
for the issuance of bonds or renewal notes in such principal 7564
amount and upon such terms as may be necessary to provide moneys 7565
to pay when due the debt service on the notes, and apply their 7566
proceeds to the extent necessary, to make full and timely payment 7567
of debt service on the notes as provided in the applicable bond 7568
proceedings. In the bond proceedings authorizing the issuance of 7569
bond anticipation notes the issuing authority shall set forth for 7570
the bonds anticipated an estimated schedule of annual principal 7571
payments the latest of which shall be no later than provided in 7572
division (C) of this section. While the notes are outstanding 7573
there shall be deposited, as shall be provided in the bond 7574
proceedings for those notes, from the sources authorized for 7575
payment of debt service on the bonds, amounts sufficient to pay 7576
the principal of the bonds anticipated as set forth in that 7577
estimated schedule during the time the notes are outstanding, 7578
which amounts shall be used solely to pay the principal of those 7579
notes or of the bonds anticipated. 7580

(b) Obligations for the refunding, including funding and 7581

retirement, and advance refunding with or without payment or 7582
redemption prior to maturity, of any obligations previously 7583
issued. Refunding obligations may be issued in amounts sufficient 7584
to pay or to provide for repayment of the principal amount, 7585
including principal amounts maturing prior to the redemption of 7586
the remaining prior obligations, any redemption premium, and 7587
interest accrued or to accrue to the maturity or redemption date 7588
or dates, payable on the prior obligations, and related financing 7589
costs and any expenses incurred or to be incurred in connection 7590
with that issuance and refunding. Subject to the applicable bond 7591
proceedings, the portion of the proceeds of the sale of refunding 7592
obligations issued under division (J)(1)(b) of this section to be 7593
applied to debt service on the prior obligations shall be credited 7594
to an appropriate separate account in the bond service fund and 7595
held in trust for the purpose by the issuing authority or by a 7596
corporate trustee. Obligations authorized under this division 7597
shall be considered to be issued for those purposes for which the 7598
prior obligations were issued. 7599

(2) Except as otherwise provided in sections 151.01 to 151.11 7600
or 151.40 of the Revised Code, bonds or notes authorized pursuant 7601
to division (J) of this section are subject to the provisions of 7602
those sections pertaining to obligations generally. 7603

(3) The principal amount of refunding or renewal obligations 7604
issued pursuant to division (J) of this section shall be in 7605
addition to the amount authorized by the general assembly as 7606
referred to in division (B) of the following sections: section 7607
151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 7608
151.11, or 151.40 of the Revised Code. 7609

(K) Obligations are lawful investments for banks, savings and 7610
loan associations, credit union share guaranty corporations, trust 7611
companies, trustees, fiduciaries, insurance companies, including 7612
domestic for life and domestic not for life, trustees or other 7613

officers having charge of sinking and bond retirement or other 7614
special funds of the state and political subdivisions and taxing 7615
districts of this state, the sinking fund, the administrator of 7616
workers' compensation subject to the approval of the workers' 7617
compensation board, the state teachers retirement system, the 7618
public employees retirement system, the school employees 7619
retirement system, and the Ohio police and fire pension fund, 7620
notwithstanding any other provisions of the Revised Code or rules 7621
adopted pursuant to those provisions by any state agency with 7622
respect to investments by them, and are also acceptable as 7623
security for the repayment of the deposit of public moneys. The 7624
exemptions from taxation in Ohio as provided for in particular 7625
sections of the Ohio Constitution and section 5709.76 of the 7626
Revised Code apply to the obligations. 7627

(L)(1) Unless otherwise provided or provided for in any 7628
applicable bond proceedings, moneys to the credit of or in a 7629
special fund shall be disbursed on the order of the issuing 7630
authority. No such order is required for the payment, from the 7631
bond service fund or other special fund, when due of debt service 7632
or required payments under credit enhancement facilities. 7633

(2) Payments received by the state under interest rate hedges 7634
entered into as credit enhancement facilities under this chapter 7635
shall be deposited to the credit of the bond service fund for the 7636
obligations to which those credit enhancement facilities relate. 7637

(M) The full faith and credit, revenue, and taxing power of 7638
the state are and shall be pledged to the timely payment of debt 7639
service on outstanding obligations as it comes due, all in 7640
accordance with Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of 7641
Article VIII, Ohio Constitution, and section 151.03, 151.04, 7642
151.05, 151.06, 151.07, 151.08, 151.09, 151.10, or 151.11 of the 7643
Revised Code. Moneys referred to in Section 5a of Article XII, 7644
Ohio Constitution, may not be pledged or used for the payment of 7645

debt service except on obligations referred to in section 151.06 7646
of the Revised Code. Net state lottery proceeds, as provided for 7647
and referred to in section 3770.06 of the Revised Code, may not be 7648
pledged or used for the payment of debt service except on 7649
obligations referred to in section 151.03 of the Revised Code. The 7650
state covenants, and that covenant shall be controlling 7651
notwithstanding any other provision of law, that the state and the 7652
applicable officers and agencies of the state, including the 7653
general assembly, shall, so long as any obligations are 7654
outstanding in accordance with their terms, maintain statutory 7655
authority for and cause to be levied, collected and applied 7656
sufficient pledged excises, taxes, and revenues of the state so 7657
that the revenues shall be sufficient in amounts to pay debt 7658
service when due, to establish and maintain any reserves and other 7659
requirements, and to pay financing costs, including costs of or 7660
relating to credit enhancement facilities, all as provided for in 7661
the bond proceedings. Those excises, taxes, and revenues are and 7662
shall be deemed to be levied and collected, in addition to the 7663
purposes otherwise provided for by law, to provide for the payment 7664
of debt service and financing costs in accordance with sections 7665
151.01 to 151.11 of the Revised Code and the bond proceedings. 7666

(N) The general assembly may from time to time repeal or 7667
reduce any excise, tax, or other source of revenue pledged to the 7668
payment of the debt service pursuant to Section 2k, 2l, 2m, 2n, 7669
2o, 2p, 2q, or 15 of Article VIII, Ohio Constitution, and sections 7670
151.01 to 151.11 or 151.40 of the Revised Code, and may levy, 7671
collect and apply any new or increased excise, tax, or revenue to 7672
meet the pledge, to the payment of debt service on outstanding 7673
obligations, of the state's full faith and credit, revenue and 7674
taxing power, or of designated revenues and receipts, except fees, 7675
excises or taxes referred to in Section 5a of Article XII, Ohio 7676
Constitution, for other than obligations referred to in section 7677
151.06 of the Revised Code and except net state lottery proceeds 7678

for other than obligations referred to in section 151.03 of the Revised Code. Nothing in division (N) of this section authorizes any impairment of the obligation of this state to levy and collect sufficient excises, taxes, and revenues to pay debt service on obligations outstanding in accordance with their terms.

(O) Each bond service fund is a trust fund and is hereby pledged to the payment of debt service on the applicable obligations. Payment of that debt service shall be made or provided for by the issuing authority in accordance with the bond proceedings without necessity for any act of appropriation. The bond proceedings may provide for the establishment of separate accounts in the bond service fund and for the application of those accounts only to debt service on specific obligations, and for other accounts in the bond service fund within the general purposes of that fund.

(P) Subject to the bond proceedings pertaining to any obligations then outstanding in accordance with their terms, the issuing authority may in the bond proceedings pledge all, or such portion as the issuing authority determines, of the moneys in the bond service fund to the payment of debt service on particular obligations, and for the establishment and maintenance of any reserves for payment of particular debt service.

(Q) The issuing authority shall by the fifteenth day of July of each fiscal year, certify or cause to be certified to the office of budget and management the total amount of moneys required during the current fiscal year to meet in full all debt service on the respective obligations and any related financing costs payable from the applicable bond service fund and not from the proceeds of refunding or renewal obligations. The issuing authority shall make or cause to be made supplemental certifications to the office of budget and management for each debt service payment date and at such other times during each

fiscal year as may be provided in the bond proceedings or 7711
requested by that office. Debt service, costs of credit 7712
enhancement facilities, and other financing costs shall be set 7713
forth separately in each certification. If and so long as the 7714
moneys to the credit of the bond service fund, together with any 7715
other moneys available for the purpose, are insufficient to meet 7716
in full all payments when due of the amount required as stated in 7717
the certificate or otherwise, the office of budget and management 7718
shall at the times as provided in the bond proceedings, and 7719
consistent with any particular provisions in sections 151.03 to 7720
151.11 and 151.40 of the Revised Code, transfer a sufficient 7721
amount to the bond service fund from the pledged revenues in the 7722
case of obligations issued pursuant to section 151.40 of the 7723
Revised Code, and in the case of other obligations from the 7724
revenues derived from excises, taxes, and other revenues, 7725
including net state lottery proceeds in the case of obligations 7726
referred to in section 151.03 of the Revised Code. 7727

(R) Unless otherwise provided in any applicable bond 7728
proceedings, moneys to the credit of special funds may be invested 7729
by or on behalf of the state only in one or more of the following: 7730

(1) Notes, bonds, or other direct obligations of the United 7731
States or of any agency or instrumentality of the United States, 7732
or in no-front-end-load money market mutual funds consisting 7733
exclusively of those obligations, or in repurchase agreements, 7734
including those issued by any fiduciary, secured by those 7735
obligations, or in collective investment funds consisting 7736
exclusively of those obligations; 7737

(2) Obligations of this state or any political subdivision of 7738
this state; 7739

(3) Certificates of deposit of any national bank located in 7740
this state and any bank, as defined in section 1101.01 of the 7741
Revised Code, subject to inspection by the superintendent of 7742

financial institutions; 7743

(4) The treasurer of state's pooled investment program under 7744
section 135.45 of the Revised Code. 7745

The income from investments referred to in division (R) of 7746
this section shall, unless otherwise provided in sections 151.01 7747
to 151.11 or 151.40 of the Revised Code, be credited to special 7748
funds or otherwise as the issuing authority determines in the bond 7749
proceedings. Those investments may be sold or exchanged at times 7750
as the issuing authority determines, provides for, or authorizes. 7751

(S) The treasurer of state shall have responsibility for 7752
keeping records, making reports, and making payments, relating to 7753
any arbitrage rebate requirements under the applicable bond 7754
proceedings. 7755

Sec. 152.18. Whenever the Ohio building authority constructs, 7756
reconstructs, rehabilitates, remodels, renovates, enlarges, 7757
improves, alters, maintains, equips, furnishes, repairs, paints, 7758
or decorates capital facilities pursuant to section 152.19, 7759
152.21, or 152.31 of the Revised Code or buildings, facilities, 7760
and other properties for use and occupancy of persons pursuant to 7761
section 152.04 of the Revised Code, the authority shall make the 7762
necessary plans and specifications, and shall advertise for bids 7763
for all work to be placed under contract once a week for two 7764
consecutive weeks in a newspaper of general circulation in the 7765
county within which the work is to be done, and shall award the 7766
contract to the lowest responsive and responsible bidder in 7767
accordance with section 9.312 of the Revised Code. When the 7768
authority determines, subject to approval by the controlling 7769
board, that a real and present emergency exists or if the cost of 7770
such a contract does not exceed fifty thousand dollars, such a 7771
contract may be awarded without advertising and receipt of bids. A 7772
bid guaranty pursuant to sections 153.54 to 153.571 of the Revised 7773

Code shall be required for any contract under this section. 7774

In all other cases of capital facilities financed by the 7775
authority, the construction, reconstruction, ~~rehabilitation,~~ 7776
~~remodeling, renovation,~~ enlargement, improvement, alteration, 7777
~~maintenance, equipping, furnishing,~~ repair, painting, or 7778
decoration of capital facilities by or for the state or any 7779
governmental entity shall be the responsibility of the ~~department~~ 7780
~~of administrative services~~ Ohio facilities construction commission 7781
or, with the consent of the ~~department of administrative services~~ 7782
Ohio facilities construction commission, shall be the 7783
responsibility of the state agency using the capital facility, or 7784
the governmental entity with which a state agency is participating 7785
pursuant to section 152.33 of the Revised Code, and shall be 7786
undertaken by the ~~department~~ commission in compliance with Chapter 7787
153. of the Revised Code, or by such state agency or governmental 7788
entity in accordance with otherwise applicable law. The 7789
rehabilitation, remodeling, renovation, maintenance, equipping, or 7790
furnishing of capital facilities by or for the state or any 7791
governmental entity shall be the responsibility of the department 7792
of administrative services or, with the consent of the department, 7793
the state agency or other governmental entity that is using the 7794
capital facility. 7795

Sec. 152.24. (A) Except as otherwise provided with respect to 7796
leasing of capital facilities in sections 152.241, 152.242, 7797
152.31, and 152.33 of the Revised Code, the department of 7798
administrative services or, with the consent of the department of 7799
administrative services, the state agency using an office facility 7800
and related storage and parking facilities, or participating in 7801
such facilities pursuant to section 152.33 of the Revised Code, 7802
shall lease any office facility and related storage and parking 7803
facility acquired, purchased, constructed, reconstructed, 7804
rehabilitated, remodeled, renovated, enlarged, improved, altered, 7805

operated, maintained, equipped, furnished, repaired, painted, 7806
decorated, or financed by the Ohio building authority for housing 7807
any state agencies. An agreement between the authority and the 7808
department of administrative services or such using or 7809
participating agency may provide for the transfer of the property 7810
to the state after bonds and notes issued by the authority for the 7811
purpose of the acquisition, purchase, construction, 7812
reconstruction, rehabilitation, remodeling, renovation, 7813
enlargement, improvement, alteration, equipping, furnishing, 7814
repair, painting, decorating, or financing of such building or 7815
facility have been repaid. A lease between the authority and the 7816
department of administrative services or a using or participating 7817
agency shall be for a period not exceeding the then current 7818
two-year period for which appropriations have been made by the 7819
general assembly to the department of administrative services and 7820
the state agencies which will occupy or participate in the office 7821
facility and related storage and parking facility being leased, 7822
and such lease may contain such other terms as the department of 7823
administrative services, or a using or participating agency, and 7824
the authority agree notwithstanding any other provision of law, 7825
including provision that rental payments in amounts at least 7826
sufficient to pay bond service charges payable during the current 7827
two-year lease term shall be an absolute and unconditional 7828
obligation of the department of administrative services, or the 7829
using or participating agency, independent of all other duties 7830
under the lease without setoff or deduction or any other similar 7831
rights or defenses. Such an agreement may provide for renewal of a 7832
lease at the end of each term for another term, not exceeding two 7833
years, provided that no renewal shall be effective until the 7834
effective date of an appropriation enacted by the general assembly 7835
from which the department of administrative services, or the using 7836
or participating agency, may lawfully pay rentals under such 7837
lease. For purposes of this section, the term "lease" may include, 7838

without limitation, any agreement between the department of 7839
administrative services, or the using or participating agency, and 7840
the authority with respect to any costs of capital facilities to 7841
be incurred prior to land acquisition. 7842

(B) If the director of administrative services or the 7843
director of a state agency using or participating in an office 7844
facility and related storage and parking facility certifies that 7845
space in such facility acquired, purchased, constructed, 7846
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7847
improved, altered, operated, maintained, equipped, furnished, 7848
repaired, painted, decorated, or financed by the authority has 7849
become unnecessary for state use, the authority may lease any 7850
excess space in such facility and related storage and parking 7851
facility to any governmental entity. 7852

(C) If space in any office facility leased by the authority 7853
to the department of administrative services is not immediately 7854
necessary for state use, the department of administrative services 7855
may exercise its authority under division (A)~~(9)~~(5) of section 7856
123.01 of the Revised Code with respect to such space. 7857

(D) Capital facilities acquired, purchased, constructed, 7858
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7859
improved, altered, operated, maintained, equipped, furnished, 7860
repaired, painted, decorated, or financed by the Ohio building 7861
authority, other than any office facility and related storage and 7862
parking facility required to be leased pursuant to division (A) of 7863
this section, shall be leased to the department of administrative 7864
services, the state agency using the capital facilities, or the 7865
state agency participating in the capital facilities pursuant to 7866
section 152.33 of the Revised Code. The department of 7867
administrative services or the using or participating state agency 7868
may sublease such capital facilities to other state agencies or 7869
other governmental entities. Such parties, including other state 7870

agencies or state-supported or state-assisted institutions of 7871
higher education, may make other agreements for the use, 7872
construction, or operation of such capital facilities in any 7873
manner permitted by the lease or agreement with the authority and 7874
for the charging, collection, and deposit of such revenues and 7875
receipts of the using or participating state agency constituting 7876
available receipts, all upon such terms and conditions as the 7877
parties may agree upon and pursuant to this chapter 7878
notwithstanding other provisions of law affecting the leasing, 7879
acquisition, operation, or disposition of capital facilities by 7880
such parties. Any such lease between the authority and the 7881
department of administrative services or a using or participating 7882
state agency shall be for a period not to exceed the then current 7883
two-year period for which appropriations have been made by the 7884
general assembly to the department of administrative services or 7885
such using or participating state agency. The lease between the 7886
authority and the department of administrative services or the 7887
using or participating state agency may provide for renewal of the 7888
lease at the end of each term for another term, not exceeding two 7889
years, but no renewal shall be effective until the effective date 7890
of an appropriation enacted by the general assembly from which the 7891
department of administrative services or the using or 7892
participating state agency may lawfully pay rentals under such 7893
lease. Any such leases, subleases, or agreements may set forth the 7894
responsibilities of the authority, state agencies, 7895
state-supported, or state-assisted institutions of higher 7896
education, or other governmental entities as to the financing, 7897
assessment, planning, acquisition, purchase, construction, 7898
reconstruction, rehabilitation, remodeling, renovation, 7899
enlargement, improvement, alteration, subleasing, management, 7900
operation, maintenance, equipping, furnishing, repair, painting, 7901
decorating, and insuring of such capital facilities and other 7902
terms and conditions applicable thereto, and any other provisions 7903

mutually agreed upon for the purposes of this chapter. Promptly 7904
upon execution thereof, a signed or conformed copy of each such 7905
lease or sublease or agreement, and any supplement thereto, 7906
between the authority and a governmental entity shall be filed by 7907
the authority with the department of administrative services and 7908
the director of budget and management, and, promptly upon 7909
execution thereof, a signed or conformed copy of each such 7910
sublease or agreement between two governmental entities, not 7911
including the authority, shall be filed with the authority and the 7912
director of budget and management. For purposes of this section, 7913
the term "lease" may include, without limitation, any agreement 7914
between the department of administrative services or the state 7915
agency using or participating in such capital facilities and the 7916
authority with respect to any costs of capital facilities to be 7917
incurred prior to land acquisition. 7918

(E) The transfer of tangible personal property by lease under 7919
authority of this chapter is not a sale as used in Chapter 5739. 7920
of the Revised Code. Any agreement of a governmental entity to 7921
make rental, use, or other payments or payment of purchase price, 7922
in installments or otherwise, or repayments to or on account of 7923
the authority and the obligations issued by the authority, shall 7924
not be deemed to constitute indebtedness, bonded or otherwise, or 7925
bonds, notes, or other evidence of indebtedness of such 7926
governmental entity for the purpose of Chapter 133. of the Revised 7927
Code or any other purpose; such leases and agreements requiring 7928
payments beyond the current fiscal year are continuing contracts 7929
for the purposes of sections 5705.41 and 5705.44 of the Revised 7930
Code. 7931

(F) Any agreement between the department of administrative 7932
services or the state agency using or participating in such 7933
capital facilities and the authority that includes provision for 7934
the use of space by such using or participating state agency or 7935

the department of administrative services, even if executed prior 7936
to land acquisition or completion of construction, improvements, 7937
or financing, shall be a lease for purposes of this chapter and 7938
for all other purposes. No such lease need be recorded or 7939
recordable for purposes of determining its validity or legal 7940
sufficiency. 7941

Sec. 153.01. (A) Whenever any building or structure for the 7942
use of the state or any institution supported in whole or in part 7943
by the state or in or upon the public works of the state that is 7944
administered by the ~~director of administrative services~~ Ohio 7945
facilities construction commission or by any other state officer 7946
or state agency authorized by law to administer a project, 7947
including an educational institution listed in section 3345.50 of 7948
the Revised Code, is to be erected or constructed, whenever 7949
additions, alterations, or structural or other improvements are to 7950
be made, or whenever heating, cooling, or ventilating plants or 7951
other equipment is to be installed or material supplied therefor, 7952
the estimated cost of which amounts to two hundred thousand 7953
dollars or more, or the amount determined pursuant to section 7954
153.53 of the Revised Code or more, each officer, board, or other 7955
authority upon which devolves the duty of constructing, erecting, 7956
altering, or installing the same, referred to in sections 153.01 7957
to 153.60 of the Revised Code as the public authority, shall cause 7958
to be made, by an architect or engineer whose contract of 7959
employment shall be prepared and approved by the attorney general, 7960
the following: 7961

(1) Full and accurate plans, suitable for the use of 7962
mechanics and other builders in the construction, improvement, 7963
addition, alteration, or installation; 7964

(2) Details to scale and full-sized, so drawn and represented 7965
as to be easily understood; 7966

(3) Definite and complete specifications of the work to be performed, together with directions that will enable a competent mechanic or other builder to carry them out and afford bidders all needful information;

(4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense;

(5) A life-cycle cost analysis;

(6) Further data as may be required by the ~~department of administrative services~~ Ohio facilities construction commission.

(B) Division (A) of this section shall not be required with respect to a construction management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code. No such construction management contract or design-build contract shall be entered into until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

Sec. 153.011. (A) Except as provided in division (D) of this section, whenever any building or structure, including highway improvements, in whole or in part supported by state capital funds, including moneys from the education facilities trust fund, is to be erected or constructed, or whenever additions, alterations, or structural or other improvements are to be made, if any steel products are to be purchased for or provided in the construction, repair, or improvement project, only steel products as defined in division (F) of this section shall be purchased for or provided in the project.

(B)(1) No person shall purchase or provide steel products in violation of division (A) of this section.

(2) Notwithstanding division (B) of section 153.99 of the Revised Code, no person who purchases steel products in violation of division (A) of this section shall be held liable in a civil action commenced under division (C) of this section, or pay a civil penalty under division (B) of section 153.99 of the Revised Code, if that person can demonstrate the person's compliance with division (E) of this section.

(C) Whenever the executive director of administrative services the Ohio facilities construction commission has reasonable cause to believe that any person has purchased or provided steel products in violation of division (A) of this section, the executive director shall conduct an investigation to determine whether the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section. Upon conducting the investigation, if the executive director finds that the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section, the executive director shall request the attorney general to commence a civil action under this section against the person for violating division (A) of this section. The remedy provided in this section is concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other. Upon collection of the civil penalty under division (B) of section 153.99 of the Revised Code, pursuant to an action authorized under this section, the attorney general shall pay the money collected to the treasurer of the board of education of the city, local, or exempted village school district and joint vocational school district, if one exists, in which the construction, repair, or improvement project for which the steel products used in violation of division (A) of this section is located. The treasurer shall deposit the civil penalty in equal amounts into the school district's general fund and the joint vocational school district's

general fund. If a joint vocational school district does not exist 8030
where the violation occurred, then the entire sum of the civil 8031
penalty shall be deposited into the school district's general 8032
fund. 8033

(D) Pursuant to section 5525.21 of the Revised Code, the 8034
director of transportation may authorize the purchase or provision 8035
or both of a minimal amount of foreign steel products for use in 8036
contracts for public bridge projects. 8037

The executive director of ~~administrative services~~ the Ohio 8038
facilities construction commission may waive the requirements of 8039
division (A) of this section if the executive director determines 8040
that either division (A) or (B) of section 5525.21 of the Revised 8041
Code is true in connection with a public bridge project. The 8042
executive director shall issue this determination in writing. 8043

(E) The following notice shall be included in boldface type 8044
and capital letters in all bid notifications and specifications 8045
between all parties to any contract authorized under Chapter 153. 8046
of the Revised Code or subject to this section and section 153.99 8047
of the Revised Code: "Domestic steel use requirements as specified 8048
in section 153.011 of the Revised Code apply to this project. 8049
Copies of section 153.011 of the Revised Code can be obtained from 8050
~~any of the offices~~ office of the ~~department of administrative~~ 8051
~~services~~ Ohio facilities construction commission." 8052

(F) As used in this section: 8053

(1) "Steel products" means products rolled, formed, shaped, 8054
drawn, extruded, forged, cast, fabricated or otherwise similarly 8055
processed, or processed by a combination of two or more of such 8056
operations, and used for load-bearing structural purposes, from 8057
steel made in the United States by the open hearth, basic oxygen, 8058
electric furnace, bessemer or other steel making process. 8059

(2) "United States" means the United States of America and 8060

includes all territory, continental or insular, subject to the 8061
jurisdiction of the United States. 8062

Sec. 153.013. If a project for the construction, alteration, 8063
or other improvement of a building or structure is administered by 8064
the executive director of ~~administrative services~~ the Ohio 8065
facilities construction commission or by another state agency 8066
authorized to administer a project under this chapter, if the 8067
project is located in a municipal corporation with a population of 8068
at least four hundred thousand that is in a county with a 8069
population of at least one million two hundred thousand, and if a 8070
political subdivision contributes at least one hundred thousand 8071
dollars to the project, then a contractor for the project shall 8072
comply with regulations or ordinances of the political subdivision 8073
that are in effect before July 1, 2009, and that specifically 8074
relate to the employment of residents and local businesses of the 8075
political subdivision in the performance of the work of the 8076
project, and such ordinances or regulations shall be included by 8077
reference unambiguously in the contract between the administering 8078
state agency and the contractor for the project. 8079

Sec. 153.02. (A) The executive director of ~~administrative~~ 8080
~~services, on the director's own initiative or upon request of the~~ 8081
Ohio ~~school~~ facilities construction commission, may debar a 8082
contractor from contract awards for public improvements as 8083
referred to in section 153.01 of the Revised Code or for projects 8084
as defined in section 3318.01 of the Revised Code, upon proof that 8085
the contractor has done any of the following: 8086

(1) Defaulted on a contract requiring the execution of a 8087
takeover agreement as set forth in division (B) of section 153.17 8088
of the Revised Code; 8089

(2) Knowingly failed during the course of a contract to 8090

| | |
|---|--|
| maintain the coverage required by the bureau of workers' compensation; | 8091 8092 |
| (3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract; | 8093 8094 8095 |
| (4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code, or to the commission and school district board, as provided in division (F) of section 3318.08 of the Revised Code; | 8096 8097 8098 8099 8100 8101 |
| (5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 or section 3318.10 of the Revised Code; | 8102 8103 8104 |
| (6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity; | 8105 8106 8107 8108 8109 8110 |
| (7) Been convicted of a criminal offense under state or federal antitrust laws; | 8111 8112 |
| (8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract; | 8113 8114 8115 |
| (9) Been debarred from bidding on or participating in a contract with any state or federal agency. | 8116 8117 |
| (B) When the <u>executive</u> director reasonably believes that grounds for debarment exist, the <u>executive</u> director shall send the contractor a notice of proposed debarment indicating the grounds | 8118 8119 8120 |

for the proposed debarment and the procedure for requesting a 8121
hearing on the proposed debarment. The hearing shall be conducted 8122
in accordance with Chapter 119. of the Revised Code. If the 8123
contractor does not respond with a request for a hearing in the 8124
manner specified in Chapter 119. of the Revised Code, the 8125
executive director shall issue the debarment decision without a 8126
hearing and shall notify the contractor of the decision by 8127
certified mail, return receipt requested. 8128

(C) The executive director shall determine the length of the 8129
debarment period and may rescind the debarment at any time upon 8130
notification to the contractor. During the period of debarment, 8131
the contractor is not eligible to bid for or participate in any 8132
contract for a public improvement as referred to in section 153.01 8133
of the Revised Code or for a project as defined in section 3318.01 8134
of the Revised Code. After the debarment period expires, the 8135
contractor shall be eligible to bid for and participate in such 8136
contracts. 8137

(D) The executive director, ~~through the office of the state~~ 8138
~~architect,~~ shall maintain a list of all contractors currently 8139
debarred under this section. Any governmental entity awarding a 8140
contract for construction of a public improvement or project may 8141
use a contractor's presence on the debarment list to determine 8142
whether a contractor is responsible or best under section 9.312 or 8143
any other section of the Revised Code in the award of a contract. 8144

Sec. 153.04. The plans, details, bills of material, 8145
specifications of work, estimates of cost in detail and in the 8146
aggregate, life-cycle cost analysis, form of bid, bid guaranty, 8147
and other data that may be required shall be prepared on such 8148
material and in such manner and form as are prescribed by the 8149
~~department of administrative services~~ Ohio facilities construction 8150
commission. The life-cycle costs shall be a primary consideration 8151

in the selection of a design. The same shall be deposited and 8152
safely kept in the office of the owner as defined in section 8153
153.01 of the Revised Code as the property of the state. 8154

Sec. 153.06. After the proceedings required by sections 8155
153.01 and 153.04 of the Revised Code have been complied with, the 8156
owner referred to in section 153.01 of the Revised Code shall give 8157
public notice of the time and place when and where bids will be 8158
received for performing the labor and furnishing the materials of 8159
such construction, improvement, alteration, addition, or 8160
installation, and a contract awarded, except for materials 8161
manufactured by the state or labor supplied by a county department 8162
of job and family services that may enter into the same. The form 8163
of bid approved by the ~~department of administrative services~~ Ohio 8164
facilities construction commission shall be used, and a bid shall 8165
be invalid and not considered unless such form is used without 8166
change, alteration, or addition. Bidders may be permitted to bid 8167
upon all the branches of work and materials to be furnished and 8168
supplied, or upon any thereof, or alternately upon all or any 8169
thereof. 8170

Sec. 153.07. The notice provided for in section 153.06 of the 8171
Revised Code shall be published once each week for three 8172
consecutive weeks in a newspaper of general circulation, or as 8173
provided in section 7.16 of the Revised Code, in the county where 8174
the activity for which bids are submitted is to occur and in such 8175
other newspapers as ordered by the ~~department of administrative~~ 8176
~~services~~ Ohio facilities construction commission, the last 8177
publication to be at least eight days preceding the day for 8178
opening the bids, and in such form and with such phraseology as 8179
the ~~department~~ commission orders. Copies of the plans, details, 8180
estimates of cost, and specifications shall be open to public 8181
inspection at all business hours between the day of the first 8182

publication and the day for opening the bids, at the office of the 8183
~~department~~ commission where the bids are received, and such other 8184
place as may be designated in such notice. 8185

Sec. 153.08. On the day and at the place named in the notice 8186
provided for in section 153.06 of the Revised Code, the owner 8187
referred to in section 153.01 of the Revised Code shall open the 8188
bids and shall publicly, with the assistance of the architect or 8189
engineer, immediately proceed to tabulate the bids upon duplicate 8190
sheets. The public bid opening may be broadcast by electronic 8191
means pursuant to rules established by the ~~director of~~ 8192
~~administrative services~~ Ohio facilities construction commission. A 8193
bid shall be invalid and not considered unless a bid guaranty 8194
meeting the requirements of section 153.54 of the Revised Code and 8195
in the form approved by the ~~department of administrative services~~ 8196
commission is filed with such bid. For a bid that is not filed 8197
electronically, the bid and bid guaranty shall be filed in one 8198
sealed envelope. If the bid and bid guaranty are filed 8199
electronically, they must be received electronically before the 8200
deadline published pursuant to section 153.06 of the Revised Code. 8201
For all bids filed electronically, the original, unaltered bid 8202
guaranty shall be made available to the public authority after the 8203
public bid opening. After investigation, which shall be completed 8204
within thirty days, the contract shall be awarded by such owner to 8205
the lowest responsive and responsible bidder in accordance with 8206
section 9.312 of the Revised Code. 8207

No contract shall be entered into until the industrial 8208
commission has certified that the person so awarded the contract 8209
has complied with sections 4123.01 to 4123.94 of the Revised Code, 8210
until, if the bidder so awarded the contract is a foreign 8211
corporation, the secretary of state has certified that such 8212
corporation is authorized to do business in this state, until, if 8213
the bidder so awarded the contract is a person nonresident of this 8214

state, such person has filed with the secretary of state a power 8215
of attorney designating the secretary of state as its agent for 8216
the purpose of accepting service of summons in any action brought 8217
under section 153.05 of the Revised Code or under sections 4123.01 8218
to 4123.94 of the Revised Code, and until the contract and bond, 8219
if any, are submitted to the attorney general and the attorney 8220
general's approval certified thereon. 8221

No contract shall be entered into unless the bidder possesses 8222
a valid certificate of compliance with affirmative action programs 8223
issued pursuant to section 9.47 of the Revised Code and dated no 8224
earlier than one hundred eighty days prior to the date fixed for 8225
the opening of bids for a particular project. 8226

Sec. 153.09. If in the opinion of the owner referred to in 8227
section 153.01 of the Revised Code, the award of a contract to the 8228
lowest responsive and responsible bidder is not in the best 8229
interests of the state, the owner may accept another bid so opened 8230
or reject all bids, and advertise for other bids. Such 8231
advertisement shall be for such time, in such form, and in such 8232
newspaper as the ~~department~~ Ohio facilities construction 8233
commission directs. All contracts shall provide that such owner 8234
may make any change in work or materials on the conditions and in 8235
the manner provided in sections 153.10 and 153.11 of the Revised 8236
Code. 8237

Sec. 153.11. Whenever the change referred to in section 8238
153.10 of the Revised Code is approved by the owner as defined in 8239
section 153.01 of the Revised Code, accepted in writing by the 8240
contractor, and filed, the same shall be considered as being a 8241
part of the original contract, and the bond theretofore executed 8242
shall be ~~held~~ increased or decreased accordingly to include and 8243
cover the ~~same~~ change in the contract. 8244

Sec. 153.12. (A) With respect to award of any contract for 8245
the construction, reconstruction, improvement, enlargement, 8246
alteration, repair, painting, or decoration of a public 8247
improvement made by the state, or any county, township, municipal 8248
corporation, school district, or other political subdivision, or 8249
any public board, commission, authority, instrumentality, or 8250
special purpose district of or in the state or a political 8251
subdivision or that is authorized by state law, the award, and 8252
execution of the contract, shall be made within sixty days after 8253
the date on which the bids are opened. The failure to award and 8254
execute the contract within sixty days invalidates the entire bid 8255
proceedings and all bids submitted, unless the time for awarding 8256
and executing the contract is extended by mutual consent of the 8257
owner or its representatives and the bidder whose bid the owner 8258
accepts and with respect to whom the owner subsequently awards and 8259
executes a contract. The public owners referred to in this section 8260
shall include, in the plans and specifications for the project for 8261
which bids are solicited, the estimate of cost. The bid for which 8262
the award is to be made shall be opened at the time and place 8263
named in the advertisement for bids, unless extended by the owner 8264
or its representative or unless, within seventy-two hours prior to 8265
the published time for the opening of bids, excluding Saturdays, 8266
Sundays, and legal holidays, any modification of the plans or 8267
specifications and estimates of cost for the project for which 8268
bids are solicited is issued and mailed or otherwise furnished to 8269
persons who have obtained plans or specifications for the project, 8270
for which the time for opening of bids shall be extended one week, 8271
with no further advertising of bids required. The contractor, upon 8272
request, is entitled to a notice to proceed with the work by the 8273
owner or its representative upon execution of the contract. No 8274
contract to which this section applies shall be entered into if 8275
the price of the contract, or, if the project involves multiple 8276

contracts where the total price of all contracts for the project, 8277
is in excess of ten per cent above the entire estimate thereof, 8278
nor shall the entire cost of the construction, reconstruction, 8279
repair, painting, decorating, improvement, alteration, addition, 8280
or installation, including changes and estimates of expenses for 8281
architects or engineers, exceed in the aggregate the amount 8282
authorized by law. 8283

The unit or lump sum price stated in the contract shall be 8284
used in determining the amount to be paid and shall constitute 8285
full and final compensation for all the work. 8286

Partial payment to the contractor for work performed under 8287
the lump sum price shall be based on a schedule prepared by the 8288
contractor and approved by the architect or engineer who shall 8289
apportion the lump sum price to the major components entering into 8290
or forming a part of the work under the lump sum price. 8291

Partial payments to the contractor for labor performed under 8292
either a unit or lump sum price contract shall be made at the rate 8293
of ninety-two per cent of the estimates prepared by the contractor 8294
and approved by the architect or engineer. All labor performed 8295
after the job is fifty per cent completed shall be paid for at the 8296
rate of one hundred per cent of the estimates submitted by the 8297
contractor and approved by the architect or engineer. 8298

The amounts and time of payments of any public improvements 8299
contract made by the state or any county, township, municipal 8300
corporation, school district, or other political subdivision, or 8301
any public board, commission, authority, instrumentality, or 8302
special purpose district of or in the state or a political 8303
subdivision or that is authorized by state law, except as provided 8304
in section 5525.19 of the Revised Code, shall be governed by this 8305
section and sections 153.13 and 153.14 of the Revised Code. If the 8306
time for awarding the contract is extended by mutual consent, or 8307
if the owner or its representative fails to issue a timely notice 8308

to proceed as required by this section, the owner or its 8309
representative shall issue a change order authorizing delay costs 8310
to the contractor, which does not invalidate the contract. The 8311
amount of such a change order to the owner shall be determined in 8312
accordance with the provisions of the contract for change orders 8313
or force accounts or, if no such provision is set forth in the 8314
contract, the cost to the owner shall be the contractor's actual 8315
costs including wages, labor costs other than wages, wage taxes, 8316
materials, equipment costs and rentals, insurance, and 8317
subcontracts attributable to the delay, plus a reasonable sum for 8318
overhead. In the event of a dispute between the owner and the 8319
contractor concerning such change order, procedures shall be 8320
commenced under the applicable terms of the contract, or, if the 8321
contract contains no provision for resolving the dispute, it shall 8322
be resolved pursuant to the procedures for arbitration in Chapter 8323
2711. of the Revised Code, except as provided in division (B) of 8324
this section. Nothing in this division shall be construed as a 8325
limitation upon the authority of the director of transportation 8326
granted in Chapter 5525. of the Revised Code. 8327

(B) If a dispute arises between the state and a contractor 8328
concerning the terms of a public improvement contract let by the 8329
state or concerning a breach of the contract, and after 8330
administrative remedies provided for in such contract and any 8331
alternative dispute resolution procedures provided in accordance 8332
with guidelines established by the executive director of 8333
~~administrative services~~ the Ohio facilities construction 8334
commission are exhausted, the contractor may bring an action to 8335
the court of claims in accordance with Chapter 2743. of the 8336
Revised Code. The state or the contractor may request the chief 8337
justice of the supreme court to appoint a referee or panel of 8338
referees in accordance with division (C)(3) of section 2743.03 of 8339
the Revised Code. As used in this division, "dispute" means a 8340
disagreement between the state and the contractor concerning a 8341

public improvement contract let by the state. 8342

Sec. 153.14. For the construction of those projects, 8343
improvements, and public buildings over which the ~~director of~~ 8344
~~administrative services~~ Ohio facilities construction commission 8345
has general supervision pursuant to section ~~123.01~~ 123.21 of the 8346
Revised Code, the estimates referred to in section 153.13 of the 8347
Revised Code shall be filed with the executive director by the 8348
owner referred to in section 153.01 or 153.12 of the Revised Code. 8349
Upon completion of a project referred to in section 153.13 of the 8350
Revised Code or any divisible part thereof, the maintenance and 8351
repair of such project or divisible part shall be assumed by the 8352
owner referred to in section 153.01 or 153.12 of the Revised Code. 8353

In addition to all other payments on account of work 8354
performed, there shall be allowed by the owner referred to in 8355
section 153.01 or 153.12 of the Revised Code and paid to the 8356
contractor a sum at the rate of ninety-two per cent of the invoice 8357
costs, not to exceed the bid price in a unit price contract, of 8358
material delivered on the site of the work, or a railroad station, 8359
siding, or other point in the vicinity of the work, or other 8360
approved storage site, provided such materials have been inspected 8361
and found to meet the specifications. The balance of such invoiced 8362
value shall be paid when such material is incorporated into and 8363
becomes a part of such building, construction, addition, 8364
improvement, alteration, or installation. When an estimate is 8365
allowed on account of material delivered on the site of the work 8366
or in the vicinity thereof or under the possession and control of 8367
the contractor but not yet incorporated therein, such material 8368
shall become the property of the owner under the contract, but if 8369
such material is stolen, destroyed, or damaged by casualty before 8370
being used, the contractor shall be required to replace it at ~~his~~ 8371
the contractor's own expense. 8372

When the rate of work and amounts involved are so large that 8373
it is considered advisable by the owner or contractor, estimates 8374
and payments shall be made twice each month. 8375

Payment on approved estimates filed with the owner or its 8376
representative shall be made within thirty days. Upon the failure 8377
of the owner or its representative to make such payments within 8378
thirty days, or upon an unauthorized withholding of retainage, 8379
there shall be allowed to the contractor, in addition to any other 8380
remedies allowed by law, interest on such moneys not paid within 8381
thirty days. Interest on the unauthorized withholding of retainage 8382
shall be in addition to any interest earned in the escrow account 8383
set forth in section 153.13 of the Revised Code. The rate of such 8384
interest shall be the average of the prime rate established at the 8385
commercial banks in the city of over one hundred thousand 8386
population that is nearest the construction project. Nothing in 8387
this section shall be construed as a limitation upon the authority 8388
of the director of transportation granted in Chapter 5525. of the 8389
Revised Code. 8390

Sec. 153.16. (A) The executive director of ~~administrative~~ 8391
~~services~~ the Ohio facilities construction commission shall 8392
establish policy and procedure guidelines for contract documents 8393
in conjunction with the administration of public works contracts 8394
that the state or any institution supported in whole or in part by 8395
the state enters into for any project subject to sections 153.01 8396
to 153.11 of the Revised Code. 8397

(B) Notwithstanding any contract provision to the contrary, 8398
any claim submitted under a public works contract that the state 8399
or any institution supported in whole or in part by the state 8400
enters into for any project subject to sections 153.01 to 153.11 8401
of the Revised Code shall be resolved within one hundred twenty 8402
days. After the end of this one hundred twenty-day period, the 8403

contractor shall be deemed to have exhausted all administrative 8404
remedies for purposes of division (B) of section 153.12 of the 8405
Revised Code. 8406

Sec. 153.17. (A) When in the opinion of the owner referred to 8407
in section 153.01 of the Revised Code, the work under any contract 8408
made under any law of the state is neglected by the contractor or 8409
such work is not prosecuted with the diligence and force specified 8410
or intended in the contract, such owner may make requisition upon 8411
the contractor for such additional specific force or materials to 8412
be brought into the work under such contract or to remove improper 8413
materials from the grounds as in their judgment the contract and 8414
its faithful fulfillment requires. 8415

Not less than five days' notice in writing of such action 8416
shall be served upon the contractor or the contractor's agent in 8417
charge of the work. If the contractor fails to comply with such 8418
requisition within fifteen days, such owner with the written 8419
consent of the ~~department of administrative services~~ Ohio 8420
facilities construction commission, may employ upon the work the 8421
additional force, or supply the special materials or such part of 8422
either as is considered proper, and may remove improper materials 8423
from the grounds. 8424

(B) When the original contractor has defaulted on a contract 8425
and the surety has declined to take over the project, the owner 8426
may contract with one or more takeover contractors to complete 8427
work that was not finished because of the default of the original 8428
contractor. The owner may enter into a contract with a takeover 8429
contractor without competitive bidding or controlling board 8430
approval. Upon execution of a takeover contract, the owner shall 8431
notify the director of budget and management. 8432

When the owner has taken over a project after a default has 8433
occurred, any moneys that the owner receives from the surety as a 8434

settlement for completion of the project shall be deposited in the 8435
original fund from which the capital appropriation for the project 8436
was made. The executive director, without controlling board 8437
approval, may authorize specified additional uses for the moneys 8438
related to completion of the project and may increase the 8439
appropriation authority in the appropriation line item used to 8440
fund the project by an amount equal to the moneys received from 8441
the surety. 8442

Sec. 153.502. (A) Each construction manager at risk and 8443
design-build firm shall establish criteria by which it will 8444
prequalify prospective bidders on subcontracts awarded for work to 8445
be performed under the construction management or design-build 8446
contract. The criteria established by a construction manager at 8447
risk or design-build firm shall be subject to the approval of the 8448
public authority involved in the project and shall be consistent 8449
with the rules adopted by the ~~department of administrative~~ 8450
~~services~~ Ohio facilities construction commission pursuant to 8451
section 153.503 of the Revised Code. 8452

(B) For each subcontract to be awarded, the construction 8453
manager at risk or design-build firm shall identify at least three 8454
prospective bidders that are prequalified to bid on that 8455
subcontract, except that the construction manager at risk or 8456
design-build firm shall identify fewer than three if the 8457
construction manager at risk or design-build firm establishes to 8458
the satisfaction of the public authority that fewer than three 8459
prequalified bidders are available. The public authority shall 8460
verify that each prospective bidder meets the prequalification 8461
criteria and may eliminate any bidder it determines is not 8462
qualified. 8463

(C) Once the prospective bidders are prequalified and found 8464
acceptable by the public authority, the construction manager at 8465

risk or design-build firm shall solicit proposals from each of 8466
those bidders. The solicitation and selection of a subcontractor 8467
shall be conducted under an open book pricing method. As used in 8468
this division, "open book pricing method" has the same meaning as 8469
in section 9.33 of the Revised Code, in the case of a construction 8470
manager at risk, and the same meaning as in section 153.65 of the 8471
Revised Code, in the case of a design-build firm. 8472

(D) A construction manager at risk or design-build firm shall 8473
not be required to award a subcontract to a low bidder. 8474

Sec. 153.503. The ~~department of administrative services~~ Ohio 8475
facilities construction commission, pursuant to Chapter 119. of 8476
the Revised Code ~~and not later than June 30, 2012~~, shall adopt 8477
rules to do all of the following: 8478

(A) Prescribe the procedures and criteria for determining the 8479
best value selection of a construction manager at risk or 8480
design-build firm; 8481

(B) ~~In consultation with the state architect's office, set~~ 8482
Set forth standards to be followed by construction managers at 8483
risk and design-build firms when establishing prequalification 8484
criteria pursuant to section 153.502 of the Revised Code; 8485

(C) Prescribe the form for the contract documents to be used 8486
by a construction manager at risk, design-build firm, or general 8487
contractor when entering into a subcontract; 8488

(D) Prescribe the form for the contract documents to be used 8489
by a public authority when entering into a contract with a 8490
construction manager at risk or design-build firm. 8491

Sec. 153.53. (A) As used in this section, "rate of inflation" 8492
has the same meaning as in section 107.032 of the Revised Code. 8493

8494

(B) Five years after ~~the effective date of this section~~ 8495
September 29, 2011, and every five years thereafter, the executive 8496
director of ~~administrative services~~ the Ohio facilities 8497
construction commission shall evaluate the monetary threshold 8498
specified in section 153.01 of the Revised Code and adopt rules 8499
adjusting that amount based on the average rate of inflation 8500
during each of the previous five years immediately preceding such 8501
adjustment. 8502

Sec. 154.01. As used in this chapter: 8503

(A) "Commission" means the Ohio public facilities commission 8504
created in section 151.02 of the Revised Code. 8505

(B) "Obligations" means bonds, notes, or other evidences of 8506
obligation, including interest coupons pertaining thereto, issued 8507
pursuant to Chapter 154. of the Revised Code. 8508

(C) "Bond proceedings" means the order or orders, resolution 8509
or resolutions, trust agreement, indenture, lease, and other 8510
agreements, amendments and supplements to the foregoing, or any 8511
combination thereof, authorizing or providing for the terms and 8512
conditions applicable to, or providing for the security of, 8513
obligations issued pursuant to Chapter 154. of the Revised Code, 8514
and the provisions contained in such obligations. 8515

(D) "State agencies" means the state of Ohio and officers, 8516
boards, commissions, departments, divisions, or other units or 8517
agencies of the state. 8518

(E) "Governmental agency" means state agencies, state 8519
supported and assisted institutions of higher education, municipal 8520
corporations, counties, townships, school districts, and any other 8521
political subdivision or special district in this state 8522
established pursuant to law, and, except where otherwise 8523
indicated, also means the United States or any department, 8524

division, or agency thereof, and any agency, commission, or 8525
authority established pursuant to an interstate compact or 8526
agreement. 8527

(F) "Institutions of higher education" and "state supported 8528
or state assisted institutions of higher education" means the 8529
state universities identified in section 3345.011 of the Revised 8530
Code, the northeast Ohio medical university, state universities or 8531
colleges at any time created, community college districts, 8532
university branch districts, and technical college districts at 8533
any time established or operating under Chapter 3354., 3355., or 8534
3357. of the Revised Code, and other institutions for education, 8535
including technical education, beyond the high school, receiving 8536
state support or assistance for their expenses of operation. 8537

(G) "Governing body" means: 8538

(1) In the case of institutions of higher education, the 8539
board of trustees, board of directors, commission, or other body 8540
vested by law with the general management, conduct, and control of 8541
one or more institutions of higher education; 8542

(2) In the case of a county, the board of county 8543
commissioners or other legislative body; in the case of a 8544
municipal corporation, the council or other legislative body; in 8545
the case of a township, the board of township trustees; in the 8546
case of a school district, the board of education; 8547

(3) In the case of any other governmental agency, the 8548
officer, board, commission, authority or other body having the 8549
general management thereof or having jurisdiction or authority in 8550
the particular circumstances. 8551

(H) "Person" means any person, firm, partnership, 8552
association, or corporation. 8553

(I) "Bond service charges" means principal, including 8554
mandatory sinking fund requirements for retirement of obligations, 8555

and interest, and redemption premium, if any, required to be paid 8556
by the state on obligations. If not prohibited by the applicable 8557
bond proceedings, bond service charges may include costs relating 8558
to credit enhancement facilities that are related to and 8559
represent, or are intended to provide a source of payment of or 8560
limitation on, other bond service charges. 8561

(J) "Capital facilities" means buildings, structures, and 8562
other improvements, and equipment, real estate, and interests in 8563
real estate therefor, within the state, and any one, part of, or 8564
combination of the foregoing, to serve the general purposes for 8565
which the issuing authority is authorized to issue obligations 8566
pursuant to Chapter 154. of the Revised Code, including, but not 8567
limited to, drives, roadways, parking facilities, walks, lighting, 8568
machinery, furnishings, utilities, landscaping, wharves, docks, 8569
piers, reservoirs, dams, tunnels, bridges, retaining walls, 8570
riprap, culverts, ditches, channels, watercourses, retention 8571
basins, standpipes and water storage facilities, waste treatment 8572
and disposal facilities, heating, air conditioning and 8573
communications facilities, inns, lodges, cabins, camping sites, 8574
golf courses, boat and bathing facilities, athletic and 8575
recreational facilities, and site improvements. 8576

(K) "Costs of capital facilities" means the costs of 8577
acquiring, constructing, reconstructing, rehabilitating, 8578
remodeling, renovating, enlarging, improving, equipping, or 8579
furnishing capital facilities, and the financing thereof, 8580
including the cost of clearance and preparation of the site and of 8581
any land to be used in connection with capital facilities, the 8582
cost of any indemnity and surety bonds and premiums on insurance, 8583
all related direct administrative expenses and allocable portions 8584
of direct costs of the commission or issuing authority and 8585
department of administrative services, or other designees of the 8586
commission under section 154.17 of the Revised Code, cost of 8587

engineering and architectural services, designs, plans, 8588
specifications, surveys, and estimates of cost, legal fees, fees 8589
and expenses of trustees, depositories, and paying agents for the 8590
obligations, cost of issuance of the obligations and financing 8591
charges and fees and expenses of financial advisers and 8592
consultants in connection therewith, interest on obligations, 8593
including but not limited to, interest from the date thereof of 8594
their issuance to the time when interest is to be covered from 8595
sources other than proceeds of obligations, amounts necessary to 8596
establish reserves as required by the bond proceedings, costs of 8597
audits, the reimbursement of all moneys advanced or applied by or 8598
borrowed from any governmental agency, whether to or by the 8599
commission or others, from whatever source provided, for the 8600
payment of any item or items of cost of the capital facilities, 8601
any share of the cost undertaken by the commission pursuant to 8602
arrangements made with governmental agencies under division (H) of 8603
section 154.06 of the Revised Code, and all other expenses 8604
necessary or incident to planning or determining feasibility or 8605
practicability with respect to capital facilities, and such other 8606
expenses as may be necessary or incident to the acquisition, 8607
construction, reconstruction, rehabilitation, remodeling, 8608
renovation, enlargement, improvement, equipment, and furnishing of 8609
capital facilities, the financing thereof and the placing of the 8610
same in use and operation, including any one, part of, or 8611
combination of such classes of costs and expenses. 8612

(L) "Public service facilities" means inns, lodges, hotels, 8613
cabins, camping sites, scenic trails, picnic sites, restaurants, 8614
commissaries, golf courses, boating and bathing facilities and 8615
other similar facilities in state parks. 8616

(M) "State parks" means: 8617

(1) State reservoirs described and identified in section 8618
1541.06 of the Revised Code; 8619

(2) All lands or interests therein of the state identified as 8620
administered by the division of parks and recreation in the 8621
"inventory of state owned lands administered by the department of 8622
natural resources as of June 1, 1963," as recorded in the journal 8623
of the director, which inventory was prepared by the real estate 8624
section of the department and is supported by maps now on file in 8625
said real estate section; 8626

(3) All lands or interests in lands of the state designated 8627
after June 1, 1963, as state parks in the journal of the director 8628
with the approval of the recreation and resources council. 8629

State parks do not include any lands or interest in lands of 8630
the state administered jointly by two or more divisions of the 8631
department of natural resources. The designation of lands as state 8632
parks under divisions (M)(1) to (3) of this section is conclusive 8633
and such lands shall be under the control of and administered by 8634
the division of parks and recreation. No order or proceeding 8635
designating lands as state parks or park purchase areas is subject 8636
to any appeal or review by any officer, board, commission, or 8637
court. 8638

(N) "Bond service fund" means the applicable fund created for 8639
and pledged to the payment of bond service charges under section 8640
154.20, 154.21, 154.22, or 154.23 of the Revised Code, including 8641
all moneys and investments, and earnings from investments, 8642
credited and to be credited thereto. 8643

(O) "Improvement fund" means the applicable fund created for 8644
the payment of costs of capital facilities under section 154.20, 8645
154.21, 154.22, or 3383.09 of the Revised Code, including all 8646
moneys and investments, and earnings from investments, credited 8647
and to be credited thereto. 8648

(P) "Special funds" or "funds" means, except where the 8649
context does not permit, the bond service funds, the improvements 8650

funds, and any other funds for similar or different purposes 8651
created under bond proceedings, including all moneys and 8652
investments, and earnings from investments, credited and to be 8653
credited thereto. 8654

(Q) "Year" unless the context indicates a different meaning 8655
or intent, means a calendar year beginning on the first day of 8656
January and ending on the thirty-first day of December. 8657

(R) "Fiscal year" means the period of twelve months beginning 8658
on the first day of July and ending on the thirtieth day of June. 8659

(S) "Issuing authority" means the treasurer of state or the 8660
officer or employee who by law performs the functions of that 8661
office. 8662

(T) "Credit enhancement facilities" has the same meaning as 8663
in section 133.01 of the Revised Code. 8664

(U) "Ohio cultural facility" and "Ohio sports facility" have 8665
the same meanings as in section 3383.01 of the Revised Code. 8666

Sec. 166.35. There is hereby created in the state treasury 8667
the economic development support fund. The fund shall consist of 8668
excess money received by the state representing gross profit on 8669
the sale of spirituous liquor that is credited or transferred to 8670
it. Money in the fund shall be used to carry out economic 8671
development activities. 8672

Sec. 167.04. (A) The regional council of governments shall 8673
adopt by-laws, by a majority vote of its members, designating the 8674
officers of the council and the method of their selection, 8675
creating a governing board that may act for the council as 8676
provided in the by-laws, and providing for the conduct of its 8677
business. 8678

(B) The by-laws of the regional council of governments shall 8679

provide for the appointment of a fiscal officer, who may hold any 8680
other office or employment with the council, and who shall 8681
receive, deposit, invest, and disburse the funds of the council in 8682
the manner authorized by the by-laws or action by the council. 8683

(C) The by-laws of a regional council of governments the 8684
members of which include, under sections 167.01 and 167.02 of the 8685
Revised Code, at least eight counties may include a provision 8686
authorizing member attendance and voting at council meetings 8687
either in person or by proxy. 8688

(D)(1) Within ten business days after forming a regional 8689
council of governments, the officers of the council shall notify 8690
the auditor of state of the regional council's formation and shall 8691
provide on a form prescribed by the auditor of state the 8692
information regarding the regional council that the auditor of 8693
state considers necessary. 8694

(2) As used in this division, "business day" means a day of 8695
the week, excluding Saturday, Sunday, or a legal holiday as 8696
defined in section 1.14 of the Revised Code. 8697

Sec. 173.14. As used in sections 173.14 to 173.27 of the 8698
Revised Code: 8699

(A)(1) Except as otherwise provided in division (A)(2) of 8700
this section, "long-term care facility" includes any residential 8701
facility that provides personal care services for more than 8702
twenty-four hours for ~~two~~ one or more unrelated adults, including 8703
all of the following: 8704

(a) A "nursing home," "residential care facility," or "home 8705
for the aging" as defined in section 3721.01 of the Revised Code; 8706

(b) A facility authorized to provide extended care services 8707
under Title XVIII of the "Social Security Act," 49 Stat. 620 8708
(1935), 42 U.S.C. 301, as amended, including a long-term acute 8709

care hospital that provides medical and rehabilitative care to 8710
patients who require an average length of stay greater than 8711
twenty-five days and is classified by the centers for medicare and 8712
medicaid services as a long-term care hospital pursuant to 42 8713
C.F.R. 412.23(e); 8714

(c) A county home or district home operated pursuant to 8715
Chapter 5155. of the Revised Code; 8716

(d) ~~An "adult care A residential facility" as defined in~~ 8717
~~licensed under section 5119.70 5119.22 of the Revised Code that~~ 8718
~~provides accommodations, supervision, and personal care services~~ 8719
~~for three to sixteen unrelated adults or accommodations and~~ 8720
~~personal care services for only one or two adults who are~~ 8721
~~recipients under the residential state supplement program;~~ 8722

(e) A facility approved by the veterans administration under 8723
section 104(a) of the "Veterans Health Care Amendments of 1983," 8724
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 8725
the placement and care of veterans; 8726

~~(f) An adult foster home certified under section 5119.692 of~~ 8727
~~the Revised Code.~~ 8728

(2) "Long-term care facility" does not include a "residential 8729
facility" as defined in section 5119.22 of the Revised Code or a 8730
"residential facility" as defined in licensed under section 8731
5123.19 of the Revised Code. 8732

(B) "Resident" means a resident of a long-term care facility 8733
and, where appropriate, includes a prospective, previous, or 8734
deceased resident of a long-term care facility. 8735

(C) "Community-based long-term care services" means health 8736
and social services provided to persons in their own homes or in 8737
community care settings, and includes any of the following: 8738

(1) Case management; 8739

| | |
|---|------------------------------|
| (2) Home health care; | 8740 |
| (3) Homemaker services; | 8741 |
| (4) Chore services; | 8742 |
| (5) Respite care; | 8743 |
| (6) Adult day care; | 8744 |
| (7) Home-delivered meals; | 8745 |
| (8) Personal care; | 8746 |
| (9) Physical, occupational, and speech therapy; | 8747 |
| (10) Transportation; | 8748 |
| (11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings. | 8749 8750 8751 |
| (D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services. | 8752 8753 8754 8755 |
| (E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient. | 8756 8757 8758 |
| (F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code. | 8759 8760 |
| (G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson. | 8761 8762 8763 8764 |
| (H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised | 8765 8766 8767 8768 |

Code. 8769

(I) "Area agency on aging" means an area agency on aging 8770
established under the "Older Americans Act of 1965," 79 Stat. 219, 8771
42 U.S.C.A. 3001, as amended. 8772

Sec. 173.21. (A) The office of the state long-term care 8773
ombudsperson program, through the state long-term care 8774
ombudsperson and the regional long-term care ombudsperson 8775
programs, shall require each representative of the office to 8776
complete a training and certification program in accordance with 8777
this section and to meet the continuing education requirements 8778
established under this section. 8779

(B) The department of aging shall adopt rules under Chapter 8780
119. of the Revised Code specifying the content of training 8781
programs for representatives of the office of the state long-term 8782
care ombudsperson program. Training for representatives other than 8783
those who are volunteers providing services through regional 8784
long-term care ombudsperson programs shall include instruction 8785
regarding federal, state, and local laws, rules, and policies on 8786
long-term care facilities and community-based long-term care 8787
services; investigative techniques; and other topics considered 8788
relevant by the department and shall consist of the following: 8789

(1) A minimum of forty clock hours of basic instruction, 8790
which shall be completed before the trainee is permitted to handle 8791
complaints without the supervision of a representative of the 8792
office certified under this section; 8793

(2) An additional sixty clock hours of instruction, which 8794
shall be completed within the first fifteen months of employment; 8795

(3) An internship of twenty clock hours, which shall be 8796
completed within the first twenty-four months of employment, 8797
including instruction in, and observation of, basic nursing care 8798

and long-term care provider operations and procedures. The 8799
internship shall be performed at a site that has been approved as 8800
an internship site by the state long-term care ombudsperson. 8801

(4) One of the following, which shall be completed within the 8802
first twenty-four months of employment: 8803

(a) Observation of a survey conducted by the director of 8804
health to certify a facility to receive funds under sections 8805
5111.20 to 5111.32 of the Revised Code; 8806

(b) Observation of an inspection conducted by the director of 8807
mental health to license ~~an adult care~~ a residential facility 8808
under section ~~5119.73~~ 5119.22 of the Revised Code that provides 8809
accommodations, supervision, and personal care services for three 8810
to sixteen unrelated adults. 8811

(5) Any other training considered appropriate by the 8812
department. 8813

(C) Persons who for a period of at least six months prior to 8814
June 11, 1990, served as ombudsmen through the long-term care 8815
ombudsperson program established by the department of aging under 8816
division (M) of section 173.01 of the Revised Code shall not be 8817
required to complete a training program. These persons and persons 8818
who complete a training program shall take an examination 8819
administered by the department of aging. On attainment of a 8820
passing score, the person shall be certified by the department as 8821
a representative of the office. The department shall issue the 8822
person an identification card, which the representative shall show 8823
at the request of any person with whom the representative deals 8824
while performing the representative's duties and which shall be 8825
surrendered at the time the representative separates from the 8826
office. 8827

(D) The state ombudsperson and each regional program shall 8828
conduct training programs for volunteers on their respective 8829

staffs in accordance with the rules of the department of aging 8830
adopted under division (B) of this section. Training programs may 8831
be conducted that train volunteers to complete some, but not all, 8832
of the duties of a representative of the office. Each regional 8833
office shall bear the cost of training its representatives who are 8834
volunteers. On completion of a training program, the 8835
representative shall take an examination administered by the 8836
department of aging. On attainment of a passing score, a volunteer 8837
shall be certified by the department as a representative 8838
authorized to perform services specified in the certification. The 8839
department shall issue an identification card, which the 8840
representative shall show at the request of any person with whom 8841
the representative deals while performing the representative's 8842
duties and which shall be surrendered at the time the 8843
representative separates from the office. Except as a supervised 8844
part of a training program, no volunteer shall perform any duty 8845
unless he is certified as a representative having received 8846
appropriate training for that duty. 8847

(E) The state ombudsperson shall provide technical assistance 8848
to regional programs conducting training programs for volunteers 8849
and shall monitor the training programs. 8850

(F) Prior to scheduling an observation of a certification 8851
survey or licensing inspection for purposes of division (B)(4) of 8852
this section, the state ombudsperson shall obtain permission to 8853
have the survey or inspection observed from both the director of 8854
health and the long-term care facility at which the survey or 8855
inspection is to take place. 8856

(G) The department of aging shall establish continuing 8857
education requirements for representatives of the office. 8858

Sec. 173.23. (A) Representatives of the office of the state 8859
long-term care ombudsperson program are immune from civil or 8860

criminal liability for any action taken in the good faith 8861
performance of their official duties under sections 173.14 to 8862
173.26 of the Revised Code. ~~The department of aging shall ensure~~ 8863
~~that adequate legal counsel is available to the office of the~~ 8864
~~state long term care ombudsperson program for advice and~~ 8865
~~consultation and that legal representation is provided to any~~ 8866
~~representative of the office against whom any legal action is~~ 8867
~~brought in connection with the representative's official duties~~ 8868
~~under sections 173.14 to 173.26 of the Revised Code.~~ 8869

(B) A person acting in good faith is immune from civil or 8870
criminal liability incident to any of the following: providing 8871
information to the office, participating in registration of a 8872
complaint with the office, participating in investigation of a 8873
complaint by the office, or participating in an administrative or 8874
judicial proceeding resulting from a complaint. 8875

(C) No person shall knowingly register a false complaint with 8876
the office, or knowingly swear or affirm the truth of a false 8877
complaint previously registered, when the statement is made with 8878
purpose to incriminate another. 8879

(D) The attorney general shall provide legal counsel to the 8880
office of the state long-term care ombudsperson program and to the 8881
regional long-term care ombudsperson programs. The attorney 8882
general shall represent any representative of the office and any 8883
representative of a regional program against whom any legal action 8884
is brought in connection with the representative's official duties 8885
under sections 173.14 to 173.26 of the Revised Code. 8886

Sec. 173.26. (A) Each of the following facilities shall 8887
annually pay to the department of aging six dollars for each bed 8888
maintained by the facility for use by a resident during any part 8889
of the previous year: 8890

(1) Nursing homes, residential care facilities, and homes for 8891

the aging as defined in section 3721.01 of the Revised Code; 8892

(2) Facilities authorized to provide extended care services 8893
under Title XVIII of the "Social Security Act," 49 Stat. 620 8894
(1935), 42 U.S.C. 301, as amended, including a long-term acute 8895
care hospital that provides medical and rehabilitative care to 8896
patients who require an average length of stay greater than 8897
twenty-five days and is classified by the centers for medicare and 8898
medicaid services as a long-term care hospital pursuant to 42 8899
C.F.R. 412.23(e); 8900

(3) County homes and district homes operated pursuant to 8901
Chapter 5155. of the Revised Code; 8902

(4) ~~Adult care Residential facilities as defined in licensed~~ 8903
under section 5119.70 5119.22 of the Revised Code that provide 8904
accommodations, supervision, and personal care services for three 8905
to sixteen unrelated adults; 8906

(5) Facilities approved by the Veterans Administration under 8907
Section 104(a) of the "Veterans Health Care Amendments of 1983," 8908
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 8909
the placement and care of veterans. 8910

The department shall, by rule adopted in accordance with 8911
Chapter 119. of the Revised Code, establish deadlines for payments 8912
required by this section. A facility that fails, within ninety 8913
days after the established deadline, to pay a payment required by 8914
this section shall be assessed at two times the original invoiced 8915
payment. 8916

(B) All money collected under this section shall be deposited 8917
in the state treasury to the credit of the office of the state 8918
long-term care ombudsperson program fund, which is hereby created. 8919
Money credited to the fund shall be used solely to pay the costs 8920
of operating the regional long-term care ombudsperson programs. 8921

(C) The state long-term care ombudsperson and the regional 8922

programs may solicit and receive contributions to support the 8923
operation of the office or a regional program, except that no 8924
contribution shall be solicited or accepted that would interfere 8925
with the independence or objectivity of the office or program. 8926

Sec. 173.27. (A) As used in this section: 8927

(1) "Applicant" means a person who is under final 8928
consideration for employment with the office of the state 8929
long-term care ombudsperson program in a full-time, part-time, or 8930
temporary position that involves providing ombudsperson services 8931
to residents and recipients. "Applicant" includes, ~~but is not~~ 8932
~~limited to,~~ a person who is under final consideration for 8933
employment as the state long-term care ombudsperson or the head of 8934
a regional long-term care ombudsperson program. "Applicant" does 8935
not include a person ~~who provides~~ seeking to provide ombudsperson 8936
services to residents and recipients as a volunteer without 8937
receiving or expecting to receive any form of remuneration other 8938
than reimbursement for actual expenses. 8939

(2) "Criminal records check" has the same meaning as in 8940
section 109.572 of the Revised Code. 8941

(3) "Disqualifying offense" means any of the offenses listed 8942
or described in divisions (A)(3)(a) to (e) of section 109.572 of 8943
the Revised Code. 8944

(4) "Employee" means a person employed by the office of the 8945
state long-term care ombudsperson program in a full-time, 8946
part-time, or temporary position that involves providing 8947
ombudsperson services to residents and recipients. "Employee" 8948
includes the person employed as the state long-term care 8949
ombudsperson and a person employed as the head of a regional 8950
long-term care ombudsperson program. "Employee" does not include a 8951
person who provides ombudsperson services to residents and 8952
recipients as a volunteer without receiving or expecting to 8953

receive any form of remuneration other than reimbursement for 8954
actual expenses. 8955

(5) "Responsible entity" means the following: 8956

(a) In the case of an applicant who is under final 8957
consideration for employment as the state long-term care 8958
ombudsperson or the person employed as the state long-term care 8959
ombudsperson, the director of aging; 8960

(b) In the case of any other applicant or employee, the state 8961
long-term care ombudsperson or the ombudsperson's designee. 8962

(B) The office of the state long-term care ombudsperson 8963
program may not employ an applicant or continue to employ an 8964
employee in a position that involves providing ombudsperson 8965
services to residents and recipients if any of the following 8966
apply: 8967

(1) A review of the databases listed in division (D) of this 8968
section reveals any of the following: 8969

(a) That the applicant or employee is included in one or more 8970
of the databases listed in divisions (D)(1) to (5) of this 8971
section; 8972

(b) That there is in the state nurse aide registry 8973
established under section 3721.32 of the Revised Code a statement 8974
detailing findings by the director of health that the applicant or 8975
employee neglected or abused a long-term care facility or 8976
residential care facility resident or misappropriated property of 8977
such a resident; 8978

(c) That the applicant or employee is included in one or more 8979
of the databases, if any, specified in rules adopted under this 8980
section and the rules prohibit the office from employing an 8981
applicant or continuing to employ an employee included in such a 8982
database in a position that involves providing ombudsperson 8983

services to residents and recipients. 8984

(2) After the applicant or employee is provided, pursuant to 8985
division (E)(2)(a) of this section, a copy of the form prescribed 8986
pursuant to division (C)(1) of section 109.572 of the Revised Code 8987
and the standard impression sheet prescribed pursuant to division 8988
(C)(2) of that section, the applicant or employee fails to 8989
complete the form or provide the applicant's or employee's 8990
fingerprint impressions on the standard impression sheet. 8991

(3) Except as provided in rules adopted under this section, 8992
the applicant or employee is found by a criminal records check 8993
required by this section to have been convicted of, pleaded guilty 8994
to, or been found eligible for intervention in lieu of conviction 8995
for a disqualifying offense. 8996

(C) The responsible entity shall inform each applicant of 8997
both of the following at the time of the applicant's initial 8998
application for employment in a position that involves providing 8999
ombudsperson services to residents and recipients: 9000

(1) That a review of the databases listed in division (D) of 9001
this section will be conducted to determine whether the office of 9002
the state long-term care ombudsperson program is prohibited by 9003
division (B)(1) of this section from employing the applicant in 9004
the position; 9005

(2) That, unless the database review reveals that the 9006
applicant may not be employed in the position, a criminal records 9007
check of the applicant will be conducted and the applicant is 9008
required to provide a set of the applicant's fingerprint 9009
impressions as part of the criminal records check. 9010

(D) As a condition of any applicant's being employed by the 9011
office of the state long-term care ombudsperson program in a 9012
position that involves providing ombudsperson services to 9013
residents and recipients, the responsible entity shall conduct a 9014

database review of the applicant in accordance with rules adopted 9015
under this section. If rules adopted under this section so 9016
require, the responsible entity shall conduct a database review of 9017
an employee in accordance with the rules as a condition of the 9018
office's continuing to employ the employee in a position that 9019
involves providing ombudsperson services to residents and 9020
recipients. A database review shall determine whether the 9021
applicant or employee is included in any of the following: 9022

(1) The excluded parties list system maintained by the United 9023
States general services administration pursuant to subpart 9.4 of 9024
the federal acquisition regulation; 9025

(2) The list of excluded individuals and entities maintained 9026
by the office of inspector general in the United States department 9027
of health and human services pursuant to section 1128 of the 9028
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 9029
amended, and section 1156 of the "Social Security Act," 96 Stat. 9030
388 (1982), 42 U.S.C. 1320c-5, as amended; 9031

(3) The registry of MR/DD employees established under section 9032
5123.52 of the Revised Code; 9033

(4) The internet-based sex offender and child-victim offender 9034
database established under division (A)(11) of section 2950.13 of 9035
the Revised Code; 9036

(5) The internet-based database of inmates established under 9037
section 5120.66 of the Revised Code; 9038

(6) The state nurse aide registry established under section 9039
3721.32 of the Revised Code; 9040

(7) Any other database, if any, specified in rules adopted 9041
under this section. 9042

(E)(1) ~~The state long term care ombudsperson or the~~ 9043
ombudsperson's designee As a condition of any applicant's being 9044

employed by the office of the state long-term care ombudsperson 9045
program in a position that involves providing ombudsperson 9046
services to residents and recipients, the responsible entity shall 9047
request that the superintendent of the bureau of criminal 9048
identification and investigation conduct a criminal records check 9049
~~with respect to each~~ of the applicant. If rules adopted under this 9050
section so require, the responsible entity shall request that the 9051
superintendent conduct a criminal records check of an employee at 9052
times specified in the rules as a condition of the office's 9053
continuing to employ the employee in a position that involves 9054
providing ombudsperson services to residents and recipients. 9055
However, ~~if the applicant is under final consideration for~~ 9056
~~employment as the state long term care ombudsperson, the director~~ 9057
~~of aging shall request that the superintendent conduct the~~ 9058
~~criminal records check~~ the responsible entity is not required to 9059
request the criminal records check of the applicant or employee if 9060
the office is prohibited by division (B)(1) of this section from 9061
employing the applicant or continuing to employ the employee in a 9062
position that involves providing ombudsperson services to 9063
residents and recipients. If an applicant or employee for whom a 9064
criminal records check request is required ~~under~~ by this ~~division~~ 9065
section does not present proof of having been a resident of this 9066
state for the five-year period immediately prior to the date the 9067
criminal records check is requested or provide evidence that 9068
within that five-year period the superintendent has requested 9069
information about the applicant or employee from the federal 9070
bureau of investigation in a criminal records check, the 9071
~~ombudsperson, designee, or director~~ responsible entity shall 9072
request that the superintendent obtain information from the 9073
federal bureau of investigation as part of the criminal records 9074
check ~~of the applicant~~. Even if an applicant or employee for whom 9075
a criminal records check request is required ~~under~~ by this 9076
~~division~~ section presents proof of having been a resident of this 9077

state for the five-year period, the ~~ombudsperson, designee, or~~ 9078
~~director~~ responsible entity may request that the superintendent 9079
include information from the federal bureau of investigation in 9080
the criminal records check. 9081

(2) ~~A person required by division (B)(1) of this section to~~ 9082
~~request a criminal records check~~ The responsible entity shall do 9083
~~both~~ all of the following: 9084

(a) Provide to each applicant and employee for whom a 9085
criminal records check request is required ~~under that division~~ by 9086
this section a copy of the form prescribed pursuant to division 9087
(C)(1) of section 109.572 of the Revised Code and a standard 9088
~~fingerprint~~ impression sheet prescribed pursuant to division 9089
(C)(2) of that section, ~~and obtain;~~ 9090

(b) Obtain the completed form and standard impression sheet 9091
from the applicant or employee; 9092

~~(b)(c)~~ (c) Forward the completed form and standard impression 9093
sheet to the superintendent ~~of the bureau of criminal~~ 9094
~~identification and investigation.~~ 9095

(3) ~~An applicant provided the form and fingerprint impression~~ 9096
~~sheet under division (B)(2)(a) of this section who fails to~~ 9097
~~complete the form or provide fingerprint impressions shall not be~~ 9098
~~employed in any position for which a criminal records check is~~ 9099
~~required by this section.~~ 9100

~~(C)(1) Except as provided in rules adopted by the director of~~ 9101
~~aging in accordance with division (F) of this section and subject~~ 9102
~~to division (C)(2) of this section, the office of the state~~ 9103
~~long term care ombudsperson may not employ a person in a position~~ 9104
~~that involves providing ombudsperson services to residents and~~ 9105
~~recipients if the person has been convicted of or pleaded guilty~~ 9106
~~to any of the following:~~ 9107

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 9108

~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 9109~~
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 9110~~
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 9111~~
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 9112~~
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 9113~~
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 9114~~
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 9115~~
~~2925.22, 2925.23, or 3716.11 of the Revised Code. 9116~~

~~(b) A violation of an existing or former law of this state, 9117~~
~~any other state, or the United States that is substantially 9118~~
~~equivalent to any of the offenses listed in division (C)(1)(a) of 9119~~
~~this section. 9120~~

~~(2)(a) The office of the state long-term care ombudsperson 9121~~
~~program shall pay to the bureau of criminal identification and 9122~~
~~investigation the fee prescribed pursuant to division (C)(3) of 9123~~
~~section 109.572 of the Revised Code for each criminal records 9124~~
~~check the responsible entity requests under this section. The 9125~~
~~office may charge an applicant a fee not exceeding the amount the 9126~~
~~office pays to the bureau under this section if the responsible 9127~~
~~entity notifies the applicant at the time of initial application 9128~~
~~for employment of the amount of the fee. 9129~~

~~(F)(1) The office of the state long-term care ombudsperson 9130~~
~~program may employ conditionally an applicant for whom a criminal 9131~~
~~records check ~~request~~ is required ~~under division (B) of~~ by this 9132~~
~~section prior to obtaining the results of a the criminal records 9133~~
~~check ~~regarding the individual, provided that the state long term~~ 9134~~
~~~~care ombudsperson, ombudsperson's designee, or director of aging~~ 9135~~  
~~~~shall request a~~ if the office is not prohibited by division (B)(1) 9136~~  
~~of this section from employing the applicant in a position that 9137~~
~~involves providing ombudsperson services to residents and 9138~~
~~recipients and the responsible entity requests the criminal 9139~~
~~records check ~~regarding the individual~~ in accordance with division 9140~~

~~(B)(1)(E)~~ of this section not later than five business days after 9141
the ~~individual~~ applicant begins conditional employment. 9142

~~(b)(2)~~ The office of the state long-term care ombudsperson 9143
program shall terminate the employment of an ~~individual~~ applicant 9144
employed conditionally under division ~~(C)(2)(a)(F)(1)~~ of this 9145
section if the results of the criminal records check ~~request under~~ 9146
~~division (B) of this section~~, other than the results of any 9147
request for information from the federal bureau of investigation, 9148
are not obtained within the period ending sixty days after the 9149
date the request for the criminal records check is made. 9150
Regardless of when the results of the criminal records check are 9151
obtained, if the results indicate that the ~~individual~~ applicant 9152
has been convicted of ~~or~~ pleaded guilty to ~~any of the offenses~~ 9153
~~listed or described in division (C)(1) of this section~~, or been 9154
found eligible for intervention in lieu of conviction for a 9155
disqualifying offense, the office shall terminate the ~~individual's~~ 9156
applicant's employment unless circumstances specified in rules 9157
adopted under this section that permit the office to employ the 9158
applicant exist and the office chooses to employ the ~~individual~~ 9159
~~pursuant to division (F) of this section~~ applicant. Termination of 9160
employment under this division shall be considered just cause for 9161
discharge for purposes of division (D)(2) of section 4141.29 of 9162
the Revised Code if the ~~individual~~ applicant makes any attempt to 9163
deceive the office about the ~~individual's~~ applicant's criminal 9164
record. 9165

~~(D)(1)~~ The office of the state long term care ombudsperson 9166
program shall pay to the bureau of criminal identification and 9167
investigation the fee prescribed pursuant to division (C)(3) of 9168
section 109.572 of the Revised Code for each criminal records 9169
check conducted pursuant to a request made under division (B) of 9170
this section. 9171

~~(2)~~ The office of the state long term care ombudsperson 9172

~~program may charge an applicant a fee not exceeding the amount the~~ 9173
~~office pays under division (D)(1) of this section. The office may~~ 9174
~~collect a fee only if the office notifies the applicant at the~~ 9175
~~time of initial application for employment of the amount of the~~ 9176
~~fee.~~ 9177

~~(E)~~(G) The report of any criminal records check conducted 9178
pursuant to a request made under this section is not a public 9179
record for the purposes of section 149.43 of the Revised Code and 9180
shall not be made available to any person other than the 9181
following: 9182

(1) The ~~individual~~ applicant or employee who is the subject 9183
of the criminal records check or the ~~individual's~~ applicant's or 9184
employee's representative; 9185

(2) The ~~state long term care ombudsperson, ombudsperson's~~ 9186
~~designee, director of aging,~~ responsible entity or the 9187
~~ombudsperson, designee, or director's~~ responsible entity's 9188
representative; 9189

(3) If the state long-term care ombudsperson designates the 9190
head or other employee of a regional long-term care ombudsperson 9191
program to request a criminal records check under this section, a 9192
representative of the office of the state long-term care 9193
ombudsperson program who is responsible for monitoring the 9194
regional program's compliance with this section; 9195

(4) A court, hearing officer, or other necessary individual 9196
involved in a case dealing with a any of the following: 9197

(a) A denial of employment of the applicant or ~~dealing with~~ 9198
~~employment~~ employee; 9199

(b) Employment or unemployment benefits of the applicant or 9200
employee; 9201

(c) A civil or criminal action regarding the medicaid program 9202

or a program the department of aging administers. 9203

~~(F) The director of aging shall adopt rules in accordance 9204
with Chapter 119. of the Revised Code to implement this section. 9205
The rules shall specify circumstances under which the office of 9206
the state long term care ombudsperson program may employ a person 9207
who has been convicted of or pleaded guilty to an offense listed 9208
or described in division (C)(1) of this section but meets personal 9209
character standards set by the director. 9210~~

~~(G) The office of the state long term care ombudsperson 9211
program shall inform each person, at the time of initial 9212
application for a position that involves providing ombudsperson 9213
services to residents and recipients, that the person is required 9214
to provide a set of fingerprint impressions and that a criminal 9215
records check is required to be conducted if the person comes 9216
under final consideration for employment. 9217~~

(H) In a tort or other civil action for damages that is 9218
brought as the result of an injury, death, or loss to person or 9219
property caused by an ~~individual~~ applicant or employee who the 9220
office of the state long-term care ombudsperson program employs in 9221
a position that involves providing ombudsperson services to 9222
residents and recipients, all of the following shall apply: 9223

(1) If the office employed the ~~individual~~ applicant or 9224
employee in good faith and reasonable reliance on the report of a 9225
criminal records check requested under this section, the office 9226
shall not be found negligent solely because of its reliance on the 9227
report, even if the information in the report is determined later 9228
to have been incomplete or inaccurate. 9229

(2) If the office employed the ~~individual~~ applicant in good 9230
faith on a conditional basis pursuant to division ~~(C)(2)(F)~~ of 9231
this section, the office shall not be found negligent solely 9232
because it employed the ~~individual~~ applicant prior to receiving 9233

the report of a criminal records check requested under this 9234
section. 9235

(3) If the office in good faith employed the ~~individual~~ 9236
applicant or employee according to the personal character 9237
standards established in rules adopted under ~~division (F)~~ of this 9238
section, the office shall not be found negligent solely because 9239
the ~~individual prior to being employed had~~ applicant or employee 9240
has been convicted of or, pleaded guilty to an offense listed or 9241
described in division (C)(1) of this section, or been found 9242
eligible for intervention in lieu of conviction for a 9243
disqualifying offense. 9244

(I) The director of aging shall adopt rules in accordance 9245
with Chapter 119. of the Revised Code to implement this section. 9246

(1) The rules may do the following: 9247

(a) Require employees to undergo database reviews and 9248
criminal records checks under this section; 9249

(b) If the rules require employees to undergo database 9250
reviews and criminal records checks under this section, exempt one 9251
or more classes of employees from the requirements; 9252

(c) For the purpose of division (D)(7) of this section, 9253
specify other databases that are to be checked as part of a 9254
database review conducted under this section. 9255

(2) The rules shall specify all of the following: 9256

(a) The procedures for conducting database reviews under this 9257
section; 9258

(b) If the rules require employees to undergo database 9259
reviews and criminal records checks under this section, the times 9260
at which the database reviews and criminal records checks are to 9261
be conducted; 9262

(c) If the rules specify other databases to be checked as 9263

part of the database reviews, the circumstances under which the 9264
office of the state long-term care ombudsperson program is 9265
prohibited from employing an applicant or continuing to employ an 9266
employee who is found by a database review to be included in one 9267
or more of those databases; 9268

(d) Circumstances under which the office of the state 9269
long-term care ombudsperson program may employ an applicant or 9270
employee who is found by a criminal records check required by this 9271
section to have been convicted of, pleaded guilty to, or been 9272
found eligible for intervention in lieu of conviction for a 9273
disqualifying offense but meets personal character standards. 9274

Sec. 173.391. (A) The department of aging or its designee 9275
shall do all of the following in accordance with Chapter 119. of 9276
the Revised Code: 9277

(1) Certify a person or government entity to provide 9278
community-based long-term care services under a program the 9279
department administers if the person or government entity 9280
satisfies the requirements for certification established by rules 9281
adopted under division (B) of this section and pays the fee, if 9282
any, established by rules adopted under division (G) of this 9283
section; 9284

(2) When required to do so by rules adopted under division 9285
(B) of this section, take one or more of the following 9286
disciplinary actions against a person or government entity 9287
certified under division (A)(1) of this section: 9288

(a) Issue a written warning; 9289

(b) Require the submission of a plan of correction or 9290
evidence of compliance with requirements identified by the 9291
department; 9292

(c) Suspend referrals; 9293

| | |
|--|--|
| (d) Remove clients; | 9294 |
| (e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid; | 9295 9296 |
| (f) Suspend the certification; | 9297 |
| (g) Revoke the certification; | 9298 |
| (h) Impose another sanction. | 9299 |
| (3) Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under division <u>divisions</u> (A)(2)(e) to (h) of this section. | 9300 9301 9302 9303 9304 9305 9306 |
| (B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following: | 9307 9308 9309 9310 9311 9312 |
| (1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code; | 9313 9314 |
| (2) Evaluating the services provided by the agencies to ensure that the services are provided in a quality manner advantageous to the individual receiving the services; | 9315 9316 9317 |
| (3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take; | 9318 9319 9320 |
| (4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section. | 9321 9322 |
| (C) The procedures established in rules adopted under | 9323 |

division (B)(2) of this section shall require that all of the 9324
following be considered as part of an evaluation described in 9325
division (B)(2) of this section: 9326

(1) The community-based long-term care agency's experience 9327
and financial responsibility; 9328

(2) The agency's ability to comply with standards for the 9329
community-based long-term care services that the agency provides 9330
under a program the department administers; 9331

(3) The agency's ability to meet the needs of the individuals 9332
served; 9333

(4) Any other factor the director considers relevant. 9334

(D) The rules adopted under division (B)(3) of this section 9335
shall specify that the reasons disciplinary action may be taken 9336
under division (A)(2) of this section include good cause, 9337
including misfeasance, malfeasance, nonfeasance, confirmed abuse 9338
or neglect, financial irresponsibility, or other conduct the 9339
director determines is injurious, or poses a threat, to the health 9340
or safety of individuals being served. 9341

(E) Subject to division (F) of this section, the department 9342
is not required to hold hearings under division (A)(3) of this 9343
section if any of the following conditions apply: 9344

(1) Rules adopted by the director of aging pursuant to this 9345
chapter require the community-based long-term care agency to be a 9346
party to a provider agreement; hold a license, certificate, or 9347
permit; or maintain a certification, any of which is required or 9348
issued by a state or federal government entity other than the 9349
department of aging, and either of the following is the case: 9350

(a) The provider agreement has not been entered into or the 9351
license, certificate, permit, or certification has not been 9352
obtained or maintained. 9353

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, ~~or~~ been convicted of, or been found eligible for intervention in lieu of conviction for an offense listed or described in ~~division (C)(1)(a) divisions (A)(3)(a) to (e) of section 173.394~~ 109.572 of the Revised Code, but only if none of the personal character standards established by the ~~department~~ director in rules adopted under ~~division (F) of~~ section 173.394 of the Revised Code apply.

(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is

defined in section 173.42 of the Revised Code, that administers 9385
programs on behalf of the department of aging in the region of the 9386
state in which the agency is certified to provide services. 9387

(f) The agency has not billed or otherwise submitted a claim 9388
to the department for payment under the medicaid program in at 9389
least two years. 9390

(g) The agency denied or failed to provide the department or 9391
its designee access to the agency's facilities during the agency's 9392
normal business hours for purposes of conducting an audit or 9393
structural compliance review. 9394

(h) The agency has ceased doing business. 9395

(i) The agency has voluntarily relinquished its certification 9396
for any reason. 9397

(3) The agency's provider agreement with the department of 9398
job and family services has been suspended under division (C) of 9399
section 5111.031 of the Revised Code. 9400

(4) The agency's provider agreement with the department of 9401
job and family services is denied or revoked because the agency or 9402
its owner, officer, authorized agent, associate, manager, or 9403
employee has been convicted of an offense that caused the provider 9404
agreement to be suspended under section 5111.031 of the Revised 9405
Code. 9406

(F) If the department does not hold hearings when any 9407
condition described in division (E) of this section applies, the 9408
department may send a notice to the agency describing a decision 9409
not to certify the agency under division (A)(1) of this section or 9410
the disciplinary action the department proposes to take under 9411
division (A)(2)(e) to (h) of this section. The notice shall be 9412
sent to the agency's address that is on record with the department 9413
and may be sent by regular mail. 9414

(G) The director of aging may adopt rules in accordance with 9415
Chapter 119. of the Revised Code establishing a fee to be charged 9416
by the department of aging or its designee for certification 9417
issued under this section. 9418

All fees collected by the department or its designee under 9419
this section shall be deposited in the state treasury to the 9420
credit of the provider certification fund, which is hereby 9421
created. Money credited to the fund shall be used to pay for 9422
community-based long-term care services, administrative costs 9423
associated with community-based long-term care agency 9424
certification under this section, and administrative costs related 9425
to the publication of the Ohio long-term care consumer guide. 9426

Sec. 173.394. (A) As used in this section: 9427

~~(1)~~ "Applicant" means a person who is under final 9428
consideration for employment with a community-based long-term care 9429
agency in a full-time, part-time, or temporary position that 9430
involves providing direct care to an individual or is referred to 9431
a community-based long-term care agency by an employment service 9432
for such a position. "Applicant" does not include a person who 9433
provides direct care to an individual as a volunteer without 9434
receiving or expecting to receive any form of remuneration other 9435
than reimbursement for actual expenses. 9436

~~(2)~~ "Criminal records check" has the same meaning as in 9437
section 109.572 of the Revised Code. 9438

"Disqualifying offense" means any of the offenses listed or 9439
described in divisions (A)(3)(a) to (e) of section 109.572 of the 9440
Revised Code. 9441

"Employee" means a person employed by a community-based 9442
long-term care agency in a full-time, part-time, or temporary 9443
position that involves providing direct care to an individual and 9444

a person who works in such a position due to being referred to a 9445
community-based long-term care agency by an employment service. 9446
"Employee" does not include a person who provides direct care to 9447
an individual as a volunteer without receiving or expecting to 9448
receive any form of remuneration other than reimbursement for 9449
actual expenses. 9450

"Waiver agency" has the same meaning as in section 5111.033 9451
of the Revised Code. 9452

(B) This section does not apply to any individual who is 9453
subject to a database review or criminal records check under 9454
section 3701.881 of the Revised Code. If a community-based 9455
long-term care agency also is a waiver agency, the agency may 9456
provide for applicants and employees to undergo database reviews 9457
and criminal records checks in accordance with section 5111.033 of 9458
the Revised Code rather than this section. 9459

(C) No community-based long-term care agency shall employ an 9460
applicant or continue to employ an employee in a position that 9461
involves providing direct care to an individual if any of the 9462
following apply: 9463

(1) A review of the databases listed in division (E) of this 9464
section reveals any of the following: 9465

(a) That the applicant or employee is included in one or more 9466
of the databases listed in divisions (E)(1) to (5) of this 9467
section; 9468

(b) That there is in the state nurse aide registry 9469
established under section 3721.32 of the Revised Code a statement 9470
detailing findings by the director of health that the applicant or 9471
employee neglected or abused a long-term care facility or 9472
residential care facility resident or misappropriated property of 9473
such a resident; 9474

(c) That the applicant or employee is included in one or more 9475

of the databases, if any, specified in rules adopted under this 9476
section and the rules prohibit the agency from employing an 9477
applicant or continuing to employ an employee included in such a 9478
database in a position that involves providing direct care to an 9479
individual. 9480

(2) After the applicant or employee is provided, pursuant to 9481
division (F)(2)(a) of this section, a copy of the form prescribed 9482
pursuant to division (C)(1) of section 109.572 of the Revised Code 9483
and the standard impression sheet prescribed pursuant to division 9484
(C)(2) of that section, the applicant or employee fails to 9485
complete the form or provide the applicant's or employee's 9486
fingerprint impressions on the standard impression sheet. 9487

(3) Except as provided in rules adopted under this section, 9488
the applicant or employee is found by a criminal records check 9489
required by this section to have been convicted of, pleaded guilty 9490
to, or been found eligible for intervention in lieu of conviction 9491
for a disqualifying offense. 9492

(D) Except as provided by division (G) of this section, the 9493
chief administrator of a community-based long-term care agency 9494
shall inform each applicant of both of the following at the time 9495
of the applicant's initial application for employment or referral 9496
to the agency by an employment service for a position that 9497
involves providing direct care to an individual: 9498

(1) That a review of the databases listed in division (E) of 9499
this section will be conducted to determine whether the agency is 9500
prohibited by division (C)(1) of this section from employing the 9501
applicant in the position; 9502

(2) That, unless the database review reveals that the 9503
applicant may not be employed in the position, a criminal records 9504
check of the applicant will be conducted and the applicant is 9505
required to provide a set of the applicant's fingerprint 9506

impressions as part of the criminal records check. 9507

(E) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a community-based long-term care agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, a chief administrator is not required to conduct a database review of an applicant or employee if division (G) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following: 9508
9509
9510
9511
9512
9513
9514
9515
9516
9517
9518
9519
9520
9521

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation; 9522
9523
9524

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended; 9525
9526
9527
9528
9529
9530

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code; 9531
9532

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code; 9533
9534
9535

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code; 9536
9537

(6) The state nurse aide registry established under section 3721.32 of the Revised Code; 9538
9539

(7) Any other database, if any, specified in rules adopted under this section. 9540
9541

(F)(1) Except as provided in division (I) of this section As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each of the applicant. If rules adopted under this section so require, the chief administrator of a community-based long-term care agency shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (G) of this section applies or the agency is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required under by this division section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the 9542
9543
9544
9545
9546
9547
9548
9549
9550
9551
9552
9553
9554
9555
9556
9557
9558
9559
9560
9561
9562
9563
9564
9565
9566
9567
9568
9569

applicant. Even if an applicant or employee for whom a criminal 9570
records check request is required ~~under by this division section~~ 9571
presents proof of having been a resident of this state for the 9572
five-year period, the chief administrator may request that the 9573
superintendent include information from the federal bureau of 9574
investigation in the criminal records check. 9575

~~(2) A person required by division (B)(1) of this section to~~ 9576
~~request a criminal records check~~ The chief administrator shall do 9577
~~both~~ all of the following: 9578

(a) Provide to each applicant and employee for whom a 9579
criminal records check request is required ~~under that division by~~ 9580
this section a copy of the form prescribed pursuant to division 9581
(C)(1) of section 109.572 of the Revised Code and a standard 9582
~~fingerprint~~ impression sheet prescribed pursuant to division 9583
(C)(2) of that section, ~~and obtain;~~ 9584

(b) Obtain the completed form and standard impression sheet 9585
from the applicant or employee; 9586

~~(b)(c)~~ Forward the completed form and standard impression 9587
sheet to the superintendent ~~of the bureau of criminal~~ 9588
~~identification and investigation.~~ 9589

~~(3) An applicant provided the form and fingerprint impression~~ 9590
~~sheet under division (B)(2)(a) of this section who fails to~~ 9591
~~complete the form or provide fingerprint impressions shall not be~~ 9592
~~employed in any position for which a criminal records check is~~ 9593
~~required by this section.~~ 9594

~~(C)(1) Except as provided in rules adopted by the department~~ 9595
~~of aging in accordance with division (F) of this section and~~ 9596
~~subject to division (C)(2) of this section, no community based~~ 9597
~~long term care agency shall employ a person in a position that~~ 9598
~~involves providing direct care to an individual if the person has~~ 9599
~~been convicted of or pleaded guilty to any of the following:~~ 9600

~~(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21,
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,
2925.22, 2925.23, or 3716.11 of the Revised Code.~~

~~(b) A violation of an existing or former law of this state,
any other state, or the United States that is substantially
equivalent to any of the offenses listed in division (C)(1)(a) of
this section.~~

(2)(a) A community-based long-term care agency shall pay to
the bureau of criminal identification and investigation the fee
prescribed pursuant to division (C)(3) of section 109.572 of the
Revised Code for each criminal records check the agency requests
under this section. An agency may charge an applicant a fee not
exceeding the amount the agency pays to the bureau under this
section if both of the following apply:

(a) The agency notifies the applicant at the time of initial
application for employment of the amount of the fee and that,
unless the fee is paid, the applicant will not be considered for
employment.

(b) The medicaid program established under Chapter 5111. of
the Revised Code does not reimburse the agency for the fee it pays
to the bureau under this section.

(G) Divisions (D) to (F) of this section do not apply with
regard to an applicant or employee if the applicant or employee is
referred to a community-based long-term agency by an employment
service that supplies full-time, part-time, or temporary staff for

positions that involve providing direct care to an individual and 9632
both of the following apply: 9633

(1) The chief administrator of the agency receives from the 9634
employment service confirmation that a review of the databases 9635
listed in division (E) of this section was conducted of the 9636
applicant or employee. 9637

(2) The chief administrator of the agency receives from the 9638
employment service, applicant, or employee a report of the results 9639
of a criminal records check of the applicant or employee that has 9640
been conducted by the superintendent within the one-year period 9641
immediately preceding the following: 9642

(a) In the case of an applicant, the date of the applicant's 9643
referral by the employment service to the agency; 9644

(b) In the case of an employee, the date by which the agency 9645
would otherwise have to request a criminal records check of the 9646
employee under division (F) of this section. 9647

(H)(1) A community-based long-term care agency may employ 9648
conditionally an applicant for whom a criminal records check 9649
request is required ~~under division (B) of~~ by this section prior to 9650
obtaining the results of a ~~the~~ criminal records check ~~regarding~~ 9651
~~the individual, provided that~~ if the agency is not prohibited by 9652
division (C)(1) of this section from employing the applicant in a 9653
position that involves providing direct care to an individual and 9654
either of the following applies: 9655

(a) The chief administrator of the agency ~~shall request a~~ 9656
~~requests the~~ criminal records check ~~regarding the individual~~ in 9657
accordance with division ~~(B)(1)~~(F) of this section not later than 9658
five business days after the ~~individual~~ applicant begins 9659
conditional employment. 9660

(b) The applicant is referred to the agency by an employment 9661
service, the employment service or the applicant provides the 9662

chief administrator of the agency a letter that is on the 9663
letterhead of the employment service, the letter is dated and 9664
signed by a supervisor or another designated official of the 9665
employment service, and the letter states all of the following: 9666

(i) That the employment service has requested the 9667
superintendent to conduct a criminal records check regarding the 9668
applicant; 9669

(ii) That the requested criminal records check is to include 9670
a determination of whether the applicant has been convicted of, 9671
pleaded guilty to, or been found eligible for intervention in lieu 9672
of conviction for a disqualifying offense; 9673

(iii) That the employment service has not received the 9674
results of the criminal records check as of the date set forth on 9675
the letter; 9676

(iv) That the employment service promptly will send a copy of 9677
the results of the criminal records check to the chief 9678
administrator of the agency when the employment service receives 9679
the results. In the circumstances described in division (I)(2) of 9680
this section, a community based long term care agency may employ 9681
conditionally an applicant who has been referred to the agency by 9682
an employment service that supplies full time, part time, or 9683
temporary staff for positions involving the direct care of 9684
individuals and for whom, pursuant to that division, a criminal 9685
records check is not required under division (B) of this section. 9686

(b)(2) If a community-based long-term care agency employs an 9687
applicant conditionally pursuant to division (H)(1)(b) of this 9688
section, the employment service, on its receipt of the results of 9689
the criminal records check, promptly shall send a copy of the 9690
results to the chief administrator of the agency. 9691

(3) A community-based long-term care agency that employs an 9692
individual applicant conditionally under authority of pursuant to 9693

division ~~(C)(2)(a)(H)(1)(a) or (b)~~ of this section shall terminate 9694
the ~~individual's~~ applicant's employment if the results of the 9695
criminal records check ~~request under division (B) of this section~~ 9696
~~or described in division (I)(2) of this section~~, other than the 9697
results of any request for information from the federal bureau of 9698
investigation, are not obtained within the period ending sixty 9699
days after the date the request for the criminal records check is 9700
made. Regardless of when the results of the criminal records check 9701
are obtained, if the results indicate that the ~~individual~~ 9702
applicant has been convicted of ~~or~~, pleaded guilty to ~~any of the~~ 9703
~~offenses listed or described in division (C)(1) of this section,~~ 9704
or been found eligible for intervention in lieu of conviction for 9705
a disqualifying offense, the agency shall terminate the 9706
~~individual's~~ applicant's employment unless circumstances specified 9707
in rules adopted under this section that permit the agency to 9708
employ the applicant exist and the agency chooses to employ the 9709
~~individual pursuant to division (F) of this section~~ applicant. 9710
Termination of employment under this division shall be considered 9711
just cause for discharge for purposes of division (D)(2) of 9712
section 4141.29 of the Revised Code if the ~~individual~~ applicant 9713
makes any attempt to deceive the agency about the ~~individual's~~ 9714
applicant's criminal record. 9715

~~(D)(1) Each community based long term care agency shall pay~~ 9716
~~to the bureau of criminal identification and investigation the fee~~ 9717
~~prescribed pursuant to division (C)(3) of section 109.572 of the~~ 9718
~~Revised Code for each criminal records check conducted pursuant to~~ 9719
~~a request made under division (B) of this section.~~ 9720

~~(2) A community based long term care agency may charge an~~ 9721
~~applicant a fee not exceeding the amount the agency pays under~~ 9722
~~division (D)(1) of this section. An agency may collect a fee only~~ 9723
~~if both of the following apply:~~ 9724

~~(a) The agency notifies the person at the time of initial~~ 9725

~~application for employment of the amount of the fee and that, 9726
unless the fee is paid, the person will not be considered for 9727
employment; 9728~~

~~(b) The medicaid program established under Chapter 5111. of 9729
the Revised Code does not reimburse the agency the fee it pays 9730
under division (D)(1) of this section. 9731~~

~~(E)(I) The report of any criminal records check conducted 9732
pursuant to a request made under this section is not a public 9733
record for the purposes of section 149.43 of the Revised Code and 9734
shall not be made available to any person other than the 9735
following: 9736~~

~~(1) The individual applicant or employee who is the subject 9737
of the criminal records check or the individual's applicant's or 9738
employee's representative; 9739~~

~~(2) The chief administrator of the community-based long-term 9740
care agency requesting the criminal records check or the 9741
administrator's representative; 9742~~

~~(3) The administrator of any other facility, agency, or 9743
program that provides direct care to individuals that is owned or 9744
operated by the same entity that owns or operates the 9745
community-based long-term care agency that requested the criminal 9746
records check; 9747~~

~~(4) The employment service that requested the criminal 9748
records check; 9749~~

~~(5) The director of aging or a person authorized by the 9750
director to monitor a community-based long-term care agency's 9751
compliance with this section; 9752~~

~~+5)(6) The director of job and family services and the staff 9753
of the department of job and family services who are involved in 9754
the administration of the medicaid program if either of the 9755~~

following apply: 9756

(a) In the case of a criminal records check requested by a community-based long-term care agency, the agency also is a waiver agency; 9757
9758
9759

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a community-based long-term care agency that also is a waiver agency. 9760
9761
9762
9763
9764

(7) A court, hearing officer, or other necessary individual involved in a case dealing with a any of the following: 9765
9766

(a) A denial of employment of the applicant or ~~dealing with~~ employment employee; 9767
9768

(b) Employment or unemployment benefits of the applicant or employee; 9769
9770

~~(6) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section (c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.~~ 9771
9772
9773
9774

~~(F) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a community based long term care agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.~~ 9775
9776
9777
9778
9779
9780
9781

~~(G) The chief administrator of a community based long term care agency shall inform each person, at the time of initial application for a position that involves providing direct care to an individual, that the person is required to provide a set of~~ 9782
9783
9784
9785

~~fingerprint impressions and that a criminal records check is~~ 9786
~~required to be conducted if the person comes under final~~ 9787
~~consideration for employment.~~ 9788

~~(H)~~(J) In a tort or other civil action for damages that is 9789
brought as the result of an injury, death, or loss to person or 9790
property caused by an individual applicant or employee who a 9791
community-based long-term care agency employs in a position that 9792
involves providing direct care to individuals, all of the 9793
following shall apply: 9794

(1) If the agency employed the individual applicant or 9795
employee in good faith and reasonable reliance on the report of a 9796
criminal records check requested under this section, the agency 9797
shall not be found negligent solely because of its reliance on the 9798
report, even if the information in the report is determined later 9799
to have been incomplete or inaccurate. 9800

(2) If the agency employed the individual applicant in good 9801
faith on a conditional basis pursuant to division ~~(C)(2)~~(H) of 9802
this section, the agency shall not be found negligent solely 9803
because it employed the individual applicant prior to receiving 9804
the report of a criminal records check requested under this 9805
section. 9806

(3) If the agency in good faith employed the individual 9807
applicant or employee according to the personal character 9808
standards established in rules adopted under ~~division (F)~~ of this 9809
section, the agency shall not be found negligent solely because 9810
the individual prior to being employed had applicant or employee 9811
has been convicted of or, pleaded guilty to an offense listed or 9812
described in division (C)(1) of this section, or been found 9813
eligible for intervention in lieu of conviction for a 9814
disqualifying offense. 9815

~~(I)(1) The chief administrator of a community based long term~~ 9816

~~care agency is not required to request that the superintendent of 9817
the bureau of criminal identification and investigation conduct a 9818
criminal records check of an applicant if the applicant has been 9819
referred to the agency by an employment service that supplies 9820
full time, part time, or temporary staff for positions involving 9821
the direct care of individuals and both of the following apply: 9822~~

~~(a) The chief administrator receives from the employment 9823
service or the applicant a report of the results of a criminal 9824
records check regarding the applicant that has been conducted by 9825
the superintendent within the one year period immediately 9826
preceding the applicant's referral: 9827~~

~~(b) The report of the criminal records check demonstrates 9828
that the person has not been convicted of or pleaded guilty to an 9829
offense listed or described in division (C)(1) of this section, or 9830
the report demonstrates that the person has been convicted of or 9831
pleaded guilty to one or more of those offenses, but the 9832
community based long term care agency chooses to employ the 9833
individual pursuant to division (F) of this section. 9834~~

~~(2) The chief administrator of a community based long term 9835
care agency is not required to request that the superintendent of 9836
the bureau of criminal identification and investigation conduct a 9837
criminal records check of an applicant and may employ the 9838
applicant conditionally as described in this division, if the 9839
applicant has been referred to the agency by an employment service 9840
that supplies full time, part time, or temporary staff for 9841
positions involving the direct care of individuals and if the 9842
chief administrator receives from the employment service or the 9843
applicant a letter from the employment service that is on the 9844
letterhead of the employment service, dated, and signed by a 9845
supervisor or another designated official of the employment 9846
service and that states that the employment service has requested 9847
the superintendent to conduct a criminal records check regarding 9848~~

~~the applicant, that the requested criminal records check will 9849
include a determination of whether the applicant has been 9850
convicted of or pleaded guilty to any offense listed or described 9851
in division (C)(1) of this section, that, as of the date set forth 9852
on the letter, the employment service had not received the results 9853
of the criminal records check, and that, when the employment 9854
service receives the results of the criminal records check, it 9855
promptly will send a copy of the results to the community based 9856
long term care agency. If a community based long term care agency 9857
employs an applicant conditionally in accordance with this 9858
division, the employment service, upon its receipt of the results 9859
of the criminal records check, promptly shall send a copy of the 9860
results to the community based long term care agency, and division 9861
(C)(2)(b) of this section applies regarding the conditional 9862
employment. 9863~~

(K) The director of aging shall adopt rules in accordance 9864
with Chapter 119. of the Revised Code to implement this section. 9865

(1) The rules may do the following: 9866

(a) Require employees to undergo database reviews and 9867
criminal records checks under this section; 9868

(b) If the rules require employees to undergo database 9869
reviews and criminal records checks under this section, exempt one 9870
or more classes of employees from the requirements; 9871

(c) For the purpose of division (E)(7) of this section, 9872
specify other databases that are to be checked as part of a 9873
database review conducted under this section. 9874

(2) The rules shall specify all of the following: 9875

(a) The procedures for conducting database reviews under this 9876
section; 9877

(b) If the rules require employees to undergo database 9878

reviews and criminal records checks under this section, the times 9879
at which the database reviews and criminal records checks are to 9880
be conducted; 9881

(c) If the rules specify other databases to be checked as 9882
part of the database reviews, the circumstances under which a 9883
community-based long-term care agency is prohibited from employing 9884
an applicant or continuing to employ an employee who is found by a 9885
database review to be included in one or more of those databases; 9886

(d) Circumstances under which a community-based long-term 9887
care agency may employ an applicant or employee who is found by a 9888
criminal records check required by this section to have been 9889
convicted of, pleaded guilty to, or been found eligible for 9890
intervention in lieu of conviction for a disqualifying offense but 9891
meets personal character standards. 9892

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the 9893
Revised Code: 9894

"Medicaid waiver component" has the same meaning as in 9895
section 5111.85 of the Revised Code. 9896

"PASSPORT program" means the program created under this 9897
section. 9898

"PASSPORT waiver" means the federal medicaid waiver granted 9899
by the United States secretary of health and human services that 9900
authorizes the medicaid-funded component of the PASSPORT program. 9901

"Unified long-term services and support medicaid waiver 9902
component" means the medicaid waiver component authorized by 9903
section 5111.864 of the Revised Code. 9904

(B) There is hereby created the preadmission screening system 9905
providing options and resources today program, or PASSPORT. The 9906
PASSPORT program shall provide home and community-based services 9907
as an alternative to nursing facility placement for individuals 9908

who are aged and disabled and meet the program's applicable 9909
eligibility requirements. Subject to division (C) of this section, 9910
the program shall have a medicaid-funded component and a 9911
state-funded component. 9912

(C)(1) Unless the medicaid-funded component of the PASSPORT 9913
program is terminated under division (C)(2) of this section, all 9914
of the following apply: 9915

(a) The department of aging shall administer the 9916
medicaid-funded component through a contract entered into with the 9917
department of job and family services under section 5111.91 of the 9918
Revised Code. 9919

(b) The medicaid-funded component shall be operated as a 9920
separate medicaid waiver component. 9921

(c) For an individual to be eligible for the medicaid-funded 9922
component, the individual must be a medicaid recipient and meet 9923
the additional eligibility requirements applicable to the 9924
individual established in rules adopted under division (C)(1)(d) 9925
of this section. 9926

(d) The director of job and family services shall adopt rules 9927
under section 5111.85 of the Revised Code and the director of 9928
aging shall adopt rules in accordance with Chapter 119. of the 9929
Revised Code to implement the medicaid-funded component. 9930

(2) If the unified long-term services and support medicaid 9931
waiver component is created, the departments of aging and job and 9932
family services shall work together to determine whether the 9933
medicaid-funded component of the PASSPORT program should continue 9934
to operate as a separate medicaid waiver component or be 9935
terminated. If the departments determine that the medicaid-funded 9936
component of the PASSPORT program should be terminated, the 9937
medicaid-funded component shall cease to exist on a date the 9938
departments shall specify. 9939

(D)(1) The department of aging shall administer the 9940
state-funded component of the PASSPORT program. The state-funded 9941
component shall not be administered as part of the medicaid 9942
program. 9943

(2) For an individual to be eligible for the state-funded 9944
component, the individual must meet one of the following 9945
requirements and meet the additional eligibility requirements 9946
applicable to the individual established in rules adopted under 9947
division (D)(4) of this section: 9948

(a) The individual must have been enrolled in the 9949
state-funded component on September 1, 1991, (as the state-funded 9950
component was authorized by uncodified law in effect at that time) 9951
and have had one or more applications for enrollment in the 9952
medicaid-funded component (or, if the medicaid-funded component is 9953
terminated under division (C)(2) of this section, the unified 9954
long-term services and support medicaid waiver component) denied. 9955

(b) The individual must have had the individual's enrollment 9956
in the medicaid-funded component (or, if the medicaid-funded 9957
component is terminated under division (C)(2) of this section, the 9958
unified long-term services and support medicaid waiver component) 9959
terminated and the individual must still need the home and 9960
community-based services provided under the PASSPORT program to 9961
protect the individual's health and safety. 9962

(c) The individual must have an application for the 9963
medicaid-funded component (or, if the medicaid-funded component is 9964
terminated under division (C)(2) of this section, the unified 9965
long-term services and support medicaid waiver component) pending 9966
and the department or the department's designee must have 9967
determined that the individual meets the nonfinancial eligibility 9968
requirements of the medicaid-funded component (or, if the 9969
medicaid-funded component is terminated under division (C)(2) of 9970
this section, the unified long-term services and support medicaid 9971

waiver component) and not have reason to doubt that the individual 9972
meets the financial eligibility requirements of the 9973
medicaid-funded component (or, if the medicaid-funded component is 9974
terminated under division (C)(2) of this section, the unified 9975
long-term services and support medicaid waiver component). 9976

(3) An individual who is eligible for the state-funded 9977
component because the individual meets the requirement of division 9978
(D)(2)(c) of this section may participate in the component on that 9979
basis for not more than ~~three months~~ ninety days. 9980

(4) The director of aging shall adopt rules in accordance 9981
with section 111.15 of the Revised Code to implement the 9982
state-funded component. The additional eligibility requirements 9983
established in the rules may vary for the different groups of 9984
individuals specified in divisions (D)(2)(a), (b), and (c) of this 9985
section. 9986

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the 9987
Revised Code: 9988

(1) "Area agency on aging" means a public or private 9989
nonprofit entity designated under section 173.011 of the Revised 9990
Code to administer programs on behalf of the department of aging. 9991

(2) "Department of aging-administered medicaid waiver 9992
component" means each of the following: 9993

(a) The medicaid-funded component of the PASSPORT program 9994
created under section 173.40 of the Revised Code; 9995

(b) The choices program created under section 173.403 of the 9996
Revised Code; 9997

(c) The medicaid-funded component of the assisted living 9998
program created under section 5111.89 of the Revised Code; 9999

(d) Any other medicaid waiver component, as defined in 10000
section 5111.85 of the Revised Code, that the department of aging 10001

administers pursuant to an interagency agreement with the 10002
department of job and family services under section 5111.91 of the 10003
Revised Code. 10004

(3) "Home and community-based services covered by medicaid 10005
components the department of aging administers" means all of the 10006
following: 10007

(a) Medicaid waiver services available to a participant in a 10008
department of aging-administered medicaid waiver component; 10009

(b) The following medicaid state plan services available to a 10010
participant in a department of aging-administered medicaid waiver 10011
component as specified in rules adopted under section 5111.02 of 10012
the Revised Code: 10013

(i) Home health services; 10014

(ii) Private duty nursing services; 10015

(iii) Durable medical equipment; 10016

(iv) Services of a clinical nurse specialist; 10017

(v) Services of a certified nurse practitioner. 10018

(c) Services available to a participant of the PACE program. 10019

(4) "Long-term care consultation" or "consultation" means the 10020
consultation service made available by the department of aging or 10021
a program administrator through the long-term care consultation 10022
program established pursuant to this section. 10023

(5) "Medicaid" means the medical assistance program 10024
established under Chapter 5111. of the Revised Code. 10025

(6) "Nursing facility" has the same meaning as in section 10026
5111.20 of the Revised Code. 10027

(7) "PACE program" means the component of the medicaid 10028
program the department of aging administers pursuant to section 10029
173.50 of the Revised Code. 10030

(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

| | |
|--|----------------------------------|
| (1) Coordination and collaboration with respect to all available funding sources for long-term care services; | 10062 10063 |
| (2) Assessments of individuals regarding their long-term care service needs; | 10064 10065 |
| (3) Assessments of individuals regarding their on-going eligibility for long-term care services; | 10066 10067 |
| (4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components; | 10068 10069 10070 |
| (5) Priorities for using available resources efficiently and effectively. | 10071 10072 |
| (D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code. | 10073 10074 10075 |
| (E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following: | 10076 10077 10078 |
| (1) The availability of any long-term care options open to the individual; | 10079 10080 |
| (2) Sources and methods of both public and private payment for long-term care services; | 10081 10082 |
| (3) Factors to consider when choosing among the available programs, services, and benefits; | 10083 10084 |
| (4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community. | 10085 10086 10087 |
| (F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the | 10088 10089 10090 10091 |

Revised Code and may be provided concurrently with the assessment 10092
required under section 5111.204 of the Revised Code. 10093

(G)(1) Unless an exemption specified in division (I) of this 10094
section is applicable, each of the following shall be provided 10095
with a long-term care consultation: 10096

(a) An individual who applies or indicates an intention to 10097
apply for admission to a nursing facility, regardless of the 10098
source of payment to be used for the individual's care in a 10099
nursing facility; 10100

(b) An individual who requests a long-term care consultation; 10101

(c) An individual identified by the department or a program 10102
administrator as being likely to benefit from a long-term care 10103
consultation. 10104

(2) In addition to the individuals specified in division 10105
(G)(1) of this section, a long-term care consultation may be 10106
provided to a nursing facility resident regardless of the source 10107
of payment being used for the resident's care in the nursing 10108
facility. 10109

(H)(1) Except as provided in division (H)(2) or (3) of this 10110
section, a long-term care consultation provided pursuant to 10111
division (G) of this section shall be provided as follows: 10112

(a) If the individual for whom the consultation is being 10113
provided has applied for medicaid and the consultation is being 10114
provided concurrently with the assessment required under section 10115
5111.204 of the Revised Code, the consultation shall be completed 10116
in accordance with the applicable time frames specified in that 10117
section for providing a level of care determination based on the 10118
assessment. 10119

(b) In all other cases, the consultation shall be provided 10120
not later than five calendar days after the department or program 10121

administrator receives notice of the reason for which the 10122
consultation is to be provided pursuant to division (G) of this 10123
section. 10124

(2) An individual or the individual's representative may 10125
request that a long-term care consultation be provided on a date 10126
that is later than the date required under division (H)(1)(a) or 10127
(b) of this section. 10128

(3) If a long-term care consultation cannot be completed 10129
within the number of days required by division (H)(1) or (2) of 10130
this section, the department or program administrator may do any 10131
of the following: 10132

(a) In the case of an individual specified in division (G)(1) 10133
of this section, exempt the individual from the consultation 10134
pursuant to rules that may be adopted under division (L) of this 10135
section; 10136

(b) In the case of an applicant for admission to a nursing 10137
facility, provide the consultation after the individual is 10138
admitted to the nursing facility; 10139

(c) In the case of a resident of a nursing facility, provide 10140
the consultation as soon as practicable. 10141

(I) An individual is not required to be provided a long-term 10142
care consultation under division (G)(1) of this section if any of 10143
the following apply: 10144

(1) The department or program administrator has attempted to 10145
provide the consultation, but the individual or the individual's 10146
representative refuses to cooperate; 10147

(2) The individual is to receive care in a nursing facility 10148
under a contract for continuing care as defined in section 173.13 10149
of the Revised Code; 10150

(3) The individual has a contractual right to admission to a 10151

nursing facility operated as part of a system of continuing care 10152
in conjunction with one or more facilities that provide a less 10153
intensive level of services, including a residential care facility 10154
licensed under Chapter 3721. of the Revised Code, ~~an adult care a~~ 10155
~~residential~~ facility licensed under ~~sections 5119.70 to 5119.88~~ 10156
section 5119.22 of the Revised Code that provides accommodations, 10157
supervision, and personal care services for three to sixteen 10158
unrelated adults, or an independent living arrangement; 10159

(4) The individual is to receive continual care in a home for 10160
the aged exempt from taxation under section 5701.13 of the Revised 10161
Code; 10162

(5) The individual is seeking admission to a facility that is 10163
not a nursing facility with a provider agreement under section 10164
5111.22, 5111.671, or 5111.672 of the Revised Code; 10165

(6) The individual is exempted from the long-term care 10166
consultation requirement by the department or the program 10167
administrator pursuant to rules that may be adopted under division 10168
(L) of this section. 10169

(J) As part of the long-term care consultation program, the 10170
department or program administrator shall assist an individual or 10171
individual's representative in accessing all sources of care and 10172
services that are appropriate for the individual and for which the 10173
individual is eligible, including all available home and 10174
community-based services covered by medicaid components the 10175
department of aging administers. The assistance shall include 10176
providing for the conduct of assessments or other evaluations and 10177
the development of individualized plans of care or services under 10178
section 173.424 of the Revised Code. 10179

(K) No nursing facility for which an operator has a provider 10180
agreement under section 5111.22, 5111.671, or 5111.672 of the 10181
Revised Code shall admit any individual as a resident, unless the 10182

nursing facility has received evidence that a long-term care 10183
consultation has been completed for the individual or division (I) 10184
of this section is applicable to the individual. 10185

(L) The director of aging may adopt any rules the director 10186
considers necessary for the implementation and administration of 10187
this section. The rules shall be adopted in accordance with 10188
Chapter 119. of the Revised Code and may specify any or all of the 10189
following: 10190

(1) Procedures for providing long-term care consultations 10191
pursuant to this section; 10192

(2) Information to be provided through long-term care 10193
consultations regarding long-term care services that are 10194
available; 10195

(3) Criteria and procedures to be used to identify and 10196
recommend appropriate service options for an individual receiving 10197
a long-term care consultation; 10198

(4) Criteria for exempting individuals from the long-term 10199
care consultation requirement; 10200

(5) Circumstances under which it may be appropriate to 10201
provide an individual's long-term care consultation after the 10202
individual's admission to a nursing facility rather than before 10203
admission; 10204

(6) Criteria for identifying nursing facility residents who 10205
would benefit from the provision of a long-term care consultation; 10206

(7) A description of the types of information from a nursing 10207
facility that is needed under the long-term care consultation 10208
program to assist a resident with relocation from the facility; 10209

(8) Standards to prevent conflicts of interest relative to 10210
the referrals made by a person who performs a long-term care 10211
consultation, including standards that prohibit the person from 10212

being employed by a provider of long-term care services; 10213

(9) Procedures for providing notice and an opportunity for a 10214
hearing under division (N) of this section. 10215

(M) To assist the department and each program administrator 10216
with identifying individuals who are likely to benefit from a 10217
long-term care consultation, the department and program 10218
administrator may ask to be given access to nursing facility 10219
resident assessment data collected through the use of the resident 10220
assessment instrument specified in rules adopted under section 10221
5111.02 of the Revised Code for purposes of the medicaid program. 10222
Except when prohibited by state or federal law, the department of 10223
health, department of job and family services, or nursing facility 10224
holding the data shall grant access to the data on receipt of the 10225
request from the department of aging or program administrator. 10226

(N)(1) The director of aging, after providing notice and an 10227
opportunity for a hearing, may fine a nursing facility an amount 10228
determined by rules the director shall adopt in accordance with 10229
Chapter 119. of the Revised Code for any of the following reasons: 10230

(a) The nursing facility admits an individual, without 10231
evidence that a long-term care consultation has been provided, as 10232
required by this section; 10233

(b) The nursing facility denies a person attempting to 10234
provide a long-term care consultation access to the facility or a 10235
resident of the facility; 10236

(c) The nursing facility denies the department of aging or 10237
program administrator access to the facility or a resident of the 10238
facility, as the department or administrator considers necessary 10239
to administer the program. 10240

(2) In accordance with section 5111.62 of the Revised Code, 10241
all fines collected under division (N)(1) of this section shall be 10242
deposited into the state treasury to the credit of the residents 10243

protection fund. 10244

Sec. 173.45. As used in this section and in sections 173.46 10245
to 173.49 of the Revised Code: 10246

(A) "~~Adult care Residential~~ facility" ~~has the same meaning as~~ 10247
~~in~~ means a residential facility licensed under section 5119.70 10248
5119.22 of the Revised Code that provides accommodations, 10249
supervision, and personal care services for three to sixteen 10250
unrelated adults. 10251

(B) "Community-based long-term care services" has the same 10252
meaning as in section 173.14 of the Revised Code. 10253

(C) "Long-term care facility" means a nursing home or 10254
residential care facility. 10255

(D) "Nursing home" and "residential care facility" have the 10256
same meanings as in section 3721.01 of the Revised Code. 10257

(E) "Nursing facility" has the same meaning as in section 10258
5111.20 of the Revised Code. 10259

Sec. 173.46. (A) The department of aging shall develop and 10260
publish a guide to long-term care facilities for use by 10261
individuals considering long-term care facility admission and 10262
their families, friends, and advisors. The guide, which shall be 10263
titled the Ohio long-term care consumer guide, may be published in 10264
printed form or in electronic form for distribution over the 10265
internet. The guide may be developed as a continuation or 10266
modification of the guide published by the department prior to 10267
September 29, 2005, under rules adopted under section 173.02 of 10268
the Revised Code. 10269

(B) The Ohio long-term care consumer guide shall include 10270
information on each long-term care facility in this state. For 10271
each facility, the guide shall include the following information, 10272

| | |
|---|---|
| as applicable to the facility: | 10273 |
| (1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; | 10274 10275 |
| (2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative; | 10276 10277 10278 10279 |
| (3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; | 10280 10281 |
| (4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code. | 10282 10283 |
| (C) The Ohio long-term care consumer guide may include information on adult-care <u>residential</u> facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division. | 10284 10285 10286 10287 10288 |
| <u>Sec. 191.01. As used in this chapter:</u> | 10289 |
| (A) <u>"Administrative safeguards," "availability," "confidentiality," "integrity," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.</u> | 10290 10291 10292 10293 |
| (B) <u>"Business associate," "covered entity," "health plan," "individually identifiable health information," and "protected health information" have the same meanings as in 45 C.F.R. 160.103.</u> | 10294 10295 10296 10297 |
| (C) <u>"Executive director of the office of health transformation" or "executive director" means the executive director of the office of health transformation or the chief administrative officer of a successor governmental entity responsible for health system oversight in this state.</u> | 10298 10299 10300 10301 10302 |

(D) "Government program providing public benefits" means any program administered by a state agency that has been identified, pursuant to section 191.02 of the Revised Code, by the executive director of the office of health transformation in consultation with the individuals specified in that section. 10303
10304
10305
10306
10307

(E) "Office of health transformation" means the office of health transformation created by executive order 2011-02K. 10308
10309

(F) "Operating protocol" means a protocol adopted by the executive director of the office of health transformation or the executive director's designee under division (D) of section 191.06 of the Revised Code. 10310
10311
10312
10313

(G) "Participating agency" means a state agency that participates in a health transformation initiative as specified in the one or more operating protocols adopted for the initiative under division (D) of section 191.06 of the Revised Code. 10314
10315
10316
10317

(H) "Personally identifiable information" means information that meets both of the following criteria: 10318
10319

(1) It identifies an individual or there is a reasonable basis to believe that it may be used to identify an individual; 10320
10321

(2) It relates to an individual's eligibility for, application for, or receipt of public benefits from a government program providing public benefits. 10322
10323
10324

(I) "State agency" means each of the following: 10325

(1) The department of aging; 10326

(2) The department of alcohol and drug addiction services; 10327

(3) The department of development; 10328

(4) The department of developmental disabilities; 10329

(5) The department of education; 10330

(6) The department of health; 10331

| | |
|---|-------|
| <u>(7) The department of insurance;</u> | 10332 |
| <u>(8) The department of job and family services;</u> | 10333 |
| <u>(9) The department of mental health;</u> | 10334 |
| <u>(10) The department of rehabilitation and correction;</u> | 10335 |
| <u>(11) The department of taxation;</u> | 10336 |
| <u>(12) The department of veterans services;</u> | 10337 |
| <u>(13) The department of youth services.</u> | 10338 |
| <u>(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.</u> | 10339 |
| | |
| <u>Sec. 191.02. The executive director of the office of health</u> | 10340 |
| <u>transformation, in consultation with all of the following</u> | 10341 |
| <u>individuals, shall identify each government program administered</u> | 10342 |
| <u>by a state agency that is to be considered a government program</u> | 10343 |
| <u>providing public benefits for purposes of section 191.04 of the</u> | 10344 |
| <u>Revised Code:</u> | 10345 |
| | |
| <u>(A) The director of aging;</u> | 10346 |
| <u>(B) The director of alcohol and drug addiction services;</u> | 10347 |
| <u>(C) The director of development;</u> | 10348 |
| <u>(D) The director of developmental disabilities;</u> | 10349 |
| <u>(E) The director of health;</u> | 10350 |
| <u>(F) The director job and family services;</u> | 10351 |
| <u>(G) The director of mental health;</u> | 10352 |
| <u>(H) The director of rehabilitation and correction;</u> | 10353 |
| <u>(I) The director of veterans services;</u> | 10354 |
| <u>(J) The director of youth services;</u> | 10355 |
| | |
| <u>(K) The administrator of the rehabilitation services</u> | 10356 |
| <u>commission;</u> | 10357 |

| | |
|--|-------|
| <u>(L) The administrator of workers' compensation;</u> | 10358 |
| <u>(M) The superintendent of insurance;</u> | 10359 |
| <u>(N) The superintendent of public instruction;</u> | 10360 |
| <u>(O) The tax commissioner.</u> | 10361 |
| | |
| <u>Sec. 191.04. (A) In accordance with federal laws governing</u> | 10362 |
| <u>the confidentiality of individually identifiable health</u> | 10363 |
| <u>information, including the "Health Insurance Portability and</u> | 10364 |
| <u>Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,</u> | 10365 |
| <u>42 U.S.C. 1320d et seq., as amended, and regulations promulgated</u> | 10366 |
| <u>by the United States department of health and human services to</u> | 10367 |
| <u>implement the act, a state agency may exchange protected health</u> | 10368 |
| <u>information with another state agency relating to eligibility for</u> | 10369 |
| <u>or enrollment in a health plan or relating to participation in a</u> | 10370 |
| <u>government program providing public benefits if the exchange of</u> | 10371 |
| <u>information is necessary for either or both of the following:</u> | 10372 |
| | |
| <u>(1) Operating a health plan;</u> | 10373 |
| | |
| <u>(2) Coordinating, or improving the administration or</u> | 10374 |
| <u>management of, the health care-related functions of at least one</u> | 10375 |
| <u>government program providing public benefits.</u> | 10376 |
| | |
| <u>(B) For fiscal year 2013 only, a state agency also may</u> | 10377 |
| <u>exchange personally identifiable information with another state</u> | 10378 |
| <u>agency for purposes related to and in support of a health</u> | 10379 |
| <u>transformation initiative identified by the executive director of</u> | 10380 |
| <u>the office of health transformation pursuant to division (C) of</u> | 10381 |
| <u>section 191.06 of the Revised Code.</u> | 10382 |
| | |
| <u>(C) With respect to a state agency that uses or discloses</u> | 10383 |
| <u>personally identifiable information, all of the following</u> | 10384 |
| <u>conditions apply:</u> | 10385 |
| | |
| <u>(1) The state agency shall use or disclose the information</u> | 10386 |
| <u>only as permitted or required by state and federal law. In</u> | 10387 |

addition, if the information is obtained during fiscal year 2013 10388
from an exchange of personally identifiable information permitted 10389
under division (B) of this section, the agency shall also use or 10390
disclose the information in accordance with all operating 10391
protocols that apply to the use or disclosure. 10392

(2) If the state agency is a state agency other than the 10393
department of job and family services and it uses or discloses 10394
protected health information that is related to a medicaid 10395
recipient and obtained from the department of job and family 10396
services or another agency operating a component of the medicaid 10397
program, the state agency shall comply with all state and federal 10398
laws that apply to the department of job and family services when 10399
that department, as the state's single state agency to supervise 10400
the medicaid program as specified in section 5111.01 of the 10401
Revised Code, uses or discloses protected health information. 10402

(3) A state agency shall implement administrative, physical, 10403
and technical safeguards for the purpose of protecting the 10404
confidentiality, integrity, and availability of personally 10405
identifiable information the creation, receipt, maintenance, or 10406
transmittal of which is affected or governed by this section. 10407

(4) If a state agency discovers an unauthorized use or 10408
disclosure of unsecured protected health information or unsecured 10409
individually identifiable health information, the state agency 10410
shall, not later than seventy-two hours after the discovery, do 10411
all of the following: 10412

(a) Identify the individuals who are the subject of the 10413
protected health information or individually identifiable health 10414
information; 10415

(b) Report the discovery and the names of all individuals 10416
identified pursuant to division (C)(4)(a) of this section to all 10417
other state agencies and the executive director of the office of 10418

health transformation or the executive director's designee; 10419

(c) Mitigate, to the extent reasonably possible, any 10420
potential adverse effects of the unauthorized use or disclosure. 10421

(5) A state agency shall make available to the executive 10422
director of the office of health transformation or the executive 10423
director's designee, and to any other state or federal 10424
governmental entity required by law to have access on that 10425
entity's request, all internal practices, records, and 10426
documentation relating to personally identifiable information it 10427
receives, uses, or discloses that is affected or governed by this 10428
section. 10429

(6) On termination or expiration of an operating protocol and 10430
if feasible, a state agency shall return or destroy all personally 10431
identifiable information received directly from or received on 10432
behalf of another state agency. If the personally identifiable 10433
information is not returned or destroyed, the state agency 10434
maintaining the information shall extend the protections set forth 10435
in this section for as long as it is maintained. 10436

(7) If a state agency enters into a subcontract or, when 10437
required by 45 C.F.R. 164.502(e)(2), a business associate 10438
agreement, the subcontract or business associate agreement shall 10439
require the subcontractor or business associate to comply with the 10440
terms of this section as if the subcontractor or business 10441
associate were a state agency. 10442

Sec. 191.06. (A) The provisions of this section shall apply 10443
only for fiscal year 2013. 10444

(B) The executive director of the office of health 10445
transformation or the executive director's designee may facilitate 10446
the coordination of operations and exchange of information between 10447
state agencies. The purpose of the executive director's authority 10448

under this section is to support agency collaboration for health transformation purposes, including modernization of the medicaid program, streamlining of health and human services programs in this state, and improving the quality, continuity, and efficiency of health care and health care support systems in this state. 10449
10450
10451
10452
10453

(C) In furtherance of the authority of the executive director of the office of health transformation under division (B) of this section, the executive director or the executive director's designee shall identify each health transformation initiative in this state that involves the participation of two or more state agencies and that permits or requires an interagency agreement to be entered into for purposes of specifying each participating agency's role in coordinating, operating, or funding the initiative, or facilitating the exchange of data or other information for the initiative. The executive director shall publish a list of the identified health transformation initiatives on the internet web site maintained by the office of health transformation. 10454
10455
10456
10457
10458
10459
10460
10461
10462
10463
10464
10465
10466

(D) For each health transformation initiative that is identified under division (C) of this section, the executive director or the executive director's designee shall, in consultation with each participating agency, adopt one or more operating protocols. Notwithstanding any law enacted by the general assembly or rule adopted by a state agency, the provisions in a protocol shall supersede any provisions in an interagency agreement, including an interagency agreement entered into under section 5101.10 or 5111.91 of the Revised Code, that differ from the provisions of the protocol. 10467
10468
10469
10470
10471
10472
10473
10474
10475
10476

(E)(1) An operating protocol adopted under division (D) of this section shall include both of the following: 10477
10478

(a) All terms necessary to meet the requirements of "other arrangements" between a covered entity and a business associate 10479
10480

that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 10481

(b) If known, the date on which the protocol will terminate or expire. 10482
10483

(2) In addition, a protocol may specify the extent to which each participating agency is responsible and accountable for completing the tasks necessary for successful completion of the initiative, including tasks relating to the following components of the initiative: 10484
10485
10486
10487
10488

(a) Workflow; 10489

(b) Funding; 10490

(c) Exchange of data or other information that is confidential pursuant to state or federal law. 10491
10492

(F) An operating protocol adopted under division (D) of this section shall have the same force and effect as an interagency agreement or data sharing agreement, and each participating agency shall comply with it. 10493
10494
10495
10496

(G) The director of job and family services shall determine whether a waiver of federal medicaid requirements or a medicaid state plan amendment is necessary to fulfill the requirements of this section. If the director determines a waiver or medicaid state plan amendment is necessary, the director shall apply to the United States secretary of health and human services for the waiver or amendment. 10497
10498
10499
10500
10501
10502
10503

Sec. 306.04. (A) Except as otherwise provided in division (B) of this section, employees of a county transit board or a board of county commissioners operating a transit system are employees of the county. If the system is operated by the board of county commissioners, the board shall appoint an executive director, who shall be in the unclassified service. 10504
10505
10506
10507
10508
10509

(B) Any county transit board that established its own civil 10510

service organization and procedure prior to ~~the effective date of~~ 10511
~~this amendment~~ October 25, 1995, shall continue to operate under 10512
that organization. Appointments and promotions in that system 10513
shall be made, as far as practicable, by competitive examination. 10514

A board that established its own civil service organization 10515
prior to ~~the effective date of this amendment~~ October 25, 1995, 10516
shall establish by rule the seniority provisions relating to 10517
street railway and motor bus employees in effect at the time of 10518
the acquisition of the transit system by the county. The vacation, 10519
holiday, and sick leave privileges shall not be regulated by other 10520
provisions of law relating to public employees of the state or 10521
county, except that the transit board, its officers and employees, 10522
shall be subject to the public employees retirement system of the 10523
state and the transit board shall assume any pension obligations 10524
which have been assumed by any publicly owned transit system which 10525
the county may acquire. 10526

(C) A county transit board or board of county commissioners 10527
operating a transit system may: 10528

(1) Acquire in its name by gift, grant, purchase, or 10529
condemnation and hold and operate real estate and interests 10530
therein and personal property suitable for its purposes; 10531

(2) In its name purchase, acquire, construct, enlarge, 10532
improve, equip, repair, maintain, sell, exchange, lease as lessee 10533
or lessor, receive a right of use of, and manage, control, and 10534
operate, in or out of the county, a county transit system 10535
consisting of all real estate and interests therein, personal 10536
property, and a combination thereof, for or related to the 10537
movement of persons including but not limited to street railway, 10538
tramline, subways, rapid transits, monorails, and passenger bus 10539
systems but excluding therefrom trucks, the movement of property 10540
by truck, and facilities designed for use in the movement of 10541
property by truck for hire; 10542

(3) Issue, with the approval of the county commissioners when 10543
the issuance is made by the transit board, revenue bonds of the 10544
county as provided in division (B) of section 306.09 of the 10545
Revised Code, to secure funds to accomplish its purposes. The 10546
principal of and interest on such bonds, together with all other 10547
payments required to be made by the trust agreement or indenture 10548
securing such bonds, shall be paid solely from revenues or other 10549
income accruing to the board from facilities of the county transit 10550
system designated in said agreement or indenture. 10551

(4) Enter into contracts in the exercise of the rights, 10552
powers, and duties conferred upon it, and execute all instruments 10553
necessary in the conduct of its business; 10554

(5) Fix, alter, and charge rates and other charges for the 10555
use of its real estate and interests therein, personal property, 10556
and combinations thereof; 10557

(6) Employ such financial consultants, accountants, 10558
appraisers, consulting engineers, architects, construction 10559
experts, attorneys-at-law, managers and other supervisory 10560
personnel, and other officers, employees, and agents as it 10561
determines necessary to conduct its business, and fix their 10562
compensation and duties; 10563

(7) Pledge, hypothecate, or otherwise encumber its revenues 10564
and other income as security for its obligations and enter into 10565
trust agreements or indentures for the benefit of revenue 10566
bondholders; 10567

(8) Borrow money or accept or contract to accept advances, 10568
loans, gifts, grants, devises, or bequests from and enter into 10569
contracts or agreements with any federal, state, or other 10570
governmental or private source and hold and apply advances, loans, 10571
gifts, grants, devises, or bequests according to the terms thereof 10572
including provisions which are required by such federal, state, or 10573

other governmental or private source to protect the interest of 10574
employees affected by such advances, loans, gifts, grants, 10575
devises, or bequests. Such advances, loans, gifts, grants, or 10576
devises may be subject to any reasonable reservation and any gift, 10577
grant, or devise or real estate may be in fee simple or any lesser 10578
estate. Any advances or loans received from any federal, state, or 10579
other governmental or private source may be repaid in accordance 10580
with the terms of such advance or loan. 10581

(9) Conduct investigations and surveys into the needs of the 10582
public within or without the county for transportation services to 10583
provide for the movement of persons within, into, or from the area 10584
serviced or to be serviced by the county transit system; 10585

(10) Enter into lawful arrangements with the appropriate 10586
federal or state department or agency, county, township, municipal 10587
corporation, or other political subdivision or public agency for 10588
the planning and installation of any public facilities which are 10589
determined necessary in the conduct of its business; 10590

(11) Purchase fire, extended coverage, and liability 10591
insurance for the real estate and interests therein, personal 10592
property and any combination thereof, used by or in connection 10593
with the county transit system and insurance covering the board 10594
and the county transit system and its officers and employees for 10595
liability for damage or injury to persons or property; 10596

(12) Procure and pay all or any part of the cost of group 10597
hospitalization, surgical, major medical, or sickness and accident 10598
insurance, or a combination thereof, for the officers and 10599
employees of the county transit system and their immediate 10600
dependents, issued by an insurance company, duly authorized to do 10601
business in this state; 10602

(13) Sell, lease, release, or otherwise dispose of real 10603
estate or interests therein or personal property owned by it and 10604

grant such easements across its real estate and interests therein 10605
as will not interfere with its use by the county transit system; 10606

(14) Establish rules for the use and operation of the county 10607
transit system including the real estate or interests therein, 10608
personal property or a combination of the foregoing used by or in 10609
connection with such system; 10610

(15) Exercise the power of eminent domain to appropriate any 10611
real estate or interests therein, personal property, franchises, 10612
or any combination thereof, within or without the county, 10613
necessary or proper in the exercise of its powers provided in 10614
sections 306.01 to 306.13 of the Revised Code, as provided in 10615
sections 163.01 to 163.22 of the Revised Code, and subject to 10616
divisions (15)(a), (b), and (c) of this section, provided that a 10617
county transit board or a board of county commissioners operating 10618
a transit system shall not proceed to so appropriate real property 10619
outside its territorial boundaries, until it has served at the 10620
office of the county commissioners of the county in which it is 10621
proposed to appropriate real property, a notice describing the 10622
real property to be taken and the purpose for which it is proposed 10623
to be taken, and such county commissioners have entered on their 10624
journal within thirty days after such service a resolution 10625
approving such appropriation; 10626

(a) Nothing contained in this division authorizes a county 10627
transit board or a board of county commissioners to appropriate 10628
any land, rights, rights-of-way, franchises, or easements 10629
belonging to the state or to a municipal corporation without the 10630
consent of the state or of the municipal corporation, and no 10631
county transit board or board of county commissioners shall 10632
exercise the right of eminent domain to acquire any certificate of 10633
public convenience and necessity, or any part thereof, issued to a 10634
for-hire motor transportation company carrier by the public 10635
utilities commission of Ohio or by the ~~interstate commerce~~ 10636

~~commission~~ federal motor carrier safety administration of the 10637
United States, or to take or disturb other real estate or 10638
interests therein, personal property, or any combination thereof 10639
belonging to any municipal corporation without the consent of the 10640
legislative authority of such municipal corporation, or take or 10641
disturb real estate or interests therein, personal property, or 10642
any combination thereof belonging to any other political 10643
subdivision, public corporation, public utility, or common 10644
carrier, which is necessary and convenient in the operation of 10645
such political subdivision, public corporation, public utility, or 10646
common carrier unless provision is made for the restoration, 10647
relocation, or duplication of that taken or upon the election of 10648
such political subdivision, public corporation, public utility, or 10649
common carrier for the payment of compensation, if any, at the 10650
sole cost of the county transit system. 10651

(b) If any restoration or duplication proposed to be made 10652
under this division involves a relocation, the new location shall 10653
have at least comparable utilitarian value and effectiveness, and 10654
such relocation shall not impair the ability of the public utility 10655
or common carrier to compete in its original area of operation. 10656

(c) If such restoration or duplication proposed to be made 10657
under this division involves a relocation, the county transit 10658
board or board of county commissioners shall acquire no interest 10659
or right in or to the appropriated property or facility until the 10660
relocated property or facility is available for use and until 10661
marketable title thereto has been transferred to the political 10662
subdivision, public corporation, public utility, or common 10663
carrier. Nothing in this division shall require any board of 10664
county commissioners or county transit board operating a county 10665
transit system to so restore, relocate, or duplicate, if all of 10666
the real estate and interests therein, personal property, and any 10667
combination of the foregoing which is owned by a public utility or 10668

common carrier and used by it or in connection with the movement 10669
of persons, is acquired by exercise of the power of eminent 10670
domain. 10671

(16) When real property is acquired that is located outside 10672
the county and is removed from the tax duplicate, the county 10673
transit board or board of county commissioners operating a transit 10674
system shall pay annually to the county treasurer of the county in 10675
which that property is located, commencing with the first tax year 10676
in which that property is removed from the tax duplicate, an 10677
amount of money in lieu of taxes equal to the smaller of the 10678
following: 10679

(a) The last annual installment of taxes due from the 10680
acquired property before removal from the tax duplicate; 10681

(b) An amount equal to the difference between the combined 10682
revenue from real estate taxes of all the taxing districts in 10683
which the property is located in the tax year immediately prior to 10684
the removal of the acquired property from the tax duplicate, and 10685
either: 10686

(i) The total revenue which would be produced by the tax rate 10687
of each such taxing district in the tax year immediately prior to 10688
the removal of the acquired property from the tax duplicate, 10689
applied to the real estate tax duplicate of each of such taxing 10690
districts in each tax year subsequent to the year of removal; or 10691

(ii) The combined revenue from real estate taxes of all such 10692
taxing districts in each tax year subsequent to the year of 10693
removal, whichever is the greater. 10694

The county transit board or board of county commissioners may 10695
be exempted from such payment by agreement of the affected taxing 10696
district or districts in the county in which the property is 10697
located. 10698

The county auditor of the county in which that property is 10699

located shall apportion each such annual payment to each taxing 10700
district as if the annual payment had been levied and collected as 10701
a tax. 10702

Those annual payments shall never again be made after they 10703
have ceased. 10704

(17) Sue or be sued, plead or be impleaded, and be held 10705
liable in any court of proper jurisdiction for damages received by 10706
reason of negligence, in the same manner and to the same extent as 10707
if the county transit system were privately operated, provided, 10708
that no funds of a county other than those of the county transit 10709
board or, if the transit system is operated by the board of county 10710
commissioners, other than those in the account for the county 10711
transit system created under division (C) of section 306.01 of the 10712
Revised Code, shall be available for the satisfaction of judgments 10713
rendered against that system; 10714

(18) Annually prepare and make available for public 10715
inspection a report in condensed form showing the financial 10716
results of the operation of the county transit system. For systems 10717
operated by a county transit board, copies of this report shall be 10718
furnished to the county commissioners as well as a monthly summary 10719
statement of revenues and expenses for the preceding month 10720
sufficient to show the exact financial condition of the county 10721
transit system as of the last day of the preceding month. 10722

(19) With the approval of the county commissioners when the 10723
action is taken by the transit board, and without competitive 10724
bidding, sell, lease, or grant the right of use of all or a 10725
portion of the county transit system to any other political 10726
subdivision, taxing district, or other public body or agency 10727
having the power to operate a transit system; 10728

(20) Enter into and supervise franchise agreements for the 10729
operation of a county transit system; 10730

(21) Accept the assignment of and then supervise an existing 10731
franchise agreement for the operation of a county transit system. 10732

Sec. 306.36. (A) The board of trustees of a regional transit 10733
authority may exercise the power of eminent domain to appropriate 10734
any land, rights, rights-of-way, franchise, power lines, 10735
easements, or other property, within or without the territorial 10736
boundaries of the regional transit authority, necessary or proper 10737
for the construction or efficient operation of any transit 10738
facility or access thereto under its jurisdiction pursuant to the 10739
procedure provided in sections 163.01 to 163.22, inclusive, of the 10740
Revised Code, and subject to division (B) of this section, 10741
provided that a regional transit authority shall not proceed to so 10742
appropriate real property outside its territorial boundaries, 10743
until it has served at the office of the county commissioners of 10744
the county in which it is proposed to appropriate real property, a 10745
notice describing the real property to be taken and the purpose 10746
for which it is proposed to be taken, and such county 10747
commissioners have entered on their journal within thirty days 10748
after such service a resolution approving such appropriation. 10749

(B) Nothing contained in sections 306.30 to 306.53, 10750
inclusive, of the Revised Code authorizes a regional transit 10751
authority to appropriate any land, rights, rights-of-way, 10752
franchises, or easements belonging to the state or a municipal 10753
corporation without the consent of the state or municipal 10754
corporation, and no regional transit authority shall exercise the 10755
right of eminent domain to acquire any certificate of public 10756
convenience and necessity, or any part thereof, issued to a 10757
for-hire motor transportation company carrier by the public 10758
utilities commission of Ohio or by the ~~interstate commerce~~ 10759
~~commission of the United States~~ federal motor carrier safety 10760
administration, or to take or disturb other property or facilities 10761
belonging to any political subdivision, public corporation, public 10762

utility, or common carrier, which property or facility is 10763
necessary and convenient in the operation of such political 10764
subdivision, public corporation, public utility, or common 10765
carrier, unless provision is made for the restoration, relocation, 10766
or duplication of such property or facility, or upon the election 10767
of such political subdivision, public corporation, public utility, 10768
or common carrier, for the payment of compensation, if any, at the 10769
sole cost of the regional transit authority, provided: 10770

(1) If any restoration or duplication of any property or 10771
facility proposed to be made under this division involves a 10772
relocation of such property or facility the new facility and 10773
location thereof shall be of at least comparable utilitarian value 10774
and effectiveness and such relocation shall not impair the ability 10775
of the public utility or common carrier to compete in its original 10776
area of operation. 10777

(2) If any restoration or duplication of any property or 10778
facility proposed to be made under this division involves a 10779
relocation of such property or facility, the regional transit 10780
authority shall acquire no interest or right in or to the 10781
appropriated property or facility until the relocated property or 10782
facility is available for use and until marketable title thereto 10783
has been transferred to the public utility or common carrier. 10784

(C) When real property is acquired which is located outside 10785
the territorial boundaries of the regional transit authority and 10786
which is removed from the tax duplicate, the regional transit 10787
authority shall pay annually to the county treasurer of the county 10788
in which such property is located, commencing with the first tax 10789
year in which such property is removed from the tax duplicate, an 10790
amount of money in lieu of taxes equal to the smaller of the 10791
following: 10792

(1) The last annual installment of taxes due from the 10793
acquired property before removal from the tax duplicate; 10794

(2) An amount equal to the difference between the combined revenue from real estate taxes of all the taxing districts in which such property is located in the tax year immediately prior to the removal of such acquired property from the tax duplicate, and either:

(a) The total revenue which would be produced by the tax rate of each such taxing district in the tax year immediately prior to the removal of such acquired property from the tax duplicate, applied to the real estate tax duplicate of each of such taxing districts in each tax year subsequent to the year of removal; or

(b) The combined revenue from real estate taxes of all such taxing districts in each tax year subsequent to the year of removal, whichever is the greater.

The county auditor of each county in which such property is located shall apportion each such annual payment to each taxing district as if such annual payment has been levied and collected as a tax.

Such annual payments shall never again be made after they have ceased.

The regional transit authority may be exempted from such payment by agreement of the affected taxing district or districts in the county in which such property is located.

Sec. 306.55. Beginning July 1, 2011 and until November 5, 2013, the legislative authority of any municipal corporation or the board of township trustees of any township that has created or joined a regional transit authority that levies a property tax and that includes in its membership political subdivisions that are located in a county having a population of at least four hundred thousand according to the most recent federal census, may withdraw the municipal corporation or the unincorporated territory of the

township from the regional transit authority in the manner 10825
provided in this section. The legislative authority ~~of the~~ 10826
~~municipal corporation~~ or board of township trustees ~~of the~~ 10827
~~township~~ proposing to withdraw shall adopt a resolution to submit 10828
the question of withdrawing from the regional transit authority to 10829
the electors of the ~~territory~~ municipal corporation or the 10830
unincorporated area of the township to be withdrawn and shall 10831
certify the proposal to the board of elections for the purpose of 10832
having the proposal placed on the ballot at the next general 10833
election or at a special election conducted on the day of the next 10834
primary election that occurs not less than ninety days after the 10835
resolution is certified to the board of elections. 10836

Upon certification of a proposal to the board of elections 10837
pursuant to this section, the board of elections shall make the 10838
necessary arrangements for the submission of the question to the 10839
electors of the territory to be withdrawn from the regional 10840
transit authority qualified to vote on the question, ~~and the.~~ For 10841
a municipal corporation, the election shall be held, canvassed, 10842
and certified in the same manner as regular elections for the 10843
election of officers of the ~~subdivision~~ municipal corporation 10844
proposing to withdraw from the regional transit authority, except 10845
that the question appearing on the ballot of a municipal 10846
corporation shall read: 10847

"Shall the territory within the 10848
(~~Name~~ name of ~~political subdivision~~ municipal corporation to be 10849
withdrawn) be withdrawn from 10850
(~~Name~~ name of) regional transit authority)?" 10851

For the unincorporated area of a township, the election shall 10852
be held, canvassed, and certified in the same manner as regular 10853
elections for the election of officers of the township, except 10854
that question shall only be presented to electors of the 10855
unincorporated area of the township and the question appearing on 10856

the ballot of the unincorporated area of the township shall read: 10857

"Shall the territory of the unincorporated area of
(name of township to be withdrawn) be withdrawn from (name
of regional transit authority)?" 10858
10859
10860

The legislative authority of a municipal corporation or board
of trustees of a township, by vote of two-thirds of all members of
the legislative authority or board, may adopt a resolution and
certify that resolution to the board of elections for the combined
purpose of withdrawing from a regional transit authority as
provided in this section and levying a property tax pursuant to
division (XX) of section 5705.19 of the Revised Code for a
municipal corporation and section 5705.72 of the Revised Code for
a township. If the questions are combined, the question appearing
on the ballot shall be as provided in section 5705.252 of the
Revised Code. 10861
10862
10863
10864
10865
10866
10867
10868
10869
10870
10871

~~If the question is approved by at least a majority of the
electors voting on the question, the withdrawal is effective six
months from the date of the certification of its passage.~~ 10872
10873
10874

The board of elections to which the resolution was certified 10875
shall certify the results of the election to the board or 10876
legislative authority of the subdivision that submitted the 10877
resolution to withdraw and to the board of trustees of the 10878
regional transit authority from which the subdivision proposed to 10879
withdraw. If the question is approved by at least a majority of 10880
the electors voting on the question, the municipal corporation's 10881
or unincorporated area of the township's membership in the 10882
regional transit authority terminates on the thirty-first day of 10883
December of the calendar year in which the election is held. 10884

If the question of withdrawing from the regional transit 10885
authority is approved, the power of the regional transit authority 10886
to levy a tax on taxable property in the affected area of the 10887

withdrawing subdivision terminates beginning with the tax year in 10888
which the election is held, and no taxes from the levy may be 10889
charged for collection against such property for that tax year. 10890

Sec. 313.121. (A) As used in this section, "parent" means 10891
either parent, except that if one parent has been designated the 10892
residential parent and legal custodian of the child, "parent" 10893
means the designated residential parent and legal custodian, and 10894
if a person other than a parent is the child's legal guardian, 10895
"parent" means the legal guardian. 10896

(B) If a child under two years of age dies suddenly when in 10897
apparent good health, the death shall be reported immediately to 10898
the coroner of the county in which the death occurred, as required 10899
by section 313.12 of the Revised Code. Except as provided in 10900
division (C) of this section, the coroner or deputy coroner shall 10901
perform an autopsy on the child. The autopsy shall be performed in 10902
accordance with ~~public health council~~ rules adopted by the 10903
director of health under section 313.122 of the Revised Code. The 10904
coroner or deputy coroner may perform research procedures and 10905
tests when performing the autopsy. 10906

(C) A coroner or deputy coroner is not required to perform an 10907
autopsy if the coroner of the county in which the death occurred 10908
or a court with jurisdiction over the deceased body determines 10909
under section 313.131 of the Revised Code that an autopsy is 10910
contrary to the religious beliefs of the child. If the coroner or 10911
the court makes such a determination, the coroner shall notify the 10912
health district or department of health with jurisdiction in the 10913
area in which the child's parent resides. For purposes of this 10914
division, the religious beliefs of the parents of a child shall be 10915
considered to be the religious beliefs of the child. 10916

(D) If the child's parent makes a written or verbal request 10917
for the preliminary results of the autopsy after the results are 10918

available, the coroner, or a person designated by ~~him~~ the coroner, 10919
shall give the parent an oral statement of the preliminary 10920
results. 10921

The coroner, within a reasonable time after the final results 10922
of the autopsy are reported, shall send written notice of the 10923
results to the state department of health, the health district or 10924
department with jurisdiction in the area in which the child's 10925
parent resides, and, upon the request of a parent of the child, to 10926
the child's attending physician. Upon the written request of a 10927
parent of the child and the payment of the transcript fee required 10928
by section 313.10 of the Revised Code, the coroner shall send 10929
written notice of the final results to that parent. The notice 10930
sent to the state department of health shall include all of the 10931
information specified ~~by rule of the public health council in~~ 10932
rules adopted under section 313.122 of the Revised Code. 10933

(E) On the occurrence of any of the following, the health 10934
district or department with jurisdiction in the area in which the 10935
child's parent resides shall offer the parent any counseling or 10936
other supportive services it has available: 10937

(1) When it learns through any source that an autopsy is 10938
being performed on a child under two years of age who died 10939
suddenly when in apparent good health; 10940

(2) When it receives notice that the final result of an 10941
autopsy performed pursuant to this section concluded that the 10942
child died of sudden infant death syndrome; 10943

(3) When it is notified by the coroner that, pursuant to 10944
division (C) of this section, an autopsy was not performed. 10945

(F) When a health district or department receives notice that 10946
the final result of an autopsy performed pursuant to this section 10947
concluded that the child died of sudden infant death syndrome or 10948
that, pursuant to division (C) of this section, an autopsy was not 10949

performed but sudden infant death syndrome may have been the cause 10950
of death, it shall offer the child's parent information about 10951
sudden infant death syndrome. The state department of health shall 10952
ensure that current information on sudden infant death syndrome is 10953
available for distribution by health districts and departments. 10954

Sec. 313.122. The ~~public~~ director of health council, after 10955
reviewing and considering any recommendations made by the Ohio 10956
state coroners association, shall adopt rules in accordance with 10957
Chapter 119. of the Revised Code establishing a protocol governing 10958
the performance of autopsies under section 313.121 of the Revised 10959
Code. The rules shall specify the information derived from an 10960
autopsy that a coroner is required to report to the state 10961
department of health. The ~~public health council~~ director shall not 10962
amend the rules adopted under this section unless it notifies the 10963
Ohio state coroners association of the proposed changes and 10964
consults with the association. 10965

Sec. 313.16. In counties where no coroner's laboratory has 10966
been established or where the coroner's laboratory does not have 10967
the equipment or personnel to follow the protocol established ~~by~~ 10968
~~rule of~~ in rules adopted by the public director of health council 10969
~~adopted~~ under section 313.122 of the Revised Code, the coroner may 10970
request a coroner of a county in which such a laboratory is 10971
established or that has a laboratory able to follow the ~~public~~ 10972
~~health council's~~ director's protocol to perform necessary 10973
laboratory examinations, the cost of which shall be no greater 10974
than the actual value of the services of technicians and the 10975
materials used in performing such examination. Money derived from 10976
the fees paid for these examinations shall be kept in a special 10977
fund, for the use of the coroner's laboratory, from which fund 10978
replacements can be made. Such funds shall be used to purchase 10979
necessary supplies and equipment for the laboratory and to pay any 10980

associated costs incurred in the administration of this section at 10981
the coroner's discretion. 10982

Sec. 329.01. In each county, except as provided in section 10983
329.40 of the Revised Code, there shall be a county department of 10984
job and family services which, when so established, shall be 10985
governed by this chapter. The department shall consist of a county 10986
director of job and family services appointed by the board of 10987
county commissioners, and such assistants and other employees as 10988
are necessary for the efficient performance of the functions of 10989
the county department. Before entering upon the discharge of the 10990
director's official duties, the director shall give a bond, 10991
conditioned for the faithful performance of those official duties, 10992
in such sum as fixed by the board. The director may require any 10993
assistant or employee under the director's jurisdiction to give a 10994
bond in such sum as determined by the board. All bonds given under 10995
this section shall be with a surety or bonding company authorized 10996
to do business in this state, conditioned for the faithful 10997
performance of the duties of such director, assistant, or 10998
employee. The expense or premium for any bond required by this 10999
section shall be paid from the appropriation for administrative 11000
expenses of the department. Such bond shall be deposited with the 11001
county treasurer and kept in the treasurer's office. 11002

As used in the Revised Code: 11003

(A) "County department of job and family services" means the 11004
county department of job and family services established under 11005
this section, including an entity designated a county department 11006
of job and family services under section 307.981 of the Revised 11007
Code, or ~~the~~ a joint county department of job and family services 11008
established under section 329.40 of the Revised Code. 11009

(B) "County director of job and family services" means the 11010
county director of job and family services appointed under this 11011

section or under section 329.41 of the Revised Code. 11012

Sec. 329.40. (A)(1) The boards of county commissioners of ~~the~~ 11013
~~any two or more~~ counties of ~~Hocking, Ross, and Vinton~~, by entering 11014
into a written agreement, may form a joint county department of 11015
job and family services to perform the duties, provide the 11016
services, and operate the programs required under this chapter. 11017
~~The formation of this joint county department of job and family~~ 11018
~~services is a pilot project.~~ The agreement shall be ratified by 11019
resolution of the board of county commissioners of each county 11020
that entered into the agreement. Each board of county 11021
commissioners that enters into ~~the~~ an agreement shall give notice 11022
of the agreement to the Ohio department of job and family services 11023
at least ninety days before the agreement's effective date. The 11024
agreement shall take effect not earlier than the first day of the 11025
calendar quarter following the ninety-day notice period. The 11026
director of job and family services shall adopt, as an internal 11027
management rule under section 111.15 of the Revised Code, the form 11028
in which the notice shall be given. 11029

(2) The boards of county commissioners of the counties 11030
forming ~~the~~ a joint county department shall constitute, 11031
collectively, the board of directors of the joint county 11032
department of job and family services. On the effective date of 11033
the agreement, the board of directors shall take control of and 11034
manage the joint county department subject to this chapter and all 11035
other sections of the Revised Code that govern the authority and 11036
responsibilities of a single board of county commissioners in the 11037
operation of a single county department of job and family 11038
services. 11039

(B)(1) ~~The~~ An agreement to establish ~~the~~ a joint county 11040
department shall specify all of the following: 11041

(a) The obligations of each board of county commissioners in 11042

operating the joint county department, including requiring each 11043
board to provide state, federal, and county funds to the operation 11044
of the joint county department and the schedule for provision of 11045
those funds; 11046

(b) How and which facilities, equipment, and personnel will 11047
be shared; 11048

(c) Procedures for the division of resources and obligations 11049
~~should a county~~ if one or more counties withdraw from the joint 11050
county department, or ~~should~~ the department ~~cease~~ ceases to exist; 11051

(d) Any contributions of participating counties establishing 11052
the joint county department and the rights of those counties in 11053
lands or personal property, or rights or interests therein, 11054
contributed to or otherwise acquired by the joint county 11055
department. 11056

(2) ~~The~~ An agreement to establish ~~the~~ a joint county 11057
department may set forth any or all of the following: 11058

(a) Quality, timeliness, and other standards to be met by 11059
each county; 11060

(b) Which family service programs and functions are to be 11061
included in the joint county department; 11062

(c) Procedures for the operation of the board of directors, 11063
including procedures governing the frequency of meetings and the 11064
number of members of the board required to constitute a quorum to 11065
take action; 11066

(d) Any other procedures or standards necessary for the joint 11067
county department to perform its duties and operate efficiently. 11068

(C) ~~The~~ An agreement may be amended by a majority vote of the 11069
board of directors of the joint county department, but no 11070
amendment shall divest a participating county of any right or 11071
interest in lands or personal property without its consent. 11072

(D) Costs incurred in operating ~~the~~ a joint county department 11073
shall be paid from a joint general fund created by the board of 11074
directors, except as may be otherwise provided in the agreement. 11075

(E) A joint county department established under this section 11076
is a public office as defined in section 117.01 of the Revised 11077
Code. 11078

Sec. 329.41. (A) The board of directors of ~~the~~ a joint county 11079
department of job and family services formed under section 329.40 11080
of the Revised Code shall appoint and fix the compensation of a 11081
the director of the department. The director shall serve at the 11082
pleasure of the board of directors. Under the direction and 11083
control of the board, the director shall have full charge of the 11084
department as set forth in section 329.02 of the Revised Code for 11085
the director of a single county department of job and family 11086
services. 11087

(B) The board of directors may appoint up to three 11088
administrators to oversee services provided by the joint county 11089
department. Administrators shall be in the unclassified service. 11090

(C) Employees of ~~the~~ a joint county department of job and 11091
family services shall be appointed by the director of the joint 11092
county department and, except as provided in this section, shall 11093
be in the classified service. The employees of ~~the~~ a joint county 11094
department shall be considered county employees for the purposes 11095
of Chapter 124. of the Revised Code and other provisions of state 11096
law applicable to county employees. Instead of or in addition to 11097
appointing these employees, ~~the~~ a board of directors may agree to 11098
use the employees of one or more of the counties that formed ~~the~~ a 11099
joint county department in the service of the joint county 11100
department and to share in their compensation in any manner that 11101
may be agreed upon. 11102

(D) Notwithstanding any other section of the Revised Code, if 11103

an employee's separation from county service occurs in connection 11104
with a county joining or withdrawing from ~~the~~ a joint county 11105
department of job and family services, the board of county 11106
commissioners that initially appointed the employee shall have no 11107
obligation to pay any compensation with respect to unused vacation 11108
or sick leave accrued to the credit of the employee if the 11109
employee accepts employment with the joint county department or a 11110
withdrawing county. At the effective time of separation from 11111
county service, the joint county department or the withdrawing 11112
county, as the case may be, shall assume such unused vacation and 11113
sick leave accrued to the employee's credit. 11114

Sec. 329.42. The county auditor of the county with the 11115
largest population that formed ~~the~~ a joint county department of 11116
job and family services under section 329.40 of the Revised Code 11117
shall serve as the fiscal officer of the joint county department, 11118
and the county treasurer of that county shall serve as the 11119
treasurer of the joint county department, unless the counties that 11120
formed the joint county department agree to appoint the county 11121
auditor and county treasurer of another county that formed the 11122
department. In either case, these county officers shall perform 11123
any applicable duties for the joint county department as each 11124
typically performs for the county of which the individual is an 11125
officer. The board of directors of the joint county department may 11126
pay to that county any amount agreed upon by the board of 11127
directors and the board of county commissioners of that county to 11128
reimburse the county for the costs that are properly allocable to 11129
the service of its officers as fiscal officer and treasurer of the 11130
joint county department. 11131

Sec. 329.43. (A) The prosecuting attorney of the county with 11132
the largest population that formed ~~the~~ a joint county department 11133
of job and family services under section 329.40 of the Revised 11134

Code shall serve as the legal advisor of the board of directors of 11135
the joint county department, unless the counties that formed the 11136
joint county department agree to appoint the prosecuting attorney 11137
of another county that formed the joint county department as legal 11138
advisor of the board. The board of directors may pay to the county 11139
of the prosecuting attorney who is the legal advisor of the board 11140
any amount agreed upon by the board of directors and the board of 11141
county commissioners of that county to reimburse that county for 11142
the costs that are properly allocable to the service of its 11143
prosecuting attorney as the legal advisor of the board of 11144
directors. 11145

(B) The prosecuting attorney shall provide such services to 11146
the board of directors as are required or authorized to be 11147
provided to other county boards under Chapter 309. of the Revised 11148
Code. 11149

(C)(1) If the board of directors of ~~the~~ a joint county 11150
department wishes to employ other legal counsel on an annual basis 11151
to serve as the board's legal advisor in place of the prosecuting 11152
attorney, the board may do so with the agreement of the 11153
prosecuting attorney. If the prosecuting attorney does not agree, 11154
the board of directors may apply to the court of common pleas of 11155
the county with the largest population that formed the joint 11156
county department for authority to employ other legal counsel on 11157
an annual basis. 11158

(2) If the board of directors of ~~the~~ a joint county 11159
department wishes to employ other legal counsel to represent or 11160
advise the board on a particular matter in place of the 11161
prosecuting attorney, the board may do so with the agreement of 11162
the prosecuting attorney. If the prosecuting attorney does not 11163
agree, the board of directors may apply to the court of common 11164
pleas of the county with the largest population that formed the 11165

joint county department for authority to employ other legal 11166
counsel for that particular matter. 11167

(3) The prosecuting attorney who is the legal advisor of the 11168
board of directors shall be given notice of an application filed 11169
under division (C)(1) or (2) of this section and shall be afforded 11170
an opportunity to be heard. After the hearing, the court may 11171
authorize the board of directors to employ other legal counsel on 11172
an annual basis or for a particular matter only if it finds that 11173
the prosecuting attorney refuses or is unable to provide the legal 11174
services that the board requires. If the board of directors 11175
employs other legal counsel on an annual basis or for a particular 11176
matter, the board may not require the prosecuting attorney to 11177
provide legal advice, opinions, or other legal services during the 11178
period or to the extent that the board employs the other legal 11179
counsel. 11180

Sec. 329.44. (A) ~~A~~ The board of directors of ~~the~~ a joint 11181
county department of job and family services formed under section 11182
329.40 of the Revised Code may acquire, by purchase or lease, real 11183
property, equipment, and systems to improve, maintain, or operate 11184
family service programs within the territory served by the joint 11185
county department. A board of county commissioners may acquire, 11186
within its county, real property or any estate, interest, or right 11187
therein, by appropriation or any other method, for use by the 11188
joint county department in connection with its provision of 11189
services. Appropriation proceedings shall be conducted in 11190
accordance with Chapter 163. of the Revised Code. 11191

(B) A board of county commissioners that formed ~~the~~ a joint 11192
county department may contribute lands or rights or interests 11193
therein, money, other personal property or rights or interests 11194
therein, or services to the joint county department. The board of 11195
county commissioners may issue bonds or bond anticipation notes of 11196

the county to pay the cost of acquiring real property and of 11197
constructing, modifying, or upgrading a facility to house 11198
employees of the joint county department. The board of directors 11199
of ~~the~~ a joint county department may reimburse the county for the 11200
use of such a facility if it is required to do so under the 11201
agreement entered into under section 329.40 of the Revised Code. 11202

Sec. 329.45. (A)(1) A board of county commissioners that has 11203
entered into an agreement under section 329.40 of the Revised Code 11204
establishing a joint county department of job and family services 11205
may ~~pass~~ adopt a resolution requesting to withdraw from the 11206
agreement ~~establishing the joint county department of job and~~ 11207
~~family services formed under section 329.40 of the Revised Code.~~ 11208
Upon adopting such a resolution, the board of county commissioners 11209
shall deliver a copy of the resolution to the board of directors 11210
of the joint county department. Upon receiving the resolution, the 11211
board of directors shall deliver written notice of the requested 11212
withdrawal to the boards of county commissioners of the other 11213
county or counties that formed the joint county department. ~~Within~~ 11214
Not later than thirty days after receiving the notice, each of 11215
those boards of county commissioners shall adopt a resolution 11216
either accepting the withdrawal or objecting to the withdrawal, 11217
and shall deliver a copy of the resolution to the board of 11218
directors. 11219

(2) If any of the boards of county commissioners that formed 11220
~~the~~ a joint county department adopts a resolution objecting to the 11221
requested withdrawal, the board of directors shall deliver written 11222
notice of the objection to each other board of county 11223
commissioners of the counties that formed the joint county 11224
department, including the board of county commissioners of the 11225
county proposing withdrawal, ~~and shall schedule.~~ Not later than 11226
thirty days after sending the notice, the board of directors shall 11227
hold a meeting ~~of the board of directors to be held within thirty~~ 11228

~~days~~ to discuss the objection. After the meeting, the board of 11229
directors shall determine whether the county requesting withdrawal 11230
desires to proceed with the withdrawal and, if the county does, 11231
the board of directors shall accept the withdrawal. Not later than 11232
thirty days after the determination was made, the board of 11233
directors shall deliver written notice of the withdrawal to the 11234
boards of county commissioners that formed the joint county 11235
department and to the board of county commissioners that requested 11236
withdrawal, and shall commence the withdrawal process under this 11237
section. 11238

(3) If all of the boards of county commissioners that formed 11239
~~the a~~ joint county department, except for the board of county 11240
commissioners requesting the withdrawal, each adopt a resolution 11241
accepting the withdrawal, the board of directors shall declare the 11242
withdrawal to be accepted. Not later than thirty days after the 11243
declaration, the board of directors shall deliver written notice 11244
of the withdrawal to all of the boards of county commissioners 11245
that formed the joint county department, including the board of 11246
county commissioners of the county requesting withdrawal, and 11247
shall commence the withdrawal process under this section. 11248

(4) The board of directors shall give notice to the Ohio 11249
department of job and family services of the withdrawal of a 11250
county under this section at least ninety days before the 11251
withdrawal becomes final. The director of job and family services 11252
shall adopt, as an internal management rule under section 111.15 11253
of the Revised Code, the form in which the notice shall be given. 11254

(5) If a county requesting to withdraw decides to remain as a 11255
party to the agreement establishing ~~the a~~ joint county department, 11256
the board of county commissioners of that county shall rescind its 11257
original resolution requesting withdrawal and shall deliver a copy 11258
of the rescission to the board of directors of the joint county 11259
department ~~within~~ not later than thirty days after adopting the 11260

rescission. 11261

(B) If a county withdraws from ~~the~~ an agreement under this 11262
section, the board of directors shall ascertain, apportion, and 11263
order a division of the funds on hand, credits, and real and 11264
personal property of the joint county department, either in money 11265
or in kind, on an equitable basis between the joint county 11266
department and the withdrawing county according to the agreement 11267
entered into under section 329.40 of the Revised Code and 11268
consistent with any prior contributions of the withdrawing county 11269
to the joint county department. Any debt incurred individually 11270
shall remain the responsibility of that county, unless otherwise 11271
specified in the agreement establishing the joint county 11272
department. 11273

(C) A withdrawal becomes final not earlier than the first day 11274
of the calendar quarter following the ninety-day notice period 11275
required by division (A)(4) of this section. On and after that 11276
day, the withdrawing county ceases to be a part of the joint 11277
county department, and its members of the board of directors shall 11278
cease to be members of that board. 11279

(D) If the withdrawal of one or more counties would leave 11280
only one county participating in ~~the~~ a joint county department, 11281
the board of directors shall ascertain, apportion, and order a 11282
final division of the funds on hand, credits, and real and 11283
personal property of the joint county department. On and after the 11284
day on which the latest withdrawal of a county becomes final, the 11285
joint county department is dissolved. When ~~the~~ a joint county 11286
department is dissolved and any indebtedness remains unpaid, the 11287
boards of county commissioners that formed the joint county 11288
department shall pay the indebtedness of the joint county 11289
department in the amounts established by the agreement at the time 11290
the indebtedness was incurred. 11291

Sec. 329.46. (A) A board of county commissioners that formed 11292
the a joint county department of job and family services under 11293
section 329.40 of the Revised Code, by adopting a resolution, may 11294
propose the removal of another county that formed the joint county 11295
department. The board of county commissioners shall send a copy of 11296
such a resolution to the board of directors of the joint county 11297
department. ~~Within~~ Not later than ten days after receiving the 11298
copy of the resolution, the board of directors shall send a copy 11299
of the resolution to each board of county commissioners that 11300
formed the joint county department, except the board of county 11301
commissioners proposing removal. ~~Within~~ Not later than thirty days 11302
after sending a copy of the resolution, the board of directors 11303
shall hold a hearing at which any county commissioner whose county 11304
formed the joint county department may present arguments for or 11305
against the removal. At the hearing, approval or disapproval of 11306
the removal shall be determined by a two-thirds vote of the county 11307
commissioners of the counties that formed the joint county 11308
department, with the exception of the county commissioners of the 11309
county proposed for removal. 11310

(B) The board of directors of the a joint county department 11311
of job and family services, by adopting a resolution by a majority 11312
vote of the members of the board, may propose removal of a county 11313
that formed the joint county department. ~~Within~~ Not later than ten 11314
days after adopting such a resolution, the board of directors 11315
shall send a copy of the resolution to the board of county 11316
commissioners of each county that formed the joint county 11317
department, including the board of county commissioners of the 11318
county proposed for removal. ~~Within~~ Not later than thirty days 11319
after sending the copy of the resolution, the board of directors 11320
shall hold a hearing at which any member of the board may present 11321
arguments for or against the removal. At this hearing, approval or 11322
disapproval of the resolution proposing removal shall be 11323

determined by a two-thirds vote of the members of the board of 11324
directors, with the exception of the board members who represent 11325
the county proposed for removal. 11326

(C) If removal of a county is approved under this section, 11327
the board of directors shall give written notice of the approval 11328
to the Ohio department of job and family services at least ninety 11329
days before the removal takes effect. The director of job and 11330
family services shall adopt, as an internal management rule under 11331
section 111.15 of the Revised Code, the form in which the notice 11332
shall be given. 11333

(D) Removal of a county under this section shall take effect 11334
not earlier than the first day of the calendar quarter following 11335
the ninety-day notice period required by division (C) of this 11336
section. 11337

(E) If, at any time, the county proposed for removal under 11338
division (A) or (B) of this section notifies the board of 11339
directors, by a majority vote of that county's board of county 11340
commissioners, that it chooses to withdraw from the joint county 11341
department, the withdrawal procedure established under section 11342
329.45 of the Revised Code shall be put immediately into motion. 11343

Sec. 330.04. If, for the purpose of Chapter 6301. of the 11344
Revised Code, a county is the type of local area defined in 11345
division (A)(2) of section 6301.01 of the Revised Code, the board 11346
of county commissioners serving the county shall adopt a 11347
resolution establishing or designating a workforce development 11348
agency to provide workforce development activities for the county. 11349
The board shall adopt the resolution not later than July 1, 2000. 11350

The board may establish or designate any of the following as 11351
the workforce development agency: 11352

(A) The county department of job and family services; 11353

(B) A separate agency under the direct control of the board 11354
and administered by an official appointed by the board; 11355

(C) An entity serving the county on ~~the effective date of~~ 11356
~~this section~~ March 14, 2000, in a capacity similar to the capacity 11357
in which a workforce development agency is to serve the county on 11358
and after ~~the effective date of this section~~ March 14, 2000; 11359

(D) An entity located in or outside the county that provides 11360
workforce development activities in the county on ~~the effective~~ 11361
~~date of this section~~ March 14, 2000; 11362

(E) Any private or government entity designated under section 11363
307.981 of the Revised Code; 11364

(F) ~~The~~ A joint county department of job and family services 11365
established under section 329.40 of the Revised Code. 11366

Sec. 339.091. Before the board of county commissioners, board 11367
of county hospital trustees, or county hospital commission may 11368
enter into an initial agreement for the acquisition, operation, or 11369
lease under section 140.03, 140.05, 339.09, or 339.14 of the 11370
Revised Code of a county hospital operated by a board of county 11371
hospital trustees under section 339.06 of the Revised Code, the 11372
board of county commissioners shall review the agreement. If it 11373
finds that the agreement will meet the needs of the residents of 11374
the county for hospital service, the board of county commissioners 11375
may adopt a resolution authorizing the board of county 11376
commissioners, board of county hospital trustees, or county 11377
hospital commission to enter into the agreement. On adoption of 11378
the resolution, the board of county commissioners, board of county 11379
hospital trustees, or county hospital commission may enter into 11380
the agreement. 11381

The requirements of this section do not apply to an agreement 11382
if one or more hospitals classified as general hospitals by the 11383

~~public director of health council~~ under section 3701.07 of the 11384
Revised Code are operating in the same county as the county 11385
hospital. 11386

Sec. 340.03. (A) Subject to rules issued by the director of 11387
mental health after consultation with relevant constituencies as 11388
required by division (L) of section 5119.06 of the Revised Code, 11389
with regard to mental health services, the board of alcohol, drug 11390
addiction, and mental health services shall: 11391

(1) Serve as the community mental health planning agency for 11392
the county or counties under its jurisdiction, and in so doing it 11393
shall: 11394

(a) Evaluate the need for facilities and community mental 11395
health services; 11396

(b) In cooperation with other local and regional planning and 11397
funding bodies and with relevant ethnic organizations, assess the 11398
community mental health needs, set priorities, and develop plans 11399
for the operation of facilities and community mental health 11400
services; 11401

(c) In accordance with guidelines issued by the director of 11402
mental health after consultation with board representatives, 11403
annually develop and submit to the department of mental health a 11404
community mental health plan listing community mental health 11405
needs, including the needs of all residents of the district now 11406
residing in state mental institutions and severely mentally 11407
disabled adults, children, and adolescents; all children subject 11408
to a determination made pursuant to section 121.38 of the Revised 11409
Code; and all the facilities and community mental health services 11410
that are or will be in operation or provided during the period for 11411
which the plan will be in operation in the service district to 11412
meet such needs. 11413

The plan shall include, but not be limited to, a statement of 11414
which of the services listed in section 340.09 of the Revised Code 11415
the board intends to make available. The board must include crisis 11416
intervention services for individuals in an emergency situation in 11417
the plan and explain how the board intends to make such services 11418
available. The plan must also include a statement of the inpatient 11419
and community-based services the board proposes that the 11420
department operate, an assessment of the number and types of 11421
residential facilities needed, such other information as the 11422
department requests, and a budget for moneys the board expects to 11423
receive. The department shall approve or disapprove the plan, in 11424
whole or in part, according to the criteria developed pursuant to 11425
section 5119.61 of the Revised Code. The department's statement of 11426
approval or disapproval shall specify the inpatient and the 11427
community-based services that the department will operate for the 11428
board. Eligibility for state and federal funding shall be 11429
contingent upon an approved plan or relevant part of a plan. 11430

If a board determines that it is necessary to amend a plan or 11431
an allocation request that has been approved under division 11432
(A)(1)(c) of this section, the board shall submit a proposed 11433
amendment to the director. The director may approve or disapprove 11434
all or part of the amendment. The director shall inform the board 11435
of the reasons for disapproval of all or part of an amendment and 11436
of the criteria that must be met before the amendment may be 11437
approved. The director shall provide the board an opportunity to 11438
present its case on behalf of the amendment. The director shall 11439
give the board a reasonable time in which to meet the criteria, 11440
and shall offer the board technical assistance to help it meet the 11441
criteria. 11442

The board shall implement the plan approved by the 11443
department. 11444

(d) Promote, arrange, and implement working agreements with 11445

social agencies, both public and private, and with judicial 11446
agencies. 11447

(2) Investigate, or request another agency to investigate, 11448
any complaint alleging abuse or neglect of any person receiving 11449
services from a community mental health agency as defined in 11450
section 5122.01 of the Revised Code, or ~~from~~ alleging abuse or 11451
neglect of a person with mental illness or severe mental 11452
disability residing in a residential facility licensed under 11453
section 5119.22 of the Revised Code. If the investigation 11454
substantiates the charge of abuse or neglect, the board shall take 11455
whatever action it determines is necessary to correct the 11456
situation, including notification of the appropriate authorities. 11457
Upon request, the board shall provide information about such 11458
investigations to the department. 11459

(3) For the purpose of section 5119.611 of the Revised Code, 11460
cooperate with the director of mental health in visiting and 11461
evaluating whether the services of a community mental health 11462
agency satisfy the certification standards established by rules 11463
adopted under that section; 11464

(4) In accordance with criteria established under division 11465
(E) of section 5119.61 of the Revised Code, review and evaluate 11466
the quality, effectiveness, and efficiency of services provided 11467
through its community mental health plan and submit its findings 11468
and recommendations to the department of mental health; 11469

(5) In accordance with section 5119.22 of the Revised Code, 11470
review ~~applications~~ an application for a residential facility 11471
~~licenses~~ license and ~~recommend~~ provide to the department of mental 11472
health ~~approval or disapproval of applications~~ any information 11473
about the applicant or facility that the board would like the 11474
department to consider in reviewing the application; 11475

(6) Audit, in accordance with rules adopted by the auditor of 11476

state pursuant to section 117.20 of the Revised Code, at least 11477
annually all programs and services provided under contract with 11478
the board. In so doing, the board may contract for or employ the 11479
services of private auditors. A copy of the fiscal audit report 11480
shall be provided to the director of mental health, the auditor of 11481
state, and the county auditor of each county in the board's 11482
district. 11483

(7) Recruit and promote local financial support for mental 11484
health programs from private and public sources; 11485

(8)(a) Enter into contracts with public and private 11486
facilities for the operation of facility services included in the 11487
board's community mental health plan and enter into contracts with 11488
public and private community mental health agencies for the 11489
provision of community mental health services that are listed in 11490
section 340.09 of the Revised Code and included in the board's 11491
community mental health plan. The board may not contract with a 11492
community mental health agency to provide community mental health 11493
services included in the board's community mental health plan 11494
unless the services are certified by the director of mental health 11495
under section 5119.611 of the Revised Code. Section 307.86 of the 11496
Revised Code does not apply to contracts entered into under this 11497
division. In contracting with a community mental health agency, a 11498
board shall consider the cost effectiveness of services provided 11499
by that agency and the quality and continuity of care, and may 11500
review cost elements, including salary costs, of the services to 11501
be provided. A utilization review process shall be established as 11502
part of the contract for services entered into between a board and 11503
a community mental health agency. The board may establish this 11504
process in a way that is most effective and efficient in meeting 11505
local needs. Until July 1, 2012, a contract with a community 11506
mental health agency or facility, as defined in section 5111.023 11507
of the Revised Code, to provide services listed in division (B) of 11508

that section shall provide for the agency or facility to be paid 11509
in accordance with the contract entered into between the 11510
departments of job and family services and mental health under 11511
section 5111.91 of the Revised Code and any rules adopted under 11512
division (A) of section 5119.61 of the Revised Code. 11513

If either the board or a facility or community mental health 11514
agency with which the board contracts under division (A)(8)(a) of 11515
this section proposes not to renew the contract or proposes 11516
substantial changes in contract terms, the other party shall be 11517
given written notice at least one hundred twenty days before the 11518
expiration date of the contract. During the first sixty days of 11519
this one hundred twenty-day period, both parties shall attempt to 11520
resolve any dispute through good faith collaboration and 11521
negotiation in order to continue to provide services to persons in 11522
need. If the dispute has not been resolved sixty days before the 11523
expiration date of the contract, either party may ~~request that~~ 11524
notify the department of mental health of the unresolved dispute. 11525
The director may require both parties to submit the dispute to a 11526
third party with the cost to be shared by the board and the 11527
facility or community mental health agency. The third party shall 11528
issue to the board ~~and, the~~ facility or agency, and the department 11529
recommendations on how the dispute may be resolved twenty days 11530
prior to the expiration date of the contract, unless both parties 11531
agree to a time extension. The director shall adopt rules 11532
establishing the procedures of this dispute resolution process. 11533

(b) With the prior approval of the director of mental health, 11534
a board may operate a facility or provide a community mental 11535
health service as follows, if there is no other qualified private 11536
or public facility or community mental health agency that is 11537
immediately available and willing to operate such a facility or 11538
provide the service: 11539

(i) In an emergency situation, any board may operate a 11540

facility or provide a community mental health service in order to 11541
provide essential services for the duration of the emergency; 11542

(ii) In a service district with a population of at least one 11543
hundred thousand but less than five hundred thousand, a board may 11544
operate a facility or provide a community mental health service 11545
for no longer than one year; 11546

(iii) In a service district with a population of less than 11547
one hundred thousand, a board may operate a facility or provide a 11548
community mental health service for no longer than one year, 11549
except that such a board may operate a facility or provide a 11550
community mental health service for more than one year with the 11551
prior approval of the director and the prior approval of the board 11552
of county commissioners, or of a majority of the boards of county 11553
commissioners if the district is a joint-county district. 11554

The director shall not give a board approval to operate a 11555
facility or provide a community mental health service under 11556
division (A)(8)(b)(ii) or (iii) of this section unless the 11557
director determines that it is not feasible to have the department 11558
operate the facility or provide the service. 11559

The director shall not give a board approval to operate a 11560
facility or provide a community mental health service under 11561
division (A)(8)(b)(iii) of this section unless the director 11562
determines that the board will provide greater administrative 11563
efficiency and more or better services than would be available if 11564
the board contracted with a private or public facility or 11565
community mental health agency. 11566

The director shall not give a board approval to operate a 11567
facility previously operated by a person or other government 11568
entity unless the board has established to the director's 11569
satisfaction that the person or other government entity cannot 11570
effectively operate the facility or that the person or other 11571

government entity has requested the board to take over operation 11572
of the facility. The director shall not give a board approval to 11573
provide a community mental health service previously provided by a 11574
community mental health agency unless the board has established to 11575
the director's satisfaction that the agency cannot effectively 11576
provide the service or that the agency has requested the board 11577
take over providing the service. 11578

The director shall review and evaluate a board's operation of 11579
a facility and provision of community mental health service under 11580
division (A)(8)(b) of this section. 11581

Nothing in division (A)(8)(b) of this section authorizes a 11582
board to administer or direct the daily operation of any facility 11583
or community mental health agency, but a facility or agency may 11584
contract with a board to receive administrative services or staff 11585
direction from the board under the direction of the governing body 11586
of the facility or agency. 11587

(9) Approve fee schedules and related charges or adopt a unit 11588
cost schedule or other methods of payment for contract services 11589
provided by community mental health agencies in accordance with 11590
guidelines issued by the department as necessary to comply with 11591
state and federal laws pertaining to financial assistance; 11592

(10) Submit to the director and the county commissioners of 11593
the county or counties served by the board, and make available to 11594
the public, an annual report of the programs under the 11595
jurisdiction of the board, including a fiscal accounting; 11596

(11) Establish, to the extent resources are available, a 11597
community support system, which provides for treatment, support, 11598
and rehabilitation services and opportunities. The essential 11599
elements of the system include, but are not limited to, the 11600
following components in accordance with section 5119.06 of the 11601
Revised Code: 11602

| | |
|--|-------|
| (a) To locate persons in need of mental health services to | 11603 |
| inform them of available services and benefits mechanisms; | 11604 |
| (b) Assistance for clients to obtain services necessary to | 11605 |
| meet basic human needs for food, clothing, shelter, medical care, | 11606 |
| personal safety, and income; | 11607 |
| (c) Mental health care, including, but not limited to, | 11608 |
| outpatient, partial hospitalization, and, where appropriate, | 11609 |
| inpatient care; | 11610 |
| (d) Emergency services and crisis intervention; | 11611 |
| (e) Assistance for clients to obtain vocational services and | 11612 |
| opportunities for jobs; | 11613 |
| (f) The provision of services designed to develop social, | 11614 |
| community, and personal living skills; | 11615 |
| (g) Access to a wide range of housing and the provision of | 11616 |
| residential treatment and support; | 11617 |
| (h) Support, assistance, consultation, and education for | 11618 |
| families, friends, consumers of mental health services, and | 11619 |
| others; | 11620 |
| (i) Recognition and encouragement of families, friends, | 11621 |
| neighborhood networks, especially networks that include racial and | 11622 |
| ethnic minorities, churches, community organizations, and | 11623 |
| meaningful employment as natural supports for consumers of mental | 11624 |
| health services; | 11625 |
| (j) Grievance procedures and protection of the rights of | 11626 |
| consumers of mental health services; | 11627 |
| (k) Case management, which includes continual individualized | 11628 |
| assistance and advocacy to ensure that needed services are offered | 11629 |
| and procured. | 11630 |
| (12) Designate the treatment program, agency, or facility for | 11631 |
| each person involuntarily committed to the board pursuant to | 11632 |

Chapter 5122. of the Revised Code and authorize payment for such 11633
treatment. The board shall provide the least restrictive and most 11634
appropriate alternative that is available for any person 11635
involuntarily committed to it and shall assure that the services 11636
listed in section 340.09 of the Revised Code are available to 11637
severely mentally disabled persons residing within its service 11638
district. The board shall establish the procedure for authorizing 11639
payment for services, which may include prior authorization in 11640
appropriate circumstances. The board may provide for services 11641
directly to a severely mentally disabled person when life or 11642
safety is endangered and when no community mental health agency is 11643
available to provide the service. 11644

(13) Establish a method for evaluating referrals for 11645
involuntary commitment and affidavits filed pursuant to section 11646
5122.11 of the Revised Code in order to assist the probate 11647
division of the court of common pleas in determining whether there 11648
is probable cause that a respondent is subject to involuntary 11649
hospitalization and what alternative treatment is available and 11650
appropriate, if any; 11651

(14) Ensure that apartments or rooms built, subsidized, 11652
renovated, rented, owned, or leased by the board or a community 11653
mental health agency have been approved as meeting minimum fire 11654
safety standards and that persons residing in the rooms or 11655
apartments are receiving appropriate and necessary services, 11656
including culturally relevant services, from a community mental 11657
health agency. This division does not apply to residential 11658
facilities licensed pursuant to section 5119.22 of the Revised 11659
Code. 11660

(15) Establish a mechanism for involvement of consumer 11661
recommendation and advice on matters pertaining to mental health 11662
services in the alcohol, drug addiction, and mental health service 11663
district; 11664

(16) Perform the duties ~~under section 5119.88 of the Revised Code~~ required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to ~~adult-care~~ residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or any other section

of the Revised Code, unless such action or inaction constitutes 11697
willful or wanton misconduct. Chapter 2744. of the Revised Code 11698
applies to any action or inaction by a board member or employee of 11699
a board taken within the scope of the board member's official 11700
duties or employee's employment. For the purposes of this 11701
division, the conduct of a board member or employee shall not be 11702
considered willful or wanton misconduct if the board member or 11703
employee acted in good faith and in a manner that the board member 11704
or employee reasonably believed was in or was not opposed to the 11705
best interests of the board and, with respect to any criminal 11706
action or proceeding, had no reasonable cause to believe the 11707
conduct was unlawful. 11708

(E) The meetings held by any committee established by a board 11709
of alcohol, drug addiction, and mental health services shall be 11710
considered to be meetings of a public body subject to section 11711
121.22 of the Revised Code. 11712

Sec. 340.05. A community mental health agency that receives a 11713
complaint ~~under section 5119.87 of the Revised Code~~ alleging abuse 11714
or neglect of an individual with mental illness or severe mental 11715
disability who resides in ~~an adult care~~ a residential facility as 11716
defined in division (A)(9)(b) of section 5119.22 of the Revised 11717
Code shall report the complaint to the board of alcohol, drug 11718
addiction, and mental health services serving the alcohol, drug 11719
addiction, and mental health service district in which the ~~adult~~ 11720
~~care~~ residential facility is located. A board of alcohol, drug 11721
addiction, and mental health services that receives such a 11722
complaint or a report from a community mental health agency of 11723
such a complaint shall report the complaint to the director of 11724
mental health for the purpose of the director conducting an 11725
investigation under section ~~5119.87~~ 5119.22 of the Revised Code. 11726
The board may enter the ~~adult care~~ facility with or without the 11727
director and, if the health and safety of a resident is in 11728

immediate danger, take any necessary action to protect the 11729
resident. The board's action shall not violate any resident's 11730
rights ~~under section 5119.81 of the Revised Code and~~ specified in 11731
rules adopted by the department of mental health under ~~sections~~ 11732
~~5119.70 to 5119.88~~ section 5119.22 of the Revised Code. The board 11733
shall immediately report to the director regarding the board's 11734
actions under this section. 11735

Sec. 340.091. Each board of alcohol, drug addiction, and 11736
mental health services shall contract with a community mental 11737
health agency under division (A)(7)(a) of section 340.03 of the 11738
Revised Code for the agency to do all of the following in 11739
accordance with rules adopted under section 5119.61 of the Revised 11740
Code for an individual referred to the agency under division 11741
~~(C)(D)~~(2) of section 5119.69 of the Revised Code: 11742

(A) Assess the individual ~~to determine whether to recommend~~ 11743
~~that a residential state supplement administrative agency~~ 11744
~~designated under section 5119.69 of the Revised Code determine~~ 11745
and, if the agency determines that the environment in which the 11746
individual will be living while receiving residential state 11747
supplement payments is appropriate for the individual's needs ~~and,~~ 11748
~~if it determines the environment is appropriate,~~ issue the a 11749
recommendation to the referring residential state supplement 11750
administrative agency that the referring agency should conclude 11751
that the living environment is appropriate when it makes its 11752
determination regarding the appropriateness of the environment; 11753

(B) Provide ongoing monitoring to ensure that services 11754
provided under section 340.09 of the Revised Code are available to 11755
the individual; 11756

(C) Provide discharge planning to ensure the individual's 11757
earliest possible transition to a less restrictive environment. 11758

Sec. 505.59. The board of township trustees of a township 11759
that withdraws or proposes by resolution to withdraw the 11760
unincorporated territory of the township from a regional transit 11761
authority under section 306.55 of the Revised Code may levy a tax 11762
on taxable property in the unincorporated area of the township 11763
under section 5705.72 of the Revised Code to provide 11764
transportation services for the movement of persons within, from, 11765
or to the unincorporated area of the township. 11766

Sec. 705.18. An annual appropriation ordinance shall be 11767
prepared by the legislative authority of a municipal corporation 11768
from estimates submitted by the mayor, the ~~chairman~~ chairperson of 11769
the commission, or the city manager, as the case may be, in the 11770
manner provided in section 705.17 of the Revised Code for the 11771
annual tax ordinance. The annual appropriation ordinance shall be 11772
submitted to the legislative authority at its first meeting ~~in~~ 11773
January after the beginning of the municipal corporation's fiscal 11774
year, and the total of any appropriation ordinance passed by such 11775
legislative authority shall not exceed the total balances carried 11776
over from the previous fiscal year plus the estimated revenue of 11777
the current fiscal year. Supplemental appropriations shall not be 11778
made during the current fiscal year except from an contingent fund 11779
regularly set aside by the legislative authority in the annual 11780
appropriation ordinance or unless by an ordinance passed as an 11781
emergency measure. 11782

Sec. 749.04. When the legislative authority of a municipal 11783
corporation enters upon and takes possession of grounds purchased, 11784
appropriated, or otherwise obtained for hospital purposes, and, by 11785
resolution or ordinance, determines to erect thereon or rebuild a 11786
hospital, the erection and repair thereof or any addition thereto 11787
shall be vested in a ~~board of five commissioners,~~ called the board 11788

of hospital commissioners, as established under this section. 11789

Such board shall consist of the mayor, ~~who, by virtue of his~~ 11790
~~office, shall be its president,~~ and ~~four~~ at least three trustees, 11791
to be appointed by the mayor with the consent of the legislative 11792
authority. The members of such board shall be resident freehold 11793
electors of the municipal corporation, and they shall receive no 11794
compensation for their services. 11795

Sec. 749.05. The term of office of the appointed members of 11796
the board of hospital commissioners shall be four years, but the 11797
members first appointed shall hold their offices, respectively, as 11798
determined by lot at the first meeting of the board, for the 11799
periods of one, two, three, and four years, and thereafter one 11800
member shall be appointed each year for the full term of four 11801
years. A The mayor with the consent of the legislative authority 11802
shall fill any vacancy on the board of hospital commissioners not 11803
later than sixty days after the vacancy occurs. If the vacancy 11804
remains unfilled on that date, the legislative authority shall 11805
have thirty additional days to fill the vacancy. If the vacancy 11806
remains unfilled for ninety days after the vacancy occurs, the 11807
remaining members of the board, by majority vote, shall appoint an 11808
individual to fill the vacancy. Any member appointed to fill a 11809
vacancy occurring prior to the expiration date of the term for 11810
which the member's predecessor was appointed shall hold office as 11811
a member for the remainder of that term. 11812

A majority of the board shall constitute a quorum. 11813

Sec. 749.18. If an agreement under section 749.16 of the 11814
Revised Code concerns or includes participation of a joint 11815
township hospital district, or of a county, in the maintenance and 11816
operation of a municipal hospital, the municipal corporation may 11817
establish a board of governors to exercise, subject to such 11818

further limitations as are imposed by the agreement, the powers 11819
vested in the board of hospital commissioners, provided that any 11820
such limitations shall not deny the board of governors the 11821
authority to retain counsel, to institute legal action in its own 11822
name, or to employ any other lawful means, for the collection of 11823
delinquent accounts. The board of governors may include in its 11824
membership representatives of a participating district who are 11825
electors of the district, or of a participating county who are 11826
electors of that county or an adjacent county, as are provided for 11827
in the agreement. 11828

Except as otherwise provided in this section, the municipal 11829
members of the board of governors shall consist of the mayor, ~~who~~ 11830
~~by virtue of that office shall be its president,~~ and four at least 11831
three resident freeholders of the municipal corporation, at least 11832
one of whom shall be a doctor of medicine, to be appointed by the 11833
mayor with the consent of the legislative authority. However, if 11834
necessary to secure qualified individuals to serve on the board of 11835
governors, the municipal members of the board may be residents of 11836
the county in which the municipal corporation is located or of an 11837
adjacent county. ~~The~~ 11838

The term of office of these municipal members of the board of 11839
governors shall be as provided in section 749.05 of the Revised 11840
Code and vacancies on the board with respect to those members 11841
shall be filled as provided in that section. Unless otherwise 11842
provided in the agreement, any vacancy on the board with respect 11843
to a member appointed by a participating joint township hospital 11844
district or county shall be filled by the appointing body not 11845
later than ninety days after the vacancy occurs and if the vacancy 11846
remains unfilled on that date, the remaining members of the board, 11847
by majority vote, shall appoint an individual to fill the vacancy. 11848
Unless otherwise provided in the agreement, vacancies on the board 11849
with respect to any other members shall be filled by the remaining 11850

members of the board, by majority vote. Any member appointed to 11851
fill a vacancy occurring prior to the expiration date of the term 11852
for which the member's predecessor was appointed shall hold office 11853
as a member for the remainder of that term. 11854

The board of governors, subject to the terms of the 11855
agreement, shall establish regulations and elect officers, ~~other~~ 11856
~~than president,~~ as its members determine. The members shall be 11857
entitled to the compensation for their services provided by the 11858
agreement. 11859

Sec. 901.53. (A) As used in this section, "agricultural 11860
structure" means any building or structure that is used in 11861
production, growing, harvesting, or housing for the purposes of 11862
agriculture. 11863

(B) With regard to fire prevention and safety, agriculture 11864
and agricultural structures are subject only to the state fire 11865
code established in rules adopted under section 3737.82 of the 11866
Revised Code and not to any other requirements governing fire 11867
prevention and safety. 11868

Sec. 901.54. ~~(A)~~ There is hereby created the office of 11869
farmland preservation within the department of agriculture. The 11870
office shall do all of the following: 11871

~~(1)~~ (A) Prepare guidelines and criteria for use in the 11872
development of comprehensive local land use plans that encourage 11873
the efficient use of public infrastructure and the preservation of 11874
farmland; 11875

~~(2)~~ (B) Establish a farmland preservation program to 11876
coordinate and assist local farmland preservation initiatives; 11877

~~(3)~~ ~~Administer the pilot farmland preservation fund~~ 11878
~~established in division (B) of this section;~~ 11879

~~(4)(C)~~ Educate existing agencies and organizations on the 11880
importance of farmland preservation and on the significance of 11881
agriculture and agribusiness to this state's economy; 11882

~~(5)(D)~~ Serve as a liaison with other farmland preservation 11883
entities operating on a state, regional, or national level; 11884

~~(6)(E)~~ Prepare an inventory of farmland within this state to 11885
monitor the development of lands within this state having prime 11886
soils or unique microclimates. 11887

~~(B) There is hereby created in the state treasury the pilot 11888
farmland preservation fund consisting of moneys received by the 11889
office of farmland preservation for the purposes of the fund. The 11890
fund shall be administered by the office of farmland preservation. 11891
Moneys in the fund shall be used to leverage or match other 11892
farmland preservation funds provided from federal, local, or 11893
private sources. 11894~~

Sec. 924.51. (A) There is hereby created the Ohio grape 11896
industries committee consisting of nine members. The members shall 11897
be the director of agriculture or the director's designee, who 11898
shall chair the committee, the superintendent of liquor control or 11899
the superintendent's designee, the chief of the division of 11900
markets of the department of agriculture, the viticulture 11901
extension specialist of the Ohio agricultural research and 11902
development center, who shall be a nonvoting member, and five 11903
members who shall be residents of this state and appointed by the 11904
director of agriculture in accordance with division (B) of this 11905
section. At no time shall the director appoint more than five 11906
members to the committee. 11907

(B) Of the five members of the committee appointed by the 11908
director of agriculture, not less than two, but not more than 11909
three shall be persons who receive ~~the major portion of their~~ 11910
income from the production of grapes or grape products. ~~The term~~ 11911

~~of one of these members shall begin January 1, 1982, and end
December 31, 1982, and the second member's term shall begin
January 1, 1982, and end December 31, 1983. Two Not less than two,
but not more than three members shall be persons who receive ~~the~~
~~major portion of their~~ income from the production of wine from raw
grape or fruit products in either raw fruit or fresh juice form.
The ~~term of one of these members shall begin January 1, 1982, and~~
~~end December 31, 1982, and the second member's term shall begin~~
~~January 1, 1982, and end December 31, 1983. One member shall be a~~
~~person the major portion of whose income is from the production of~~
~~grape products other than wine, such as juice, jams, or jellies;~~
~~that member's term shall begin January 1, 1982, and end December~~
~~31, 1984. Thereafter, the terms for each appointed member of the~~
committee shall be for three years, commencing on the first day of
January and ending on the thirty-first day of December. No
appointed member shall serve more than two consecutive terms. The
director may remove any appointed member for cause.~~

(C) Members shall be appointed to fill vacancies caused by
death, resignation, or removal in the same manner prescribed for
regular appointment to the committee. Any member appointed to fill
a vacancy occurring prior to the expiration of the term for which
the member's predecessor was appointed shall hold office for the
remainder of the term. Any member shall continue in office
subsequent to the expiration date of that member's term until that
member's successor takes office, or until a period of ~~sixty one~~
hundred eighty days has elapsed, whichever occurs first.

(D) All members of the committee are entitled to their actual
and necessary expenses incurred in the performance of their duties
as members, payable from moneys received from the Ohio grape
industries fund created under section 924.54 of the Revised Code.

(E) A majority of the committee constitutes a quorum.

Sec. 955.16. (A) Dogs that have been seized by the county dog warden and impounded shall be kept, housed, and fed for three days for the purpose of redemption, as provided by section 955.18 of the Revised Code, unless any of the following applies:

(1) Immediate humane destruction of the dog is necessary because of obvious disease or injury. If the diseased or injured dog is registered, as determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, the necessity of destroying the dog shall be certified by a licensed veterinarian or a registered veterinary technician. If the dog is not registered, the decision to destroy it shall be made by the warden.

(2) The dog is currently registered on the registration list maintained by the warden and the auditor of the county where the dog is registered and the attempts to notify the owner, keeper, or harborer under section 955.12 of the Revised Code have failed, in which case the dog shall be kept, housed, and fed for fourteen days for the purpose of redemption.

(3) The warden has contacted the owner, keeper, or harborer under section 955.12 of the Revised Code, and the owner, keeper, or harborer has requested that the dog remain in the pound or animal shelter until the owner, harborer, or keeper redeems the dog. The time for such redemption shall be not more than forty-eight hours following the end of the appropriate redemption period.

At any time after such periods of redemption, any dog not redeemed shall be donated to any nonprofit special agency that is engaged in the training of any type of assistance dogs and that requests that the dog be donated to it. Any dog not redeemed that is not requested by such an agency may be sold, except that no dog

sold to a person other than a nonprofit teaching or research 11974
institution or organization of the type described in division (B) 11975
of this section shall be discharged from the pound or animal 11976
shelter until the animal has been registered and furnished with a 11977
valid registration tag. 11978

(B) Any dog that is not redeemed within the applicable period 11979
as specified in this section or section 955.12 of the Revised Code 11980
from the time notice is mailed to its owner, keeper, or harbinger 11981
or is posted at the pound or animal shelter, as required by 11982
section 955.12 of the Revised Code, and that is not required to be 11983
donated to a nonprofit special agency engaged in the training of 11984
any type of assistance dogs may, upon payment to the dog warden or 11985
poundkeeper of the sum of three dollars, be sold to any nonprofit 11986
Ohio institution or organization that is certified by the ~~Ohio~~ 11987
~~public director of health council~~ as being engaged in teaching or 11988
research concerning the prevention and treatment of diseases of 11989
human beings or animals. Any dog that is donated to a nonprofit 11990
special agency engaged in the training of any type of assistance 11991
dogs in accordance with division (A) of this section and any dog 11992
that is sold to any nonprofit teaching or research institution or 11993
organization shall be discharged from the pound or animal shelter 11994
without registration and may be kept by the agency or by the 11995
institution or organization without registration so long as the 11996
dog is being trained, or is being used for teaching and research 11997
purposes. 11998

Any institution or organization certified by the ~~Ohio public~~ 11999
~~health council~~ director that obtains dogs for teaching and 12000
research purposes pursuant to this section shall, at all 12001
reasonable times, make the dogs available for inspection by agents 12002
of the Ohio humane society, appointed pursuant to section 1717.04 12003
of the Revised Code, and agents of county humane societies, 12004
appointed pursuant to section 1717.06 of the Revised Code, in 12005

order that the agents may prevent the perpetration of any act of 12006
cruelty, as defined in section 1717.01 of the Revised Code, to the 12007
dogs. 12008

(C) Any dog that the dog warden or poundkeeper is unable to 12009
dispose of, in the manner provided by this section and section 12010
955.18 of the Revised Code, may be humanely destroyed, except that 12011
no dog shall be destroyed until twenty-four hours after it has 12012
been offered to a nonprofit teaching or research institution or 12013
organization, as provided in this section, that has made a request 12014
for dogs to the dog warden or poundkeeper. 12015

(D) An owner of a dog that is wearing a valid registration 12016
tag who presents the dog to the dog warden or poundkeeper may 12017
specify in writing that the dog shall not be offered to a 12018
nonprofit teaching or research institution or organization, as 12019
provided in this section. 12020

(E) A record of all dogs impounded, the disposition of the 12021
same, the owner's name and address, if known, and a statement of 12022
costs assessed against the dogs shall be kept by the poundkeeper, 12023
and the poundkeeper shall furnish a transcript thereof to the 12024
county treasurer quarterly. 12025

A record of all dogs received and the source that supplied 12026
them shall be kept, for a period of three years from the date of 12027
acquiring the dogs, by all institutions or organizations engaged 12028
in teaching or research concerning the prevention and treatment of 12029
diseases of human beings or animals. 12030

(F) No person shall destroy any dog by the use of a high 12031
altitude decompression chamber or by any method other than a 12032
method that immediately and painlessly renders the dog initially 12033
unconscious and subsequently dead. 12034

Sec. 955.26. Whenever, in the judgment of the director of 12035

health, any city or general health district board of health, or 12036
persons performing the duties of a board of health, rabies is 12037
prevalent, the director of health, the board, or those persons 12038
shall declare a quarantine of all dogs in the health district or 12039
in a part of it. During the quarantine, the owner, keeper, or 12040
harborer of any dog shall keep it confined on the premises of the 12041
owner, keeper, or harborer, or in a suitable pound or kennel, at 12042
the expense of the owner, keeper, or harborer, except that a dog 12043
may be permitted to leave the premises of its owner, keeper, or 12044
harborer if it is under leash or under the control of a 12045
responsible person. The quarantine order shall be considered an 12046
emergency and need not be published. 12047

When the quarantine has been declared, the director of 12048
health, the board, or those persons may require vaccination for 12049
rabies of all dogs within the health district or part of it. Proof 12050
of rabies vaccination within a satisfactory period shall be 12051
demonstrated to the county auditor before any registration is 12052
issued under section 955.01 of the Revised Code for any dog that 12053
is required to be vaccinated. 12054

The ~~public health council~~ director shall determine 12055
appropriate methods of rabies vaccination and satisfactory periods 12056
for purposes of quarantines under this section. 12057

When a quarantine of dogs has been declared in any health 12058
district or part of a health district, the county dog warden and 12059
all other persons having the authority of police officers shall 12060
assist the health authorities in enforcing the quarantine order. 12061
When rabies vaccination has been declared compulsory in any health 12062
district or part of a health district, the dog warden shall assist 12063
the health authorities in enforcing the vaccination order. 12064

Notwithstanding the provisions of this section, a city or 12065
general health district board of health may make orders pursuant 12066
to sections 3709.20 and 3709.21 of the Revised Code requiring the 12067

vaccination of dogs. 12068

Sec. 991.02. (A) There is hereby created the Ohio expositions 12069
commission, which shall consist of the following ~~thirteen~~ fourteen 12070
members: nine members appointed by the governor with the advice 12071
and consent of the senate; the director of development, the 12072
director of natural resources, and the director of agriculture, or 12073
their designated representatives, who shall be ex officio members 12074
with voting rights of ~~such~~ the commission; and the ~~chairman~~ 12075
chairperson of the standing committee in the house of 12076
representatives to which matters dealing with agriculture are 12077
generally referred and the ~~chairman~~ chairperson of the standing 12078
committee in the senate to which matters dealing with agriculture 12079
are generally referred, who shall be nonvoting members. If the 12080
senate is not in session, recess appointments shall be made by the 12081
governor. 12082

(B) Of the nine members of the commission appointed by the 12083
governor, not more than five shall be from one political party, at 12084
least three members shall receive the major portion of their 12085
income from farming, and at least one member shall, at the time of 12086
~~his~~ appointment, be a member of the board of directors of an 12087
agricultural society ~~which~~ that was organized in compliance with 12088
section 1711.01 or 1711.02 of the Revised Code. Terms of office 12089
shall be for six years, commencing on the second day of December 12090
and ending on the first day of December. Each member shall hold 12091
office from the date of ~~his~~ appointment until the end of the term 12092
for which ~~he~~ the member was appointed. Any member appointed to 12093
fill a vacancy occurring prior to the expiration of the term for 12094
which ~~his~~ the member's predecessor was appointed shall hold office 12095
for the remainder of ~~such~~ that term. Any member shall continue in 12096
office subsequent to the expiration date of ~~his~~ the member's term 12097
until ~~his~~ the member's successor takes office, or until a period 12098
of sixty days has elapsed, whichever occurs first. 12099

The term of each nonvoting, legislative member of the 12100
commission shall be for two years or until the end of the member's 12101
legislative term, whichever occurs first. 12102

(C) The commission shall annually, during the month of 12103
December, select from among its members a ~~chairman~~ chairperson, a 12104
~~vice-chairman~~ vice-chairperson, who in the absence of the ~~chairman~~ 12105
chairperson shall carry out ~~his~~ the chairperson's duties, and a 12106
secretary, who may be a member or employee of the commission, to 12107
record the minutes of its meetings and to carry out such other 12108
duties as may be assigned by the commission, its ~~chairman~~ 12109
chairperson, or ~~vice-chairman~~ its vice-chairperson. 12110

(D) The director of agriculture, the director of natural 12111
resources, and the director of development, or their designated 12112
representatives, and the two legislators appointed to the 12113
commission, as members of the commission shall serve without 12114
compensation. 12115

(E) Each of the members of the commission appointed by the 12116
governor shall be paid the rate established pursuant to division 12117
(J) of section 124.15 of the Revised Code. All members of the 12118
commission are entitled to their actual and necessary expenses 12119
incurred in the performance of their duties as such members, 12120
payable from the appropriations for the commission. 12121

(F) The commission shall hold at least one regular meeting in 12122
each quarter of each calendar year, and shall keep a record of its 12123
proceedings, which shall be open to the public for inspection. 12124
Special meetings may be called by the ~~chairman~~ chairperson and 12125
shall be called by ~~him~~ the chairperson upon receipt of a written 12126
request therefor signed by two or more members of the commission. 12127
Written notice of the time and place of each meeting shall be sent 12128
to each member of the commission. Six of the voting members of the 12129
commission shall constitute a quorum. 12130

(G) The commission shall employ and prescribe the powers and 12131
duties of a general manager who shall serve in the unclassified 12132
civil service at a salary fixed pursuant to section 124.14 of the 12133
Revised Code. The general manager may employ such assistant 12134
managers as ~~he~~ the general manager and the commission may approve. 12135
At no time shall such assistant managers exceed four in number, 12136
one of whom shall be appointed in the classified civil service. 12137
The general manager may, subject to the approval of the 12138
commission, employ a fiscal officer and such other officers, 12139
employees, and consultants with such powers and duties as are 12140
necessary to carry out ~~sections 991.01 to 991.07 of the Revised~~ 12141
~~Code~~ this chapter. With the approval of the commission and in 12142
order to implement this chapter, the general manager may employ 12143
and fix the compensation of seasonal employees; these employees 12144
shall be in the unclassified civil service, and the overtime pay 12145
requirements of section 124.18 of the Revised Code do not apply to 12146
them. The general manager shall be considered the appointing 12147
authority of the commission for purposes of Chapter 124. of the 12148
Revised Code. 12149

(H) The governor may remove any appointed voting member of 12150
the commission at any time for inefficiency, neglect of duty, or 12151
malfeasance in office. 12152

Sec. 1121.23. Whenever the approval of the superintendent of 12153
financial institutions is required under Chapters 1101. to 1127. 12154
of the Revised Code, or under an order or supervisory action 12155
issued or taken under those chapters, for a person to serve as an 12156
organizer, incorporator, director, executive officer, or 12157
controlling shareholder of a bank, or to otherwise have a 12158
substantial interest in or participate in the management of a 12159
bank, the superintendent shall request the superintendent of the 12160
bureau of criminal identification and investigation, or a vendor 12161
approved by the bureau, to conduct a criminal records check based 12162

on the person's fingerprints in accordance with ~~division (A)(14)~~ 12163
of section 109.572 of the Revised Code. The superintendent of 12164
financial institutions shall request that criminal record 12165
information from the federal bureau of investigation be obtained 12166
as part of the criminal records check. Any fee required under 12167
division (C)(3) of section 109.572 of the Revised Code shall be 12168
paid by the person who is the subject of the request. 12169

Sec. 1155.03. Whenever the approval of the superintendent of 12170
financial institutions is required under Chapters 1151. to 1157. 12171
of the Revised Code, or under an order or supervisory action 12172
issued or taken under those chapters, for a person to serve as an 12173
organizer, incorporator, director, executive officer, or 12174
controlling person of a savings and loan association, or to 12175
otherwise have a substantial interest in or participate in the 12176
management of a savings and loan association, the superintendent 12177
shall request the superintendent of the bureau of criminal 12178
identification and investigation, or a vendor approved by the 12179
bureau, to conduct a criminal records check based on the person's 12180
fingerprints in accordance with ~~division (A)(14)~~ of section 12181
109.572 of the Revised Code. The superintendent of financial 12182
institutions shall request that criminal record information from 12183
the federal bureau of investigation be obtained as part of the 12184
criminal records check. Any fee required under division (C)(3) of 12185
section 109.572 of the Revised Code shall be paid by the person 12186
who is the subject of the request. 12187

Sec. 1163.05. Whenever the approval of the superintendent of 12188
financial institutions is required under Chapters 1161. to 1165. 12189
of the Revised Code, or under an order or supervisory action 12190
issued or taken under those chapters, for a person to serve as an 12191
organizer, incorporator, director, executive officer, or 12192

controlling person of a savings bank, or to otherwise have a 12193
substantial interest in or participate in the management of a 12194
savings bank, the superintendent shall request the superintendent 12195
of the bureau of criminal identification and investigation, or a 12196
vendor approved by the bureau, to conduct a criminal records check 12197
based on the person's fingerprints in accordance with ~~division~~ 12198
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 12199
of financial institutions shall request that criminal record 12200
information from the federal bureau of investigation be obtained 12201
as part of the criminal records check. Any fee required under 12202
division (C)(3) of section 109.572 of the Revised Code shall be 12203
paid by the person who is the subject of the request. 12204

Sec. 1315.141. Whenever the approval of the superintendent of 12205
financial institutions is required under sections 1315.01 to 12206
1315.18 of the Revised Code, or under an order or supervisory 12207
action issued or taken under those sections, for a person to serve 12208
as an organizer, incorporator, director, executive officer, or 12209
controlling person of a licensee, or to otherwise have a 12210
substantial interest in or participate in the management of a 12211
licensee, the superintendent shall request the superintendent of 12212
the bureau of criminal identification and investigation, or a 12213
vendor approved by the bureau, to conduct a criminal records check 12214
based on the person's fingerprints in accordance with ~~division~~ 12215
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 12216
of financial institutions shall request that criminal record 12217
information from the federal bureau of investigation be obtained 12218
as part of the criminal records check. Any fee required under 12219
division (C)(3) of section 109.572 of the Revised Code shall be 12220
paid by the person who is the subject of the request. 12221

Sec. 1317.05. (A) Any retail seller who, in any retail 12222

installment contract, has agreed to purchase insurance for the 12223
retail buyer and to extend credit for the price thereof, shall, 12224
prior to the due date of the first installment of the retail 12225
installment contract, deliver to the retail buyer personally, or 12226
mail or cause to be mailed to ~~him~~ the retail buyer at ~~his~~ the 12227
retail buyer's address as shown on the retail installment 12228
contract, the policy of insurance, or in lieu thereof a 12229
certificate of insurance, or the retail buyer is not liable on ~~his~~ 12230
the retail buyer's retail installment contract until the policy, 12231
or certificate of insurance, is received, or full refund is made 12232
of the insurance premium. 12233

If the premium for insurance of like kind and amount, as 12234
fixed in the published manual of a recognized standard rating 12235
bureau designated by the retail seller, is less than the amount 12236
charged the retail buyer as fixed in the written instrument in 12237
compliance with division (D) of section 1317.04 of the Revised 12238
Code, the retail buyer may deduct an amount equal to three times 12239
the difference from the amount owed the retail seller, or ~~his~~ the 12240
retail seller's successor in interest. Sections 1317.01 to 12241
1317.11, inclusive, of the Revised Code do not impair the 12242
authority of the superintendent of insurance to grant, renew, or 12243
revoke licenses, nor do said sections authorize anyone other than 12244
a licensee of the division of insurance to directly or indirectly 12245
receive any part of the amount charged for insurance in connection 12246
with any retail installment sale. 12247

(B) As used in this division, "debt cancellation or debt 12248
suspension product" means a contractual agreement in which a 12249
retail seller, or its assignee, agrees for a separate charge to 12250
cancel or waive all or a part of amounts due on a retail buyer's 12251
retail installment contract in the event of a total physical 12252
damage loss or unrecovered theft of the motor vehicle that is the 12253
subject of the contract. "Debt cancellation or debt suspension 12254

product" includes a guaranteed asset protection waiver, guaranteed 12255
auto protection waiver, or other similarly named agreement. 12256

A debt cancellation or debt suspension product, and an 12257
addendum to a retail installment contract containing a debt 12258
cancellation or debt suspension product, shall be considered a 12259
part of the retail installment contract and shall remain a part of 12260
that contract upon the assignment, sale, or transfer of that 12261
contract. The charge for any debt cancellation or debt suspension 12262
product shall be listed as a specific good. The purchase price and 12263
the terms of the debt cancellation or debt suspension product 12264
shall be disclosed in writing to the buyer. The extension of 12265
credit, terms of the credit, or the terms of the related motor 12266
vehicle sale or lease shall not be conditioned on the purchase of 12267
the debt cancellation or debt suspension product. Notwithstanding 12268
any other provision of law, a debt cancellation or debt suspension 12269
product shall not be considered insurance. 12270

Sec. 1321.37. (A) Application for an original or renewal 12271
license to make short-term loans shall be in writing, under oath, 12272
and in the form prescribed by the superintendent of financial 12273
institutions, and shall contain the name and address of the 12274
applicant, the location where the business of making loans is to 12275
be conducted, and any further information as the superintendent 12276
requires. At the time of making an application for an original 12277
license, the applicant shall pay to the superintendent a 12278
nonrefundable investigation fee of two hundred dollars. No 12279
investigation fee or any portion thereof shall be refunded after 12280
an original license has been issued. The application for an 12281
original or renewal license shall be accompanied by an original or 12282
renewal license fee, for each business location of one thousand 12283
dollars, except that applications for original licenses issued on 12284
or after the first day of July for any year shall be accompanied 12285
by an original license fee of five hundred dollars, and except 12286

that an application for an original or renewal license, for a 12287
nonprofit corporation that is incorporated under Chapter 1702. of 12288
the Revised Code, shall be accompanied by an original or renewal 12289
license fee, for each business location, that is one-half of the 12290
fee otherwise required. All fees paid to the superintendent 12291
pursuant to this division shall be deposited into the state 12292
treasury to the credit of the consumer finance fund. 12293

(B) Upon the filing of an application for an original license 12294
and, with respect to an application filed for a renewal license, 12295
on a schedule determined by the superintendent by rule adopted 12296
pursuant to section 1321.43 of the Revised Code, and the payment 12297
of fees in accordance with division (A) of this section, the 12298
superintendent shall investigate the facts concerning the 12299
applicant and the requirements provided by this division. The 12300
superintendent shall request the superintendent of the bureau of 12301
criminal identification and investigation, or a vendor approved by 12302
the bureau, to conduct a criminal records check based on the 12303
applicant's fingerprints in accordance with ~~division (A)(12)~~ of 12304
section 109.572 of the Revised Code. Notwithstanding division (K) 12305
of section 121.08 of the Revised Code, the superintendent of 12306
financial institutions shall request that criminal record 12307
information from the federal bureau of investigation be obtained 12308
as part of the criminal records check. The superintendent of 12309
financial institutions shall conduct a civil records check. The 12310
superintendent shall approve an application and issue an original 12311
or renewal license to the applicant if the superintendent finds 12312
all of the following: 12313

(1) The financial responsibility, experience, reputation, and 12314
general fitness of the applicant are such as to warrant the belief 12315
that the business of making loans will be operated lawfully, 12316
honestly, and fairly under sections 1321.35 to 1321.48 of the 12317
Revised Code and within the purposes of those sections; that the 12318

applicant has fully complied with those sections and any rule or 12319
order adopted or issued pursuant to section 1321.43 of the Revised 12320
Code; and that the applicant is qualified to engage in the 12321
business of making loans under sections 1321.35 to 1321.48 of the 12322
Revised Code. 12323

(2) The applicant is financially sound and has a net worth of 12324
not less than one hundred thousand dollars, or in the case of a 12325
nonprofit corporation that is incorporated under Chapter 1702. of 12326
the Revised Code, a net worth of not less than fifty thousand 12327
dollars. The applicant's net worth shall be computed according to 12328
generally accepted accounting principles. 12329

(3) The applicant has never had revoked a license to make 12330
loans under sections 1321.35 to 1321.48 of the Revised Code, under 12331
former sections 1315.35 to 1315.44 of the Revised Code, or to do 12332
business under sections 1315.21 to 1315.30 of the Revised Code. 12333

(4) Neither the applicant nor any senior officer, or partner 12334
of the applicant, has pleaded guilty to or been convicted of any 12335
criminal offense involving theft, receiving stolen property, 12336
embezzlement, forgery, fraud, passing bad checks, money 12337
laundering, or drug trafficking, or any criminal offense involving 12338
money or securities or any violation of an existing or former law 12339
of this state, any other state, or the United States that 12340
substantially is equivalent to a criminal offense described in 12341
that division. However, if the applicant or any of those other 12342
persons has pleaded guilty to or been convicted of any such 12343
offense other than theft, the superintendent shall not consider 12344
the offense if the applicant has proven to the superintendent, by 12345
a preponderance of the evidence, that the applicant's or other 12346
person's activities and employment record since the conviction 12347
show that the applicant or other person is honest, truthful, and 12348
of good reputation, and there is no basis in fact for believing 12349
that the applicant or other person will commit such an offense 12350

again. 12351

(5) Neither the applicant nor any senior officer, or partner 12352
of the applicant, has been subject to any adverse judgment for 12353
conversion, embezzlement, misappropriation of funds, fraud, 12354
misfeasance or malfeasance, or breach of fiduciary duty, or if the 12355
applicant or any of those other persons has been subject to such a 12356
judgment, the applicant has proven to the superintendent, by a 12357
preponderance of the evidence, that the applicant's or other 12358
person's activities and employment record since the judgment show 12359
that the applicant or other person is honest, truthful, and of 12360
good reputation, and there is no basis in fact for believing that 12361
the applicant or other person will be subject to such a judgment 12362
again. 12363

(C) If the superintendent finds that the applicant does not 12364
meet the requirements of division (B) of this section, or the 12365
superintendent finds that the applicant knowingly or repeatedly 12366
contracts with or employs persons to directly engage in lending 12367
activities who have been convicted of a felony crime listed in 12368
division (B)(5) of this section, the superintendent shall issue an 12369
order denying the application for an original or renewal license 12370
and giving the applicant an opportunity for a hearing on the 12371
denial in accordance with Chapter 119. of the Revised Code. The 12372
superintendent shall notify the applicant of the denial, the 12373
grounds for the denial, and the applicant's opportunity for a 12374
hearing. If the application is denied, the superintendent shall 12375
return the annual license fee but shall retain the investigation 12376
fee. 12377

(D) No person licensed under sections 1321.35 to 1321.48 of 12378
the Revised Code shall conduct business in this state unless the 12379
licensee has obtained and maintains in effect at all times a 12380
corporate surety bond issued by a bonding company or insurance 12381
company authorized to do business in this state. The bond shall be 12382

in favor of the superintendent and in the penal sum of at least 12383
one hundred thousand dollars, or in the case of a nonprofit 12384
corporation that is incorporated under Chapter 1702. of the 12385
Revised Code, in the amount of fifty thousand dollars. The term of 12386
the bond shall coincide with the term of the license. The licensee 12387
shall file a copy of the bond with the superintendent. The bond 12388
shall be for the exclusive benefit of any borrower injured by a 12389
violation by a licensee or any employee of a licensee, of any 12390
provision of sections 1321.35 to 1321.48 of the Revised Code. 12391

Sec. 1321.53. (A)(1) An application for a certificate of 12392
registration under sections 1321.51 to 1321.60 of the Revised Code 12393
shall contain an undertaking by the applicant to abide by those 12394
sections. The application shall be in writing, under oath, and in 12395
the form prescribed by the division of financial institutions, and 12396
shall contain any information that the division may require. 12397
Applicants that are foreign corporations shall obtain and maintain 12398
a license pursuant to Chapter 1703. of the Revised Code before a 12399
certificate is issued or renewed. 12400

(2) Upon the filing of the application and the payment by the 12401
applicant of a nonrefundable two_hundred_dollar investigation fee, 12402
a nonrefundable three_hundred_dollar annual registration fee, and 12403
any additional fee required by the nationwide mortgage licensing 12404
system and registry, the division shall investigate the relevant 12405
facts. If the application involves investigation outside this 12406
state, the applicant may be required by the division to advance 12407
sufficient funds to pay any of the actual expenses of such 12408
investigation, when it appears that these expenses will exceed two 12409
hundred dollars. An itemized statement of any of these expenses 12410
which the applicant is required to pay shall be furnished to the 12411
applicant by the division. No certificate shall be issued unless 12412
all the required fees have been submitted to the division. 12413

(3) All applicants making loans secured by an interest in real estate shall designate an employee or owner of the applicant as the applicant's primary point of contact. While acting as the primary point of contact, the employee or owner shall not be employed by any other registrant or mortgage broker.

(4) The investigation undertaken upon application shall include both a civil and criminal records check of the applicant including any individual whose identity is required to be disclosed in the application. Where the applicant is a business entity the superintendent shall have the authority to require a civil and criminal background check of those persons that in the determination of the superintendent have the authority to direct and control the operations of the applicant.

(5)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with ~~division (A)(12)~~ of section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of section 1321.531 of the Revised Code.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(6) If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if such information is not submitted to the division or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(7) If the division finds that the financial responsibility, experience, character, and general fitness of the applicant command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite bond or applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The superintendent shall not use a credit score as the sole basis for a registration denial.

(a)(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the thirty-first day of December, unless renewed by the filing of a renewal application and payment of a three_hundred_dollar nonrefundable annual registration fee, any assessment as determined by the superintendent pursuant to division (A)(7)(a)(ii) of this section, and any additional fee required by the nationwide mortgage licensing system and registry, on or before the last day of December of each year. No other fee or assessment shall be required of a registrant by the state or any political subdivision of this state.

(ii) If the renewal fees billed by the superintendent

pursuant to division (A)(7)(a)(i) of this section are less than 12477
the estimated expenditures of the consumer finance section of the 12478
division of financial institutions, as determined by the 12479
superintendent, for the following fiscal year, the superintendent 12480
may assess each registrant at a rate sufficient to equal in the 12481
aggregate the difference between the renewal fees billed and the 12482
estimated expenditures. Each registrant shall pay the assessed 12483
amount to the superintendent prior to the last day of June. In no 12484
case shall the assessment exceed ten cents per each one hundred 12485
dollars of interest (excluding charge-off recoveries), points, 12486
loan origination charges, and credit line charges collected by 12487
that registrant during the previous calendar year. If such an 12488
assessment is imposed, it shall not be less than two hundred fifty 12489
dollars per registrant and shall not exceed thirty thousand 12490
dollars less the total renewal fees paid pursuant to division 12491
(A)(7)(a)(i) of this section by each registrant. 12492

(b) Registrants shall timely file renewal applications on 12493
forms prescribed by the division and provide any further 12494
information that the division may require. If a renewal 12495
application does not contain all of the information required under 12496
this section, and if that information is not submitted to the 12497
division or to the nationwide mortgage licensing system and 12498
registry within ninety days after the superintendent or the 12499
nationwide mortgage licensing system and registry requests the 12500
information in writing, including by electronic transmission or 12501
facsimile, the superintendent may consider the application 12502
withdrawn. 12503

(c) Renewal shall not be granted if the applicant's 12504
certificate of registration is subject to an order of suspension, 12505
revocation, or an unpaid and past due fine imposed by the 12506
superintendent. 12507

(d) If the division finds the applicant does not meet the 12508

conditions set forth in this section, it shall issue a notice of 12509
intent to deny the application, and forthwith notify the applicant 12510
of the denial, the grounds for the denial, and the applicant's 12511
reasonable opportunity to be heard on the action in accordance 12512
with Chapter 119. of the Revised Code. 12513

(8) If there is a change of five per cent or more in the 12514
ownership of a registrant, the division may make any investigation 12515
necessary to determine whether any fact or condition exists that, 12516
if it had existed at the time of the original application for a 12517
certificate of registration, the fact or condition would have 12518
warranted the division to deny the application under division 12519
(A)(7) of this section. If such a fact or condition is found, the 12520
division may, in accordance with Chapter 119. of the Revised Code, 12521
revoke the registrant's certificate. 12522

(B) Each registrant that engages in lending under sections 12523
1321.51 to 1321.60 of the Revised Code shall, if not otherwise 12524
required to be bonded pursuant to section 1321.533 of the Revised 12525
Code, maintain both of the following: 12526

(1) A net worth of at least fifty thousand dollars; 12527

(2) For each certificate of registration, assets of at least 12528
fifty thousand dollars either in use or readily available for use 12529
in the conduct of the business. 12530

(C) Not more than one place of business shall be maintained 12531
under the same certificate, but the division may issue additional 12532
certificates to the same registrant upon compliance with sections 12533
1321.51 to 1321.60 of the Revised Code, governing the issuance of 12534
a single certificate. No change in the place of business of a 12535
registrant to a location outside the original municipal 12536
corporation shall be permitted under the same certificate without 12537
the approval of a new application, the payment of the registration 12538
fee and, if required by the superintendent, the payment of an 12539

investigation fee of two hundred dollars. When a registrant wishes 12540
to change its place of business within the same municipal 12541
corporation, it shall give written notice of the change in advance 12542
to the division, which shall provide a certificate for the new 12543
address without cost. If a registrant changes its name, prior to 12544
making loans under the new name it shall give written notice of 12545
the change to the division, which shall provide a certificate in 12546
the new name without cost. Sections 1321.51 to 1321.60 of the 12547
Revised Code do not limit the loans of any registrant to residents 12548
of the community in which the registrant's place of business is 12549
situated. Each certificate shall be kept conspicuously posted in 12550
the place of business of the registrant and is not transferable or 12551
assignable. 12552

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 12553
apply to any of the following: 12554

(1) Entities chartered and lawfully doing business under the 12555
authority of any law of this state, another state, or the United 12556
States as a bank, savings bank, trust company, savings and loan 12557
association, or credit union, or a subsidiary of any such entity, 12558
which subsidiary is regulated by a federal banking agency and is 12559
owned and controlled by such a depository institution; 12560

(2) Life, property, or casualty insurance companies licensed 12561
to do business in this state; 12562

(3) Any person that is a lender making a loan pursuant to 12563
sections 1321.01 to 1321.19 of the Revised Code or a business loan 12564
as described in division (B)(6) of section 1343.01 of the Revised 12565
Code; 12566

(4) Any political subdivision, or any governmental or other 12567
public entity, corporation, instrumentality, or agency, in or of 12568
the United States or any state of the United States, or any entity 12569
described in division (B)(3) of section 1343.01 of the Revised 12570

| | |
|--|-------|
| Code; | 12571 |
| (5) A college or university, or controlled entity of a | 12572 |
| college or university, as those terms are defined in section | 12573 |
| 1713.05 of the Revised Code; | 12574 |
| (6) A credit union service organization, provided the | 12575 |
| organization utilizes services provided by registered mortgage | 12576 |
| loan originators or the organization complies with section | 12577 |
| 1321.522 of the Revised Code and holds a valid letter of exemption | 12578 |
| issued by the superintendent. | 12579 |
| (E) No person engaged in the business of selling tangible | 12580 |
| goods or services related to tangible goods may receive or retain | 12581 |
| a certificate under sections 1321.51 to 1321.60 of the Revised | 12582 |
| Code for such place of business. | 12583 |
| Sec. 1321.531. (A) An application for a mortgage loan | 12584 |
| originator license shall be in writing, under oath, and in the | 12585 |
| form prescribed by the superintendent of financial institutions. | 12586 |
| The application shall be accompanied by a nonrefundable | 12587 |
| application fee of one hundred fifty dollars and all other | 12588 |
| required fees, including any fees required by the nationwide | 12589 |
| mortgage licensing system and registry. | 12590 |
| (B) The superintendent may establish relationships or enter | 12591 |
| into contracts with the nationwide mortgage licensing system and | 12592 |
| registry, or any entities designated by it, to collect and | 12593 |
| maintain records and process transaction fees or other fees | 12594 |
| related to mortgage loan originator licensees or other persons | 12595 |
| subject to or involved in their licensure. | 12596 |
| (C) In connection with applying for a mortgage loan | 12597 |
| originator license, the applicant shall furnish to the nationwide | 12598 |
| mortgage licensing system and registry the following information | 12599 |
| concerning the applicant's identity: | 12600 |

(1) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(2) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(a) An independent credit report from a consumer reporting agency;

(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(D) In order to effectuate the purposes of divisions (C)(1) and (C)(2)(b) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to divisions (C)(2)(a) and (b) of this section.

(E) Upon the filing of the application, payment of the application fee, and payment of any additional fee, including any fee required by the nationwide mortgage licensing system and registry, the superintendent shall investigate the applicant as set forth in division (E) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that

criminal record information from the federal bureau of 12632
investigation be obtained. To fulfill this requirement, the 12633
superintendent shall do either of the following: 12634

(i) Request the superintendent of the bureau of criminal 12635
identification and investigation, or a vendor approved by the 12636
bureau, to conduct a criminal records check based on the 12637
applicant's fingerprints or, if the fingerprints are unreadable, 12638
based on the applicant's social security number in accordance with 12639
~~division (A)(12) of~~ section 109.572 of the Revised Code; 12640

(ii) Authorize the nationwide mortgage licensing system and 12641
registry to request a criminal history background check as set 12642
forth in division (C) of this section. 12643

(b) Any fee required under division (C)(3) of section 109.572 12644
of the Revised Code or by the nationwide mortgage licensing system 12645
and registry shall be paid by the applicant. 12646

(2) The superintendent of financial institutions shall 12647
conduct a civil records check. 12648

(3) If, in order to issue a license to an applicant, 12649
additional investigation by the superintendent outside this state 12650
is necessary, the superintendent may require the applicant to 12651
advance sufficient funds to pay the actual expenses of the 12652
investigation, if it appears that these expenses will exceed one 12653
hundred dollars. The superintendent shall provide the applicant 12654
with an itemized statement of the actual expenses that the 12655
applicant is required to pay. 12656

(F) If an application for a mortgage loan originator license 12657
does not contain all of the information required under this 12658
section, and if that information is not submitted to the 12659
superintendent or to the nationwide mortgage licensing system and 12660
registry within ninety days after the superintendent or the 12661
nationwide mortgage licensing system and registry requests the 12662

information in writing, including by electronic transmission or 12663
facsimile, the superintendent may consider the application 12664
withdrawn. 12665

Sec. 1322.03. (A) An application for a certificate of 12666
registration as a mortgage broker shall be in writing, under oath, 12667
and in the form prescribed by the superintendent of financial 12668
institutions. The application shall be accompanied by a 12669
nonrefundable application fee of five hundred dollars for each 12670
location of an office to be maintained by the applicant in 12671
accordance with division (A) of section 1322.02 of the Revised 12672
Code and any additional fee required by the nationwide mortgage 12673
licensing system and registry. The application shall provide all 12674
of the following: 12675

(1) The location or locations where the business is to be 12676
transacted and whether any location is a residence. If any 12677
location where the business is to be transacted is a residence, 12678
the superintendent may require that the application be accompanied 12679
by a copy of a zoning permit authorizing the use of the residence 12680
for commercial purposes, or by a written opinion or other document 12681
issued by the county or political subdivision where the residence 12682
is located certifying that the use of the residence to transact 12683
business as a mortgage broker is not prohibited by the county or 12684
political subdivision. 12685

(2)(a) In the case of a sole proprietor, the name and address 12686
of the sole proprietor; 12687

(b) In the case of a partnership, the name and address of 12688
each partner; 12689

(c) In the case of a corporation, the name and address of 12690
each shareholder owning five per cent or more of the corporation; 12691

(d) In the case of any other entity, the name and address of 12692

any person that owns five per cent or more of the entity that will 12693
transact business as a mortgage broker. 12694

(3) Each applicant shall designate an employee or owner of 12695
the applicant as the applicant's operations manager. While acting 12696
as the operations manager, the employee or owner shall be licensed 12697
as a loan originator under sections 1322.01 to 1322.12 of the 12698
Revised Code and shall not be employed by any other mortgage 12699
broker. 12700

(4) Evidence that the person designated on the application 12701
pursuant to division (A)(3) of this section possesses at least 12702
three years of experience in the residential mortgage and lending 12703
field, which experience may include employment with or as a 12704
mortgage broker or with a depository institution, mortgage lending 12705
institution, or other lending institution, or possesses at least 12706
three years of other experience related specifically to the 12707
business of residential mortgage loans that the superintendent 12708
determines meets the requirements of division (A)(4) of this 12709
section; 12710

(5) Evidence that the person designated on the application 12711
pursuant to division (A)(3) of this section has successfully 12712
completed the pre-licensing instruction requirements set forth in 12713
section 1322.031 of the Revised Code; 12714

(6) Evidence of compliance with the surety bond requirements 12715
of section 1322.05 of the Revised Code and with sections 1322.01 12716
to 1322.12 of the Revised Code; 12717

(7) In the case of a foreign business entity, evidence that 12718
it maintains a license or registration pursuant to Chapter 1703., 12719
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to 12720
transact business in this state; 12721

(8) Evidence that the applicant's operations manager has 12722
successfully completed the written test required under division 12723

(A) of section 1322.051 of the Revised Code; 12724

(9) Any further information that the superintendent requires. 12725

(B) Upon the filing of the application and payment of the 12726
nonrefundable application fee and any fee required by the 12727
nationwide mortgage licensing system and registry, the 12728
superintendent of financial institutions shall investigate the 12729
applicant, and any individual whose identity is required to be 12730
disclosed in the application, as set forth in division (B) of this 12731
section. 12732

(1)(a) Notwithstanding division (K) of section 121.08 of the 12733
Revised Code, the superintendent shall obtain a criminal history 12734
records check and, as part of that records check, request that 12735
criminal record information from the federal bureau of 12736
investigation be obtained. To fulfill this requirement, the 12737
superintendent shall do either of the following: 12738

(i) Request the superintendent of the bureau of criminal 12739
identification and investigation, or a vendor approved by the 12740
bureau, to conduct a criminal records check based on the 12741
applicant's fingerprints or, if the fingerprints are unreadable, 12742
based on the applicant's social security number, in accordance 12743
with ~~division (A)(12)~~ of section 109.572 of the Revised Code; 12744

(ii) Authorize the nationwide mortgage licensing system and 12745
registry to request a criminal history background check. 12746

(b) Any fee required under division (C)(3) of section 109.572 12747
of the Revised Code or by the nationwide mortgage licensing system 12748
and registry shall be paid by the applicant. 12749

(2) The superintendent shall conduct a civil records check. 12750

(3) If, in order to issue a certificate of registration to an 12751
applicant, additional investigation by the superintendent outside 12752
this state is necessary, the superintendent may require the 12753

applicant to advance sufficient funds to pay the actual expenses 12754
of the investigation, if it appears that these expenses will 12755
exceed five hundred dollars. The superintendent shall provide the 12756
applicant with an itemized statement of the actual expenses that 12757
the applicant is required to pay. 12758

(C) The superintendent shall pay all funds advanced and 12759
application and renewal fees and penalties the superintendent 12760
receives pursuant to this section and section 1322.04 of the 12761
Revised Code to the treasurer of state to the credit of the 12762
consumer finance fund created in section 1321.21 of the Revised 12763
Code. 12764

(D) If an application for a mortgage broker certificate of 12765
registration does not contain all of the information required 12766
under division (A) of this section, and if that information is not 12767
submitted to the superintendent or to the nationwide mortgage 12768
licensing system and registry within ninety days after the 12769
superintendent or the nationwide mortgage licensing system and 12770
registry requests the information in writing, including by 12771
electronic transmission or facsimile, the superintendent may 12772
consider the application withdrawn. 12773

(E) A mortgage broker certificate of registration and the 12774
authority granted under that certificate is not transferable or 12775
assignable and cannot be franchised by contract or any other 12776
means. 12777

(F) The registration requirements of this chapter apply to 12778
any person acting as a mortgage broker, and no person is exempt 12779
from the requirements of this chapter on the basis of prior work 12780
or employment as a mortgage broker. 12781

(G) The superintendent may establish relationships or enter 12782
into contracts with the nationwide mortgage licensing system and 12783
registry, or any entities designated by it, to collect and 12784

maintain records and process transaction fees or other fees 12785
related to mortgage broker certificates of registration or the 12786
persons associated with a mortgage broker. 12787

Sec. 1322.031. (A) An application for a license as a loan 12788
originator shall be in writing, under oath, and in the form 12789
prescribed by the superintendent of financial institutions. The 12790
application shall be accompanied by a nonrefundable application 12791
fee of one hundred fifty dollars and any additional fee required 12792
by the nationwide mortgage licensing system and registry. 12793

(B)(1) The application shall provide evidence, acceptable to 12794
the superintendent, that the applicant has successfully completed 12795
at least twenty-four hours of pre-licensing instruction consisting 12796
of all of the following: 12797

(a) Twenty hours of instruction in a course or program of 12798
study reviewed and approved by the nationwide mortgage licensing 12799
system and registry; 12800

(b) Four hours of instruction in a course or program of study 12801
reviewed and approved by the superintendent concerning state 12802
lending laws and the Ohio consumer sales practices act, Chapter 12803
1345. of the Revised Code, as it applies to registrants and 12804
licensees. 12805

(2) Notwithstanding division (B)(1) of this section, until 12806
the nationwide mortgage licensing system and registry implements a 12807
review and approval program, the application shall provide 12808
evidence, as determined by the superintendent, that the applicant 12809
has successfully completed at least twenty-four hours of 12810
instruction in a course or program of study approved by the 12811
superintendent that consists of at least all of the following: 12812

(a) Four hours of instruction concerning state and federal 12813
mortgage lending laws, which shall include no less than two hours 12814

| | |
|--|--|
| on this chapter; | 12815 |
| (b) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees; | 12816 12817 12818 |
| (c) Four hours of instruction concerning the loan application process; | 12819 12820 |
| (d) Two hours of instruction concerning the underwriting process; | 12821 12822 |
| (e) Two hours of instruction concerning the secondary market for mortgage loans; | 12823 12824 |
| (f) Four hours of instruction concerning the loan closing process; | 12825 12826 |
| (g) Two hours of instruction covering basic mortgage financing concepts and terms; | 12827 12828 |
| (h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code. | 12829 12830 12831 12832 12833 |
| (3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study. | 12834 12835 12836 12837 |
| (4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account. | 12838 12839 12840 12841 12842 12843 |
| (5) A person having successfully completed the pre-licensing | 12844 |

education requirement reviewed and approved by the nationwide 12845
mortgage licensing system and registry for any state within the 12846
previous five years shall be granted credit toward completion of 12847
the pre-licensing education requirement of this state. 12848

(C) In addition to the information required under division 12849
(B) of this section, the application shall provide both of the 12850
following: 12851

(1) Evidence that the applicant passed a written test that 12852
meets the requirements described in division (B) of section 12853
1322.051 of the Revised Code; 12854

(2) Any further information that the superintendent requires. 12855

(D) Upon the filing of the application and payment of the 12856
application fee and any fee required by the nationwide mortgage 12857
licensing system and registry, the superintendent of financial 12858
institutions shall investigate the applicant as set forth in 12859
division (D) of this section. 12860

(1)(a) Notwithstanding division (K) of section 121.08 of the 12861
Revised Code, the superintendent shall obtain a criminal history 12862
records check and, as part of the records check, request that 12863
criminal record information from the federal bureau of 12864
investigation be obtained. To fulfill this requirement, the 12865
superintendent shall do either of the following: 12866

(i) Request the superintendent of the bureau of criminal 12867
identification and investigation, or a vendor approved by the 12868
bureau, to conduct a criminal records check based on the 12869
applicant's fingerprints or, if the fingerprints are unreadable, 12870
based on the applicant's social security number, in accordance 12871
with ~~division (A)(12) of~~ section 109.572 of the Revised Code; 12872

(ii) Authorize the nationwide mortgage licensing system and 12873
registry to request a criminal history background check. 12874

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(E)(1) In connection with applying for a loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(a) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(b) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(i) An independent credit report from a consumer reporting agency;

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(2) In order to effectuate the purposes of divisions

(E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent 12905
may use the conference of state bank supervisors, or a wholly 12906
owned subsidiary, as a channeling agent for requesting information 12907
from and distributing information to the United States department 12908
of justice or any other governmental agency. The superintendent 12909
may also use the nationwide mortgage licensing system and registry 12910
as a channeling agent for requesting information from and 12911
distributing information to any source related to matters subject 12912
to those divisions of this section. 12913

(F) The superintendent shall pay all funds advanced and 12914
application and renewal fees and penalties the superintendent 12915
receives pursuant to this section and section 1322.041 of the 12916
Revised Code to the treasurer of state to the credit of the 12917
consumer finance fund created in section 1321.21 of the Revised 12918
Code. 12919

(G) If an application for a loan originator license does not 12920
contain all of the information required under this section, and if 12921
that information is not submitted to the superintendent or to the 12922
nationwide mortgage licensing system and registry within ninety 12923
days after the superintendent or the nationwide mortgage licensing 12924
system and registry requests the information in writing, including 12925
by electronic transmission or facsimile, the superintendent may 12926
consider the application withdrawn. 12927

(H)(1) The business of a loan originator shall principally be 12928
transacted at an office of the mortgage broker with whom the 12929
licensee is employed or associated, which office is registered in 12930
accordance with division (A) of section 1322.02 of the Revised 12931
Code. Each original loan originator license shall be deposited 12932
with and maintained by the mortgage broker at the mortgage 12933
broker's main office. A copy of the license shall be maintained 12934
and displayed at the office where the loan originator principally 12935
transacts business. 12936

(2) If a loan originator's employment or association is 12937
terminated for any reason, the mortgage broker shall return the 12938
original loan originator license to the superintendent within five 12939
business days after the termination. The licensee may request the 12940
transfer of the license to another mortgage broker by submitting a 12941
transfer application, along with a fifteen dollar fee and any fee 12942
required by the national mortgage licensing system and registry, 12943
to the superintendent or may request the superintendent in writing 12944
to hold the license in escrow. Any licensee whose license is held 12945
in escrow shall cease activity as a loan originator. A licensee 12946
whose license is held in escrow shall be required to apply for 12947
renewal annually and to comply with the annual continuing 12948
education requirement. 12949

(3) A mortgage broker may employ or be associated with a loan 12950
originator on a temporary basis pending the transfer of the loan 12951
originator's license to the mortgage broker, if the mortgage 12952
broker receives written confirmation from the superintendent that 12953
the loan originator is licensed under sections 1322.01 to 1322.12 12954
of the Revised Code. 12955

(4) Notwithstanding divisions (H)(1) to (3) of this section, 12956
if a licensee is employed by or associated with a person or entity 12957
listed in division (G)(2) of section 1322.01 of the Revised Code, 12958
all of the following apply: 12959

(a) The licensee shall maintain and display the original loan 12960
originator license at the office where the licensee principally 12961
transacts business; 12962

(b) If the loan originator's employment or association is 12963
terminated, the loan originator shall return the original loan 12964
originator license to the superintendent within five business days 12965
after termination. The licensee may request the transfer of the 12966
license to a mortgage broker or another person or entity listed in 12967
division (G)(2) of section 1322.01 of the Revised Code by 12968

submitting a transfer application, along with a fifteen-dollar fee 12969
and any fee required by the national mortgage licensing system and 12970
registry, to the superintendent or may request the superintendent 12971
in writing to hold the license in escrow. A licensee whose license 12972
is held in escrow shall cease activity as a loan originator. A 12973
licensee whose license is held in escrow shall be required to 12974
apply for renewal annually and to comply with the annual 12975
continuing education requirement. 12976

(c) The licensee may seek to be employed or associated with a 12977
mortgage broker or person or entity listed in division (G)(2) of 12978
section 1322.01 of the Revised Code if the mortgage broker or 12979
person or entity receives written confirmation from the 12980
superintendent that the loan originator is licensed under sections 12981
1322.01 to 1322.12 of the Revised Code. 12982

(I) The superintendent may establish relationships or enter 12983
into contracts with the nationwide mortgage licensing system and 12984
registry, or any entities designated by it, to collect and 12985
maintain records and process transaction fees or other fees 12986
related to loan originator licenses or the persons associated with 12987
a licensee. 12988

(J) A loan originator license, or the authority granted under 12989
that license, is not assignable and cannot be franchised by 12990
contract or any other means. 12991

Sec. 1345.05. (A) The attorney general shall: 12992

(1) Adopt, amend, and repeal procedural rules; 12993

(2) Adopt as a rule a description of the organization of the 12994
attorney general's office, stating the general courses and methods 12995
of operation of the section of the office of the attorney general, 12996
which is to administer Chapter 1345. of the Revised Code and 12997
methods whereby the public may obtain information or make 12998

submissions or requests, including a description of all forms and 12999
instructions used by that office; 13000

(3) Make available for public inspection all rules and all 13001
other written statements of policy or interpretations adopted or 13002
used by the attorney general in the discharge of the attorney 13003
general's functions, together with all judgments, including 13004
supporting opinions, by courts of this state that determine the 13005
rights of the parties and concerning which appellate remedies have 13006
been exhausted, or lost by the expiration of the time for appeal, 13007
determining that specific acts or practices violate section 13008
1345.02, 1345.03, or 1345.031 of the Revised Code; 13009

(4) Inform consumers and suppliers on a continuing basis of 13010
acts or practices that violate Chapter 1345. of the Revised Code 13011
by, among other things, publishing an informational document 13012
describing acts and practices in connection with residential 13013
mortgages that are unfair, deceptive, or unconscionable, and by 13014
making that information available on the attorney general's 13015
official web site; 13016

(5) Cooperate with state and local officials, officials of 13017
other states, and officials of the federal government in the 13018
administration of comparable statutes; 13019

(6) Report annually on or before the ~~first~~ thirty-first day 13020
of January to the governor and the general assembly on the 13021
operations of the attorney general in respect to Chapter 1345. of 13022
the Revised Code, and on the acts or practices occurring in this 13023
state that violate such chapter. The report shall include a 13024
statement of investigatory and enforcement procedures and 13025
policies, of the number of investigations and enforcement 13026
proceedings instituted and of their disposition, and of other 13027
activities of the state and of other persons to promote the 13028
purposes of Chapter 1345. of the Revised Code. 13029

(7) In carrying out official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate sections 1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45(a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

In adopting, amending, or repealing such rules concerning a consumer transaction in connection with a residential mortgage, the attorney general shall consult with the superintendent of financial institutions and shall give due consideration to state and federal statutes, regulations, administrative agency interpretations, and case law.

(C) In the conduct of public hearings authorized by this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant material. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the attorney general may

apply to a court of common pleas for an order compelling 13061
compliance. 13062

(D) The attorney general may request that an individual who 13063
refuses to testify or to produce relevant material on the ground 13064
that the testimony or matter may incriminate the individual be 13065
ordered by the court to provide the testimony or matter. With the 13066
exception of a prosecution for perjury and an action for damages 13067
under section 1345.07 or 1345.09 of the Revised Code, an 13068
individual who complies with a court order to provide testimony or 13069
matter, after asserting a privilege against self incrimination to 13070
which the individual is entitled by law, shall not be subjected to 13071
a criminal proceeding on the basis of the testimony or matter 13072
discovered through that testimony or matter. 13073

(E) Any person may petition the attorney general requesting 13074
the adoption, amendment, or repeal of a rule. The attorney general 13075
shall prescribe by rule the form for such petitions and the 13076
procedure for their submission, consideration, and disposition. 13077
Within sixty days of submission of a petition, the attorney 13078
general shall either deny the petition in writing, stating the 13079
reasons for the denial, or initiate rule-making proceedings. There 13080
is no right to appeal from such denial of a petition. 13081

(F) All rules shall be adopted subject to Chapter 119. of the 13082
Revised Code. 13083

(G) The informational document published in accordance with 13084
division (A)(4) of this section shall be made available for 13085
distribution to consumers who are applying for a mortgage loan. An 13086
acknowledgement of receipt shall be retained by the lender, 13087
mortgage broker, and loan officer, as applicable, subject to 13088
review by the attorney general and the department of commerce. 13089

Sec. 1501.04. There is hereby created in the department of 13090
natural resources a recreation and resources commission composed 13091

of the chairperson of the wildlife council created under section 13092
1531.03 of the Revised Code, the chairperson of the parks and 13093
recreation council created under section 1541.40 of the Revised 13094
Code, the chairperson of the waterways safety council created 13095
under section 1547.73 of the Revised Code, the chairperson of the 13096
technical advisory council on oil and gas created under section 13097
1509.38 of the Revised Code, the chairperson of the forestry 13098
advisory council created under section 1503.40 of the Revised 13099
Code, the chairperson of the Ohio soil and water conservation 13100
commission created under section 1515.02 of the Revised Code, the 13101
chairperson of the Ohio natural areas council created under 13102
section 1517.03 of the Revised Code, the chairperson of the Ohio 13103
water advisory council created under section 1521.031 of the 13104
Revised Code, ~~the chairperson of the recycling and litter~~ 13105
~~prevention advisory council created under section 1502.04 of the~~ 13106
~~Revised Code,~~ the chairperson of the Ohio geology advisory council 13107
created under section 1505.11 of the Revised Code, and five 13108
members appointed by the governor with the advice and consent of 13109
the senate, not more than three of whom shall belong to the same 13110
political party. The director of natural resources shall be an ex 13111
officio member of the commission, with a voice in its 13112
deliberations, but without the power to vote. 13113

Terms of office of members of the commission appointed by the 13114
governor shall be for five years, commencing on the second day of 13115
February and ending on the first day of February. Each member 13116
shall hold office from the date of appointment until the end of 13117
the term for which the member was appointed. 13118

In the event of the death, removal, resignation, or 13119
incapacity of a member of the commission, the governor, with the 13120
advice and consent of the senate, shall appoint a successor who 13121
shall hold office for the remainder of the term for which the 13122
member's predecessor was appointed. Any member shall continue in 13123

office subsequent to the expiration date of the member's term 13124
until the member's successor takes office, or until a period of 13125
sixty days has elapsed, whichever occurs first. 13126

The governor may remove any appointed member of the 13127
commission for misfeasance, nonfeasance, or malfeasance in office. 13128

The commission shall exercise no administrative function, but 13129
may do any of the following: 13130

(A) Advise with and recommend to the director as to plans and 13131
programs for the management, development, utilization, and 13132
conservation of the natural resources of the state; 13133

(B) Advise with and recommend to the director as to methods 13134
of coordinating the work of the divisions of the department; 13135

(C) Consider and make recommendations upon any matter that 13136
the director may submit to it; 13137

(D) Submit to the governor biennially recommendations for 13138
amendments to the conservation laws of the state. 13139

Each member of the commission, before entering upon the 13140
discharge of the member's duties, shall take and subscribe to an 13141
oath of office, which oath, in writing, shall be filed in the 13142
office of the secretary of state. 13143

The members of the commission shall serve without 13144
compensation, but shall be entitled to receive their actual and 13145
necessary expenses incurred in the performance of their official 13146
duties. 13147

The commission, by a majority vote of all its members, shall 13148
adopt and amend bylaws. 13149

To be eligible for appointment, a person shall be a citizen 13150
of the United States and an elector of the state and shall possess 13151
a knowledge of and have an interest in the natural resources of 13152
this state. 13153

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a chairperson to preside over its meetings and a secretary to keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring in it.

Sec. 1503.012. There is hereby created in the state treasury the forestry mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code. Any investment proceeds earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of forestry to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund for those purposes shall be approved by the director of natural resources.

The director of natural resources also may request the director of budget and management to transfer money from the forestry mineral royalties fund to the parks mineral royalties fund created in section 1541.26 of the Revised Code. The director of budget and management shall transfer the money pursuant to the request if the director consents to the request. Money that is transferred to the parks mineral royalties fund shall be used for the purposes specified in section 1541.26 of the Revised Code.

Sec. 1503.43. (A) As used in this section:

(1) "Wilderness area" means a contiguous area of relatively undeveloped state-owned land administered by the division of forestry and consisting of not less than five thousand acres or of sufficient size as to make practicable its preservation and use in an unimpaired condition that either has retained its natural character and influence or has been substantially restored to a near natural appearance and that meets both of the following qualifications:

(a) The area is one in which humankind's past influences are largely unnoticed;

(b) The area has outstanding opportunities for solitude or for a primitive and unconfined type of recreation.

(2) "Utility facility" includes, without limitation, towers, poles, pipes, sewers, tubing, conduits, conductors, cables, valves, lines, wires, manholes, and appurtenances thereto owned by a utility facility operator.

(3) "Utility facility operator" means a person or public authority that supplies any of the following materials or services by means of a utility facility:

(a) Flammable, toxic, or corrosive gas;

(b) Crude oil, petroleum products, or hazardous liquids;

(c) Coal;

(d) Electricity;

(e) Electronic, telephonic, or telegraphic communications;

(f) Television signals;

(g) Sewage disposal or drainage;

(h) Potable water;

(i) Steam or hot water.

(B) That portion of contiguous state lands located in Scioto

and Adams counties and within the Shawnee state forest and bounded 13213
by forest road seventeen and sunshine ridge to the north, by upper 13214
Twin Creek road to the east and northeast, by United States route 13215
fifty-two to the south, and by lower Twin Creek road to the west 13216
and southwest is hereby designated the Shawnee wilderness area. 13217
Except as otherwise specifically provided by this section or by 13218
rule adopted under this chapter, the provisions of this chapter 13219
apply to the Shawnee wilderness area, and that area shall continue 13220
to be a part of the Shawnee state forest. 13221

(C) The Shawnee wilderness area shall be managed to preserve 13222
natural conditions and ensure the continuance of natural 13223
processes. The chief of the division of forestry, with the 13224
approval of the director of natural resources, shall administer 13225
the Shawnee wilderness area in accordance with a management plan, 13226
which the chief shall develop and adopt within one year after 13227
September 14, 1988. Sixty days prior to adopting a plan, the chief 13228
shall solicit public review and comment on a draft plan. At least 13229
once every ten years, the chief shall conduct a review of the 13230
plan, with public input, and revise the plan as appropriate. The 13231
chief shall make the plan available for review by any person upon 13232
request. 13233

(D) Notwithstanding any other authority granted to the chief 13234
under this chapter, the chief shall include within the management 13235
plan adopted under division (C) of this section prohibitions of 13236
the following activities within the Shawnee wilderness area except 13237
for the areas exempted in division (E) of this section: 13238

(1) Picking, removal, cutting, or alteration in any manner of 13239
any vegetation unless the person first has obtained written 13240
consent from the chief for that activity and the action is 13241
necessary for appropriate public access, the preservation or 13242
restoration of a plant or wildlife species, or the documentation 13243
of scientific values; 13244

| | |
|--|----------------------------------|
| (2) Granting of any easement or license, or sale or lease of any of the land, for any purpose. Division (D)(2) of this section does not apply to any private easement or license in existence on September 14, 1988. | 13245 13246 13247 13248 |
| (3) Exploration for or extraction of any coal, oil, gas, or minerals; | 13249 13250 |
| (4) Operation, construction, or installation of a utility facility above or below the surface of the land; | 13251 13252 |
| (5) Operation of a commercial enterprise; | 13253 |
| (6) Except as provided in division (D)(7) of this section, construction of a road upon any of the land or use of the land as a road; | 13254 13255 13256 |
| (7) Except as is necessary to meet emergency requirements for administration of the area: | 13257 13258 |
| (a) Landing of an aircraft; | 13259 |
| (b) Operation of a motor vehicle, motor boat, other form of mechanical transport, or motorized equipment; | 13260 13261 |
| (c) Construction of any building or other structure; | 13262 |
| (d) Use of the land as a temporary road. | 13263 |
| (E)(1) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibitions of division (D) of this section: | 13264 13265 13266 13267 |
| (a) The Buena Vista manager's residence; | 13268 |
| (b) The Buena Vista walnut seed orchard; | 13269 |
| (c) The Twin Creek fire tower. | 13270 |
| (2) <u>The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibition established in division</u> | 13271 13272 13273 |

| | |
|--|-------|
| <u>(D)(7)(b) of this section for the purpose of trail maintenance:</u> | 13274 |
| <u>(a) The hiking trail west of upper Twin Creek road known as the wilderness loop;</u> | 13275 |
| | 13276 |
| <u>(b) Buckhorn ridge bridle trail;</u> | 13277 |
| <u>(c) Cabbage patch bridle trail.</u> | 13278 |
| <u>(3) At any time that the chief makes a determination that it is no longer necessary for the administration of the Shawnee state forest or the state forest system for an area excluded in division (E)(1) or (2) of this section to be excluded, the area shall become subject to the prohibitions of established in division (D) of this section or the prohibition established in division (D)(7)(b) of this section, as applicable.</u> | 13279 |
| | 13280 |
| | 13281 |
| | 13282 |
| | 13283 |
| | 13284 |
| | 13285 |
| (F) The chief, in developing a management plan under division (C) of this section, may not prohibit any hunting, fishing, or trapping that is done in conformity with Chapters 1531. and 1533. of the Revised Code or any rules adopted under those chapters. | 13286 |
| | 13287 |
| | 13288 |
| | 13289 |
| Sec. 1506.42. The state, acting through the director of natural resources, subject to section 1506.46 of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state. | 13290 |
| | 13291 |
| | 13292 |
| | 13293 |
| | 13294 |
| | 13295 |
| | 13296 |
| | 13297 |
| | 13298 |
| | 13299 |
| | 13300 |
| The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through | 13301 |
| | 13302 |
| | 13303 |

appropriations made to the department of natural resources and 13304
one-third of the cost to the counties, townships, municipal 13305
corporations, park boards, conservancy districts, or other 13306
political subdivisions. 13307

If a shore erosion emergency is declared by the governor, the 13308
state, acting through the director, may spend whatever state funds 13309
are available to alleviate shore erosion, without participation by 13310
any political subdivision, regardless of whether the project will 13311
benefit public or private littoral property. 13312

A board of county commissioners, acting for the county over 13313
which it has jurisdiction, may enter into and carry out agreements 13314
with the director for the construction and maintenance of projects 13315
to control shore erosion. In providing the funds for the county's 13316
proportionate share of the cost of constructing and maintaining 13317
the projects referred to in this section, the board shall be 13318
governed by and may issue and refund bonds in accordance with 13319
Chapter 133. of the Revised Code. 13320

A municipal corporation or a township, acting through the 13321
legislative authority or the board of township trustees, may enter 13322
into and carry out agreements with the director for the purpose of 13323
constructing and maintaining projects to control shore erosion. In 13324
providing the funds for the municipal corporation's or township's 13325
proportionate share of the cost of constructing and maintaining 13326
the projects referred to in this section, a municipal corporation 13327
or township may issue and refund bonds in accordance with Chapter 13328
133. of the Revised Code. The contract shall be executed on behalf 13329
of the municipal corporation or township by the mayor, city 13330
manager, or other chief executive officer who has the authority to 13331
act for the municipal corporation or township. 13332

Conservancy districts may enter into and carry out agreements 13333
with the director, in accordance with the intent of this section, 13334
under the powers conferred upon conservancy districts under 13335

Chapter 6101. of the Revised Code. 13336

Park boards may enter into and carry out agreements with the 13337
director, in accordance with the intent of this section, and issue 13338
bonds for that purpose under the powers conferred upon park 13339
districts under Chapter 1545. of the Revised Code. 13340

The director shall approve and supervise all projects that 13341
are to be constructed in accordance with this section. The 13342
director shall not proceed with the construction of any project 13343
until all funds that are to be paid by the county, township, 13344
municipal corporation, park board, or conservancy district, in 13345
accordance with the terms of the agreement entered into between 13346
the director and the county, township, municipal corporation, park 13347
board, or conservancy district, are in the director's possession 13348
and deposited in the shore erosion fund, which is hereby created 13349
in the state treasury. If the director finds it to be in the best 13350
interests of the state to construct projects as set forth in this 13351
section by the state itself, without the financial contribution of 13352
counties, townships, municipal corporations, park boards, or 13353
conservancy districts, the director may construct the projects. 13354

In deciding whether to assist a county or municipal 13355
corporation in constructing and maintaining a project under this 13356
section, the state, acting through the director, shall consider, 13357
among other factors, whether the county or municipal corporation 13358
has adopted or is in the process of adopting a Lake Erie coastal 13359
erosion area resolution or ordinance under division (D) of section 13360
1506.07 of the Revised Code. 13361

All projects constructed by the state in conformity with 13362
sections 1506.38 to 1506.46 of the Revised Code shall be 13363
constructed subject to sections 153.01 to 153.20 of the Revised 13364
Code, except that the ~~state architect and engineer~~ Ohio facilities
construction commission is not required to prepare the plans and 13365
specifications for those projects. 13366
13367

Sec. 1509.071. (A) When the chief of the division of oil and 13368
gas resources management finds that an owner has failed to comply 13369
with a final nonappealable order issued or compliance agreement 13370
entered into under section 1509.04, the restoration requirements 13371
of section 1509.072, plugging requirements of section 1509.12, or 13372
permit provisions of section 1509.13 of the Revised Code, or rules 13373
and orders relating thereto, the chief shall make a finding of 13374
that fact and declare any surety bond filed to ensure compliance 13375
with those sections and rules forfeited in the amount set by rule 13376
of the chief. The chief thereupon shall certify the total 13377
forfeiture to the attorney general, who shall proceed to collect 13378
the amount of the forfeiture. In addition, the chief may require 13379
an owner, operator, producer, or other person who forfeited a 13380
surety bond to post a new surety bond in the amount of fifteen 13381
thousand dollars for a single well, thirty thousand dollars for 13382
two wells, or fifty thousand dollars for three or more wells. 13383

In lieu of total forfeiture, the surety or owner, at the 13384
surety's or owner's option, may cause the well to be properly 13385
plugged and abandoned and the area properly restored or pay to the 13386
treasurer of state the cost of plugging and abandonment. 13387

(B) All moneys collected because of forfeitures of bonds as 13388
provided in this section shall be deposited in the state treasury 13389
to the credit of the oil and gas well fund created in section 13390
1509.02 of the Revised Code. 13391

The chief annually shall spend not less than fourteen per 13392
cent of the revenue credited to the fund during the previous 13393
fiscal year for the following purposes: 13394

(1) In accordance with division (D) of this section, to plug 13395
idle and orphaned wells or to restore the land surface properly as 13396
required in section 1509.072 of the Revised Code; 13397

(2) In accordance with division (E) of this section, to 13398

correct conditions that the chief reasonably has determined are 13399
causing imminent health or safety risks at an idle and orphaned 13400
well or a well for which the owner cannot be contacted in order to 13401
initiate a corrective action within a reasonable period of time as 13402
determined by the chief. 13403

Expenditures from the fund shall be made only for lawful 13404
purposes. In addition, expenditures from the fund shall not be 13405
made to purchase real property or to remove a dwelling in order to 13406
access a well. 13407

(C)(1) Upon determining that the owner of a well has failed 13408
to properly plug and abandon it or to properly restore the land 13409
surface at the well site in compliance with the applicable 13410
requirements of this chapter and applicable rules adopted and 13411
orders issued under it or that a well is an abandoned well for 13412
which no funds are available to plug the well in accordance with 13413
this chapter, the chief shall do all of the following: 13414

(a) Determine from the records in the office of the county 13415
recorder of the county in which the well is located the identity 13416
of the owner of the land on which the well is located, the 13417
identity of the owner of the oil or gas lease under which the well 13418
was drilled or the identity of each person owning an interest in 13419
the lease, and the identities of the persons having legal title 13420
to, or a lien upon, any of the equipment appurtenant to the well; 13421

(b) Mail notice to the owner of the land on which the well is 13422
located informing the landowner that the well is to be plugged. If 13423
the owner of the oil or gas lease under which the well was drilled 13424
is different from the owner of the well or if any persons other 13425
than the owner of the well own interests in the lease, the chief 13426
also shall mail notice that the well is to be plugged to the owner 13427
of the lease or to each person owning an interest in the lease, as 13428
appropriate. 13429

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract for activities associated with the restoration or plugging of a well as determined by the chief. The activities may include excavation to uncover a well, geophysical methods to locate a buried well when clear evidence of leakage from the well exists, cleanout of wellbores to remove material from a failed plugging of a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, restoration of property, and repair of damage to property that is caused by such activities. Expenditures shall not be used for salaries, maintenance, equipment, or other administrative purposes, except for costs directly attributed to the plugging of an idle and orphaned well. Agents or employees of persons contracting with the

chief for a restoration or plugging project may enter upon any 13462
land, public or private, on which the well is located for the 13463
purpose of performing the work. Prior to such entry, the chief 13464
shall give to the following persons written notice of the 13465
existence of a contract for a project to restore or plug a well, 13466
the names of the persons with whom the contract is made, and the 13467
date that the project will commence: the owner of the well, the 13468
owner of the land upon which the well is located, the owner or 13469
agents of adjoining land, and, if the well is located in the same 13470
township as or in a township adjacent to the excavations and 13471
workings of a mine and the owner or lessee of that mine has 13472
provided written notice identifying those townships to the chief 13473
at any time during the immediately preceding three years, the 13474
owner or lessee of the mine. 13475

(2)(a) The owner of the land on which a well is located who 13476
has received notice under division (C)(1)(b) of this section may 13477
plug the well and be reimbursed by the division of oil and gas 13478
resources management for the reasonable cost of plugging the well. 13479
In order to plug the well, the landowner shall submit an 13480
application to the chief on a form prescribed by the chief and 13481
approved by the technical advisory council on oil and gas created 13482
in section 1509.38 of the Revised Code. The application, at a 13483
minimum, shall require the landowner to provide the same 13484
information as is required to be included in the application for a 13485
permit to plug and abandon under section 1509.13 of the Revised 13486
Code. The application shall be accompanied by a copy of a proposed 13487
contract to plug the well prepared by a contractor regularly 13488
engaged in the business of plugging oil and gas wells. The 13489
proposed contract shall require the contractor to furnish all of 13490
the materials, equipment, work, and labor necessary to plug the 13491
well properly and shall specify the price for doing the work, 13492
including a credit for the equipment appurtenant to the well that 13493
was forfeited to the state through the operation of division 13494

(C)(2) of this section. Expenditures under division (D)(2)(a) of 13495
this section shall be consistent with the expenditures for 13496
activities described in division (D)(1) of this section. The 13497
application also shall be accompanied by the permit fee required 13498
by section 1509.13 of the Revised Code unless the chief, in the 13499
chief's discretion, waives payment of the permit fee. The 13500
application constitutes an application for a permit to plug and 13501
abandon the well for the purposes of section 1509.13 of the 13502
Revised Code. 13503

(b) Within thirty days after receiving an application and 13504
accompanying proposed contract under division (D)(2)(a) of this 13505
section, the chief shall determine whether the plugging would 13506
comply with the applicable requirements of this chapter and 13507
applicable rules adopted and orders issued under it and whether 13508
the cost of the plugging under the proposed contract is 13509
reasonable. If the chief determines that the proposed plugging 13510
would comply with those requirements and that the proposed cost of 13511
the plugging is reasonable, the chief shall notify the landowner 13512
of that determination and issue to the landowner a permit to plug 13513
and abandon the well under section 1509.13 of the Revised Code. 13514
Upon approval of the application and proposed contract, the chief 13515
shall transfer ownership of the equipment appurtenant to the well 13516
to the landowner. The chief may disapprove an application 13517
submitted under division (D)(2)(a) of this section if the chief 13518
determines that the proposed plugging would not comply with the 13519
applicable requirements of this chapter and applicable rules 13520
adopted and orders issued under it, that the cost of the plugging 13521
under the proposed contract is unreasonable, or that the proposed 13522
contract is not a bona fide, arm's length contract. 13523

(c) After receiving the chief's notice of the approval of the 13524
application and permit to plug and abandon a well under division 13525
(D)(2)(b) of this section, the landowner shall enter into the 13526

proposed contract to plug the well. 13527

(d) Upon determining that the plugging has been completed in 13528
compliance with the applicable requirements of this chapter and 13529
applicable rules adopted and orders issued under it, the chief 13530
shall reimburse the landowner for the cost of the plugging as set 13531
forth in the proposed contract approved by the chief. The 13532
reimbursement shall be paid from the oil and gas well fund. If the 13533
chief determines that the plugging was not completed in accordance 13534
with the applicable requirements, the chief shall not reimburse 13535
the landowner for the cost of the plugging, and the landowner or 13536
the contractor, as applicable, promptly shall transfer back to 13537
this state title to and possession of the equipment appurtenant to 13538
the well that previously was transferred to the landowner under 13539
division (D)(2)(b) of this section. If any such equipment was 13540
removed from the well during the plugging and sold, the landowner 13541
shall pay to the chief the proceeds from the sale of the 13542
equipment, and the chief promptly shall pay the moneys so received 13543
to the treasurer of state for deposit into the oil and gas well 13544
fund. 13545

The chief may establish an annual limit on the number of 13546
wells that may be plugged under division (D)(2) of this section or 13547
an annual limit on the expenditures to be made under that 13548
division. 13549

As used in division (D)(2) of this section, "plug" and 13550
"plugging" include the plugging of the well and the restoration of 13551
the land surface disturbed by the plugging. 13552

(E) Expenditures from the oil and gas well fund for the 13553
purpose of division (B)(2) of this section may be made pursuant to 13554
contracts entered into by the chief with persons who agree to 13555
furnish all of the materials, equipment, work, and labor as 13556
specified and provided in such a contract. The competitive bidding 13557
requirements of Chapter 153. of the Revised Code do not apply if 13558

the chief reasonably determines that an emergency situation exists 13559
requiring immediate action for the correction of the applicable 13560
health or safety risk ~~requires immediate action~~. A contract or 13561
purchase of materials for purposes of addressing the emergency 13562
situation is not subject to division (B) of section 127.16 of the 13563
Revised Code. The chief, designated representatives of the chief, 13564
and agents or employees of persons contracting with the chief 13565
under this division may enter upon any land, public or private, 13566
for the purpose of performing the work. 13567

(F) Contracts entered into by the chief under this section 13568
are not subject to ~~either~~ any of the following: 13569

(1) Chapter 4115. of the Revised Code; 13570

(2) Section 153.54 of the Revised Code, except that the 13571
contractor shall obtain and provide to the chief as a bid guaranty 13572
a surety bond or letter of credit in an amount equal to ten per 13573
cent of the amount of the contract; 13574

(3) Section 4733.17 of the Revised Code. 13575

(G) The owner of land on which a well is located who has 13576
received notice under division (C)(1)(b) of this section, in lieu 13577
of plugging the well in accordance with division (D)(2) of this 13578
section, may cause ownership of the well to be transferred to an 13579
owner who is lawfully doing business in this state and who has met 13580
the financial responsibility requirements established under 13581
section 1509.07 of the Revised Code, subject to the approval of 13582
the chief. The transfer of ownership also shall be subject to the 13583
landowner's filing the appropriate forms required under section 13584
1509.31 of the Revised Code and providing to the chief sufficient 13585
information to demonstrate the landowner's or owner's right to 13586
produce a formation or formations. That information may include a 13587
deed, a lease, or other documentation of ownership or property 13588
rights. 13589

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

(I) The chief may engage in cooperative projects under this section with any agency of this state, another state, or the United States; any other governmental agencies; or any state university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

Sec. 1509.36. Any person adversely affected by an order by the chief of the division of oil and gas resources management may appeal to the oil and gas commission for an order vacating or

modifying the order. 13620

The person so appealing to the commission shall be known as 13621
appellant and the chief shall be known as appellee. Appellant and 13622
appellee shall be deemed to be parties to the appeal. 13623

The appeal shall be in writing and shall set forth the order 13624
complained of and the grounds upon which the appeal is based. The 13625
appeal shall be filed with the commission within thirty days after 13626
the date upon which the appellant received notice by certified 13627
mail and, for all other persons adversely affected by the order, 13628
within thirty days after the date of the order complained of. 13629
Notice of the filing of the appeal shall be filed with the chief 13630
within three days after the appeal is filed with the commission. 13631

Upon the filing of the appeal the commission promptly shall 13632
fix the time and place at which the hearing on the appeal will be 13633
held, and shall give the appellant and the chief at least ten 13634
days' written notice thereof by mail. The commission may postpone 13635
or continue any hearing upon its own motion or upon application of 13636
the appellant or of the chief. 13637

The filing of an appeal provided for in this section does not 13638
automatically suspend or stay execution of the order appealed 13639
from, but upon application by the appellant the commission may 13640
suspend or stay the execution pending determination of the appeal 13641
upon such terms as the commission considers proper. 13642

Either party to the appeal or any interested person who, 13643
pursuant to commission rules has been granted permission to 13644
appear, may submit such evidence as the commission considers 13645
admissible. 13646

For the purpose of conducting a hearing on an appeal, the 13647
commission may require the attendance of witnesses and the 13648
production of books, records, and papers, and it may, and at the 13649
request of any party it shall, issue subpoenas for witnesses or 13650

subpoenas duces tecum to compel the production of any books, 13651
records, or papers, directed to the sheriffs of the counties where 13652
the witnesses are found. The subpoenas shall be served and 13653
returned in the same manner as subpoenas in criminal cases are 13654
served and returned. The fees of sheriffs shall be the same as 13655
those allowed by the court of common pleas in criminal cases. 13656
Witnesses shall be paid the fees and mileage provided for under 13657
section 119.094 of the Revised Code. Such fees and mileage 13658
expenses incurred at the request of appellant shall be paid in 13659
advance by the appellant, and the remainder of those expenses 13660
shall be paid out of funds appropriated for the expenses of the 13661
division of oil and gas resources management. 13662

In case of disobedience or neglect of any subpoena served on 13663
any person, or the refusal of any witness to testify to any matter 13664
regarding which the witness may be lawfully interrogated, the 13665
court of common pleas of the county in which the disobedience, 13666
neglect, or refusal occurs, or any judge thereof, on application 13667
of the commission or any member thereof, shall compel obedience by 13668
attachment proceedings for contempt as in the case of disobedience 13669
of the requirements of a subpoena issued from that court or a 13670
refusal to testify therein. Witnesses at such hearings shall 13671
testify under oath, and any member of the commission may 13672
administer oaths or affirmations to persons who so testify. 13673

At the request of any party to the appeal, a ~~stenographic~~ 13674
record of the testimony and other evidence submitted shall be 13675
taken by an official court ~~shorthand~~ reporter at the expense of 13676
the party making the request ~~therefor~~ for the record. The record 13677
shall include all of the testimony and other evidence and the 13678
rulings on the admissibility thereof presented at the hearing. The 13679
commission shall pass upon the admissibility of evidence, but any 13680
party may at the time object to the admission of any evidence and 13681
except to the rulings of the commission thereon, and if the 13682

commission refuses to admit evidence the party offering same may 13683
make a proffer thereof, and such proffer shall be made a part of 13684
the record of the hearing. 13685

If upon completion of the hearing the commission finds that 13686
the order appealed from was lawful and reasonable, it shall make a 13687
written order affirming the order appealed from; if the commission 13688
finds that the order was unreasonable or unlawful, it shall make a 13689
written order vacating the order appealed from and making the 13690
order that it finds the chief should have made. Every order made 13691
by the commission shall contain a written finding by the 13692
commission of the facts upon which the order is based. 13693

Notice of the making of the order shall be given forthwith to 13694
each party to the appeal by mailing a certified copy thereof to 13695
each such party by certified mail. 13696

The order of the commission is final unless vacated by the 13697
court of common pleas of Franklin county in an appeal as provided 13698
for in section 1509.37 of the Revised Code. Sections 1509.01 to 13699
1509.37 of the Revised Code, providing for appeals relating to 13700
orders by the chief or by the commission, or relating to rules 13701
adopted by the chief, do not constitute the exclusive procedure 13702
that any person who believes the person's rights to be unlawfully 13703
affected by those sections or any official action taken thereunder 13704
must pursue in order to protect and preserve those rights, nor do 13705
those sections constitute a procedure that that person must pursue 13706
before that person may lawfully appeal to the courts to protect 13707
and preserve those rights. 13708

Sec. 1533.081. (A) As used in this section: 13709

(1) "Energy" has the same meaning as in section 1551.01 of 13710
the Revised Code. 13711

(2) "Energy facility" means a facility at which energy is 13712

produced. 13713

(B) A person operating an energy facility whose operation may 13714
result in the incidental taking of a wild animal shall obtain a 13715
permit to do so from the chief of the division of wildlife under 13716
this section. The chief shall adopt rules under section 1531.10 of 13717
the Revised Code that are necessary to administer this section. 13718

Sec. 1533.10. Except as provided in this section or division 13719
(A)(2) of section 1533.12 of the Revised Code, no person shall 13720
hunt any wild bird or wild quadruped without a hunting license. 13721
Each day that any person hunts within the state without procuring 13722
such a license constitutes a separate offense. Except as otherwise 13723
provided in this section, every applicant for a hunting license 13724
who is a resident of the state and eighteen years of age or more 13725
shall procure a resident hunting license or an apprentice resident 13726
hunting license, the fee for which shall be eighteen dollars 13727
unless the rules adopted under division (B) of section 1533.12 of 13728
the Revised Code provide for issuance of a resident hunting 13729
license to the applicant free of charge. Except as provided in 13730
rules adopted under division (B)(2) of that section, each 13731
applicant who is a resident of this state and who at the time of 13732
application is sixty-six years of age or older shall procure a 13733
special senior hunting license, the fee for which shall be 13734
one-half of the regular hunting license fee. Every applicant who 13735
is under the age of eighteen years shall procure a special youth 13736
hunting license or an apprentice youth hunting license, the fee 13737
for which shall be one-half of the regular hunting license fee. 13738

A resident of this state who owns lands in the state and the 13739
owner's children of any age and grandchildren under eighteen years 13740
of age may hunt on the lands without a hunting license. A resident 13741
of any other state who owns real property in this state, and the 13742
spouse and children living with the property owner, may hunt on 13743

that property without a license, provided that the state of 13744
residence of the real property owner allows residents of this 13745
state owning real property in that state, and the spouse and 13746
children living with the property owner, to hunt without a 13747
license. If the owner of land in this state is a limited liability 13748
company or a limited liability partnership that consists of three 13749
or fewer individual members or partners, as applicable, an 13750
individual member or partner who is a resident of this state and 13751
the member's or partner's children of any age and grandchildren 13752
under eighteen years of age may hunt on the land owned by the 13753
limited liability company or limited liability partnership without 13754
a hunting license. In addition, if the owner of land in this state 13755
is a trust that has a total of three or fewer trustees and 13756
beneficiaries, an individual who is a trustee or beneficiary and 13757
who is a resident of this state and the individual's children of 13758
any age and grandchildren under eighteen years of age may hunt on 13759
the land owned by the trust without a hunting license. The tenant 13760
and children of the tenant, residing on lands in the state, may 13761
hunt on them without a hunting license. 13762

Except as otherwise provided in division (A)(1) of section 13763
1533.12 of the Revised Code, every applicant for a hunting license 13764
who is a nonresident of the state and who is eighteen years of age 13765
or older shall procure a nonresident hunting license or an 13766
apprentice nonresident hunting license, the fee for which shall be 13767
one hundred twenty-four dollars unless the applicant is a resident 13768
of a state that is a party to an agreement under section 1533.91 13769
of the Revised Code, in which case the fee shall be eighteen 13770
dollars. Apprentice resident hunting licenses, apprentice youth 13771
hunting licenses, and apprentice nonresident hunting licenses are 13772
subject to the requirements established under section 1533.102 of 13773
the Revised Code and rules adopted pursuant to it. 13774

The chief of the division of wildlife may issue a small game 13775

hunting license expiring three days from the effective date of the 13776
license to a nonresident of the state, the fee for which shall be 13777
thirty-nine dollars. No person shall take or possess deer, wild 13778
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 13779
animal while possessing only a small game hunting license. A small 13780
game hunting license or an apprentice nonresident hunting license 13781
does not authorize the taking or possessing of ducks, geese, or 13782
brant without having obtained, in addition to the small game 13783
hunting license or the apprentice nonresident hunting license, a 13784
wetlands habitat stamp as provided in section 1533.112 of the 13785
Revised Code. A small game hunting license or an apprentice 13786
nonresident hunting license does not authorize the taking or 13787
possessing of deer, wild turkeys, or fur-bearing animals. A 13788
nonresident of the state who wishes to take or possess deer, wild 13789
turkeys, or fur-bearing animals in this state shall procure, 13790
respectively, a deer or wild turkey permit as provided in section 13791
1533.11 of the Revised Code or a fur taker permit as provided in 13792
section 1533.111 of the Revised Code in addition to a nonresident 13793
hunting license, an apprentice nonresident hunting license, a 13794
special youth hunting license, or an apprentice youth hunting 13795
license, as applicable, as provided in this section. 13796

No person shall procure or attempt to procure a hunting 13797
license by fraud, deceit, misrepresentation, or any false 13798
statement. 13799

This section does not authorize the taking and possessing of 13800
deer or wild turkeys without first having obtained, in addition to 13801
the hunting license required by this section, a deer or wild 13802
turkey permit as provided in section 1533.11 of the Revised Code 13803
or the taking and possessing of ducks, geese, or brant without 13804
first having obtained, in addition to the hunting license required 13805
by this section, a wetlands habitat stamp as provided in section 13806
1533.112 of the Revised Code. 13807

This section does not authorize the hunting or trapping of 13808
fur-bearing animals without first having obtained, in addition to 13809
a hunting license required by this section, a fur taker permit as 13810
provided in section 1533.111 of the Revised Code. 13811

No hunting license shall be issued unless it is accompanied 13812
by a written explanation of the law in section 1533.17 of the 13813
Revised Code and the penalty for its violation, including a 13814
description of terms of imprisonment and fines that may be 13815
imposed. 13816

No hunting license, other than an apprentice hunting license, 13817
shall be issued unless the applicant presents to the agent 13818
authorized to issue the license a previously held hunting license 13819
or evidence of having held such a license in content and manner 13820
approved by the chief, a certificate of completion issued upon 13821
completion of a hunter education and conservation course approved 13822
by the chief, or evidence of equivalent training in content and 13823
manner approved by the chief. A previously held apprentice hunting 13824
license does not satisfy the requirement concerning the 13825
presentation of a previously held hunting license or evidence of 13826
it. 13827

No person shall issue a hunting license, except an apprentice 13828
hunting license, to any person who fails to present the evidence 13829
required by this section. No person shall purchase or obtain a 13830
hunting license, other than an apprentice hunting license, without 13831
presenting to the issuing agent the evidence required by this 13832
section. Issuance of a hunting license in violation of the 13833
requirements of this section is an offense by both the purchaser 13834
of the illegally obtained hunting license and the clerk or agent 13835
who issued the hunting license. Any hunting license issued in 13836
violation of this section is void. 13837

The chief, with approval of the wildlife council, shall adopt 13838
rules prescribing a hunter education and conservation course for 13839

first-time hunting license buyers, other than buyers of apprentice 13840
hunting licenses, and for volunteer instructors. The course shall 13841
consist of subjects including, but not limited to, hunter safety 13842
and health, use of hunting implements, hunting tradition and 13843
ethics, the hunter and conservation, the law in section 1533.17 of 13844
the Revised Code along with the penalty for its violation, 13845
including a description of terms of imprisonment and fines that 13846
may be imposed, and other law relating to hunting. Authorized 13847
personnel of the division or volunteer instructors approved by the 13848
chief shall conduct such courses with such frequency and at such 13849
locations throughout the state as to reasonably meet the needs of 13850
license applicants. The chief shall issue a certificate of 13851
completion to each person who successfully completes the course 13852
and passes an examination prescribed by the chief. 13853

Sec. 1541.26. There is hereby created in the state treasury 13854
the parks mineral royalties fund. The fund shall consist of money 13855
deposited into it under section 1509.73 of the Revised Code and 13856
money transferred to it under section 1503.012 of the Revised 13857
Code. Any investment proceeds earned on money in the fund shall be 13858
credited to the fund. 13859

Money in the fund shall be used by the division of parks and 13860
recreation to acquire land and to pay capital costs, including 13861
equipment and repairs and renovations of facilities, that are 13862
owned by the state and administered by the division. Expenditures 13863
from the fund shall be approved by the director of natural 13864
resources. 13865

Sec. 1551.33. (A) The director of development shall appoint 13866
and fix the compensation of the director of the Ohio coal 13867
development office. The director shall serve at the pleasure of 13868
the director of development. 13869

| | |
|--|---|
| (B) The director of the office shall do all of the following: | 13870 |
| (1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code; | 13871 13872 |
| (2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda; | 13873 13874 13875 |
| (3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda; | 13876 13877 13878 13879 |
| (4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person; | 13880 13881 13882 13883 |
| (5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the director of development. | 13884 13885 13886 13887 13888 |
| (6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code; | 13889 13890 13891 |
| (7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is | 13892 13893 13894 13895 13896 13897 13898 13899 13900 |

environmentally sound, the director shall submit to the public 13901
utilities commission a report recommending that the commission 13902
allow the recovery of costs associated with the facility or 13903
project under section 4905.304 of the Revised Code and including 13904
the reasons for the recommendation. 13905

(8) Establish such policies, procedures, and guidelines as 13906
are necessary to achieve the office's purposes. 13907

(C) ~~The~~ With the approval of the director of development, the 13908
director of the office may exercise any of the powers and duties 13909
that the director of ~~the office~~ development considers appropriate 13910
or desirable to achieve the office's purposes, including, but not 13911
limited to, the powers and duties enumerated in sections 1551.11, 13912
1551.12, and 1551.15 of the Revised Code. 13913

Additionally, the director of the office may make loans to 13914
governmental agencies or persons for projects to carry out the 13915
office's purposes. Fees, charges, rates of interest, times of 13916
payment of interest and principal, and other terms, conditions, 13917
and provisions of the loans shall be such as the director of the 13918
office determines to be appropriate and in furtherance of the 13919
purposes for which the loans are made. The mortgage lien securing 13920
any moneys lent by the director of the office may be subordinate 13921
to the mortgage lien securing any moneys lent or invested by a 13922
financial institution, but shall be superior to that securing any 13923
moneys lent or expended by any other person. The moneys used in 13924
making the loans shall be disbursed upon order of the director of 13925
the office. 13926

Sec. 1555.02. It is hereby declared to be the public policy 13927
of this state through the operations of the Ohio coal development 13928
office under this chapter to contribute toward one or more of the 13929
following: to provide for the comfort, health, safety, and general 13930
welfare of all employees and other inhabitants of this state 13931

through research and development directed toward the discovery of 13932
new technologies or the demonstration or application of existing 13933
technologies to enable the conversion or use of Ohio coal as a 13934
fuel or chemical feedstock in an environmentally acceptable manner 13935
thereby enhancing the marketability and fostering the use of this 13936
state's vast reserves of coal, to assist in the financing of coal 13937
research and development and coal research and development 13938
projects or facilities for persons doing business in this state 13939
and educational and scientific institutions located in this state, 13940
to create or preserve jobs and employment opportunities or improve 13941
the economic welfare of the people of this state, or to assist and 13942
cooperate with such persons and educational and scientific 13943
institutions in conducting coal research and development. In 13944
furtherance of this public policy, the Ohio coal development 13945
office, with the advice of the technical advisory committee 13946
created in section 1551.35 of the Revised Code and the approval of 13947
the director of development, may make loans, guarantee loans, and 13948
make grants to persons doing business in this state or to 13949
educational or scientific institutions located in this state for 13950
coal research and development projects by such persons or 13951
educational or scientific institutions; may, with the advice of 13952
the technical advisory committee and the approval of the director 13953
of development, request the issuance of coal research and 13954
development general obligations under section 151.07 of the 13955
Revised Code to provide funds for making such loans, loan 13956
guarantees, and grants; and may, with the advice of the technical 13957
advisory committee and the approval of the director of 13958
development, expend moneys credited to the coal research and 13959
development fund created in section 1555.15 of the Revised Code 13960
for the purpose of making such loans, loan guarantees, and grants. 13961
Determinations by the director of the Ohio coal development office 13962
that coal research and development or a coal research and 13963
development facility is a coal research and development project 13964

under this chapter and is consistent with the purposes of Section 13965
15 of Article VIII, Ohio Constitution, and this chapter shall be 13966
conclusive as to the validity and enforceability of the coal 13967
research and development general obligations issued to finance 13968
such project and of the authorizations, trust agreements or 13969
indentures, loan agreements, loan guarantee agreements, or grant 13970
agreements, and other agreements made in connection therewith, all 13971
in accordance with their terms. 13972

Sec. 1555.03. For the purposes of this chapter, the director 13973
of the Ohio coal development office may: 13974

(A) With the advice of the technical advisory committee 13975
created in section 1551.35 of the Revised Code and the approval of 13976
the director of development, make loans, guarantee loans, and make 13977
grants to persons doing business in this state or to educational 13978
or scientific institutions located in this state for coal research 13979
and development projects by any such person or educational or 13980
scientific institution and adopt rules under Chapter 119. of the 13981
Revised Code for making such loans, guarantees, and grants. 13982

(B) In making loans, loan guarantees, and grants under 13983
division (A) of this section and section 1555.04 of the Revised 13984
Code, the director of the office shall ensure that an adequate 13985
portion of the total amount of those loans, loan guarantees, and 13986
grants, as determined by the director with the advice of the 13987
technical advisory committee, is used for conducting research on 13988
fundamental scientific problems related to the utilization of Ohio 13989
coal and shall ensure, to the maximum feasible extent, joint 13990
financial participation by the federal government or other 13991
investors or interested parties in conjunction with any such loan, 13992
loan guarantee, or grant. The director, in each grant agreement or 13993
contract under division (A) of this section, loan contract or 13994
agreement under this division or section 1555.04 of the Revised 13995

Code, and contract of guarantee under section 1555.05 of the 13996
Revised Code, shall require that the facility or project be 13997
maintained and kept in good condition and repair by the person or 13998
educational or scientific institution to whom the grant or loan 13999
was made or for whom the guarantee was made. 14000

(C) From time to time, with the advice of the technical 14001
advisory committee and the approval of the director of 14002
development, request the issuance of coal research and development 14003
general obligations under section 151.07 of the Revised Code, for 14004
any of the purposes set forth in Section 15 of Article VIII, Ohio 14005
Constitution, and subject to the limitations therein upon the 14006
aggregate total amount of obligations that may be outstanding at 14007
any time. 14008

(D) Include as a condition of any loan, loan guarantee, or 14009
grant contract or agreement with any such person or educational or 14010
scientific institution that the director of the office receive, in 14011
addition to payments of principal and interest on any such loan or 14012
service charges for any such guarantee, as appropriate, as 14013
authorized by Section 15~~7~~ of Article VIII, Ohio Constitution, a 14014
reasonable royalty or portion of the income or profits arising out 14015
of the developments, discoveries, or inventions, including patents 14016
or copyrights, that result in whole or in part from coal research 14017
and development projects conducted under any such contract or 14018
agreement, in such amounts and for such period of years as may be 14019
negotiated and provided by the contract or agreement in advance of 14020
the making of the grant, loan, or loan guarantee. Moneys received 14021
by the director of the office under this section may be credited 14022
to the coal research and development bond service fund or used to 14023
make additional loans, loan guarantees, grants, or agreements 14024
under this section. 14025

(E) Employ managers, superintendents, and other employees and 14026
retain or contract with consulting engineers, financial 14027

consultants, accounting experts, architects, and such other 14028
consultants and independent contractors as are necessary in the 14029
judgment of the director of the office to carry out this chapter, 14030
and fix the compensation thereof. 14031

(F) Receive and accept from any federal agency, subject to 14032
the approval of the governor, grants for or in aid of the 14033
construction or operation of any coal research and development 14034
project or for coal research and development, and receive and 14035
accept aid or contributions from any source of money, property, 14036
labor, or other things of value, to be held, used, and applied 14037
only for the purposes for which such grants and contributions are 14038
made. 14039

(G) Purchase fire and extended coverage and liability 14040
insurance for any coal research and development project, insurance 14041
protecting the office and its officers and employees against 14042
liability for damage to property or injury to or death of persons 14043
arising from its operations, and any other insurance the director 14044
of the office determines necessary or proper under this chapter. 14045
Any moneys received by the director from the proceeds of any such 14046
insurance with respect to a coal research and development project 14047
and any moneys received by the director from the proceeds of any 14048
settlement, judgment, foreclosure, or other insurance with respect 14049
to a coal research and development project or facility shall be 14050
credited to the coal research and development bond service fund. 14051

(H) In the exercise of the powers of the director of the 14052
office under this chapter, call to the director's assistance, 14053
temporarily, from time to time, any engineers, technical experts, 14054
financial experts, and other employees in any state department, 14055
agency, or commission, or in the Ohio state university, or other 14056
educational institutions financed wholly or partially by this 14057
state for purposes of assisting the director of the office with 14058
reviewing and evaluating applications for financial assistance 14059

under this chapter, monitoring performance of coal research and 14060
development projects receiving financial assistance under this 14061
chapter, and reviewing and evaluating the progress and findings of 14062
those projects. Such engineers, experts, and employees shall not 14063
receive any additional compensation over that which they receive 14064
from the department, agency, commission, or educational 14065
institution by which they are employed, but they shall be 14066
reimbursed for their actual and necessary expenses incurred while 14067
working under the direction of the director. 14068

(I) Do all acts necessary or proper to carry out the powers 14069
expressly granted in this chapter. 14070

Sec. 1555.04. (A) With respect to coal research and 14071
development projects financed wholly or partially from a loan or 14072
loan guarantee under this chapter, the director of the Ohio coal 14073
development office, in addition to other powers under this 14074
chapter, with the advice of the technical advisory committee 14075
created in section 1551.35 of the Revised Code and the approval of 14076
the director of development, may enter into loan agreements, 14077
accept notes and other forms of obligation to evidence such 14078
indebtedness and mortgages, liens, pledges, assignments, or other 14079
security interests to secure such indebtedness, which may be prior 14080
or subordinate to or on a parity with other indebtedness, 14081
obligations, mortgages, pledges, assignments, other security 14082
interests, or liens or encumbrances, and take such actions as the 14083
director of the office considers appropriate to protect such 14084
security and safeguard against losses, including, without 14085
limitation, foreclosure and the bidding upon and purchase of 14086
property upon foreclosure or other sale. 14087

(B) The authority granted by this section is cumulative and 14088
supplementary to all other authority granted in this chapter. The 14089
authority granted by this section does not alter or impair any 14090

similar authority granted elsewhere in this chapter with respect 14091
to other projects. 14092

Sec. 1555.05. (A) Subject to any limitations as to aggregate 14093
amounts thereof that may from time to time be prescribed by the 14094
general assembly and to other applicable provisions of this 14095
chapter, and subject to the one-hundred-million-dollar limitation 14096
provided in Section 15 of Article VIII, Ohio Constitution, the 14097
director of the Ohio coal development office, on behalf of this 14098
state, with the advice of the technical advisory committee created 14099
in section 1551.35 of the Revised Code and the approval of the 14100
director of development, may enter into contracts to guarantee the 14101
repayment or payment of the unpaid principal amount of loans made 14102
to pay the costs of coal research and development projects. 14103

(B) The contract of guarantee may make provision for the 14104
conditions of, time for, and manner of fulfillment of the 14105
guarantee commitment, subrogation of this state to the rights of 14106
the parties guaranteed and exercise of such parties' rights by the 14107
state, giving the state the option of making payment of the 14108
principal amount guaranteed in one or more installments and, if 14109
deferred, to pay interest thereon from the source specified in 14110
division (A) of this section, and any other terms or conditions 14111
customary to such guarantees and as the director of the office may 14112
approve, and may contain provisions for securing the guarantee in 14113
the manner consistent with this section, covenants on behalf of 14114
this state to issue obligations under section 1555.08 of the 14115
Revised Code to provide moneys to fulfill such guarantees and 14116
covenants, and covenants restricting the aggregate amount of 14117
guarantees that may be contracted under this section and 14118
obligations that may be issued under section 151.07 of the Revised 14119
Code, and terms pertinent to either, to better secure the parties 14120
guaranteed. 14121

(C) The director of the office may fix service charges for 14122
making a guarantee. Such charges shall be payable at such times 14123
and place and in such amounts and manner as may be prescribed by 14124
the director. Moneys received from such charges shall be credited 14125
to the coal research and development bond service fund. 14126

(D) Any guaranteed parties under this section, by any 14127
suitable form of legal proceedings and except to the extent that 14128
their rights are restricted by the guarantee documents, may 14129
protect and enforce any rights under the laws of this state or 14130
granted by such guarantee or guarantee documents. Such rights 14131
include the right to compel the performance of all duties of the 14132
office required by this section or the guarantee or guarantee 14133
documents; and in the event of default with respect to the payment 14134
of any guarantees, to apply to a court having jurisdiction of the 14135
cause to appoint a receiver to receive and administer the moneys 14136
pledged to such guarantee with full power to pay, and to provide 14137
for payment of, such guarantee, and with such powers, subject to 14138
the direction of the court, as are accorded receivers in general 14139
equity cases, excluding any power to pledge or apply additional 14140
revenues or receipts or other income or moneys of this state. Each 14141
duty of the office and its director and employees required or 14142
undertaken under this section or a guarantee made under this 14143
section is hereby established as a duty of the office and of its 14144
director and each such employee having authority to perform such 14145
duty, specifically enjoined by the law resulting from an office, 14146
trust, or station within the meaning of section 2731.01 of the 14147
Revised Code. The persons who are at the time the director of the 14148
office, or its employees, are not liable in their personal 14149
capacities on any guarantees or contracts to make guarantees by 14150
the director. 14151

Sec. 1555.06. Upon application by the director of the Ohio 14152
coal development office with the approval of the director of 14153

development, the controlling board, from appropriations available 14154
to the board, may provide funds for surveys or studies by the 14155
office of any proposed coal research and development project 14156
subject to repayment by the office from funds available to it, 14157
within the time fixed by the board. Funds to be repaid shall be 14158
charged by the office to the appropriate coal research and 14159
development project and the amount thereof shall be a cost of the 14160
project. This section does not abrogate the authority of the 14161
controlling board to otherwise provide funds for use by the office 14162
in the exercise of the powers granted to it by this chapter. 14163

Sec. 1571.14. Any person claiming to be aggrieved or 14164
adversely affected by an order of the chief of the division of oil 14165
and gas resources management made as provided in section 1571.10 14166
or 1571.16 of the Revised Code may appeal to the director of 14167
natural resources for an order vacating or modifying such order. 14168
Upon receipt of the appeal, the director shall appoint an 14169
individual who has knowledge of the laws and rules regarding the 14170
underground storage of gas and who shall act as a hearing officer 14171
in accordance with Chapter 119. of the Revised Code in hearing the 14172
appeal. 14173

The person appealing to the director shall be known as 14174
appellant and the chief shall be known as appellee. The appellant 14175
and the appellee shall be deemed parties to the appeal. 14176

The appeal shall be in writing and shall set forth the order 14177
complained of and the grounds upon which the appeal is based. The 14178
appeal shall be filed with the director within thirty days after 14179
the date upon which appellant received notice by registered mail 14180
of the making of the order complained of, as required by section 14181
1571.10 of the Revised Code. Notice of the filing of such appeal 14182
shall be delivered by appellant to the chief within three days 14183
after the appeal is filed with the director. 14184

Within seven days after receipt of the notice of appeal the 14185
chief shall prepare and certify to the director at the expense of 14186
appellant a complete transcript of the proceedings out of which 14187
the appeal arises, including a transcript of the testimony 14188
submitted to the chief. 14189

Upon the filing of the appeal the director shall fix the time 14190
and place at which the hearing on the appeal will be held, and 14191
shall give appellant and the chief at least ten days' written 14192
notice thereof by mail. The director may postpone or continue any 14193
hearing upon the director's own motion or upon application of 14194
appellant or of the chief. 14195

The filing of an appeal provided for in this section does not 14196
automatically suspend or stay execution of the order appealed 14197
from, but upon application by the appellant the director may 14198
suspend or stay such execution pending determination of the appeal 14199
upon such terms as the director deems proper. 14200

The hearing officer appointed by the director shall hear the 14201
appeal de novo, and either party to the appeal may submit such 14202
evidence as the hearing officer deems admissible. 14203

For the purpose of conducting a hearing on an appeal, the 14204
hearing officer may require the attendance of witnesses and the 14205
production of books, records, and papers, and may, and at the 14206
request of any party shall, issue subpoenas for witnesses or 14207
subpoenas duces tecum to compel the production of any books, 14208
records, or papers, directed to the sheriffs of the counties where 14209
such witnesses are found, which subpoenas shall be served and 14210
returned in the same manner as subpoenas in criminal cases are 14211
served and returned. The fees of sheriffs shall be the same as 14212
those allowed by the court of common pleas in criminal cases. 14213
Witnesses shall be paid the fees and mileage provided for under 14214
section 119.094 of the Revised Code. Such fee and mileage expenses 14215
incurred at the request of appellant shall be paid in advance by 14216

appellant, and the remainder of such expenses shall be paid out of 14217
funds appropriated for the expenses of the division of oil and gas 14218
resources management. 14219

In case of disobedience or neglect of any subpoena served on 14220
any person, or the refusal of any witness to testify to any matter 14221
regarding which the witness may be lawfully interrogated, the 14222
court of common pleas of the county in which such disobedience, 14223
neglect, or refusal occurs, or any judge thereof, on application 14224
of the director, shall compel obedience by attachment proceedings 14225
for contempt as in the case of disobedience of the requirements of 14226
a subpoena issued from such court or a refusal to testify therein. 14227
Witnesses at such hearings shall testify under oath, and the 14228
hearing officer may administer oaths or affirmations to persons 14229
who so testify. 14230

At the request of any party to the appeal, a ~~stenographic~~ 14231
record of the testimony and other evidence submitted shall be 14232
taken by an official court ~~shorthand~~ reporter at the expense of 14233
the party making the request ~~therefor~~ for the record. The record 14234
shall include all of the testimony and other evidence and the 14235
rulings on the admissibility thereof presented at the hearing. The 14236
hearing officer shall pass upon the admissibility of evidence, but 14237
any party may at the time object to the admission of any evidence 14238
and except to the ruling of the hearing officer thereon, and if 14239
the hearing officer refuses to admit evidence, the party offering 14240
same may make a proffer thereof, and such proffer shall be made a 14241
part of the record of such hearing. 14242

If upon completion of the hearing the hearing officer finds 14243
that the order appealed from was lawful and reasonable, the 14244
hearing officer shall make a written order affirming the order 14245
appealed from. If the hearing officer finds that such order was 14246
unreasonable or unlawful, the hearing officer shall make a written 14247
order vacating the order appealed from and making the order that 14248

it finds the chief should have made. Every order made by the 14249
hearing officer shall contain a written finding by the hearing 14250
officer of the facts upon which the order is based. Notice of the 14251
making of such order shall be given forthwith to each party to the 14252
appeal by mailing a certified copy thereof to each such party by 14253
registered mail. 14254

Sec. 1707.08. (A) The transactions enumerated in section 14255
1707.06 of the Revised Code may be consummated on compliance with 14256
this section and section 1707.11 of the Revised Code. 14257

(B) A description, verified either by the oath of the 14258
individual filing it or of any individual having knowledge of the 14259
facts, shall be filed with the division of securities by the 14260
issuer, or by a majority of the incorporators of the issuer prior 14261
to election of officers if it is an incorporated issuer, or by a 14262
licensed dealer, which description shall be on forms prescribed by 14263
the division and shall set forth: 14264

(1) The name of the issuer; 14265

(2) A brief description of the securities; 14266

(3) The amount of the securities to be offered after the 14267
filing of the description for sale in this state and, if all the 14268
securities are not to be offered by the person filing the 14269
description, then the respective amounts to be offered by others, 14270
so far as those amounts are known, and the names and addresses of 14271
the other offerors; 14272

(4) A brief statement of the facts which show that the 14273
securities are the subject matter of a transaction enumerated in 14274
section 1707.06 of the Revised Code; 14275

(5) The price at which the securities are to be offered for 14276
sale. 14277

(C) The individual who executes the application for 14278

registration by description on behalf of the applicant shall state 14279
the individual's relationship to the applicant and certify all of 14280
the following: 14281

(1) The individual has executed the application on behalf of 14282
the applicant. 14283

(2) The individual is fully authorized to execute and file 14284
the application on behalf of the applicant. 14285

(3) The individual is familiar with the applicant's 14286
application. 14287

(4) To the best of the individual's knowledge, information, 14288
and belief, the statements made in the application are true, and 14289
the documents submitted with the application are true copies of 14290
the original documents. 14291

(D) A registration by description is effective seven business 14292
days after the division receives the description on applicable 14293
forms, together with a any filing fee ~~of fifty dollars~~ required 14294
under this division, if no proceeding is pending under section 14295
1707.13 or 1707.131 of the Revised Code. However, the division may 14296
permit an earlier effective date by rule or by issuing a 14297
certificate of acknowledgment for the registration by description. 14298

For an offering that exceeds fifty thousand dollars, a filing 14299
fee of fifty dollars shall be submitted with the registration by 14300
description. 14301

(E) In order to correct errors or omissions, a registration 14302
by description may be amended by the person that originally filed 14303
it, by the filing, in the same manner as in the case of an 14304
original registration by description, of an amended registration 14305
by description or of an amendment of the original registration by 14306
description. 14307

(F) When transactions in any securities enumerated in section 14308

1707.06 of the Revised Code have been registered and the fees 14309
prescribed by this section have been paid, the transactions may be 14310
consummated so long as the registration remains in full force. 14311

Sec. 1707.391. When any securities have been sold in reliance 14312
upon division (Q), (W), (X), or (Y) of section 1707.03 of the 14313
Revised Code, section 1707.08 of the Revised Code, or any other 14314
section of this chapter that the division of securities may 14315
specify by rule, but such reliance was improper because the 14316
required filings were not timely or properly made due to excusable 14317
neglect, upon the effective date of an application made to the 14318
division and payment of ~~the required~~ any applicable fee, if 14319
required and not already paid, ~~plus~~ and upon payment of a penalty 14320
fee equal to the greater of the ~~required~~ fee or one hundred 14321
dollars, the sale of the securities shall be deemed exempt, 14322
qualified, or registered, as though timely and properly filed. The 14323
application shall become effective upon the expiration of fourteen 14324
days after the date of the filing in question if prior thereto the 14325
division did not give notice to the applicant that the application 14326
was denied based on a finding of lack of excusable neglect. The 14327
division shall promptly adopt and promulgate rules establishing 14328
provisions defining excusable neglect and otherwise establishing 14329
reasonable standards for determining excusable neglect. 14330

The effectiveness of an application under this section does 14331
not relieve anyone who has, other than for excusable neglect, 14332
violated sections 1707.01 to 1707.45 of the Revised Code, or any 14333
previous law in force at the time of sale, from prosecution 14334
thereunder. 14335

Sec. 1724.03. (A) After the articles of incorporation have 14336
been filed, and at the first meeting of the board of directors of 14337
a county land reutilization corporation, the board shall adopt 14338
regulations for the government of the corporation, the conduct of 14339

its affairs, and the management of its property, consistent with 14340
law and the articles. The content of the regulations shall be 14341
governed by section 1702.11 of the Revised Code to the extent not 14342
inconsistent with this chapter. 14343

(B) The board of directors of a county land reutilization 14344
corporation shall be composed of five, seven, or nine members, 14345
including the county treasurer, at least two of the members of the 14346
board of county commissioners, one representative of the largest 14347
municipal corporation, based on the population according to the 14348
most recent federal decennial census, that is located in the 14349
county, one representative of a township with a population of at 14350
least ten thousand in the unincorporated area of the township 14351
according to the most recent federal decennial census, if at least 14352
two such ~~a township exists~~ townships exist in the county, and any 14353
remaining members selected by the treasurer and the county 14354
commissioners who are members of the corporation's board. At least 14355
one board member shall have private sector or nonprofit experience 14356
in rehabilitation or real estate acquisitions. A county treasurer 14357
and the county commissioners each may appoint a representative, as 14358
a director of the corporation, to act for the officer at any of 14359
the meetings of the corporation. Except as may otherwise be 14360
authorized by the regulations of the corporation, all members of 14361
the board of directors shall serve without compensation, but shall 14362
be reimbursed for actual and necessary expenses. 14363

Sec. 1733.47. Whenever the approval of the superintendent of 14364
credit unions is required under this chapter, or under an order or 14365
supervisory action issued or taken under this chapter, for a 14366
person to serve as an organizer, incorporator, director, or 14367
executive officer of a credit union, or to otherwise participate 14368
in the management of a credit union, the superintendent shall 14369
request the superintendent of the bureau of criminal 14370

identification and investigation, or a vendor approved by the 14371
bureau, to conduct a criminal records check based on the person's 14372
fingerprints in accordance with ~~division (A)(14)~~ of section 14373
109.572 of the Revised Code. The superintendent of credit unions 14374
shall request that criminal record information from the federal 14375
bureau of investigation be obtained as part of the criminal 14376
records check. Any fee required under division (C)(3) of section 14377
109.572 of the Revised Code shall be paid by the person who is the 14378
subject of the request. 14379

Sec. 1751.01. As used in this chapter: 14380

(A)(1) "Basic health care services" means the following 14381
services when medically necessary: 14382

(a) Physician's services, except when such services are 14383
supplemental under division (B) of this section; 14384

(b) Inpatient hospital services; 14385

(c) Outpatient medical services; 14386

(d) Emergency health services; 14387

(e) Urgent care services; 14388

(f) Diagnostic laboratory services and diagnostic and 14389
therapeutic radiologic services; 14390

(g) Diagnostic and treatment services, other than 14391
prescription drug services, for biologically based mental 14392
illnesses; 14393

(h) Preventive health care services, including, but not 14394
limited to, voluntary family planning services, infertility 14395
services, periodic physical examinations, prenatal obstetrical 14396
care, and well-child care; 14397

(i) Routine patient care for patients enrolled in an eligible 14398

cancer clinical trial pursuant to section 3923.80 of the Revised Code. 14399
14400

"Basic health care services" does not include experimental procedures. 14401
14402

Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services. 14403
14404
14405
14406
14407
14408
14409
14410
14411
14412
14413
14414
14415
14416
14417
14418

(2) A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services. 14419
14420
14421
14422
14423
14424
14425
14426
14427
14428
14429

(3) A health insuring corporation that offers coverage for 14430

basic health care services is not required to offer coverage for 14431
diagnostic and treatment services for biologically based mental 14432
illnesses in combination with the offer of coverage for all other 14433
listed basic health care services if all of the following apply: 14434

(a) The health insuring corporation submits documentation 14435
certified by an independent member of the American academy of 14436
actuaries to the superintendent of insurance showing that incurred 14437
claims for diagnostic and treatment services for biologically 14438
based mental illnesses for a period of at least six months 14439
independently caused the health insuring corporation's costs for 14440
claims and administrative expenses for the coverage of basic 14441
health care services to increase by more than one per cent per 14442
year. 14443

(b) The health insuring corporation submits a signed letter 14444
from an independent member of the American academy of actuaries to 14445
the superintendent of insurance opining that the increase in costs 14446
described in division (A)(3)(a) of this section could reasonably 14447
justify an increase of more than one per cent in the annual 14448
premiums or rates charged by the health insuring corporation for 14449
the coverage of basic health care services. 14450

(c) The superintendent of insurance makes the following 14451
determinations from the documentation and opinion submitted 14452
pursuant to divisions (A)(3)(a) and (b) of this section: 14453

(i) Incurred claims for diagnostic and treatment services for 14454
biologically based mental illnesses for a period of at least six 14455
months independently caused the health insuring corporation's 14456
costs for claims and administrative expenses for the coverage of 14457
basic health care services to increase by more than one per cent 14458
per year. 14459

(ii) The increase in costs reasonably justifies an increase 14460
of more than one per cent in the annual premiums or rates charged 14461

| | |
|---|-------|
| by the health insuring corporation for the coverage of basic | 14462 |
| health care services. | 14463 |
| Any determination made by the superintendent under this | 14464 |
| division is subject to Chapter 119. of the Revised Code. | 14465 |
| (B)(1) "Supplemental health care services" means any health | 14466 |
| care services other than basic health care services that a health | 14467 |
| insuring corporation may offer, alone or in combination with | 14468 |
| either basic health care services or other supplemental health | 14469 |
| care services, and includes: | 14470 |
| (a) Services of facilities for intermediate or long-term | 14471 |
| care, or both; | 14472 |
| (b) Dental care services; | 14473 |
| (c) Vision care and optometric services including lenses and | 14474 |
| frames; | 14475 |
| (d) Podiatric care or foot care services; | 14476 |
| (e) Mental health services, excluding diagnostic and | 14477 |
| treatment services for biologically based mental illnesses; | 14478 |
| (f) Short-term outpatient evaluative and crisis-intervention | 14479 |
| mental health services; | 14480 |
| (g) Medical or psychological treatment and referral services | 14481 |
| for alcohol and drug abuse or addiction; | 14482 |
| (h) Home health services; | 14483 |
| (i) Prescription drug services; | 14484 |
| (j) Nursing services; | 14485 |
| (k) Services of a dietitian licensed under Chapter 4759. of | 14486 |
| the Revised Code; | 14487 |
| (l) Physical therapy services; | 14488 |
| (m) Chiropractic services; | 14489 |

| | |
|--|---|
| (n) Any other category of services approved by the superintendent of insurance. | 14490 14491 |
| (2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders. | 14492 14493 14494 14495 14496 |
| (C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services. | 14497 14498 14499 14500 14501 |
| (D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association. | 14502 14503 14504 14505 14506 14507 14508 |
| (E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers. | 14509 14510 |
| (F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis. | 14511 14512 14513 |
| (G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation. | 14514 14515 14516 |
| (H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state. | 14517 14518 14519 |

(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(J) "Enrollee" means any natural person who is entitled to receive health care benefits provided by a health insuring corporation.

(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services.

(M) "Health care services" means basic, supplemental, and specialty health care services.

(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health

care services and either supplemental health care services or 14551
specialty health care services, through either an open panel plan 14552
or a closed panel plan. 14553

"Health insuring corporation" does not include a limited 14554
liability company formed pursuant to Chapter 1705. of the Revised 14555
Code, an insurer licensed under Title XXXIX of the Revised Code if 14556
that insurer offers only open panel plans under which all 14557
providers and health care facilities participating receive their 14558
compensation directly from the insurer, a corporation formed by or 14559
on behalf of a political subdivision or a department, office, or 14560
institution of the state, or a public entity formed by or on 14561
behalf of a board of county commissioners, a county board of 14562
developmental disabilities, an alcohol and drug addiction services 14563
board, a board of alcohol, drug addiction, and mental health 14564
services, or a community mental health board, as those terms are 14565
used in Chapters 340. and 5126. of the Revised Code. Except as 14566
provided by division (D) of section 1751.02 of the Revised Code, 14567
or as otherwise provided by law, no board, commission, agency, or 14568
other entity under the control of a political subdivision may 14569
accept insurance risk in providing for health care services. 14570
However, nothing in this division shall be construed as 14571
prohibiting such entities from purchasing the services of a health 14572
insuring corporation or a third-party administrator licensed under 14573
Chapter 3959. of the Revised Code. 14574

(P) "Intermediary organization" means a health delivery 14575
network or other entity that contracts with licensed health 14576
insuring corporations or self-insured employers, or both, to 14577
provide health care services, and that enters into contractual 14578
arrangements with other entities for the provision of health care 14579
services for the purpose of fulfilling the terms of its contracts 14580
with the health insuring corporations and self-insured employers. 14581

(Q) "Intermediate care" means residential care above the 14582

level of room and board for patients who require personal 14583
assistance and health-related services, but who do not require 14584
skilled nursing care. 14585

(R) "Medicaid" has the same meaning as in section 5111.01 of 14586
the Revised Code. 14587

(S) "Medical record" means the personal information that 14588
relates to an individual's physical or mental condition, medical 14589
history, or medical treatment. 14590

(T) "Medicare" means the program established under Title 14591
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 14592
1395, as amended. 14593

(U)(1) "Open panel plan" means a health care plan that 14594
provides incentives for enrollees to use participating providers 14595
and that also allows enrollees to use providers that are not 14596
participating providers. 14597

(2) No health insuring corporation may offer an open panel 14598
plan, unless the health insuring corporation is also licensed as 14599
an insurer under Title XXXIX of the Revised Code, the health 14600
insuring corporation, on June 4, 1997, holds a certificate of 14601
authority or license to operate under Chapter 1736. or 1740. of 14602
the Revised Code, or an insurer licensed under Title XXXIX of the 14603
Revised Code is responsible for the out-of-network risk as 14604
evidenced by both an evidence of coverage filing under section 14605
1751.11 of the Revised Code and a policy and certificate filing 14606
under section 3923.02 of the Revised Code. 14607

(V) "Osteopathic hospital" means a hospital registered under 14608
section 3701.07 of the Revised Code that advocates osteopathic 14609
principles and the practice and perpetuation of osteopathic 14610
medicine by doing any of the following: 14611

(1) Maintaining a department or service of osteopathic 14612
medicine or a committee on the utilization of osteopathic 14613

principles and methods, under the supervision of an osteopathic physician; 14614
14615

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians; 14616
14617

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members. 14618
14619

(W) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor. 14620
14621
14622
14623

~~(W)~~(X) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency. 14624
14625
14626
14627
14628

~~(X)~~(Y) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility. 14629
14630
14631
14632
14633
14634
14635

~~(Y)~~(Z) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee. 14636
14637
14638
14639
14640
14641
14642

~~(Z)~~(AA) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or 14643
14644

otherwise authorized in this state to furnish health care 14645
services, or any professional association organized under Chapter 14646
1785. of the Revised Code, provided that nothing in this chapter 14647
or other provisions of law shall be construed to preclude a health 14648
insuring corporation, health care practitioner, or organized 14649
health care group associated with a health insuring corporation 14650
from employing certified nurse practitioners, certified nurse 14651
anesthetists, clinical nurse specialists, certified nurse 14652
midwives, dietitians, physician assistants, dental assistants, 14653
dental hygienists, optometric technicians, or other allied health 14654
personnel who are licensed, certified, accredited, or otherwise 14655
authorized in this state to furnish health care services. 14656

~~(AA)~~(BB) "Provider sponsored organization" means a 14657
corporation, as defined in division (H) of this section, that is 14658
at least eighty per cent owned or controlled by one or more 14659
hospitals, as defined in section 3727.01 of the Revised Code, or 14660
one or more physicians licensed to practice medicine or surgery or 14661
osteopathic medicine and surgery under Chapter 4731. of the 14662
Revised Code, or any combination of such physicians and hospitals. 14663
Such control is presumed to exist if at least eighty per cent of 14664
the voting rights or governance rights of a provider sponsored 14665
organization are directly or indirectly owned, controlled, or 14666
otherwise held by any combination of the physicians and hospitals 14667
described in this division. 14668

~~(BB)~~(CC) "Solicitation document" means the written materials 14669
provided to prospective subscribers or enrollees, or both, and 14670
used for advertising and marketing to induce enrollment in the 14671
health care plans of a health insuring corporation. 14672

~~(CC)~~(DD) "Subscriber" means a person who is responsible for 14673
making payments to a health insuring corporation for participation 14674
in a health care plan, or an enrollee whose employment or other 14675
status is the basis of eligibility for enrollment in a health 14676

insuring corporation. 14677

~~(DD)~~(EE) "Urgent care services" means those health care 14678
services that are appropriately provided for an unforeseen 14679
condition of a kind that usually requires medical attention 14680
without delay but that does not pose a threat to the life, limb, 14681
or permanent health of the injured or ill person, and may include 14682
such health care services provided out of the health insuring 14683
corporation's approved service area pursuant to indemnity payments 14684
or service agreements. 14685

Sec. 1751.02. (A) Notwithstanding any law in this state to 14686
the contrary, any corporation, as defined in section 1751.01 of 14687
the Revised Code, may apply to the superintendent of insurance for 14688
a certificate of authority to establish and operate a health 14689
insuring corporation. If the corporation applying for a 14690
certificate of authority is a foreign corporation domiciled in a 14691
state without laws similar to those of this chapter, the 14692
corporation must form a domestic corporation to apply for, obtain, 14693
and maintain a certificate of authority under this chapter. 14694

(B) No person shall establish, operate, or perform the 14695
services of a health insuring corporation in this state without 14696
obtaining a certificate of authority under this chapter. 14697

(C) Except as provided by division (D) of this section, no 14698
political subdivision or department, office, or institution of 14699
this state, or corporation formed by or on behalf of any political 14700
subdivision or department, office, or institution of this state, 14701
shall establish, operate, or perform the services of a health 14702
insuring corporation. Nothing in this section shall be construed 14703
to preclude a board of county commissioners, a county board of 14704
developmental disabilities, an alcohol and drug addiction services 14705
board, a board of alcohol, drug addiction, and mental health 14706
services, or a community mental health board, or a public entity 14707

formed by or on behalf of any of these boards, from using managed 14708
care techniques in carrying out the board's or public entity's 14709
duties pursuant to the requirements of Chapters 307., 329., 340., 14710
and 5126. of the Revised Code. However, no such board or public 14711
entity may operate so as to compete in the private sector with 14712
health insuring corporations holding certificates of authority 14713
under this chapter. 14714

(D) A corporation formed by or on behalf of a publicly owned, 14715
operated, or funded hospital or health care facility may apply to 14716
the superintendent for a certificate of authority under division 14717
(A) of this section to establish and operate a health insuring 14718
corporation. 14719

(E) A health insuring corporation shall operate in this state 14720
in compliance with this chapter and Chapter 1753. of the Revised 14721
Code, ~~and with sections 3702.51 to 3702.62 of the Revised Code,~~ 14722
and shall operate in conformity with its filings with the 14723
superintendent under this chapter, including filings made pursuant 14724
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 14725
Code. 14726

(F) An insurer licensed under Title XXXIX of the Revised Code 14727
need not obtain a certificate of authority as a health insuring 14728
corporation to offer an open panel plan as long as the providers 14729
and health care facilities participating in the open panel plan 14730
receive their compensation directly from the insurer. If the 14731
providers and health care facilities participating in the open 14732
panel plan receive their compensation from any person other than 14733
the insurer, or if the insurer offers a closed panel plan, the 14734
insurer must obtain a certificate of authority as a health 14735
insuring corporation. 14736

(G) An intermediary organization need not obtain a 14737
certificate of authority as a health insuring corporation, 14738
regardless of the method of reimbursement to the intermediary 14739

organization, as long as a health insuring corporation or a 14740
self-insured employer maintains the ultimate responsibility to 14741
assure delivery of all health care services required by the 14742
contract between the health insuring corporation and the 14743
subscriber and the laws of this state or between the self-insured 14744
employer and its employees. 14745

Nothing in this section shall be construed to require any 14746
health care facility, provider, health delivery network, or 14747
intermediary organization that contracts with a health insuring 14748
corporation or self-insured employer, regardless of the method of 14749
reimbursement to the health care facility, provider, health 14750
delivery network, or intermediary organization, to obtain a 14751
certificate of authority as a health insuring corporation under 14752
this chapter, unless otherwise provided, in the case of contracts 14753
with a self-insured employer, by operation of the "Employee 14754
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 14755
1001, as amended. 14756

(H) Any health delivery network doing business in this state, 14757
including any health delivery network that is functioning as an 14758
intermediary organization doing business in this state, that is 14759
not required to obtain a certificate of authority under this 14760
chapter shall certify to the superintendent annually, not later 14761
than the first day of July, and shall provide a statement signed 14762
by the highest ranking official which includes the following 14763
information: 14764

(1) The health delivery network's full name and the address 14765
of its principal place of business; 14766

(2) A statement that the health delivery network is not 14767
required to obtain a certificate of authority under this chapter 14768
to conduct its business. 14769

(I) The superintendent shall not issue a certificate of 14770

authority to a health insuring corporation that is a provider 14771
sponsored organization unless all health care plans to be offered 14772
by the health insuring corporation provide basic health care 14773
services. Substantially all of the physicians and hospitals with 14774
ownership or control of the provider sponsored organization, as 14775
defined in section 1751.01 of the Revised Code, shall also be 14776
participating providers for the provision of basic health care 14777
services for health care plans offered by the provider sponsored 14778
organization. If a health insuring corporation that is a provider 14779
sponsored organization offers health care plans that do not 14780
provide basic health care services, the health insuring 14781
corporation shall be deemed, for purposes of section 1751.35 of 14782
the Revised Code, to have failed to substantially comply with this 14783
chapter. 14784

Except as specifically provided in this division and in 14785
division (A) of section 1751.28 of the Revised Code, the 14786
provisions of this chapter shall apply to all health insuring 14787
corporations that are provider sponsored organizations in the same 14788
manner that these provisions apply to all health insuring 14789
corporations that are not provider sponsored organizations. 14790

(J) Nothing in this section shall be construed to apply to 14791
any multiple employer welfare arrangement operating pursuant to 14792
Chapter 1739. of the Revised Code. 14793

(K) Any person who violates division (B) of this section, and 14794
any health delivery network that fails to comply with division (H) 14795
of this section, is subject to the penalties set forth in section 14796
1751.45 of the Revised Code. 14797

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, 14798
either directly or indirectly, enter into contracts for the 14799
provision of health care services with a sufficient number and 14800
types of providers and health care facilities to ensure that all 14801

covered health care services will be accessible to enrollees from 14802
a contracted provider or health care facility. 14803

(b) A health insuring corporation shall not refuse to 14804
contract with a physician for the provision of health care 14805
services or refuse to recognize a physician as a specialist on the 14806
basis that the physician attended an educational program or a 14807
residency program approved or certified by the American 14808
osteopathic association. A health insuring corporation shall not 14809
refuse to contract with a health care facility for the provision 14810
of health care services on the basis that the health care facility 14811
is certified or accredited by the American osteopathic association 14812
or that the health care facility is an osteopathic hospital ~~as~~ 14813
~~defined in section 3702.51 of the Revised Code.~~ 14814

(c) Nothing in division (A)(1)(b) of this section shall be 14815
construed to require a health insuring corporation to make a 14816
benefit payment under a closed panel plan to a physician or health 14817
care facility with which the health insuring corporation does not 14818
have a contract, provided that none of the bases set forth in that 14819
division are used as a reason for failing to make a benefit 14820
payment. 14821

(2) When a health insuring corporation is unable to provide a 14822
covered health care service from a contracted provider or health 14823
care facility, the health insuring corporation must provide that 14824
health care service from a noncontracted provider or health care 14825
facility consistent with the terms of the enrollee's policy, 14826
contract, certificate, or agreement. The health insuring 14827
corporation shall either ensure that the health care service be 14828
provided at no greater cost to the enrollee than if the enrollee 14829
had obtained the health care service from a contracted provider or 14830
health care facility, or make other arrangements acceptable to the 14831
superintendent of insurance. 14832

(3) Nothing in this section shall prohibit a health insuring 14833

corporation from entering into contracts with out-of-state 14834
providers or health care facilities that are licensed, certified, 14835
accredited, or otherwise authorized in that state. 14836

(B)(1) A health insuring corporation shall, either directly 14837
or indirectly, enter into contracts with all providers and health 14838
care facilities through which health care services are provided to 14839
its enrollees. 14840

(2) A health insuring corporation, upon written request, 14841
shall assist its contracted providers in finding stop-loss or 14842
reinsurance carriers. 14843

(C) A health insuring corporation shall file an annual 14844
certificate with the superintendent certifying that all provider 14845
contracts and contracts with health care facilities through which 14846
health care services are being provided contain the following: 14847

(1) A description of the method by which the provider or 14848
health care facility will be notified of the specific health care 14849
services for which the provider or health care facility will be 14850
responsible, including any limitations or conditions on such 14851
services; 14852

(2) The specific hold harmless provision specifying 14853
protection of enrollees set forth as follows: 14854

"[Provider/Health Care Facility] agrees that in no event, 14855
including but not limited to nonpayment by the health insuring 14856
corporation, insolvency of the health insuring corporation, or 14857
breach of this agreement, shall [Provider/Health Care Facility] 14858
bill, charge, collect a deposit from, seek remuneration or 14859
reimbursement from, or have any recourse against, a subscriber, 14860
enrollee, person to whom health care services have been provided, 14861
or person acting on behalf of the covered enrollee, for health 14862
care services provided pursuant to this agreement. This does not 14863
prohibit [Provider/Health Care Facility] from collecting 14864

co-insurance, deductibles, or copayments as specifically provided 14865
in the evidence of coverage, or fees for uncovered health care 14866
services delivered on a fee-for-service basis to persons 14867
referenced above, nor from any recourse against the health 14868
insuring corporation or its successor." 14869

(3) Provisions requiring the provider or health care facility 14870
to continue to provide covered health care services to enrollees 14871
in the event of the health insuring corporation's insolvency or 14872
discontinuance of operations. The provisions shall require the 14873
provider or health care facility to continue to provide covered 14874
health care services to enrollees as needed to complete any 14875
medically necessary procedures commenced but unfinished at the 14876
time of the health insuring corporation's insolvency or 14877
discontinuance of operations. The completion of a medically 14878
necessary procedure shall include the rendering of all covered 14879
health care services that constitute medically necessary follow-up 14880
care for that procedure. If an enrollee is receiving necessary 14881
inpatient care at a hospital, the provisions may limit the 14882
required provision of covered health care services relating to 14883
that inpatient care in accordance with division (D)(3) of section 14884
1751.11 of the Revised Code, and may also limit such required 14885
provision of covered health care services to the period ending 14886
thirty days after the health insuring corporation's insolvency or 14887
discontinuance of operations. 14888

The provisions required by division (C)(3) of this section 14889
shall not require any provider or health care facility to continue 14890
to provide any covered health care service after the occurrence of 14891
any of the following: 14892

(a) The end of the thirty-day period following the entry of a 14893
liquidation order under Chapter 3903. of the Revised Code; 14894

(b) The end of the enrollee's period of coverage for a 14895
contractual prepayment or premium; 14896

| | |
|--|---|
| (c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee; | 14897 14898 14899 |
| (d) The enrollee or the enrollee's employer terminates coverage under the contract; | 14900 14901 |
| (e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code. | 14902 14903 14904 |
| (4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs; | 14905 14906 14907 14908 14909 14910 14911 14912 |
| (5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality of medical or health records. | 14913 14914 14915 14916 14917 14918 14919 14920 14921 14922 14923 14924 14925 |
| (6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider | 14926 14927 |

or health care facility without the prior written consent of the 14928
health insuring corporation; 14929

(7) A provision requiring the provider or health care 14930
facility to maintain adequate professional liability and 14931
malpractice insurance. The provision shall also require the 14932
provider or health care facility to notify the health insuring 14933
corporation not more than ten days after the provider's or health 14934
care facility's receipt of notice of any reduction or cancellation 14935
of such coverage. 14936

(8) A provision requiring the provider or health care 14937
facility to observe, protect, and promote the rights of enrollees 14938
as patients; 14939

(9) A provision requiring the provider or health care 14940
facility to provide health care services without discrimination on 14941
the basis of a patient's participation in the health care plan, 14942
age, sex, ethnicity, religion, sexual preference, health status, 14943
or disability, and without regard to the source of payments made 14944
for health care services rendered to a patient. This requirement 14945
shall not apply to circumstances when the provider or health care 14946
facility appropriately does not render services due to limitations 14947
arising from the provider's or health care facility's lack of 14948
training, experience, or skill, or due to licensing restrictions. 14949

(10) A provision containing the specifics of any obligation 14950
on the primary care provider to provide, or to arrange for the 14951
provision of, covered health care services twenty-four hours per 14952
day, seven days per week; 14953

(11) A provision setting forth procedures for the resolution 14954
of disputes arising out of the contract; 14955

(12) A provision stating that the hold harmless provision 14956
required by division (C)(2) of this section shall survive the 14957
termination of the contract with respect to services covered and 14958

provided under the contract during the time the contract was in 14959
effect, regardless of the reason for the termination, including 14960
the insolvency of the health insuring corporation; 14961

(13) A provision requiring those terms that are used in the 14962
contract and that are defined by this chapter, be used in the 14963
contract in a manner consistent with those definitions. 14964

This division does not apply to the coverage of beneficiaries 14965
enrolled in medicare pursuant to a medicare risk contract or 14966
medicare cost contract, or to the coverage of beneficiaries 14967
enrolled in the federal employee health benefits program pursuant 14968
to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or 14969
to the coverage of beneficiaries under any federal health care 14970
program regulated by a federal regulatory body, or to the coverage 14971
of beneficiaries under any contract covering officers or employees 14972
of the state that has been entered into by the department of 14973
administrative services. 14974

(D)(1) No health insuring corporation contract with a 14975
provider or health care facility shall contain any of the 14976
following: 14977

(a) A provision that directly or indirectly offers an 14978
inducement to the provider or health care facility to reduce or 14979
limit medically necessary health care services to a covered 14980
enrollee; 14981

(b) A provision that penalizes a provider or health care 14982
facility that assists an enrollee to seek a reconsideration of the 14983
health insuring corporation's decision to deny or limit benefits 14984
to the enrollee; 14985

(c) A provision that limits or otherwise restricts the 14986
provider's or health care facility's ethical and legal 14987
responsibility to fully advise enrollees about their medical 14988
condition and about medically appropriate treatment options; 14989

| | |
|---|--|
| (d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services; | 14990 14991 14992 |
| (e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets which the provider or health care facility has no privilege or permission to disclose. | 14993 14994 14995 14996 14997 14998 14999 15000 |
| (f) A provision that violates Chapter 3963. of the Revised Code. | 15001 15002 |
| (2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following: | 15003 15004 |
| (a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service; | 15005 15006 |
| (b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols. | 15007 15008 15009 |
| (E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts. | 15010 15011 15012 15013 15014 |
| (F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider or health care facility, the subcontract with the provider or health care facility shall do all of the following: | 15015 15016 15017 15018 15019 |

(1) Contain the provisions required by divisions (C) and (G) 15020
of this section, as made applicable to an intermediary 15021
organization, without the inclusion of inducements or penalties 15022
described in division (D) of this section; 15023

(2) Acknowledge that the health insuring corporation is a 15024
third-party beneficiary to the agreement; 15025

(3) Acknowledge the health insuring corporation's role in 15026
approving the participation of the provider or health care 15027
facility, pursuant to division (E) of this section. 15028

(G) Any provider contract or contract with a health care 15029
facility shall clearly specify the health insuring corporation's 15030
statutory responsibility to monitor and oversee the offering of 15031
covered health care services to its enrollees. 15032

(H)(1) A health insuring corporation shall maintain its 15033
provider contracts and its contracts with health care facilities 15034
at one or more of its places of business in this state, and shall 15035
provide copies of these contracts to facilitate regulatory review 15036
upon written notice by the superintendent of insurance. 15037

(2) Any contract with an intermediary organization that 15038
accepts compensation shall include provisions requiring the 15039
intermediary organization to provide the superintendent with 15040
regulatory access to all books, records, financial information, 15041
and documents related to the provision of health care services to 15042
subscribers and enrollees under the contract. The contract shall 15043
require the intermediary organization to maintain such books, 15044
records, financial information, and documents at its principal 15045
place of business in this state and to preserve them for at least 15046
three years in a manner that facilitates regulatory review. 15047

(I)(1) A health insuring corporation shall notify its 15048
affected enrollees of the termination of a contract for the 15049
provision of health care services between the health insuring 15050

corporation and a primary care physician or hospital, by mail, 15051
within thirty days after the termination of the contract. 15052

(a) Notice shall be given to subscribers of the termination 15053
of a contract with a primary care physician if the subscriber, or 15054
a dependent covered under the subscriber's health care coverage, 15055
has received health care services from the primary care physician 15056
within the previous twelve months or if the subscriber or 15057
dependent has selected the physician as the subscriber's or 15058
dependent's primary care physician within the previous twelve 15059
months. 15060

(b) Notice shall be given to subscribers of the termination 15061
of a contract with a hospital if the subscriber, or a dependent 15062
covered under the subscriber's health care coverage, has received 15063
health care services from that hospital within the previous twelve 15064
months. 15065

(2) The health insuring corporation shall pay, in accordance 15066
with the terms of the contract, for all covered health care 15067
services rendered to an enrollee by a primary care physician or 15068
hospital between the date of the termination of the contract and 15069
five days after the notification of the contract termination is 15070
mailed to a subscriber at the subscriber's last known address. 15071

(J) Divisions (A) and (B) of this section do not apply to any 15072
health insuring corporation that, on June 4, 1997, holds a 15073
certificate of authority or license to operate under Chapter 1740. 15074
of the Revised Code. 15075

(K) Nothing in this section shall restrict the governing body 15076
of a hospital from exercising the authority granted it pursuant to 15077
section 3701.351 of the Revised Code. 15078

Sec. 1761.26. Whenever the approval of the superintendent of 15079
credit unions is required under this chapter, or under an order or 15080

supervisory action issued or taken under this chapter, for a 15081
person to serve as an organizer, incorporator, director, or 15082
executive officer of a credit union share guaranty corporation, or 15083
to otherwise participate in the management of such a corporation, 15084
the superintendent shall request the superintendent of the bureau 15085
of criminal identification and investigation, or a vendor approved 15086
by the bureau, to conduct a criminal records check based on the 15087
person's fingerprints in accordance with ~~division (A)(14) of~~ 15088
section 109.572 of the Revised Code. The superintendent of credit 15089
unions shall request that criminal record information from the 15090
federal bureau of investigation be obtained as part of the 15091
criminal records check. Any fee required under division (C)(3) of 15092
section 109.572 of the Revised Code shall be paid by the person 15093
who is the subject of the request. 15094

Sec. 1901.06. A municipal judge during the judge's term of 15095
office shall be a qualified elector and a resident of the 15096
territory of the court to which the judge is elected or appointed. 15097
A municipal judge shall have been admitted to the practice of law 15098
in this state and shall have been, for a total of at least six 15099
years preceding appointment or the commencement of the judge's 15100
term, engaged in the practice of law in this state or served as a 15101
judge of a court of record in any jurisdiction in the United 15102
States, or both. ~~At least two of the years of practice or service~~ 15103
~~that qualify a judge shall have been in this state.~~ 15104

Except as provided in section 1901.08 of the Revised Code, 15105
the first election of any newly created office of a municipal 15106
judge shall be held at the next regular municipal election 15107
occurring not less than one hundred days after the creation of the 15108
office. Except as otherwise provided in division (G) of section 15109
1901.01 of the Revised Code, the institution of a new municipal 15110
court shall take place on the first day of January next after the 15111

first election for the court. 15112

Sec. 1901.18. (A) Except as otherwise provided in this 15113
division or section 1901.181 of the Revised Code, subject to the 15114
monetary jurisdiction of municipal courts as set forth in section 15115
1901.17 of the Revised Code, a municipal court has original 15116
jurisdiction within its territory in all of the following actions 15117
or proceedings and to perform all of the following functions: 15118

(1) In any civil action, of whatever nature or remedy, of 15119
which judges of county courts have jurisdiction; 15120

(2) In any action or proceeding at law for the recovery of 15121
money or personal property of which the court of common pleas has 15122
jurisdiction; 15123

(3) In any action at law based on contract, to determine, 15124
preserve, and enforce all legal and equitable rights involved in 15125
the contract, to decree an accounting, reformation, or 15126
cancellation of the contract, and to hear and determine all legal 15127
and equitable remedies necessary or proper for a complete 15128
determination of the rights of the parties to the contract; 15129

(4) In any action or proceeding for the sale of personal 15130
property under chattel mortgage, lien, encumbrance, or other 15131
charge, for the foreclosure and marshalling of liens on personal 15132
property of that nature, and for the rendering of personal 15133
judgment in the action or proceeding; 15134

(5) In any action or proceeding to enforce the collection of 15135
its own judgments or the judgments rendered by any court within 15136
the territory to which the municipal court has succeeded, and to 15137
subject the interest of a judgment debtor in personal property to 15138
satisfy judgments enforceable by the municipal court; 15139

(6) In any action or proceeding in the nature of 15140
interpleader; 15141

| | |
|---|--|
| (7) In any action of replevin; | 15142 |
| (8) In any action of forcible entry and detainer; | 15143 |
| (9) In any action concerning the issuance and enforcement of temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by courts of another state, as defined in section 2919.27 of the Revised Code; | 15144 15145 15146 15147 15148 15149 |
| (10) If the municipal court has a housing or environmental division, in any action over which the division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction; | 15150 15151 15152 15153 15154 15155 |
| (11) In any action brought pursuant to division (I) of section 3733.11 <u>4781.40</u> of the Revised Code, if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court; | 15156 15157 15158 15159 |
| (12) In any civil action as described in division (B)(1) of section 3767.41 of the Revised Code that relates to a public nuisance, and, to the extent any provision of this chapter conflicts or is inconsistent with a provision of that section, the provision of that section shall control in the civil action; | 15160 15161 15162 15163 15164 |
| (13) In a proceeding brought pursuant to section 955.222 of the Revised Code by the owner of a dog that has been designated as a nuisance dog, dangerous dog, or vicious dog. | 15165 15166 15167 |
| (B) The Cleveland municipal court also shall have jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions: | 15168 15169 15170 |
| (1) In all actions and proceedings for the sale of real | 15171 |

property under lien of a judgment of the municipal court or a lien 15172
for machinery, material, or fuel furnished or labor performed, 15173
irrespective of amount, and, in those actions and proceedings, the 15174
court may proceed to foreclose and marshal all liens and all 15175
vested or contingent rights, to appoint a receiver, and to render 15176
personal judgment irrespective of amount in favor of any party. 15177

(2) In all actions for the foreclosure of a mortgage on real 15178
property given to secure the payment of money or the enforcement 15179
of a specific lien for money or other encumbrance or charge on 15180
real property, when the amount claimed by the plaintiff does not 15181
exceed fifteen thousand dollars and the real property is situated 15182
within the territory, and, in those actions, the court may proceed 15183
to foreclose all liens and all vested and contingent rights and 15184
may proceed to render judgments and make findings and orders 15185
between the parties in the same manner and to the same extent as 15186
in similar actions in the court of common pleas. 15187

(3) In all actions for the recovery of real property situated 15188
within the territory to the same extent as courts of common pleas 15189
have jurisdiction; 15190

(4) In all actions for injunction to prevent or terminate 15191
violations of the ordinances and regulations of the city of 15192
Cleveland enacted or promulgated under the police power of the 15193
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 15194
Constitution, over which the court of common pleas has or may have 15195
jurisdiction, and, in those actions, the court may proceed to 15196
render judgments and make findings and orders in the same manner 15197
and to the same extent as in similar actions in the court of 15198
common pleas. 15199

Sec. 1907.13. A county court judge, at the time of filing a 15200
nominating petition for the office or at the time of appointment 15201
to the office and during the judge's term of office, shall be a 15202

qualified elector and a resident of the county court district in 15203
which the judge is elected or appointed. A county court judge does 15204
not have to be a resident of an area of separate jurisdiction in 15205
the county court district to which the judge may be assigned 15206
pursuant to section 1907.15 of the Revised Code. Every county 15207
court judge shall have been admitted to the practice of law in 15208
this state and shall have been engaged, for a total of at least 15209
six years preceding the judge's appointment or the commencement of 15210
the judge's term, in the practice of law in ~~any jurisdiction in~~ 15211
~~the United States~~ this state, except that the six-year practice 15212
requirement does not apply to a county court judge who is holding 15213
office on ~~July 2, 2010~~ the effective date of the amendment of this 15214
section by H.B. 487 of the 129th general assembly, and who 15215
subsequently is a candidate for that office. ~~At least two of the~~ 15216
~~years of practice that qualify a judge shall have been in this~~ 15217
~~state.~~ 15218

Judges shall be elected by the electors of the county court 15219
district at the general election in even-numbered years as set 15220
forth in section 1907.11 of the Revised Code for a term of six 15221
years commencing on the first day of January following the 15222
election for the county court or on the dates specified in section 15223
1907.11 of the Revised Code for particular county court judges. 15224
Their successors shall be elected in even-numbered years every six 15225
years. 15226

All candidates for county court judge shall be nominated by 15227
petition. The nominating petition shall be in the general form and 15228
signed and verified as prescribed by section 3513.261 of the 15229
Revised Code and shall be signed by the lesser of fifty qualified 15230
electors of the county court district or a number of qualified 15231
electors of the county court district not less than one per cent 15232
of the number of electors who voted for governor at the most 15233
recent regular state election in the district. A nominating 15234

petition shall not be accepted for filing or filed if it appears 15235
on its face to contain signatures aggregating in number more than 15236
twice the minimum aggregate number of signatures required by this 15237
section. A nominating petition shall be filed with the board of 15238
elections not later than four p.m. of the ninetieth day before the 15239
day of the general election. 15240

Sec. 1909.11. A county court judge has jurisdiction in any 15241
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 15242
of the Revised Code if the residential premises that are the 15243
subject of the action are located within the territorial 15244
jurisdiction of the judge's county court district. 15245

Sec. 1923.01. (A) As provided in this chapter, any judge of a 15246
county or municipal court or a court of common pleas, within the 15247
judge's proper area of jurisdiction, may inquire about persons who 15248
make unlawful and forcible entry into lands or tenements and 15249
detain them, and about persons who make a lawful and peaceable 15250
entry into lands or tenements and hold them unlawfully and by 15251
force. If, upon the inquiry, it is found that an unlawful and 15252
forcible entry has been made and the lands or tenements are 15253
detained, or that, after a lawful entry, lands or tenements are 15254
held unlawfully and by force, a judge shall cause the plaintiff in 15255
an action under this chapter to have restitution of the lands or 15256
tenements. 15257

(B) An action shall be brought under this chapter within two 15258
years after the cause of action accrues. 15259

(C) As used in this chapter: 15260

(1) "Tenant" means a person who is entitled under a rental 15261
agreement to the use or occupancy of premises, other than premises 15262
located in a manufactured home park, to the exclusion of others, 15263
except that as used in division (A)(6) of section 1923.02 and 15264

section 1923.051 of the Revised Code, "tenant" includes a 15265
manufactured home park resident. 15266

(2) "Landlord" means the owner, lessor, or sublessor of 15267
premises, or the agent or person the landlord authorizes to manage 15268
premises or to receive rent from a tenant under a rental 15269
agreement, except, if required by the facts of the action to which 15270
the term is applied, "landlord" means a park operator. 15271

(3) "Resident" has the same meaning as in section ~~3733.01~~ 15272
4781.01 of the Revised Code. 15273

(4) "Residential premises" has the same meaning as in section 15274
5321.01 of the Revised Code, except, if required by the facts of 15275
the action to which the term is applied, "residential premises" 15276
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 15277
Code. 15278

(5) "Rental agreement" means any agreement or lease, written 15279
or oral, that establishes or modifies the terms, conditions, 15280
rules, or other provisions concerning the use or occupancy of 15281
premises by one of the parties to the agreement or lease, except 15282
that "rental agreement," as used in division (A)(13) of section 15283
1923.02 of the Revised Code and where the context requires as used 15284
in this chapter, means a rental agreement as defined in division 15285
(D) of section 5322.01 of the Revised Code. 15286

(6) "Controlled substance" has the same meaning as in section 15287
3719.01 of the Revised Code. 15288

(7) "School premises" has the same meaning as in section 15289
2925.01 of the Revised Code. 15290

(8) "Sexually oriented offense" and "child-victim oriented 15291
offense" have the same meanings as in section 2950.01 of the 15292
Revised Code. 15293

(9) "Recreational vehicle" and "mobile home" have the same 15294

| | |
|---|--|
| meanings as in section 4501.01 of the Revised Code. | 15295 |
| (10) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code. | 15296 15297 |
| (11) "Manufactured home park" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code and also means any tract of land upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and the owner of the tract of land. | 15298 15299 15300 15301 15302 15303 15304 |
| (12) "Park operator" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code and also means a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator pursuant to Chapter 3733. <u>4781.</u> of the Revised Code. | 15305 15306 15307 15308 15309 15310 15311 15312 |
| (13) "Personal property" means tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action under this chapter. | 15313 15314 15315 |
| (14) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code. | 15316 15317 |
| Sec. 1923.02. (A) Proceedings under this chapter may be had as follows: | 15318 15319 |
| (1) Against tenants or manufactured home park residents holding over their terms; | 15320 15321 |
| (2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section; | 15322 15323 15324 |

(3) In sales of real estate, on executions, orders, or other 15325
judicial process, when the judgment debtor was in possession at 15326
the time of the rendition of the judgment or decree, by virtue of 15327
which the sale was made; 15328

(4) In sales by executors, administrators, or guardians, and 15329
on partition, when any of the parties to the complaint were in 15330
possession at the commencement of the action, after the sales, so 15331
made on execution or otherwise, have been examined by the proper 15332
court and adjudged legal; 15333

(5) When the defendant is an occupier of lands or tenements, 15334
without color of title, and the complainant has the right of 15335
possession to them; 15336

(6) In any other case of the unlawful and forcible detention 15337
of lands or tenements. For purposes of this division, in addition 15338
to any other type of unlawful and forcible detention of lands or 15339
tenements, such a detention may be determined to exist when both 15340
of the following apply: 15341

(a) A tenant fails to vacate residential premises within 15342
three days after both of the following occur: 15343

(i) The tenant's landlord has actual knowledge of or has 15344
reasonable cause to believe that the tenant, any person in the 15345
tenant's household, or any person on the premises with the consent 15346
of the tenant previously has or presently is engaged in a 15347
violation of Chapter 2925. or 3719. of the Revised Code, or of a 15348
municipal ordinance that is substantially similar to any section 15349
in either of those chapters, which involves a controlled substance 15350
and which occurred in, is occurring in, or otherwise was or is 15351
connected with the premises, whether or not the tenant or other 15352
person has been charged with, has pleaded guilty to or been 15353
convicted of, or has been determined to be a delinquent child for 15354
an act that, if committed by an adult, would be a violation as 15355

described in this division. For purposes of this division, a landlord has "actual knowledge of or has reasonable cause to believe" that a tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in this division if a search warrant was issued pursuant to Criminal Rule 41 or Chapter 2933. of the Revised Code; the affidavit presented to obtain the warrant named or described the tenant or person as the individual to be searched and particularly described the tenant's premises as the place to be searched, named or described one or more controlled substances to be searched for and seized, stated substantially the offense under Chapter 2925. or 3719. of the Revised Code or the substantially similar municipal ordinance that occurred in, is occurring in, or otherwise was or is connected with the tenant's premises, and states the factual basis for the affiant's belief that the controlled substances are located on the tenant's premises; the warrant was properly executed by a law enforcement officer and any controlled substance described in the affidavit was found by that officer during the search and seizure; and, subsequent to the search and seizure, the landlord was informed by that or another law enforcement officer of the fact that the tenant or person has or presently is engaged in a violation as described in this division and it occurred in, is occurring in, or otherwise was or is connected with the tenant's premises.

(ii) The landlord gives the tenant the notice required by division (C) of section 5321.17 of the Revised Code.

(b) The court determines, by a preponderance of the evidence, that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of this section.

| | |
|---|--|
| (7) In cases arising out of Chapter 5313. of the Revised Code. In those cases, the court has the authority to declare a forfeiture of the vendee's rights under a land installment contract and to grant any other claims arising out of the contract. | 15388 15389 15390 15391 15392 |
| (8) Against tenants who have breached an obligation that is imposed by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section, and that materially affects health and safety. Prior to the commencement of an action under this division, notice shall be given to the tenant and compliance secured with section 5321.11 of the Revised Code. | 15393 15394 15395 15396 15397 15398 |
| (9) Against tenants who have breached an obligation imposed upon them by a written rental agreement; | 15399 15400 |
| (10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply. | 15401 15402 15403 15404 15405 15406 |
| (11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the public health council <u>manufactured homes commission</u> , or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section 3733.13 <u>4781.45</u> of the Revised Code; | 15407 15408 15409 15410 15411 15412 |
| (12) Against a manufactured home park resident, or the estate of a manufactured home park resident, who as a result of death or otherwise has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of an action under this division and whose manufactured home or mobile home, or recreational vehicle that is parked in the manufactured | 15413 15414 15415 15416 15417 15418 |

home park, has been left unoccupied for that thirty-day period, 15419
without notice to the park operator and without payment of rent 15420
due under the rental agreement with the park operator; 15421

(13) Against occupants of self-service storage facilities, as 15422
defined in division (A) of section 5322.01 of the Revised Code, 15423
who have breached the terms of a rental agreement or violated 15424
section 5322.04 of the Revised Code; 15425

(14) Against any resident or occupant who, pursuant to a 15426
rental agreement, resides in or occupies residential premises 15427
located within one thousand feet of any school premises or 15428
preschool or child day-care center premises and to whom both of 15429
the following apply: 15430

(a) The resident's or occupant's name appears on the state 15431
registry of sex offenders and child-victim offenders maintained 15432
under section 2950.13 of the Revised Code. 15433

(b) The state registry of sex offenders and child-victim 15434
offenders indicates that the resident or occupant was convicted of 15435
or pleaded guilty to a sexually oriented offense or a child-victim 15436
oriented offense in a criminal prosecution and was not sentenced 15437
to a serious youthful offender dispositional sentence for that 15438
offense. 15439

(15) Against any tenant who permits any person to occupy 15440
residential premises located within one thousand feet of any 15441
school premises or preschool or child day-care center premises if 15442
both of the following apply to the person: 15443

(a) The person's name appears on the state registry of sex 15444
offenders and child-victim offenders maintained under section 15445
2950.13 of the Revised Code. 15446

(b) The state registry of sex offenders and child-victim 15447
offenders indicates that the person was convicted of or pleaded 15448
guilty to a sexually oriented offense or a child-victim oriented 15449

offense in a criminal prosecution and was not sentenced to a 15450
serious youthful offender dispositional sentence for that offense. 15451

(B) If a tenant or manufactured home park resident holding 15452
under an oral tenancy is in default in the payment of rent, the 15453
tenant or resident forfeits the right of occupancy, and the 15454
landlord may, at the landlord's option, terminate the tenancy by 15455
notifying the tenant or resident, as provided in section 1923.04 15456
of the Revised Code, to leave the premises, for the restitution of 15457
which an action may then be brought under this chapter. 15458

(C)(1) If a tenant or any other person with the tenant's 15459
permission resides in or occupies residential premises that are 15460
located within one thousand feet of any school premises and is a 15461
resident or occupant of the type described in division (A)(14) of 15462
this section or a person of the type described in division (A)(15) 15463
of this section, the landlord for those residential premises, upon 15464
discovery that the tenant or other person is a resident, occupant, 15465
or person of that nature, may terminate the rental agreement or 15466
tenancy for those residential premises by notifying the tenant and 15467
all other occupants, as provided in section 1923.04 of the Revised 15468
Code, to leave the premises. 15469

(2) If a landlord is authorized to terminate a rental 15470
agreement or tenancy pursuant to division (C)(1) of this section 15471
but does not so terminate the rental agreement or tenancy, the 15472
landlord is not liable in a tort or other civil action in damages 15473
for any injury, death, or loss to person or property that 15474
allegedly result from that decision. 15475

(D) This chapter does not apply to a student tenant as 15476
defined by division (H) of section 5321.01 of the Revised Code 15477
when the college or university proceeds to terminate a rental 15478
agreement pursuant to section 5321.031 of the Revised Code. 15479

Sec. 1923.061. (A) Any defense in an action under this 15480

chapter may be asserted at trial. 15481

(B) In an action for possession of residential premises based 15482
upon nonpayment of the rent or in an action for rent when the 15483
tenant or manufactured home park resident is in possession, the 15484
tenant or resident may counterclaim for any amount ~~he~~ the tenant 15485
or resident may recover under the rental agreement or under 15486
Chapter ~~3733.~~ 4781. or 5321. of the Revised Code. In that event, 15487
the court from time to time may order the tenant or resident to 15488
pay into court all or part of the past due rent and rent becoming 15489
due during the pendency of the action. After trial and judgment, 15490
the party to whom a net judgment is owed shall be paid first from 15491
the money paid into court, and any balance shall be satisfied as 15492
any other judgment. If no rent remains due after application of 15493
this division, judgment shall be entered for the tenant or 15494
resident in the action for possession. If the tenant or resident 15495
has paid into court an amount greater than that necessary to 15496
satisfy a judgment obtained by the landlord, the balance shall be 15497
returned by the court to the tenant or resident. 15498

Sec. 1923.15. During any proceeding involving residential 15499
premises under this chapter, the court may order an appropriate 15500
governmental agency to inspect the residential premises. If the 15501
agency determines and the court finds conditions which constitute 15502
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 15503
Code, and if the premises have been vacated or are to be restored 15504
to the landlord, the court may issue an order forbidding the 15505
re-rental of the property until such conditions are corrected. If 15506
the agency determines and the court finds such conditions, and if 15507
the court finds that the tenant or manufactured home park resident 15508
may remain in possession, the court may order such conditions 15509
corrected. If such conditions have been caused by the tenant or 15510
resident, the court may award damages to the landlord equal to the 15511
reasonable cost of correcting such conditions. 15512

Sec. 2151.33. (A) Pending hearing of a complaint filed under 15513
section 2151.27 of the Revised Code or a motion filed or made 15514
under division (B) of this section and the service of citations, 15515
the juvenile court may make any temporary disposition of any child 15516
that it considers necessary to protect the best interest of the 15517
child and that can be made pursuant to division (B) of this 15518
section. Upon the certificate of one or more reputable practicing 15519
physicians, the court may summarily provide for emergency medical 15520
and surgical treatment that appears to be immediately necessary to 15521
preserve the health and well-being of any child concerning whom a 15522
complaint or an application for care has been filed, pending the 15523
service of a citation upon the child's parents, guardian, or 15524
custodian. The court may order the parents, guardian, or 15525
custodian, if the court finds the parents, guardian, or custodian 15526
able to do so, to reimburse the court for the expense involved in 15527
providing the emergency medical or surgical treatment. Any person 15528
who disobeys the order for reimbursement may be adjudged in 15529
contempt of court and punished accordingly. 15530

If the emergency medical or surgical treatment is furnished 15531
to a child who is found at the hearing to be a nonresident of the 15532
county in which the court is located and if the expense of the 15533
medical or surgical treatment cannot be recovered from the 15534
parents, legal guardian, or custodian of the child, the board of 15535
county commissioners of the county in which the child has a legal 15536
settlement shall reimburse the court for the reasonable cost of 15537
the emergency medical or surgical treatment out of its general 15538
fund. 15539

(B)(1) After a complaint, petition, writ, or other document 15540
initiating a case dealing with an alleged or adjudicated abused, 15541
neglected, or dependent child is filed and upon the filing or 15542
making of a motion pursuant to division (C) of this section, the 15543
court, prior to the final disposition of the case, may issue any 15544

| | |
|--|-------|
| of the following temporary orders to protect the best interest of | 15545 |
| the child: | 15546 |
| (a) An order granting temporary custody of the child to a | 15547 |
| particular party; | 15548 |
| (b) An order for the taking of the child into custody | 15549 |
| pursuant to section 2151.31 of the Revised Code pending the | 15550 |
| outcome of the adjudicatory and dispositional hearings; | 15551 |
| (c) An order granting, limiting, or eliminating parenting | 15552 |
| time or visitation rights with respect to the child; | 15553 |
| (d) An order requiring a party to vacate a residence that | 15554 |
| will be lawfully occupied by the child; | 15555 |
| (e) An order requiring a party to attend an appropriate | 15556 |
| counseling program that is reasonably available to that party; | 15557 |
| (f) Any other order that restrains or otherwise controls the | 15558 |
| conduct of any party which conduct would not be in the best | 15559 |
| interest of the child. | 15560 |
| (2) Prior to the final disposition of a case subject to | 15561 |
| division (B)(1) of this section, the court shall do both of the | 15562 |
| following: | 15563 |
| (a) Issue an order pursuant to Chapters 3119. to 3125. of the | 15564 |
| Revised Code requiring the parents, guardian, or person charged | 15565 |
| with the child's support to pay support for the child. | 15566 |
| (b) Issue an order requiring the parents, guardian, or person | 15567 |
| charged with the child's support to continue to maintain any | 15568 |
| health insurance coverage for the child that existed at the time | 15569 |
| of the filing of the complaint, petition, writ, or other document, | 15570 |
| or to obtain health insurance coverage in accordance with sections | 15571 |
| 3119.29 to 3119.56 of the Revised Code. | 15572 |
| (C)(1) A court may issue an order pursuant to division (B) of | 15573 |
| this section upon its own motion or if a party files a written | 15574 |

motion or makes an oral motion requesting the issuance of the 15575
order and stating the reasons for it. Any notice sent by the court 15576
as a result of a motion pursuant to this division shall contain a 15577
notice that any party to a juvenile proceeding has the right to be 15578
represented by counsel and to have appointed counsel if the person 15579
is indigent. 15580

(2) If a child is taken into custody pursuant to section 15581
2151.31 of the Revised Code and placed in shelter care, the public 15582
children services agency or private child placing agency with 15583
which the child is placed in shelter care shall file or make a 15584
motion as described in division (C)(1) of this section before the 15585
end of the next day immediately after the date on which the child 15586
was taken into custody and, at a minimum, shall request an order 15587
for temporary custody under division (B)(1)(a) of this section. 15588

(3) A court that issues an order pursuant to division 15589
(B)(1)(b) of this section shall comply with section 2151.419 of 15590
the Revised Code. 15591

(D) The court may grant an ex parte order upon its own motion 15592
or a motion filed or made pursuant to division (C) of this section 15593
requesting such an order if it appears to the court that the best 15594
interest and the welfare of the child require that the court issue 15595
the order immediately. The court, if acting on its own motion, or 15596
the person requesting the granting of an ex parte order, to the 15597
extent possible, shall give notice of its intent or of the request 15598
to the parents, guardian, or custodian of the child who is the 15599
subject of the request. If the court issues an ex parte order, the 15600
court shall hold a hearing to review the order within seventy-two 15601
hours after it is issued or before the end of the next day after 15602
the day on which it is issued, whichever occurs first. The court 15603
shall give written notice of the hearing to all parties to the 15604
action and shall appoint a guardian ad litem for the child prior 15605
to the hearing. 15606

The written notice shall be given by all means that are 15607
reasonably likely to result in the party receiving actual notice 15608
and shall include all of the following: 15609

(1) The date, time, and location of the hearing; 15610

(2) The issues to be addressed at the hearing; 15611

(3) A statement that every party to the hearing has a right 15612
to counsel and to court-appointed counsel, if the party is 15613
indigent; 15614

(4) The name, telephone number, and address of the person 15615
requesting the order; 15616

(5) A copy of the order, except when it is not possible to 15617
obtain it because of the exigent circumstances in the case. 15618

If the court does not grant an ex parte order pursuant to a 15619
motion filed or made pursuant to division (C) of this section or 15620
its own motion, the court shall hold a shelter care hearing on the 15621
motion within ten days after the motion is filed. The court shall 15622
give notice of the hearing to all affected parties in the same 15623
manner as set forth in the Juvenile Rules. 15624

(E) The court, pending the outcome of the adjudicatory and 15625
dispositional hearings, shall not issue an order granting 15626
temporary custody of a child to a public children services agency 15627
or private child placing agency pursuant to this section, unless 15628
the court determines and specifically states in the order that the 15629
continued residence of the child in the child's current home will 15630
be contrary to the child's best interest and welfare and the court 15631
complies with section 2151.419 of the Revised Code. 15632

(F) Each public children services agency and private child 15633
placing agency that receives temporary custody of a child pursuant 15634
to this section shall maintain in the child's case record written 15635
documentation that it has placed the child, to the extent that it 15636

is consistent with the best interest, welfare, and special needs 15637
of the child, in the most family-like setting available and in 15638
close proximity to the home of the parents, custodian, or guardian 15639
of the child. 15640

(G) For good cause shown, any court order that is issued 15641
pursuant to this section may be reviewed by the court at any time 15642
upon motion of any party to the action or upon the motion of the 15643
court. 15644

(H)(1) Pending the hearing of a complaint filed under section 15645
2151.27 of the Revised Code or a motion filed or made under 15646
division (B) of this section and the service of citations, a 15647
public children services agency may request that the 15648
superintendent of the bureau of criminal identification and 15649
investigation conduct a criminal records check with respect to 15650
each parent, guardian, custodian, prospective custodian, or 15651
prospective placement whose actions resulted in a temporary 15652
disposition under division (A) of this section. The public 15653
children services agency may request that the superintendent 15654
obtain information from the federal bureau of investigation as 15655
part of the criminal records check of each parent, guardian, 15656
custodian, prospective custodian, or prospective placement. 15657

(2) Each public children services agency authorized by 15658
division (H) of this section to request a criminal records check 15659
shall do both of the following: 15660

(a) Provide to each parent, guardian, custodian, prospective 15661
custodian, or prospective placement for whom a criminal records 15662
check is requested a copy of the form prescribed pursuant to 15663
division (C)(1) of section 109.572 of the Revised Code and a 15664
standard fingerprint impression sheet prescribed pursuant to 15665
division (C)(2) of that section and obtain the completed form and 15666
impression sheet from the parent, guardian, custodian, prospective 15667
custodian, or prospective placement; 15668

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation. 15669
15670
15671

(3) A parent, guardian, custodian, prospective custodian, or prospective placement who is given a form and fingerprint impression sheet under division (H)(2)(a) of this section and who fails to complete the form or provide fingerprint impressions may be held in contempt of court. 15672
15673
15674
15675
15676

Sec. 2151.412. (A) Each public children services agency and private child placing agency shall prepare and maintain a case plan for any child to whom the agency is providing services and to whom any of the following applies: 15677
15678
15679
15680

(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child; 15681
15682
15683

(2) The agency has temporary or permanent custody of the child; 15684
15685

(3) The child is living at home subject to an order for protective supervision; 15686
15687

(4) The child is in a planned permanent living arrangement. 15688

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(2) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child. 15689
15690
15691
15692
15693
15694

(B) Each public children services agency shall prepare and maintain a case plan or a family service plan for any child for whom the agency is providing in-home services pursuant to an alternative response. 15695
15696
15697
15698

(C)(1) The director of job and family services shall adopt 15699
rules pursuant to Chapter 119. of the Revised Code setting forth 15700
the content and format of case plans required by division (A) of 15701
this section and establishing procedures for developing, 15702
implementing, and changing the case plans. The rules shall at a 15703
minimum comply with the requirements of Title IV-E of the "Social 15704
Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended. 15705

(2) The director of job and family services shall adopt rules 15706
pursuant to Chapter 119. of the Revised Code requiring public 15707
children services agencies and private child placing agencies to 15708
maintain case plans for children and their families who are 15709
receiving services in their homes from the agencies and for whom 15710
case plans are not required by division (A) of this section. The 15711
rules for public children services agencies shall include the 15712
requirements for case plans or family service plans maintained for 15713
children and their families who are receiving services in their 15714
homes from public children services agencies pursuant to an 15715
alternative response. The agencies shall maintain case plans and 15716
family service plans as required by those rules; however, the case 15717
plans and family service plans shall not be subject to any other 15718
provision of this section except as specifically required by the 15719
rules. 15720

(D) Each public children services agency and private child 15721
placing agency that is required by division (A) of this section to 15722
maintain a case plan shall file the case plan with the court prior 15723
to the child's adjudicatory hearing but no later than thirty days 15724
after the earlier of the date on which the complaint in the case 15725
was filed or the child was first placed into shelter care. If the 15726
agency does not have sufficient information prior to the 15727
adjudicatory hearing to complete any part of the case plan, the 15728
agency shall specify in the case plan the additional information 15729
necessary to complete each part of the case plan and the steps 15730

that will be taken to obtain that information. All parts of the 15731
case plan shall be completed by the earlier of thirty days after 15732
the adjudicatory hearing or the date of the dispositional hearing 15733
for the child. 15734

(E) Any agency that is required by division (A) of this 15735
section to prepare a case plan shall attempt to obtain an 15736
agreement among all parties, including, but not limited to, the 15737
parents, guardian, or custodian of the child and the guardian ad 15738
litem of the child regarding the content of the case plan. If all 15739
parties agree to the content of the case plan and the court 15740
approves it, the court shall journalize it as part of its 15741
dispositional order. If the agency cannot obtain an agreement upon 15742
the contents of the case plan or the court does not approve it, 15743
the parties shall present evidence on the contents of the case 15744
plan at the dispositional hearing. The court, based upon the 15745
evidence presented at the dispositional hearing and the best 15746
interest of the child, shall determine the contents of the case 15747
plan and journalize it as part of the dispositional order for the 15748
child. 15749

(F)(1) All parties, including the parents, guardian, or 15750
custodian of the child, are bound by the terms of the journalized 15751
case plan. A party that fails to comply with the terms of the 15752
journalized case plan may be held in contempt of court. 15753

(2) Any party may propose a change to a substantive part of 15754
the case plan, including, but not limited to, the child's 15755
placement and the visitation rights of any party. A party 15756
proposing a change to the case plan shall file the proposed change 15757
with the court and give notice of the proposed change in writing 15758
before the end of the day after the day of filing it to all 15759
parties and the child's guardian ad litem. All parties and the 15760
guardian ad litem shall have seven days from the date the notice 15761
is sent to object to and request a hearing on the proposed change. 15762

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(b) If it does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of division (F)(2) of this section, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(3) If an agency has reasonable cause to believe that a child is suffering from illness or injury and is not receiving proper care and that an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm, to believe that a child is in immediate danger from the child's surroundings and that an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm to the child, or to believe that a parent, guardian, custodian, or other member of the child's household has

abused or neglected the child and that the child is in danger of 15795
immediate or threatened physical or emotional harm from that 15796
person unless the agency makes an appropriate change in the 15797
child's case plan, it may implement the change without prior 15798
agreement or a court hearing and, before the end of the next day 15799
after the change is made, give all parties, the guardian ad litem 15800
of the child, and the court notice of the change. Before the end 15801
of the third day after implementing the change in the case plan, 15802
the agency shall file a statement of the change with the court and 15803
give notice of the filing accompanied by a copy of the statement 15804
to all parties and the guardian ad litem. All parties and the 15805
guardian ad litem shall have ten days from the date the notice is 15806
sent to object to and request a hearing on the change. 15807

(a) If it receives a timely request for a hearing, the court 15808
shall schedule a hearing pursuant to section 2151.417 of the 15809
Revised Code to be held no later than thirty days after the 15810
request is received by the court. The court shall give notice of 15811
the date, time, and location of the hearing to all parties and the 15812
guardian ad litem. The agency shall continue to administer the 15813
case plan with the change after the hearing, if the court approves 15814
the change. If the court does not approve the change, the court 15815
shall make appropriate changes to the case plan and shall 15816
journalize the case plan. 15817

(b) If it does not receive a timely request for a hearing, 15818
the court may approve the change without a hearing. If the court 15819
approves the change without a hearing, it shall journalize the 15820
case plan with the change within fourteen days after receipt of 15821
the change. If the court does not approve the change to the case 15822
plan, it shall schedule a hearing under section 2151.417 of the 15823
Revised Code to be held no later than thirty days after the 15824
expiration of the fourteen-day time period and give notice of the 15825
date, time, and location of the hearing to all parties and the 15826

guardian ad litem of the child. 15827

(G)(1) All case plans for children in temporary custody shall 15828
have the following general goals: 15829

(a) Consistent with the best interest and special needs of 15830
the child, to achieve a safe out-of-home placement in the least 15831
restrictive, most family-like setting available and in close 15832
proximity to the home from which the child was removed or the home 15833
in which the child will be permanently placed; 15834

(b) To eliminate with all due speed the need for the 15835
out-of-home placement so that the child can safely return home. 15836

(2) The director of job and family services shall adopt rules 15837
pursuant to Chapter 119. of the Revised Code setting forth the 15838
general goals of case plans for children subject to dispositional 15839
orders for protective supervision, a planned permanent living 15840
arrangement, or permanent custody. 15841

(H) In the agency's development of a case plan and the 15842
court's review of the case plan, the child's health and safety 15843
shall be the paramount concern. The agency and the court shall be 15844
guided by the following general priorities: 15845

(1) A child who is residing with or can be placed with the 15846
child's parents within a reasonable time should remain in their 15847
legal custody even if an order of protective supervision is 15848
required for a reasonable period of time; 15849

(2) If both parents of the child have abandoned the child, 15850
have relinquished custody of the child, have become incapable of 15851
supporting or caring for the child even with reasonable 15852
assistance, or have a detrimental effect on the health, safety, 15853
and best interest of the child, the child should be placed in the 15854
legal custody of a suitable member of the child's extended family; 15855

(3) If a child described in division (H)(2) of this section 15856

has no suitable member of the child's extended family to accept 15857
legal custody, the child should be placed in the legal custody of 15858
a suitable nonrelative who shall be made a party to the 15859
proceedings after being given legal custody of the child; 15860

(4) If the child has no suitable member of the child's 15861
extended family to accept legal custody of the child and no 15862
suitable nonrelative is available to accept legal custody of the 15863
child and, if the child temporarily cannot or should not be placed 15864
with the child's parents, guardian, or custodian, the child should 15865
be placed in the temporary custody of a public children services 15866
agency or a private child placing agency; 15867

(5) If the child cannot be placed with either of the child's 15868
parents within a reasonable period of time or should not be placed 15869
with either, if no suitable member of the child's extended family 15870
or suitable nonrelative is available to accept legal custody of 15871
the child, and if the agency has a reasonable expectation of 15872
placing the child for adoption, the child should be committed to 15873
the permanent custody of the public children services agency or 15874
private child placing agency; 15875

(6) If the child is to be placed for adoption or foster care, 15876
the placement shall not be delayed or denied on the basis of the 15877
child's or adoptive or foster family's race, color, or national 15878
origin. 15879

(I) The case plan for a child in temporary custody shall 15880
include at a minimum the following requirements if the child is or 15881
has been the victim of abuse or neglect or if the child witnessed 15882
the commission in the child's household of abuse or neglect 15883
against a sibling of the child, a parent of the child, or any 15884
other person in the child's household: 15885

(1) A requirement that the child's parents, guardian, or 15886
custodian participate in mandatory counseling; 15887

(2) A requirement that the child's parents, guardian, or 15888
custodian participate in any supportive services that are required 15889
by or provided pursuant to the child's case plan. 15890

(J) A case plan may include, as a supplement, a plan for 15891
locating a permanent family placement. The supplement shall not be 15892
considered part of the case plan for purposes of division (E) of 15893
this section. 15894

(K)(1) A public children services agency may request that the 15895
superintendent of the bureau of criminal identification and 15896
investigation conduct a criminal records check with respect to a 15897
parent, guardian, custodian, prospective custodian, or prospective 15898
placement whose actions result in a finding after the filing of a 15899
complaint as described in division (A)(1) of this section that a 15900
child is an abused, neglected, or dependent child. The public 15901
children services agency shall request that the superintendent 15902
obtain information from the federal bureau of investigation as 15903
part of the criminal records check. 15904

(2) At any time on or after the date that is ninety days 15905
after the effective date of this amendment, a prosecuting 15906
attorney, or an assistant prosecuting attorney appointed under 15907
section 309.06 of the Revised Code, may request that the 15908
superintendent of the bureau of criminal identification and 15909
investigation conduct a criminal records check with respect to 15910
each parent, guardian, custodian, prospective custodian, or 15911
prospective placement whose actions resulted in a finding after 15912
the filing of a complaint described in division (A)(1) of this 15913
section that a child is an abused, neglected, or dependent child. 15914
Each prosecuting attorney or assistant prosecuting attorney who 15915
makes such a request shall request that the superintendent obtain 15916
information from the federal bureau of investigation as part of 15917
the criminal records check for each parent, guardian, custodian, 15918
prospective custodian, or prospective placement who is a subject 15919

of the request. 15920

(3) A public children services agency, prosecuting attorney, 15921
or assistant prosecuting attorney that requests a criminal records 15922
check under division (K)(1) or (2) of this section shall do both 15923
of the following: 15924

(a) Provide to each parent, guardian, custodian, prospective 15925
custodian, or prospective placement for whom a criminal records 15926
check is requested a copy of the form prescribed pursuant to 15927
division (C)(1) of section 109.572 of the Revised Code and a 15928
standard fingerprint impression sheet prescribed pursuant to 15929
division (C)(2) of that section and obtain the completed form and 15930
impression sheet from the parent, guardian, custodian, prospective 15931
custodian, or prospective placement; 15932

(b) Forward the completed form and impression sheet to the 15933
superintendent of the bureau of criminal identification and 15934
investigation. 15935

(4) A parent, guardian, custodian, prospective custodian, or 15936
prospective placement who is given a form and fingerprint 15937
impression sheet under division (K)(3)(a) of this section and who 15938
fails to complete the form or provide fingerprint impressions may 15939
be held in contempt of court. 15940

Sec. 2151.86. (A)(1) The appointing or hiring officer of any 15941
entity that appoints or employs any person responsible for a 15942
child's care in out-of-home care shall request the superintendent 15943
of BCII to conduct a criminal records check with respect to any 15944
person who is under final consideration for appointment or 15945
employment as a person responsible for a child's care in 15946
out-of-home care, except that section 3319.39 of the Revised Code 15947
shall apply instead of this section if the out-of-home care entity 15948
is a public school, educational service center, or chartered 15949
nonpublic school. 15950

(2) At the times specified in this division, the 15951
administrative director of an agency, or attorney, who arranges an 15952
adoption for a prospective adoptive parent shall request the 15953
superintendent of BCII to conduct a criminal records check with 15954
respect to that prospective adoptive parent and a criminal records 15955
check with respect to all persons eighteen years of age or older 15956
who reside with the prospective adoptive parent. The 15957
administrative director or attorney shall request a criminal 15958
records check pursuant to this division at the time of the initial 15959
home study, every four years after the initial home study at the 15960
time of an update, and at the time that an adoptive home study is 15961
completed as a new home study. 15962

(3) Before a recommending agency submits a recommendation to 15963
the department of job and family services on whether the 15964
department should issue a certificate to a foster home under 15965
section 5103.03 of the Revised Code, and every four years 15966
thereafter prior to a recertification under that section, the 15967
administrative director of the agency shall request that the 15968
superintendent of BCII conduct a criminal records check with 15969
respect to the prospective foster caregiver and a criminal records 15970
check with respect to all other persons eighteen years of age or 15971
older who reside with the foster caregiver. 15972

(B)(1) If a person subject to a criminal records check under 15973
division (A)(1) of this section does not present proof that the 15974
person has been a resident of this state for the five-year period 15975
immediately prior to the date upon which the criminal records 15976
check is requested or does not provide evidence that within that 15977
five-year period the superintendent of BCII has requested 15978
information about the person from the federal bureau of 15979
investigation in a criminal records check, the appointing or 15980
hiring officer shall request that the superintendent of BCII 15981
obtain information from the federal bureau of investigation as a 15982

part of the criminal records check, including fingerprint_based 15983
checks of national crime information databases as described in 42 15984
U.S.C. 671. If a person subject to a criminal records check under 15985
division (A)(1) of this section presents proof that the person has 15986
been a resident of this state for that five-year period, the 15987
appointing or hiring officer or attorney may request that the 15988
superintendent of BCII include information from the federal bureau 15989
of investigation in the criminal records check, including 15990
fingerprint_based checks of national crime information databases 15991
as described in 42 U.S.C. 671. 15992

When the administrative director of an agency, or attorney, 15993
who arranges an adoption for a prospective parent requests, at the 15994
time of the initial home study, a criminal records check for a 15995
person pursuant to division (A)(2) of this section, the 15996
administrative director or attorney shall request that the 15997
superintendent of BCII obtain information from the federal bureau 15998
of investigation as part of the criminal records check, including 15999
fingerprint_based checks of national crime information databases 16000
as described in 42 U.S.C. 671, for the person subject to the 16001
criminal records check. In all other cases in which the 16002
administrative director of an agency, or attorney, who arranges an 16003
adoption for a prospective parent requests a criminal records 16004
check for a person pursuant to division (A)(2) of this section, 16005
the administrative director or attorney may request that the 16006
superintendent of BCII include information from the federal bureau 16007
of investigation in the criminal records check, including 16008
fingerprint_based checks of national crime information databases 16009
as described in 42 U.S.C. 671. 16010

When the administrative director of a recommending agency 16011
requests, before submitting a recommendation to the department of 16012
job and family services on whether the department should issue a 16013
certificate to a foster home under section 5103.03 of the Revised 16014

Code, a criminal records check for a person pursuant to division 16015
(A)(3) of this section, the administrative director shall request 16016
that the superintendent of BCII obtain information from the 16017
federal bureau of investigation as part of a criminal records 16018
check, including fingerprint-based checks of national crime 16019
information databases as described in 42 U.S.C. 671, for the 16020
person subject to the criminal records check. In all other cases 16021
in which the administrative director of a recommending agency 16022
requests a criminal records check for a person pursuant to 16023
division (A)(3) of this section, the administrative director may 16024
request that the superintendent of BCII include information from 16025
the federal bureau of investigation in the criminal records check, 16026
including fingerprint-based checks of national crime information 16027
databases as described in 42 U.S.C. 671. 16028

Prior to a hearing on a final decree of adoption or 16029
interlocutory order of adoption by a probate court, the 16030
administrative director of an agency, or an attorney, who arranges 16031
an adoption for a prospective parent shall provide to the clerk of 16032
the probate court either of the following: 16033

(a) Any information received pursuant to a request made under 16034
this division from the superintendent of BCII or the federal 16035
bureau of investigation as part of the criminal records check, 16036
including fingerprint-based checks of national crime information 16037
databases as described in 42 U.S.C. 671, for the person subject to 16038
the criminal records check; 16039

(b) Written notification that the person subject to a 16040
criminal records check pursuant to this division failed upon 16041
request to provide the information necessary to complete the form 16042
or failed to provide impressions of the person's fingerprints as 16043
required under division (B)(2) of this section. 16044

(2) An appointing or hiring officer, administrative director, 16045
or attorney required by division (A) of this section to request a 16046

criminal records check shall provide to each person subject to a 16047
criminal records check a copy of the form prescribed pursuant to 16048
division (C)(1) of section 109.572 of the Revised Code and a 16049
standard impression sheet to obtain fingerprint impressions 16050
prescribed pursuant to division (C)(2) of section 109.572 of the 16051
Revised Code, obtain the completed form and impression sheet from 16052
the person, and forward the completed form and impression sheet to 16053
the superintendent of BCII at the time the criminal records check 16054
is requested. 16055

Any person subject to a criminal records check who receives 16056
pursuant to this division a copy of the form prescribed pursuant 16057
to division (C)(1) of section 109.572 of the Revised Code and a 16058
copy of an impression sheet prescribed pursuant to division (C)(2) 16059
of that section and who is requested to complete the form and 16060
provide a set of fingerprint impressions shall complete the form 16061
or provide all the information necessary to complete the form and 16062
shall provide the impression sheet with the impressions of the 16063
person's fingerprints. If a person subject to a criminal records 16064
check, upon request, fails to provide the information necessary to 16065
complete the form or fails to provide impressions of the person's 16066
fingerprints, the appointing or hiring officer shall not appoint 16067
or employ the person as a person responsible for a child's care in 16068
out-of-home care, a probate court may not issue a final decree of 16069
adoption or an interlocutory order of adoption making the person 16070
an adoptive parent, and the department of job and family services 16071
shall not issue a certificate authorizing the prospective foster 16072
caregiver to operate a foster home. 16073

(C)(1) No appointing or hiring officer shall appoint or 16074
employ a person as a person responsible for a child's care in 16075
out-of-home care, the department of job and family services shall 16076
not issue a certificate under section 5103.03 of the Revised Code 16077
authorizing a prospective foster caregiver to operate a foster 16078

home, and no probate court shall issue a final decree of adoption 16079
or an interlocutory order of adoption making a person an adoptive 16080
parent if the person or, in the case of a prospective foster 16081
caregiver or prospective adoptive parent, any person eighteen 16082
years of age or older who resides with the prospective foster 16083
caregiver or prospective adoptive parent previously has been 16084
convicted of or pleaded guilty to any of the violations described 16085
in division (A)~~(8)~~(4) of section 109.572 of the Revised Code, 16086
unless the person meets rehabilitation standards established in 16087
rules adopted under division (F) of this section. 16088

(2) The appointing or hiring officer may appoint or employ a 16089
person as a person responsible for a child's care in out-of-home 16090
care conditionally until the criminal records check required by 16091
this section is completed and the officer receives the results of 16092
the criminal records check. If the results of the criminal records 16093
check indicate that, pursuant to division (C)(1) of this section, 16094
the person subject to the criminal records check does not qualify 16095
for appointment or employment, the officer shall release the 16096
person from appointment or employment. 16097

(3) Prior to certification or recertification under section 16098
5103.03 of the Revised Code, the prospective foster caregiver 16099
subject to a criminal records check under division (A)(3) of this 16100
section shall notify the recommending agency of the revocation of 16101
any foster home license, certificate, or other similar 16102
authorization in another state occurring within the five years 16103
prior to the date of application to become a foster caregiver in 16104
this state. The failure of a prospective foster caregiver to 16105
notify the recommending agency of any revocation of that type in 16106
another state that occurred within that five-year period shall be 16107
grounds for denial of the person's foster home application or the 16108
revocation of the person's foster home certification, whichever is 16109
applicable. If a person has had a revocation in another state 16110

within the five years prior to the date of the application, the 16111
department of job and family services shall not issue a foster 16112
home certificate to the prospective foster caregiver. 16113

(D) The appointing or hiring officer, administrative 16114
director, or attorney shall pay to the bureau of criminal 16115
identification and investigation the fee prescribed pursuant to 16116
division (C)(3) of section 109.572 of the Revised Code for each 16117
criminal records check conducted in accordance with that section 16118
upon a request pursuant to division (A) of this section. The 16119
officer, director, or attorney may charge the person subject to 16120
the criminal records check a fee for the costs the officer, 16121
director, or attorney incurs in obtaining the criminal records 16122
check. A fee charged under this division shall not exceed the 16123
amount of fees the officer, director, or attorney pays for the 16124
criminal records check. If a fee is charged under this division, 16125
the officer, director, or attorney shall notify the person who is 16126
the applicant at the time of the person's initial application for 16127
appointment or employment, an adoption to be arranged, or a 16128
certificate to operate a foster home of the amount of the fee and 16129
that, unless the fee is paid, the person who is the applicant will 16130
not be considered for appointment or employment or as an adoptive 16131
parent or foster caregiver. 16132

(E) The report of any criminal records check conducted by the 16133
bureau of criminal identification and investigation in accordance 16134
with section 109.572 of the Revised Code and pursuant to a request 16135
made under division (A) of this section is not a public record for 16136
the purposes of section 149.43 of the Revised Code and shall not 16137
be made available to any person other than the following: 16138

(1) The person who is the subject of the criminal records 16139
check or the person's representative; 16140

(2) The appointing or hiring officer, administrative 16141
director, or attorney requesting the criminal records check or the 16142

officer's, director's, or attorney's representative; 16143

(3) The department of job and family services, a county 16144
department of job and family services, or a public children 16145
services agency; 16146

(4) Any court, hearing officer, or other necessary individual 16147
involved in a case dealing with the denial of employment, a final 16148
decree of adoption or interlocutory order of adoption, or a foster 16149
home certificate. 16150

(F) The director of job and family services shall adopt rules 16151
in accordance with Chapter 119. of the Revised Code to implement 16152
this section. The rules shall include rehabilitation standards a 16153
person who has been convicted of or pleaded guilty to an offense 16154
listed in division (A)~~(8)~~(4) of section 109.572 of the Revised 16155
Code must meet for an appointing or hiring officer to appoint or 16156
employ the person as a person responsible for a child's care in 16157
out-of-home care, a probate court to issue a final decree of 16158
adoption or interlocutory order of adoption making the person an 16159
adoptive parent, or the department to issue a certificate 16160
authorizing the prospective foster caregiver to operate a foster 16161
home or not revoke a foster home certificate for a violation 16162
specified in section 5103.0328 of the Revised Code. 16163

(G) An appointing or hiring officer, administrative director, 16164
or attorney required by division (A) of this section to request a 16165
criminal records check shall inform each person who is the 16166
applicant, at the time of the person's initial application for 16167
appointment or employment, an adoption to be arranged, or a foster 16168
home certificate, that the person subject to the criminal records 16169
check is required to provide a set of impressions of the person's 16170
fingerprints and that a criminal records check is required to be 16171
conducted and satisfactorily completed in accordance with section 16172
109.572 of the Revised Code. 16173

(H) The department of job and family services may waive the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to the department's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In such cases, the recommending or approving agency shall request that the bureau of criminal identification and investigation conduct a criminal records check using the person's name and social security number.

(I) As used in this section:

(1) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (I)(1)(a) of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

(4) "Person subject to a criminal records check" means the following:

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care;

(b) A prospective adoptive parent;

(c) A prospective foster caregiver;

(d) A person eighteen years old or older who resides with a prospective foster caregiver or a prospective adoptive parent.

(5) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes.

(6) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation.

Sec. 2152.121. (A) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, the juvenile court that transferred the case shall retain jurisdiction for purposes of making disposition of the child when required under division (B) of this section.

(B) If a complaint is filed against a child alleging that the child is a delinquent child, if the case is transferred pursuant

to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of 16235
the Revised Code, and if the child subsequently is convicted of or 16236
pleads guilty to an offense in that case, the sentence to be 16237
imposed or disposition to be made of the child shall be determined 16238
as follows: 16239

(1) The court in which the child is convicted of or pleads 16240
guilty to the offense shall determine whether, had a complaint 16241
been filed in juvenile court alleging that the child was a 16242
delinquent child for committing an act that would be that offense 16243
if committed by an adult, division (A) of section 2152.12 of the 16244
Revised Code would have required mandatory transfer of the case or 16245
division (B) of that section would have allowed discretionary 16246
transfer of the case. The court shall not consider the factor 16247
specified in division (B)(3) of section 2152.12 of the Revised 16248
Code in making its determination under this division. 16249

(2) If the court in which the child is convicted of or pleads 16250
guilty to the offense determines under division (B)(1) of this 16251
section that, had a complaint been filed in juvenile court 16252
alleging that the child was a delinquent child for committing an 16253
act that would be that offense if committed by an adult, division 16254
(A) of section 2152.12 of the Revised Code would not have required 16255
mandatory transfer of the case, and division (B) of that section 16256
would not have allowed discretionary transfer of the case, the 16257
court shall transfer jurisdiction of the case back to the juvenile 16258
court that initially transferred the case, the court and all other 16259
agencies that have any record of the conviction of the child or 16260
the child's guilty plea shall expunge the conviction or guilty 16261
plea and all records of it, the conviction or guilty plea shall be 16262
considered and treated for all purposes other than as provided in 16263
this section to have never occurred, the conviction or guilty plea 16264
shall be considered and treated for all purposes other than as 16265
provided in this section to have been a delinquent child 16266

adjudication of the child, and the juvenile court shall impose one 16267
or more traditional juvenile dispositions upon the child under 16268
sections 2152.19 and 2152.20 of the Revised Code. 16269

(3) If the court in which the child is convicted of or pleads 16270
guilty to the offense determines under division (B)(1) of this 16271
section that, had a complaint been filed in juvenile court 16272
alleging that the child was a delinquent child for committing an 16273
act that would be that offense if committed by an adult, division 16274
(A) of section 2152.12 of the Revised Code would not have required 16275
mandatory transfer of the case but division (B) of that section 16276
would have allowed discretionary transfer of the case, the court 16277
shall determine the sentence it believes should be imposed upon 16278
the child under Chapter 2929. of the Revised Code, shall impose 16279
that sentence upon the child, and shall stay that sentence pending 16280
completion of the procedures specified in this division. Upon 16281
imposition and staying of the sentence, the court shall transfer 16282
jurisdiction of the case back to the juvenile court that initially 16283
transferred the case and the juvenile court shall proceed in 16284
accordance with this division. In no case may the child waive a 16285
right to a hearing of the type described in division (B)(3)(b) of 16286
this section, regarding a motion filed as described in that 16287
division by the prosecuting attorney in the case. Upon transfer of 16288
jurisdiction of the case back to the juvenile court, both of the 16289
following apply: 16290

(a) Except as otherwise provided in division (B)(3)(b) of 16291
this section, the juvenile court shall impose a serious youthful 16292
offender dispositional sentence upon the child under division 16293
(D)(1) of section 2152.13 of the Revised Code. In imposing the 16294
adult portion of that sentence, the juvenile court shall consider 16295
and give preference to the sentence imposed upon the child by the 16296
court in which the child was convicted of or pleaded guilty to the 16297
offense. Upon imposing a serious youthful offender dispositional 16298

sentence upon the child as described in this division, the 16299
juvenile court shall notify the court in which the child was 16300
convicted of or pleaded guilty to the offense, the sentence 16301
imposed upon the child by that court shall terminate, the court 16302
and all other agencies that have any record of the conviction of 16303
the child shall expunge the conviction or guilty plea and all 16304
records of it, the conviction or guilty plea shall be considered 16305
and treated for all purposes other than as provided in this 16306
section to have never occurred, and the conviction or guilty plea 16307
shall be considered and treated for all purposes other than as 16308
provided in this section to have been a delinquent child 16309
adjudication of the child. 16310

(b) Upon the transfer, the prosecuting attorney in the case 16311
may file a motion in the juvenile court that objects to the 16312
imposition of a serious youthful offender dispositional sentence 16313
upon the child and requests that the sentence imposed upon the 16314
child by the court in which the child was convicted of or pleaded 16315
guilty to the offense be invoked. Upon the filing of a motion 16316
under this division, the juvenile court shall hold a hearing to 16317
determine whether the child is not amenable to care or 16318
rehabilitation within the juvenile system and whether the safety 16319
of the community may require that the child be subject solely to 16320
adult sanctions. If the juvenile court at the hearing finds that 16321
the child is not amenable to care or rehabilitation within the 16322
juvenile system or that the safety of the community may require 16323
that the child be subject solely to adult sanctions, the court 16324
shall grant the motion. Absent such a finding, the juvenile court 16325
shall deny the motion. In making its decision under this division, 16326
the juvenile court shall consider the factors listed in division 16327
(D) of section 2152.12 of the Revised Code as factors indicating 16328
that the motion should be granted, shall consider the factors 16329
listed in division (E) of that section as factors indicating that 16330
the motion should not be granted, and shall consider whether the 16331

applicable factors listed in division (D) of that section outweigh 16332
the applicable factors listed in division (E) of that section. 16333

If the juvenile court grants the motion of the prosecuting 16334
attorney under this division, the juvenile court shall transfer 16335
jurisdiction of the case back to the court in which the child was 16336
convicted of or pleaded guilty to the offense, and the sentence 16337
imposed by that court shall be invoked. If the juvenile court 16338
denies the motion of the prosecuting attorney under this section, 16339
the juvenile court shall impose a serious youthful offender 16340
dispositional sentence upon the child in accordance with division 16341
(B)(3)(a) of this section. 16342

(4) If the court in which the child is convicted of or pleads 16343
guilty to the offense determines under division (B)(1) of this 16344
section that, had a complaint been filed in juvenile court 16345
alleging that the child was a delinquent child for committing an 16346
act that would be that offense if committed by an adult, division 16347
(A) of section 2152.12 of the Revised Code would have required 16348
mandatory transfer of the case, the court shall impose sentence 16349
upon the child under Chapter 2929. of the Revised Code. 16350

Sec. 2152.22. (A) When a child is committed to the legal 16351
custody of the department of youth services under this chapter, 16352
the juvenile court relinquishes control with respect to the child 16353
so committed, except as provided in divisions (B), (C), (D), and 16354
(H) of this section or in sections 2152.82 to 2152.86 of the 16355
Revised Code. Subject to divisions (B), (C), and (D) of this 16356
section, sections 2151.353 and 2151.412 to 2151.421 of the Revised 16357
Code, sections 2152.82 to 2152.86 of the Revised Code, and any 16358
other provision of law that specifies a different duration for a 16359
dispositional order, all other dispositional orders made by the 16360
court under this chapter shall be temporary and shall continue for 16361
a period that is designated by the court in its order, until 16362

terminated or modified by the court or until the child attains 16363
twenty-one years of age. 16364

The department shall not release the child from a department 16365
facility and as a result shall not discharge the child or order 16366
the child's release on supervised release prior to the expiration 16367
of the minimum period specified by the court in division (A)(1) of 16368
section 2152.16 of the Revised Code and any term of commitment 16369
imposed under section 2152.17 of the Revised Code or prior to the 16370
child's attainment of twenty-one years of age, except upon the 16371
order of a court pursuant to division (B), (C), or (D) of this 16372
section or in accordance with section 5139.54 of the Revised Code. 16373

(B)(1) ~~The~~ Unless the court grants judicial release under 16374
division (D)(1)(b) of this section, the court that commits a 16375
delinquent child to the department of youth services may grant 16376
judicial release of the child to court supervision under this 16377
division during the first half of the prescribed minimum term for 16378
which the child was committed to the department or, if the child 16379
was committed to the department until the child attains twenty-one 16380
years of age, during the first half of the prescribed period of 16381
commitment that begins on the first day of commitment and ends on 16382
the child's twenty-first birthday, provided any commitment imposed 16383
under division (A), (B), (C), or (D) of section 2152.17 of the 16384
Revised Code has ended. 16385

(2) If the department desires to release a child during a 16386
period specified in division (B)(1) of this section, it shall 16387
request the court that committed the child to grant a judicial 16388
release of the child to court supervision under this division. 16389
During whichever of those periods is applicable, the child or the 16390
parents of the child also may request that court to grant a 16391
judicial release of the child to court supervision. Upon receipt 16392
of a request for a judicial release to court supervision under 16393
this division from the department, the child, or the child's 16394

parent, or upon its own motion, the court that committed the child 16395
shall do one of the following: approve the release by journal 16396
entry; schedule within thirty days after the request is received a 16397
time for a hearing on whether the child is to be released; or 16398
reject the request by journal entry without conducting a hearing. 16399

If the court rejects an initial request for a release under 16400
this division by the child or the child's parent, the child or the 16401
child's parent may make one additional request for a judicial 16402
release to court supervision within the applicable period. The 16403
additional request may be made no earlier than thirty days after 16404
the filing of the prior request for a judicial release to court 16405
supervision. Upon the filing of a second request for a judicial 16406
release to court supervision, the court shall either approve or 16407
disapprove the release by journal entry or schedule within thirty 16408
days after the request is received a time for a hearing on whether 16409
the child is to be released. 16410

(3) If a court schedules a hearing under division (B)(2) of 16411
this section, it may order the department to deliver the child to 16412
the court on the date set for the hearing and may order the 16413
department to present to the court a report on the child's 16414
progress in the institution to which the child was committed and 16415
recommendations for conditions of supervision of the child by the 16416
court after release. The court may conduct the hearing without the 16417
child being present. The court shall determine at the hearing 16418
whether the child should be granted a judicial release to court 16419
supervision. 16420

If the court approves the release under this division, it 16421
shall order its staff to prepare a written treatment and 16422
rehabilitation plan for the child that may include any conditions 16423
of the child's release that were recommended by the department and 16424
approved by the court. The committing court shall send the 16425
juvenile court of the county in which the child is placed a copy 16426

of the recommended plan. The court of the county in which the child is placed may adopt the recommended conditions set by the committing court as an order of the court and may add any additional consistent conditions it considers appropriate. If a child is granted a judicial release to court supervision, the release discharges the child from the custody of the department of youth services.

(C)(1) ~~The~~ Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to department of youth services supervision under this division during the second half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the second half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (C)(1) of this section, it shall request the court that committed the child to grant a judicial release to department of youth services supervision. During whichever of those periods is applicable, the child or the child's parent also may request the court that committed the child to grant a judicial release to department of youth services supervision. Upon receipt of a request for judicial release to department of youth services supervision, the child, or the child's parent, or upon its own motion at any time during that period, the court shall do one of the following: approve the release by journal entry; schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be

released; or reject the request by journal entry without 16459
conducting a hearing. 16460

If the court rejects an initial request for release under 16461
this division by the child or the child's parent, the child or the 16462
child's parent may make one or more subsequent requests for a 16463
release within the applicable period, but may make no more than 16464
one request during each period of ninety days that the child is in 16465
a secure department facility after the filing of a prior request 16466
for early release. Upon the filing of a request for release under 16467
this division subsequent to an initial request, the court shall 16468
either approve or disapprove the release by journal entry or 16469
schedule a time within thirty days after receipt of the request 16470
for a hearing on whether the child is to be released. 16471

(3) If a court schedules a hearing under division (C)(2) of 16472
this section, it may order the department to deliver the child to 16473
the court on the date set for the hearing and shall order the 16474
department to present to the court at that time a treatment plan 16475
for the child's post-institutional care. The court may conduct the 16476
hearing without the child being present. The court shall determine 16477
at the hearing whether the child should be granted a judicial 16478
release to department of youth services supervision. 16479

If the court approves the judicial release to department of 16480
youth services supervision, the department shall prepare a written 16481
treatment and rehabilitation plan for the child pursuant to 16482
division (F) of this section that shall include the conditions of 16483
the child's release. It shall send the committing court and the 16484
juvenile court of the county in which the child is placed a copy 16485
of the plan. The court of the county in which the child is placed 16486
may adopt the conditions set by the department as an order of the 16487
court and may add any additional consistent conditions it 16488
considers appropriate, provided that the court may not add any 16489
condition that decreases the level or degree of supervision 16490

specified by the department in its plan, that substantially 16491
increases the financial burden of supervision that will be 16492
experienced by the department, or that alters the placement 16493
specified by the department in its plan. If the court of the 16494
county in which the child is placed adds to the department's plan 16495
any additional conditions, it shall enter those additional 16496
conditions in its journal and shall send to the department a copy 16497
of the journal entry of the additional conditions. 16498

If the court approves the judicial release to department of 16499
youth services supervision, the actual date on which the 16500
department shall release the child is contingent upon the 16501
department finding a suitable placement for the child. If the 16502
child is to be returned to the child's home, the department shall 16503
return the child on the date that the court schedules for the 16504
child's release or shall bear the expense of any additional time 16505
that the child remains in a department facility. If the child is 16506
unable to return to the child's home, the department shall 16507
exercise reasonable diligence in finding a suitable placement for 16508
the child, and the child shall remain in a department facility 16509
while the department finds the suitable placement. 16510

(D)(1) Subject to division (D)(3) of this section, the court 16511
that commits a delinquent child to the department of youth 16512
services may grant judicial release of the child under this 16513
division at any time after the expiration of one of the following 16514
periods of time: 16515

(a) Except as otherwise provided in division (D)(1)(b) of 16516
this section, if the child was committed to the department for a 16517
prescribed minimum period and a maximum period not to exceed the 16518
child's attainment of twenty-one years, the court may grant 16519
judicial release of the child at any time after the expiration of 16520
the prescribed minimum term for which the child was committed to 16521
the department. 16522

(b) If the child was committed to the department for both one 16523
or more definite periods under division (A), (B), (C), or (D) of 16524
section 2152.17 of the Revised Code and a period of the type 16525
described in division (D)(1)(a) of this section, all of the 16526
prescribed minimum periods of commitment imposed under division 16527
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 16528
the prescribed period of commitment of the type described in 16529
division (D)(1)(a) of this section shall be aggregated for 16530
purposes of this division, and the court may grant judicial 16531
release of the child at any time after the expiration of one year 16532
after the child begins serving the aggregate period of commitment. 16533

(2) If a court grants a judicial release of a child under 16534
division (D)(1) of this section, the release shall be a judicial 16535
release to department of youth services supervision, if the 16536
release is granted during a period described in division (C)(1) of 16537
this section, and the second and third paragraphs of division 16538
(C)(3) of this section apply regarding the release. In all other 16539
cases, the release shall be a judicial release to court 16540
supervision, and the second paragraph of division (B)(3) of this 16541
section applies regarding the release. 16542

(3) A court at the time of making the disposition of a child 16543
shall provide notice in the order of disposition that the judge is 16544
retaining jurisdiction over the child for the purpose of a 16545
possible grant of judicial release of the child under division 16546
(D)(1) of this section. The failure of a court to provide this 16547
notice does not affect the authority of the court to grant a 16548
judicial release under that division and does not constitute 16549
grounds for setting aside the child's delinquent child 16550
adjudication or disposition or for granting any post-adjudication 16551
relief to the child. 16552

(4) The department of youth services, a child committed to 16553
the department, or the parents of the child, during a period 16554

specified in division (D)(1) of this section, may request the court that committed the child to grant a judicial release of the child under that division. Upon receipt of a request for judicial release of a child under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following:

(a) Approve the request by journal entry;

(b) Schedule within thirty days after the request is received a time for a hearing on whether the child is to be released;

(c) Reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, division (C)(2) of this section applies regarding the making of additional requests.

If the court schedules a hearing under this division to consider the judicial release, the first paragraph of division (B)(3) of this section applies regarding the hearing.

(E) If a child is released under division (B), (C), or (D) of this section and the court of the county in which the child is placed has reason to believe that the child's department is not in accordance with the conditions of the child's judicial release, the court of the county in which the child is placed shall schedule a time for a hearing to determine whether the child violated any of the post-release conditions, and, if the child was released under division (C) of this section or under division (D) of this section under department supervision, divisions (A) to (E) of section 5139.52 of the Revised Code apply regarding the child.

If that court determines at the hearing that the child violated any of the post-release conditions, the court, if it determines that the violation was a serious violation, may order

the child to be returned to the department for 16586
institutionalization, consistent with the original order of 16587
commitment of the child, or in any case may make any other 16588
disposition of the child authorized by law that the court 16589
considers proper. If the court of the county in which the child is 16590
placed orders the child to be returned to a department of youth 16591
services institution, the time during which the child was held in 16592
a secure department facility prior to the child's judicial release 16593
shall be considered as time served in fulfilling the prescribed 16594
period of institutionalization that is applicable to the child 16595
under the child's original order of commitment. If the court 16596
orders the child returned to a department institution, the child 16597
shall remain in institutional care for a minimum of three months 16598
or until the child successfully completes a revocation program of 16599
a duration of not less than thirty days operated either by the 16600
department or by an entity with which the department has 16601
contracted to provide a revocation program. 16602

(F) The department of youth services, prior to the release of 16603
a child pursuant to division (C) of this section or pursuant to 16604
division (D) of this section on department supervision, shall do 16605
all of the following: 16606

(1) After reviewing the child's rehabilitative progress 16607
history and medical and educational records, prepare a written 16608
treatment and rehabilitation plan for the child that includes 16609
conditions of the release; 16610

(2) Completely discuss the conditions of the plan prepared 16611
pursuant to division (F)(1) of this section and the possible 16612
penalties for violation of the plan with the child and the child's 16613
parents, guardian, or legal custodian; 16614

(3) Have the plan prepared pursuant to division (F)(1) of 16615
this section signed by the child, the child's parents, legal 16616
guardian, or custodian, and any authority or person that is to 16617

supervise, control, and provide supportive assistance to the child 16618
at the time of the child's release pursuant to division (C) or (D) 16619
of this section; 16620

(4) Prior to the child's release, file a copy of the 16621
treatment plan prepared pursuant to division (F)(1) of this 16622
section with the committing court and the juvenile court of the 16623
county in which the child is to be placed. 16624

(G) The department of youth services shall file a written 16625
progress report with the committing court regarding each child 16626
released pursuant to division (C) of this section or released 16627
pursuant to division (D) of this section on judicial release to 16628
department supervision at least once every thirty days unless 16629
specifically directed otherwise by the court. The report shall 16630
indicate the treatment and rehabilitative progress of the child 16631
and the child's family, if applicable, and shall include any 16632
suggestions for altering the program, custody, living 16633
arrangements, or treatment. The department shall retain legal 16634
custody of a child so released until it discharges the child or 16635
until the custody is terminated as otherwise provided by law. 16636

(H) When a child is committed to the legal custody of the 16637
department of youth services, the court retains jurisdiction to 16638
perform the functions specified in section 5139.51 of the Revised 16639
Code with respect to the granting of supervised release by the 16640
release authority and to perform the functions specified in 16641
section 5139.52 of the Revised Code with respect to violations of 16642
the conditions of supervised release granted by the release 16643
authority and to the revocation of supervised release granted by 16644
the release authority. 16645

Sec. 2301.01. There shall be a court of common pleas in each 16646
county held by one or more judges, each of whom has been admitted 16647
to practice as an attorney at law in this state and has, for a 16648

total of at least six years preceding the judge's appointment or 16649
commencement of the judge's term, engaged in the practice of law 16650
in this state or served as a judge of a court of record in any 16651
jurisdiction in the United States, or both, resides in the county, 16652
and is elected by the electors therein. ~~At least two of the years~~ 16653
~~of practice or service that qualify a judge shall have been in~~ 16654
~~this state.~~ Each judge shall be elected for six years at the 16655
general election immediately preceding the year in which the term, 16656
as provided in sections 2301.02 and 2301.03 of the Revised Code, 16657
commences, and the judge's successor shall be elected at the 16658
general election immediately preceding the expiration of that 16659
term. 16660

Sec. 2301.03. (A) In Franklin county, the judges of the court 16661
of common pleas whose terms begin on January 1, 1953, January 2, 16662
1953, January 5, 1969, January 5, 1977, and January 2, 1997, and 16663
successors, shall have the same qualifications, exercise the same 16664
powers and jurisdiction, and receive the same compensation as 16665
other judges of the court of common pleas of Franklin county and 16666
shall be elected and designated as judges of the court of common 16667
pleas, division of domestic relations. They shall have all the 16668
powers relating to juvenile courts, and all cases under Chapters 16669
2151. and 2152. of the Revised Code, all parentage proceedings 16670
under Chapter 3111. of the Revised Code over which the juvenile 16671
court has jurisdiction, and all divorce, dissolution of marriage, 16672
legal separation, and annulment cases shall be assigned to them. 16673
In addition to the judge's regular duties, the judge who is senior 16674
in point of service shall serve on the children services board and 16675
the county advisory board and shall be the administrator of the 16676
domestic relations division and its subdivisions and departments. 16677

(B) In Hamilton county: 16678
16679

(1) The judge of the court of common pleas, whose term begins 16680
on January 1, 1957, and successors, and the judge of the court of 16681
common pleas, whose term begins on February 14, 1967, and 16682
successors, shall be the juvenile judges as provided in Chapters 16683
2151. and 2152. of the Revised Code, with the powers and 16684
jurisdiction conferred by those chapters. 16685

(2) The judges of the court of common pleas whose terms begin 16686
on January 5, 1957, January 16, 1981, and July 1, 1991, and 16687
successors, shall be elected and designated as judges of the court 16688
of common pleas, division of domestic relations, and shall have 16689
assigned to them all divorce, dissolution of marriage, legal 16690
separation, and annulment cases coming before the court. On or 16691
after the first day of July and before the first day of August of 16692
1991 and each year thereafter, a majority of the judges of the 16693
division of domestic relations shall elect one of the judges of 16694
the division as administrative judge of that division. If a 16695
majority of the judges of the division of domestic relations are 16696
unable for any reason to elect an administrative judge for the 16697
division before the first day of August, a majority of the judges 16698
of the Hamilton county court of common pleas, as soon as possible 16699
after that date, shall elect one of the judges of the division of 16700
domestic relations as administrative judge of that division. The 16701
term of the administrative judge shall begin on the earlier of the 16702
first day of August of the year in which the administrative judge 16703
is elected or the date on which the administrative judge is 16704
elected by a majority of the judges of the Hamilton county court 16705
of common pleas and shall terminate on the date on which the 16706
administrative judge's successor is elected in the following year. 16707

In addition to the judge's regular duties, the administrative 16708
judge of the division of domestic relations shall be the 16709
administrator of the domestic relations division and its 16710
subdivisions and departments and shall have charge of the 16711

employment, assignment, and supervision of the personnel of the 16712
division engaged in handling, servicing, or investigating divorce, 16713
dissolution of marriage, legal separation, and annulment cases, 16714
including any referees considered necessary by the judges in the 16715
discharge of their various duties. 16716

The administrative judge of the division of domestic 16717
relations also shall designate the title, compensation, expense 16718
allowances, hours, leaves of absence, and vacations of the 16719
personnel of the division, and shall fix the duties of its 16720
personnel. The duties of the personnel, in addition to those 16721
provided for in other sections of the Revised Code, shall include 16722
the handling, servicing, and investigation of divorce, dissolution 16723
of marriage, legal separation, and annulment cases and counseling 16724
and conciliation services that may be made available to persons 16725
requesting them, whether or not the persons are parties to an 16726
action pending in the division. 16727

The board of county commissioners shall appropriate the sum 16728
of money each year as will meet all the administrative expenses of 16729
the division of domestic relations, including reasonable expenses 16730
of the domestic relations judges and the division counselors and 16731
other employees designated to conduct the handling, servicing, and 16732
investigation of divorce, dissolution of marriage, legal 16733
separation, and annulment cases, conciliation and counseling, and 16734
all matters relating to those cases and counseling, and the 16735
expenses involved in the attendance of division personnel at 16736
domestic relations and welfare conferences designated by the 16737
division, and the further sum each year as will provide for the 16738
adequate operation of the division of domestic relations. 16739

The compensation and expenses of all employees and the salary 16740
and expenses of the judges shall be paid by the county treasurer 16741
from the money appropriated for the operation of the division, 16742
upon the warrant of the county auditor, certified to by the 16743

administrative judge of the division of domestic relations. 16744

The summonses, warrants, citations, subpoenas, and other 16745
writs of the division may issue to a bailiff, constable, or staff 16746
investigator of the division or to the sheriff of any county or 16747
any marshal, constable, or police officer, and the provisions of 16748
law relating to the subpoenaing of witnesses in other cases shall 16749
apply insofar as they are applicable. When a summons, warrant, 16750
citation, subpoena, or other writ is issued to an officer, other 16751
than a bailiff, constable, or staff investigator of the division, 16752
the expense of serving it shall be assessed as a part of the costs 16753
in the case involved. 16754

(3) The judge of the court of common pleas of Hamilton county 16755
whose term begins on January 3, 1997, and the successors to that 16756
judge shall each be elected and designated as the drug court judge 16757
of the court of common pleas of Hamilton county. The drug court 16758
judge may accept or reject any case referred to the drug court 16759
judge under division (B)(3) of this section. After the drug court 16760
judge accepts a referred case, the drug court judge has full 16761
authority over the case, including the authority to conduct 16762
arraignment, accept pleas, enter findings and dispositions, 16763
conduct trials, order treatment, and if treatment is not 16764
successfully completed pronounce and enter sentence. 16765

A judge of the general division of the court of common pleas 16766
of Hamilton county and a judge of the Hamilton county municipal 16767
court may refer to the drug court judge any case, and any 16768
companion cases, the judge determines meet the criteria described 16769
under divisions (B)(3)(a) and (b) of this section. If the drug 16770
court judge accepts referral of a referred case, the case, and any 16771
companion cases, shall be transferred to the drug court judge. A 16772
judge may refer a case meeting the criteria described in divisions 16773
(B)(3)(a) and (b) of this section that involves a violation of a 16774
condition of a community control sanction to the drug court judge, 16775

and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B)(3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves an offense for which a community control sanction may be imposed or is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process. 16806
16807

(vi) The defendant has no acute health condition. 16808

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral. 16809
16810

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge. 16811
16812
16813
16814
16815
16816
16817
16818
16819
16820
16821

(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code. 16822
16823
16824
16825

(C)(1) In Lorain county: 16826

(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, 16827
16828
16829
16830
16831
16832
16833
16834
16835
16836

shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas. From February 9, 2009, through September 28, 2009, the judge of the court of common pleas whose term begins on February 9, 2009, shall have all the powers relating to juvenile courts, and cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to that judge, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(b) From January 1, 2006, through September 28, 2009, the judges of the court of common pleas, division of domestic relations, in addition to the powers and jurisdiction set forth in division (C)(1)(a) of this section, shall have jurisdiction over matters that are within the jurisdiction of the probate court under Chapter 2101. and other provisions of the Revised Code.

(c) The judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, is the successor to the probate judge who was elected in 2002 for a term that began on February 9, 2003. After September 28, 2009, the judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, shall be the probate judge.

(2)(a) From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the probate court shall be construed as references to the court of common pleas, division of domestic relations, and all references

to the probate judge shall be construed as references to the 16869
judges of the court of common pleas, division of domestic 16870
relations. 16871

(b) From February 9, 2009, through September 28, 2009, with 16872
respect to Lorain county, all references in law to the clerk of 16873
the probate court shall be construed as references to the judge 16874
who is serving pursuant to Rule 4 of the Rules of Superintendence 16875
for the Courts of Ohio as the administrative judge of the court of 16876
common pleas, division of domestic relations. 16877

(D) In Lucas county: 16878

(1) The judges of the court of common pleas whose terms begin 16879
on January 1, 1955, and January 3, 1965, and successors, shall 16880
have the same qualifications, exercise the same powers and 16881
jurisdiction, and receive the same compensation as other judges of 16882
the court of common pleas of Lucas county and shall be elected and 16883
designated as judges of the court of common pleas, division of 16884
domestic relations. All divorce, dissolution of marriage, legal 16885
separation, and annulment cases shall be assigned to them. 16886

The judge of the division of domestic relations, senior in 16887
point of service, shall be considered as the presiding judge of 16888
the court of common pleas, division of domestic relations, and 16889
shall be charged exclusively with the assignment and division of 16890
the work of the division and the employment and supervision of all 16891
other personnel of the domestic relations division. 16892

(2) The judges of the court of common pleas whose terms begin 16893
on January 5, 1977, and January 2, 1991, and successors shall have 16894
the same qualifications, exercise the same powers and 16895
jurisdiction, and receive the same compensation as other judges of 16896
the court of common pleas of Lucas county, shall be elected and 16897
designated as judges of the court of common pleas, juvenile 16898
division, and shall be the juvenile judges as provided in Chapters 16899

2151. and 2152. of the Revised Code with the powers and 16900
jurisdictions conferred by those chapters. In addition to the 16901
judge's regular duties, the judge of the court of common pleas, 16902
juvenile division, senior in point of service, shall be the 16903
administrator of the juvenile division and its subdivisions and 16904
departments and shall have charge of the employment, assignment, 16905
and supervision of the personnel of the division engaged in 16906
handling, servicing, or investigating juvenile cases, including 16907
any referees considered necessary by the judges of the division in 16908
the discharge of their various duties. 16909

The judge of the court of common pleas, juvenile division, 16910
senior in point of service, also shall designate the title, 16911
compensation, expense allowance, hours, leaves of absence, and 16912
vacation of the personnel of the division and shall fix the duties 16913
of the personnel of the division. The duties of the personnel, in 16914
addition to other statutory duties include the handling, 16915
servicing, and investigation of juvenile cases and counseling and 16916
conciliation services that may be made available to persons 16917
requesting them, whether or not the persons are parties to an 16918
action pending in the division. 16919

(3) If one of the judges of the court of common pleas, 16920
division of domestic relations, or one of the judges of the 16921
juvenile division is sick, absent, or unable to perform that 16922
judge's judicial duties or the volume of cases pending in that 16923
judge's division necessitates it, the duties shall be performed by 16924
the judges of the other of those divisions. 16925

(E) In Mahoning county: 16926

(1) The judge of the court of common pleas whose term began 16927
on January 1, 1955, and successors, shall have the same 16928
qualifications, exercise the same powers and jurisdiction, and 16929
receive the same compensation as other judges of the court of 16930
common pleas of Mahoning county, shall be elected and designated 16931

as judge of the court of common pleas, division of domestic 16932
relations, and shall be assigned all the divorce, dissolution of 16933
marriage, legal separation, and annulment cases coming before the 16934
court. In addition to the judge's regular duties, the judge of the 16935
court of common pleas, division of domestic relations, shall be 16936
the administrator of the domestic relations division and its 16937
subdivisions and departments and shall have charge of the 16938
employment, assignment, and supervision of the personnel of the 16939
division engaged in handling, servicing, or investigating divorce, 16940
dissolution of marriage, legal separation, and annulment cases, 16941
including any referees considered necessary in the discharge of 16942
the various duties of the judge's office. 16943

The judge also shall designate the title, compensation, 16944
expense allowances, hours, leaves of absence, and vacations of the 16945
personnel of the division and shall fix the duties of the 16946
personnel of the division. The duties of the personnel, in 16947
addition to other statutory duties, include the handling, 16948
servicing, and investigation of divorce, dissolution of marriage, 16949
legal separation, and annulment cases and counseling and 16950
conciliation services that may be made available to persons 16951
requesting them, whether or not the persons are parties to an 16952
action pending in the division. 16953

(2) The judge of the court of common pleas whose term began 16954
on January 2, 1969, and successors, shall have the same 16955
qualifications, exercise the same powers and jurisdiction, and 16956
receive the same compensation as other judges of the court of 16957
common pleas of Mahoning county, shall be elected and designated 16958
as judge of the court of common pleas, juvenile division, and 16959
shall be the juvenile judge as provided in Chapters 2151. and 16960
2152. of the Revised Code, with the powers and jurisdictions 16961
conferred by those chapters. In addition to the judge's regular 16962
duties, the judge of the court of common pleas, juvenile division, 16963

shall be the administrator of the juvenile division and its 16964
subdivisions and departments and shall have charge of the 16965
employment, assignment, and supervision of the personnel of the 16966
division engaged in handling, servicing, or investigating juvenile 16967
cases, including any referees considered necessary by the judge in 16968
the discharge of the judge's various duties. 16969

The judge also shall designate the title, compensation, 16970
expense allowances, hours, leaves of absence, and vacation of the 16971
personnel of the division and shall fix the duties of the 16972
personnel of the division. The duties of the personnel, in 16973
addition to other statutory duties, include the handling, 16974
servicing, and investigation of juvenile cases and counseling and 16975
conciliation services that may be made available to persons 16976
requesting them, whether or not the persons are parties to an 16977
action pending in the division. 16978

(3) If a judge of the court of common pleas, division of 16979
domestic relations or juvenile division, is sick, absent, or 16980
unable to perform that judge's judicial duties, or the volume of 16981
cases pending in that judge's division necessitates it, that 16982
judge's duties shall be performed by another judge of the court of 16983
common pleas. 16984

(F) In Montgomery county: 16985

(1) The judges of the court of common pleas whose terms begin 16986
on January 2, 1953, and January 4, 1977, and successors, shall 16987
have the same qualifications, exercise the same powers and 16988
jurisdiction, and receive the same compensation as other judges of 16989
the court of common pleas of Montgomery county and shall be 16990
elected and designated as judges of the court of common pleas, 16991
division of domestic relations. These judges shall have assigned 16992
to them all divorce, dissolution of marriage, legal separation, 16993
and annulment cases. 16994

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, and 2301.18, ~~and 2301.19~~ of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence,

and vacation of the personnel of the division and shall fix their 17027
duties. The duties of the personnel, in addition to other 17028
statutory duties, shall include the handling, servicing, and 17029
investigation of juvenile cases and of any counseling and 17030
conciliation services that are available upon request to persons, 17031
whether or not they are parties to an action pending in the 17032
division. 17033

If one of the judges of the court of common pleas, division 17034
of domestic relations, or one of the judges of the court of common 17035
pleas, juvenile division, is sick, absent, or unable to perform 17036
that judge's duties or the volume of cases pending in that judge's 17037
division necessitates it, the duties of that judge may be 17038
performed by the judge or judges of the other of those divisions. 17039

(G) In Richland county: 17040

(1) The judge of the court of common pleas whose term begins 17041
on January 1, 1957, and successors, shall have the same 17042
qualifications, exercise the same powers and jurisdiction, and 17043
receive the same compensation as the other judges of the court of 17044
common pleas of Richland county and shall be elected and 17045
designated as judge of the court of common pleas, division of 17046
domestic relations. That judge shall be assigned and hear all 17047
divorce, dissolution of marriage, legal separation, and annulment 17048
cases, all domestic violence cases arising under section 3113.31 17049
of the Revised Code, and all post-decree proceedings arising from 17050
any case pertaining to any of those matters. The division of 17051
domestic relations has concurrent jurisdiction with the juvenile 17052
division of the court of common pleas of Richland county to 17053
determine the care, custody, or control of any child not a ward of 17054
another court of this state, and to hear and determine a request 17055
for an order for the support of any child if the request is not 17056
ancillary to an action for divorce, dissolution of marriage, 17057
annulment, or legal separation, a criminal or civil action 17058

involving an allegation of domestic violence, or an action for 17059
support brought under Chapter 3115. of the Revised Code. Except in 17060
cases that are subject to the exclusive original jurisdiction of 17061
the juvenile court, the judge of the division of domestic 17062
relations shall be assigned and hear all cases pertaining to 17063
paternity or parentage, the care, custody, or control of children, 17064
parenting time or visitation, child support, or the allocation of 17065
parental rights and responsibilities for the care of children, all 17066
proceedings arising under Chapter 3111. of the Revised Code, all 17067
proceedings arising under the uniform interstate family support 17068
act contained in Chapter 3115. of the Revised Code, and all 17069
post-decree proceedings arising from any case pertaining to any of 17070
those matters. 17071

In addition to the judge's regular duties, the judge of the 17072
court of common pleas, division of domestic relations, shall be 17073
the administrator of the domestic relations division and its 17074
subdivisions and departments. The judge shall have charge of the 17075
employment, assignment, and supervision of the personnel of the 17076
domestic relations division, including any magistrates the judge 17077
considers necessary for the discharge of the judge's duties. The 17078
judge shall also designate the title, compensation, expense 17079
allowances, hours, leaves of absence, vacation, and other 17080
employment-related matters of the personnel of the division and 17081
shall fix their duties. 17082

(2) The judge of the court of common pleas whose term begins 17083
on January 3, 2005, and successors, shall have the same 17084
qualifications, exercise the same powers and jurisdiction, and 17085
receive the same compensation as other judges of the court of 17086
common pleas of Richland county, shall be elected and designated 17087
as judge of the court of common pleas, juvenile division, and 17088
shall be, and have the powers and jurisdiction of, the juvenile 17089
judge as provided in Chapters 2151. and 2152. of the Revised Code. 17090

Except in cases that are subject to the exclusive original 17091
jurisdiction of the juvenile court, the judge of the juvenile 17092
division shall not have jurisdiction or the power to hear, and 17093
shall not be assigned, any case pertaining to paternity or 17094
parentage, the care, custody, or control of children, parenting 17095
time or visitation, child support, or the allocation of parental 17096
rights and responsibilities for the care of children or any 17097
post-decree proceeding arising from any case pertaining to any of 17098
those matters. The judge of the juvenile division shall not have 17099
jurisdiction or the power to hear, and shall not be assigned, any 17100
proceeding under the uniform interstate family support act 17101
contained in Chapter 3115. of the Revised Code. 17102

In addition to the judge's regular duties, the judge of the 17103
juvenile division shall be the administrator of the juvenile 17104
division and its subdivisions and departments. The judge shall 17105
have charge of the employment, assignment, and supervision of the 17106
personnel of the juvenile division who are engaged in handling, 17107
servicing, or investigating juvenile cases, including any 17108
magistrates whom the judge considers necessary for the discharge 17109
of the judge's various duties. 17110

The judge of the juvenile division also shall designate the 17111
title, compensation, expense allowances, hours, leaves of absence, 17112
and vacation of the personnel of the division and shall fix their 17113
duties. The duties of the personnel, in addition to other 17114
statutory duties, include the handling, servicing, and 17115
investigation of juvenile cases and providing any counseling, 17116
conciliation, and mediation services that the court makes 17117
available to persons, whether or not the persons are parties to an 17118
action pending in the court, who request the services. 17119

(H) In Stark county, the judges of the court of common pleas 17120
whose terms begin on January 1, 1953, January 2, 1959, and January 17121
1, 1993, and successors, shall have the same qualifications, 17122

exercise the same powers and jurisdiction, and receive the same 17123
compensation as other judges of the court of common pleas of Stark 17124
county and shall be elected and designated as judges of the court 17125
of common pleas, division of domestic relations. They shall have 17126
all the powers relating to juvenile courts, and all cases under 17127
Chapters 2151. and 2152. of the Revised Code, all parentage 17128
proceedings over which the juvenile court has jurisdiction, and 17129
all divorce, dissolution of marriage, legal separation, and 17130
annulment cases, except cases that are assigned to some other 17131
judge of the court of common pleas for some special reason, shall 17132
be assigned to the judges. 17133

The judge of the division of domestic relations, second most 17134
senior in point of service, shall have charge of the employment 17135
and supervision of the personnel of the division engaged in 17136
handling, servicing, or investigating divorce, dissolution of 17137
marriage, legal separation, and annulment cases, and necessary 17138
referees required for the judge's respective court. 17139

The judge of the division of domestic relations, senior in 17140
point of service, shall be charged exclusively with the 17141
administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 17142
of the Revised Code and with the assignment and division of the 17143
work of the division and the employment and supervision of all 17144
other personnel of the division, including, but not limited to, 17145
that judge's necessary referees, but excepting those employees who 17146
may be appointed by the judge second most senior in point of 17147
service. The senior judge further shall serve in every other 17148
position in which the statutes permit or require a juvenile judge 17149
to serve. 17150

(I) In Summit county: 17151

(1) The judges of the court of common pleas whose terms begin 17152
on January 4, 1967, and January 6, 1993, and successors, shall 17153
have the same qualifications, exercise the same powers and 17154

jurisdiction, and receive the same compensation as other judges of 17155
the court of common pleas of Summit county and shall be elected 17156
and designated as judges of the court of common pleas, division of 17157
domestic relations. The judges of the division of domestic 17158
relations shall have assigned to them and hear all divorce, 17159
dissolution of marriage, legal separation, and annulment cases 17160
that come before the court. Except in cases that are subject to 17161
the exclusive original jurisdiction of the juvenile court, the 17162
judges of the division of domestic relations shall have assigned 17163
to them and hear all cases pertaining to paternity, custody, 17164
visitation, child support, or the allocation of parental rights 17165
and responsibilities for the care of children and all post-decree 17166
proceedings arising from any case pertaining to any of those 17167
matters. The judges of the division of domestic relations shall 17168
have assigned to them and hear all proceedings under the uniform 17169
interstate family support act contained in Chapter 3115. of the 17170
Revised Code. 17171

The judge of the division of domestic relations, senior in 17172
point of service, shall be the administrator of the domestic 17173
relations division and its subdivisions and departments and shall 17174
have charge of the employment, assignment, and supervision of the 17175
personnel of the division, including any necessary referees, who 17176
are engaged in handling, servicing, or investigating divorce, 17177
dissolution of marriage, legal separation, and annulment cases. 17178
That judge also shall designate the title, compensation, expense 17179
allowances, hours, leaves of absence, and vacations of the 17180
personnel of the division and shall fix their duties. The duties 17181
of the personnel, in addition to other statutory duties, shall 17182
include the handling, servicing, and investigation of divorce, 17183
dissolution of marriage, legal separation, and annulment cases and 17184
of any counseling and conciliation services that are available 17185
upon request to all persons, whether or not they are parties to an 17186
action pending in the division. 17187

(2) The judge of the court of common pleas whose term begins 17188
on January 1, 1955, and successors, shall have the same 17189
qualifications, exercise the same powers and jurisdiction, and 17190
receive the same compensation as other judges of the court of 17191
common pleas of Summit county, shall be elected and designated as 17192
judge of the court of common pleas, juvenile division, and shall 17193
be, and have the powers and jurisdiction of, the juvenile judge as 17194
provided in Chapters 2151. and 2152. of the Revised Code. Except 17195
in cases that are subject to the exclusive original jurisdiction 17196
of the juvenile court, the judge of the juvenile division shall 17197
not have jurisdiction or the power to hear, and shall not be 17198
assigned, any case pertaining to paternity, custody, visitation, 17199
child support, or the allocation of parental rights and 17200
responsibilities for the care of children or any post-decree 17201
proceeding arising from any case pertaining to any of those 17202
matters. The judge of the juvenile division shall not have 17203
jurisdiction or the power to hear, and shall not be assigned, any 17204
proceeding under the uniform interstate family support act 17205
contained in Chapter 3115. of the Revised Code. 17206

The juvenile judge shall be the administrator of the juvenile 17207
division and its subdivisions and departments and shall have 17208
charge of the employment, assignment, and supervision of the 17209
personnel of the juvenile division, including any necessary 17210
referees, who are engaged in handling, servicing, or investigating 17211
juvenile cases. The judge also shall designate the title, 17212
compensation, expense allowances, hours, leaves of absence, and 17213
vacation of the personnel of the division and shall fix their 17214
duties. The duties of the personnel, in addition to other 17215
statutory duties, shall include the handling, servicing, and 17216
investigation of juvenile cases and of any counseling and 17217
conciliation services that are available upon request to persons, 17218
whether or not they are parties to an action pending in the 17219
division. 17220

(J) In Trumbull county, the judges of the court of common 17221
pleas whose terms begin on January 1, 1953, and January 2, 1977, 17222
and successors, shall have the same qualifications, exercise the 17223
same powers and jurisdiction, and receive the same compensation as 17224
other judges of the court of common pleas of Trumbull county and 17225
shall be elected and designated as judges of the court of common 17226
pleas, division of domestic relations. They shall have all the 17227
powers relating to juvenile courts, and all cases under Chapters 17228
2151. and 2152. of the Revised Code, all parentage proceedings 17229
over which the juvenile court has jurisdiction, and all divorce, 17230
dissolution of marriage, legal separation, and annulment cases 17231
shall be assigned to them, except cases that for some special 17232
reason are assigned to some other judge of the court of common 17233
pleas. 17234

(K) In Butler county: 17235

(1) The judges of the court of common pleas whose terms begin 17236
on January 1, 1957, and January 4, 1993, and successors, shall 17237
have the same qualifications, exercise the same powers and 17238
jurisdiction, and receive the same compensation as other judges of 17239
the court of common pleas of Butler county and shall be elected 17240
and designated as judges of the court of common pleas, division of 17241
domestic relations. The judges of the division of domestic 17242
relations shall have assigned to them all divorce, dissolution of 17243
marriage, legal separation, and annulment cases coming before the 17244
court, except in cases that for some special reason are assigned 17245
to some other judge of the court of common pleas. The judges of 17246
the division of domestic relations also have concurrent 17247
jurisdiction with judges of the juvenile division of the court of 17248
common pleas of Butler county with respect to and may hear cases 17249
to determine the custody, support, or custody and support of a 17250
child who is born of issue of a marriage and who is not the ward 17251
of another court of this state, cases commenced by a party of the 17252

marriage to obtain an order requiring support of any child when 17253
the request for that order is not ancillary to an action for 17254
divorce, dissolution of marriage, annulment, or legal separation, 17255
a criminal or civil action involving an allegation of domestic 17256
violence, an action for support under Chapter 3115. of the Revised 17257
Code, or an action that is within the exclusive original 17258
jurisdiction of the juvenile division of the court of common pleas 17259
of Butler county and that involves an allegation that the child is 17260
an abused, neglected, or dependent child, and post-decree 17261
proceedings and matters arising from those types of cases. The 17262
judge senior in point of service shall be charged with the 17263
assignment and division of the work of the division and with the 17264
employment and supervision of all other personnel of the domestic 17265
relations division. 17266

The judge senior in point of service also shall designate the 17267
title, compensation, expense allowances, hours, leaves of absence, 17268
and vacations of the personnel of the division and shall fix their 17269
duties. The duties of the personnel, in addition to other 17270
statutory duties, shall include the handling, servicing, and 17271
investigation of divorce, dissolution of marriage, legal 17272
separation, and annulment cases and providing any counseling and 17273
conciliation services that the division makes available to 17274
persons, whether or not the persons are parties to an action 17275
pending in the division, who request the services. 17276

(2) The judges of the court of common pleas whose terms begin 17277
on January 3, 1987, and January 2, 2003, and successors, shall 17278
have the same qualifications, exercise the same powers and 17279
jurisdiction, and receive the same compensation as other judges of 17280
the court of common pleas of Butler county, shall be elected and 17281
designated as judges of the court of common pleas, juvenile 17282
division, and shall be the juvenile judges as provided in Chapters 17283
2151. and 2152. of the Revised Code, with the powers and 17284

jurisdictions conferred by those chapters. Except in cases that 17285
are subject to the exclusive original jurisdiction of the juvenile 17286
court, the judges of the juvenile division shall not have 17287
jurisdiction or the power to hear and shall not be assigned, but 17288
shall have the limited ability and authority to certify, any case 17289
commenced by a party of a marriage to determine the custody, 17290
support, or custody and support of a child who is born of issue of 17291
the marriage and who is not the ward of another court of this 17292
state when the request for the order in the case is not ancillary 17293
to an action for divorce, dissolution of marriage, annulment, or 17294
legal separation. The judge of the court of common pleas, juvenile 17295
division, who is senior in point of service, shall be the 17296
administrator of the juvenile division and its subdivisions and 17297
departments. The judge, senior in point of service, shall have 17298
charge of the employment, assignment, and supervision of the 17299
personnel of the juvenile division who are engaged in handling, 17300
servicing, or investigating juvenile cases, including any referees 17301
whom the judge considers necessary for the discharge of the 17302
judge's various duties. 17303

The judge, senior in point of service, also shall designate 17304
the title, compensation, expense allowances, hours, leaves of 17305
absence, and vacation of the personnel of the division and shall 17306
fix their duties. The duties of the personnel, in addition to 17307
other statutory duties, include the handling, servicing, and 17308
investigation of juvenile cases and providing any counseling and 17309
conciliation services that the division makes available to 17310
persons, whether or not the persons are parties to an action 17311
pending in the division, who request the services. 17312

(3) If a judge of the court of common pleas, division of 17313
domestic relations or juvenile division, is sick, absent, or 17314
unable to perform that judge's judicial duties or the volume of 17315
cases pending in the judge's division necessitates it, the duties 17316

of that judge shall be performed by the other judges of the 17317
domestic relations and juvenile divisions. 17318

(L)(1) In Cuyahoga county, the judges of the court of common 17319
pleas whose terms begin on January 8, 1961, January 9, 1961, 17320
January 18, 1975, January 19, 1975, and January 13, 1987, and 17321
successors, shall have the same qualifications, exercise the same 17322
powers and jurisdiction, and receive the same compensation as 17323
other judges of the court of common pleas of Cuyahoga county and 17324
shall be elected and designated as judges of the court of common 17325
pleas, division of domestic relations. They shall have all the 17326
powers relating to all divorce, dissolution of marriage, legal 17327
separation, and annulment cases, except in cases that are assigned 17328
to some other judge of the court of common pleas for some special 17329
reason. 17330

(2) The administrative judge is administrator of the domestic 17331
relations division and its subdivisions and departments and has 17332
the following powers concerning division personnel: 17333

(a) Full charge of the employment, assignment, and 17334
supervision; 17335

(b) Sole determination of compensation, duties, expenses, 17336
allowances, hours, leaves, and vacations. 17337

(3) "Division personnel" include persons employed or referees 17338
engaged in hearing, servicing, investigating, counseling, or 17339
conciliating divorce, dissolution of marriage, legal separation 17340
and annulment matters. 17341

(M) In Lake county: 17342

(1) The judge of the court of common pleas whose term begins 17343
on January 2, 1961, and successors, shall have the same 17344
qualifications, exercise the same powers and jurisdiction, and 17345
receive the same compensation as the other judges of the court of 17346
common pleas of Lake county and shall be elected and designated as 17347

judge of the court of common pleas, division of domestic 17348
relations. The judge shall be assigned all the divorce, 17349
dissolution of marriage, legal separation, and annulment cases 17350
coming before the court, except in cases that for some special 17351
reason are assigned to some other judge of the court of common 17352
pleas. The judge shall be charged with the assignment and division 17353
of the work of the division and with the employment and 17354
supervision of all other personnel of the domestic relations 17355
division. 17356

The judge also shall designate the title, compensation, 17357
expense allowances, hours, leaves of absence, and vacations of the 17358
personnel of the division and shall fix their duties. The duties 17359
of the personnel, in addition to other statutory duties, shall 17360
include the handling, servicing, and investigation of divorce, 17361
dissolution of marriage, legal separation, and annulment cases and 17362
providing any counseling and conciliation services that the 17363
division makes available to persons, whether or not the persons 17364
are parties to an action pending in the division, who request the 17365
services. 17366

(2) The judge of the court of common pleas whose term begins 17367
on January 4, 1979, and successors, shall have the same 17368
qualifications, exercise the same powers and jurisdiction, and 17369
receive the same compensation as other judges of the court of 17370
common pleas of Lake county, shall be elected and designated as 17371
judge of the court of common pleas, juvenile division, and shall 17372
be the juvenile judge as provided in Chapters 2151. and 2152. of 17373
the Revised Code, with the powers and jurisdictions conferred by 17374
those chapters. The judge of the court of common pleas, juvenile 17375
division, shall be the administrator of the juvenile division and 17376
its subdivisions and departments. The judge shall have charge of 17377
the employment, assignment, and supervision of the personnel of 17378
the juvenile division who are engaged in handling, servicing, or 17379

investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties. 17380
17381
17382

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services. 17383
17384
17385
17386
17387
17388
17389
17390
17391

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions. 17392
17393
17394
17395
17396
17397

(N) In Erie county: 17398

(1) The judge of the court of common pleas whose term begins on January 2, 1971, and the successors to that judge whose terms begin before January 2, 2007, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge. 17399
17400
17401
17402
17403
17404
17405
17406
17407
17408
17409
17410
17411

On or after January 2, 2007, the judge of the court of common 17412
pleas who is elected in 2006 shall be the successor to the judge 17413
of the domestic relations division whose term expires on January 17414
1, 2007, shall be designated as judge of the court of common 17415
pleas, juvenile division, and shall be the juvenile judge as 17416
provided in Chapters 2151. and 2152. of the Revised Code with the 17417
powers and jurisdictions conferred by those chapters. 17418

(2) The judge of the court of common pleas, general division, 17419
whose term begins on January 1, 2005, and successors, the judge of 17420
the court of common pleas, general division whose term begins on 17421
January 2, 2005, and successors, and the judge of the court of 17422
common pleas, general division, whose term begins February 9, 17423
2009, and successors, shall have assigned to them, in addition to 17424
all matters that are within the jurisdiction of the general 17425
division of the court of common pleas, all divorce, dissolution of 17426
marriage, legal separation, and annulment cases coming before the 17427
court, and all matters that are within the jurisdiction of the 17428
probate court under Chapter 2101., and other provisions, of the 17429
Revised Code. 17430

(0) In Greene county: 17431

(1) The judge of the court of common pleas whose term begins 17432
on January 1, 1961, and successors, shall have the same 17433
qualifications, exercise the same powers and jurisdiction, and 17434
receive the same compensation as the other judges of the court of 17435
common pleas of Greene county and shall be elected and designated 17436
as the judge of the court of common pleas, division of domestic 17437
relations. The judge shall be assigned all divorce, dissolution of 17438
marriage, legal separation, annulment, uniform reciprocal support 17439
enforcement, and domestic violence cases and all other cases 17440
related to domestic relations, except cases that for some special 17441
reason are assigned to some other judge of the court of common 17442
pleas. 17443

The judge shall be charged with the assignment and division 17444
of the work of the division and with the employment and 17445
supervision of all other personnel of the division. The judge also 17446
shall designate the title, compensation, hours, leaves of absence, 17447
and vacations of the personnel of the division and shall fix their 17448
duties. The duties of the personnel of the division, in addition 17449
to other statutory duties, shall include the handling, servicing, 17450
and investigation of divorce, dissolution of marriage, legal 17451
separation, and annulment cases and the provision of counseling 17452
and conciliation services that the division considers necessary 17453
and makes available to persons who request the services, whether 17454
or not the persons are parties in an action pending in the 17455
division. The compensation for the personnel shall be paid from 17456
the overall court budget and shall be included in the 17457
appropriations for the existing judges of the general division of 17458
the court of common pleas. 17459

(2) The judge of the court of common pleas whose term begins 17460
on January 1, 1995, and successors, shall have the same 17461
qualifications, exercise the same powers and jurisdiction, and 17462
receive the same compensation as the other judges of the court of 17463
common pleas of Greene county, shall be elected and designated as 17464
judge of the court of common pleas, juvenile division, and, on or 17465
after January 1, 1995, shall be the juvenile judge as provided in 17466
Chapters 2151. and 2152. of the Revised Code with the powers and 17467
jurisdiction conferred by those chapters. The judge of the court 17468
of common pleas, juvenile division, shall be the administrator of 17469
the juvenile division and its subdivisions and departments. The 17470
judge shall have charge of the employment, assignment, and 17471
supervision of the personnel of the juvenile division who are 17472
engaged in handling, servicing, or investigating juvenile cases, 17473
including any referees whom the judge considers necessary for the 17474
discharge of the judge's various duties. 17475

The judge also shall designate the title, compensation, 17476
expense allowances, hours, leaves of absence, and vacation of the 17477
personnel of the division and shall fix their duties. The duties 17478
of the personnel, in addition to other statutory duties, include 17479
the handling, servicing, and investigation of juvenile cases and 17480
providing any counseling and conciliation services that the court 17481
makes available to persons, whether or not the persons are parties 17482
to an action pending in the court, who request the services. 17483

(3) If one of the judges of the court of common pleas, 17484
general division, is sick, absent, or unable to perform that 17485
judge's judicial duties or the volume of cases pending in the 17486
general division necessitates it, the duties of that judge of the 17487
general division shall be performed by the judge of the division 17488
of domestic relations and the judge of the juvenile division. 17489

(P) In Portage county, the judge of the court of common 17490
pleas, whose term begins January 2, 1987, and successors, shall 17491
have the same qualifications, exercise the same powers and 17492
jurisdiction, and receive the same compensation as the other 17493
judges of the court of common pleas of Portage county and shall be 17494
elected and designated as judge of the court of common pleas, 17495
division of domestic relations. The judge shall be assigned all 17496
divorce, dissolution of marriage, legal separation, and annulment 17497
cases coming before the court, except in cases that for some 17498
special reason are assigned to some other judge of the court of 17499
common pleas. The judge shall be charged with the assignment and 17500
division of the work of the division and with the employment and 17501
supervision of all other personnel of the domestic relations 17502
division. 17503

The judge also shall designate the title, compensation, 17504
expense allowances, hours, leaves of absence, and vacations of the 17505
personnel of the division and shall fix their duties. The duties 17506
of the personnel, in addition to other statutory duties, shall 17507

include the handling, servicing, and investigation of divorce, 17508
dissolution of marriage, legal separation, and annulment cases and 17509
providing any counseling and conciliation services that the 17510
division makes available to persons, whether or not the persons 17511
are parties to an action pending in the division, who request the 17512
services. 17513

(Q) In Clermont county, the judge of the court of common 17514
pleas, whose term begins January 2, 1987, and successors, shall 17515
have the same qualifications, exercise the same powers and 17516
jurisdiction, and receive the same compensation as the other 17517
judges of the court of common pleas of Clermont county and shall 17518
be elected and designated as judge of the court of common pleas, 17519
division of domestic relations. The judge shall be assigned all 17520
divorce, dissolution of marriage, legal separation, and annulment 17521
cases coming before the court, except in cases that for some 17522
special reason are assigned to some other judge of the court of 17523
common pleas. The judge shall be charged with the assignment and 17524
division of the work of the division and with the employment and 17525
supervision of all other personnel of the domestic relations 17526
division. 17527

The judge also shall designate the title, compensation, 17528
expense allowances, hours, leaves of absence, and vacations of the 17529
personnel of the division and shall fix their duties. The duties 17530
of the personnel, in addition to other statutory duties, shall 17531
include the handling, servicing, and investigation of divorce, 17532
dissolution of marriage, legal separation, and annulment cases and 17533
providing any counseling and conciliation services that the 17534
division makes available to persons, whether or not the persons 17535
are parties to an action pending in the division, who request the 17536
services. 17537

(R) In Warren county, the judge of the court of common pleas, 17538
whose term begins January 1, 1987, and successors, shall have the 17539

same qualifications, exercise the same powers and jurisdiction, 17540
and receive the same compensation as the other judges of the court 17541
of common pleas of Warren county and shall be elected and 17542
designated as judge of the court of common pleas, division of 17543
domestic relations. The judge shall be assigned all divorce, 17544
dissolution of marriage, legal separation, and annulment cases 17545
coming before the court, except in cases that for some special 17546
reason are assigned to some other judge of the court of common 17547
pleas. The judge shall be charged with the assignment and division 17548
of the work of the division and with the employment and 17549
supervision of all other personnel of the domestic relations 17550
division. 17551

The judge also shall designate the title, compensation, 17552
expense allowances, hours, leaves of absence, and vacations of the 17553
personnel of the division and shall fix their duties. The duties 17554
of the personnel, in addition to other statutory duties, shall 17555
include the handling, servicing, and investigation of divorce, 17556
dissolution of marriage, legal separation, and annulment cases and 17557
providing any counseling and conciliation services that the 17558
division makes available to persons, whether or not the persons 17559
are parties to an action pending in the division, who request the 17560
services. 17561

(S) In Licking county, the judges of the court of common 17562
pleas, whose terms begin on January 1, 1991, and January 1, 2005, 17563
and successors, shall have the same qualifications, exercise the 17564
same powers and jurisdiction, and receive the same compensation as 17565
the other judges of the court of common pleas of Licking county 17566
and shall be elected and designated as judges of the court of 17567
common pleas, division of domestic relations. The judges shall be 17568
assigned all divorce, dissolution of marriage, legal separation, 17569
and annulment cases, all cases arising under Chapter 3111. of the 17570
Revised Code, all proceedings involving child support, the 17571

allocation of parental rights and responsibilities for the care of 17572
children and the designation for the children of a place of 17573
residence and legal custodian, parenting time, and visitation, and 17574
all post-decree proceedings and matters arising from those cases 17575
and proceedings, except in cases that for some special reason are 17576
assigned to another judge of the court of common pleas. The 17577
administrative judge of the division of domestic relations shall 17578
be charged with the assignment and division of the work of the 17579
division and with the employment and supervision of the personnel 17580
of the division. 17581

The administrative judge of the division of domestic 17582
relations shall designate the title, compensation, expense 17583
allowances, hours, leaves of absence, and vacations of the 17584
personnel of the division and shall fix the duties of the 17585
personnel of the division. The duties of the personnel of the 17586
division, in addition to other statutory duties, shall include the 17587
handling, servicing, and investigation of divorce, dissolution of 17588
marriage, legal separation, and annulment cases, cases arising 17589
under Chapter 3111. of the Revised Code, and proceedings involving 17590
child support, the allocation of parental rights and 17591
responsibilities for the care of children and the designation for 17592
the children of a place of residence and legal custodian, 17593
parenting time, and visitation and providing any counseling and 17594
conciliation services that the division makes available to 17595
persons, whether or not the persons are parties to an action 17596
pending in the division, who request the services. 17597

(T) In Allen county, the judge of the court of common pleas, 17598
whose term begins January 1, 1993, and successors, shall have the 17599
same qualifications, exercise the same powers and jurisdiction, 17600
and receive the same compensation as the other judges of the court 17601
of common pleas of Allen county and shall be elected and 17602
designated as judge of the court of common pleas, division of 17603

domestic relations. The judge shall be assigned all divorce, 17604
dissolution of marriage, legal separation, and annulment cases, 17605
all cases arising under Chapter 3111. of the Revised Code, all 17606
proceedings involving child support, the allocation of parental 17607
rights and responsibilities for the care of children and the 17608
designation for the children of a place of residence and legal 17609
custodian, parenting time, and visitation, and all post-decree 17610
proceedings and matters arising from those cases and proceedings, 17611
except in cases that for some special reason are assigned to 17612
another judge of the court of common pleas. The judge shall be 17613
charged with the assignment and division of the work of the 17614
division and with the employment and supervision of the personnel 17615
of the division. 17616

The judge shall designate the title, compensation, expense 17617
allowances, hours, leaves of absence, and vacations of the 17618
personnel of the division and shall fix the duties of the 17619
personnel of the division. The duties of the personnel of the 17620
division, in addition to other statutory duties, shall include the 17621
handling, servicing, and investigation of divorce, dissolution of 17622
marriage, legal separation, and annulment cases, cases arising 17623
under Chapter 3111. of the Revised Code, and proceedings involving 17624
child support, the allocation of parental rights and 17625
responsibilities for the care of children and the designation for 17626
the children of a place of residence and legal custodian, 17627
parenting time, and visitation, and providing any counseling and 17628
conciliation services that the division makes available to 17629
persons, whether or not the persons are parties to an action 17630
pending in the division, who request the services. 17631

(U) In Medina county, the judge of the court of common pleas 17632
whose term begins January 1, 1995, and successors, shall have the 17633
same qualifications, exercise the same powers and jurisdiction, 17634
and receive the same compensation as other judges of the court of 17635

common pleas of Medina county and shall be elected and designated 17636
as judge of the court of common pleas, division of domestic 17637
relations. The judge shall be assigned all divorce, dissolution of 17638
marriage, legal separation, and annulment cases, all cases arising 17639
under Chapter 3111. of the Revised Code, all proceedings involving 17640
child support, the allocation of parental rights and 17641
responsibilities for the care of children and the designation for 17642
the children of a place of residence and legal custodian, 17643
parenting time, and visitation, and all post-decree proceedings 17644
and matters arising from those cases and proceedings, except in 17645
cases that for some special reason are assigned to another judge 17646
of the court of common pleas. The judge shall be charged with the 17647
assignment and division of the work of the division and with the 17648
employment and supervision of the personnel of the division. 17649

The judge shall designate the title, compensation, expense 17650
allowances, hours, leaves of absence, and vacations of the 17651
personnel of the division and shall fix the duties of the 17652
personnel of the division. The duties of the personnel, in 17653
addition to other statutory duties, include the handling, 17654
servicing, and investigation of divorce, dissolution of marriage, 17655
legal separation, and annulment cases, cases arising under Chapter 17656
3111. of the Revised Code, and proceedings involving child 17657
support, the allocation of parental rights and responsibilities 17658
for the care of children and the designation for the children of a 17659
place of residence and legal custodian, parenting time, and 17660
visitation, and providing counseling and conciliation services 17661
that the division makes available to persons, whether or not the 17662
persons are parties to an action pending in the division, who 17663
request the services. 17664

(V) In Fairfield county, the judge of the court of common 17665
pleas whose term begins January 2, 1995, and successors, shall 17666
have the same qualifications, exercise the same powers and 17667

jurisdiction, and receive the same compensation as the other 17668
judges of the court of common pleas of Fairfield county and shall 17669
be elected and designated as judge of the court of common pleas, 17670
division of domestic relations. The judge shall be assigned all 17671
divorce, dissolution of marriage, legal separation, and annulment 17672
cases, all cases arising under Chapter 3111. of the Revised Code, 17673
all proceedings involving child support, the allocation of 17674
parental rights and responsibilities for the care of children and 17675
the designation for the children of a place of residence and legal 17676
custodian, parenting time, and visitation, and all post-decree 17677
proceedings and matters arising from those cases and proceedings, 17678
except in cases that for some special reason are assigned to 17679
another judge of the court of common pleas. The judge also has 17680
concurrent jurisdiction with the probate-juvenile division of the 17681
court of common pleas of Fairfield county with respect to and may 17682
hear cases to determine the custody of a child, as defined in 17683
section 2151.011 of the Revised Code, who is not the ward of 17684
another court of this state, cases that are commenced by a parent, 17685
guardian, or custodian of a child, as defined in section 2151.011 17686
of the Revised Code, to obtain an order requiring a parent of the 17687
child to pay child support for that child when the request for 17688
that order is not ancillary to an action for divorce, dissolution 17689
of marriage, annulment, or legal separation, a criminal or civil 17690
action involving an allegation of domestic violence, an action for 17691
support under Chapter 3115. of the Revised Code, or an action that 17692
is within the exclusive original jurisdiction of the 17693
probate-juvenile division of the court of common pleas of 17694
Fairfield county and that involves an allegation that the child is 17695
an abused, neglected, or dependent child, and post-decree 17696
proceedings and matters arising from those types of cases. 17697

The judge of the domestic relations division shall be charged 17698
with the assignment and division of the work of the division and 17699
with the employment and supervision of the personnel of the 17700

division. 17701

The judge shall designate the title, compensation, expense 17702
allowances, hours, leaves of absence, and vacations of the 17703
personnel of the division and shall fix the duties of the 17704
personnel of the division. The duties of the personnel of the 17705
division, in addition to other statutory duties, shall include the 17706
handling, servicing, and investigation of divorce, dissolution of 17707
marriage, legal separation, and annulment cases, cases arising 17708
under Chapter 3111. of the Revised Code, and proceedings involving 17709
child support, the allocation of parental rights and 17710
responsibilities for the care of children and the designation for 17711
the children of a place of residence and legal custodian, 17712
parenting time, and visitation, and providing any counseling and 17713
conciliation services that the division makes available to 17714
persons, regardless of whether the persons are parties to an 17715
action pending in the division, who request the services. When the 17716
judge hears a case to determine the custody of a child, as defined 17717
in section 2151.011 of the Revised Code, who is not the ward of 17718
another court of this state or a case that is commenced by a 17719
parent, guardian, or custodian of a child, as defined in section 17720
2151.011 of the Revised Code, to obtain an order requiring a 17721
parent of the child to pay child support for that child when the 17722
request for that order is not ancillary to an action for divorce, 17723
dissolution of marriage, annulment, or legal separation, a 17724
criminal or civil action involving an allegation of domestic 17725
violence, an action for support under Chapter 3115. of the Revised 17726
Code, or an action that is within the exclusive original 17727
jurisdiction of the probate-juvenile division of the court of 17728
common pleas of Fairfield county and that involves an allegation 17729
that the child is an abused, neglected, or dependent child, the 17730
duties of the personnel of the domestic relations division also 17731
include the handling, servicing, and investigation of those types 17732
of cases. 17733

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that

court. 17766

(X) In Scioto county, the judge of the court of common pleas 17767
whose term begins January 2, 1995, and successors, shall have the 17768
same qualifications, exercise the same powers and jurisdiction, 17769
and receive the same compensation as other judges of the court of 17770
common pleas of Scioto county and shall be elected and designated 17771
as judge of the court of common pleas, division of domestic 17772
relations. The judge shall be assigned all divorce, dissolution of 17773
marriage, legal separation, and annulment cases, all cases arising 17774
under Chapter 3111. of the Revised Code, all proceedings involving 17775
child support, the allocation of parental rights and 17776
responsibilities for the care of children and the designation for 17777
the children of a place of residence and legal custodian, 17778
parenting time, visitation, and all post-decree proceedings and 17779
matters arising from those cases and proceedings, except in cases 17780
that for some special reason are assigned to another judge of the 17781
court of common pleas. The judge shall be charged with the 17782
assignment and division of the work of the division and with the 17783
employment and supervision of the personnel of the division. 17784

The judge shall designate the title, compensation, expense 17785
allowances, hours, leaves of absence, and vacations of the 17786
personnel of the division and shall fix the duties of the 17787
personnel of the division. The duties of the personnel, in 17788
addition to other statutory duties, include the handling, 17789
servicing, and investigation of divorce, dissolution of marriage, 17790
legal separation, and annulment cases, cases arising under Chapter 17791
3111. of the Revised Code, and proceedings involving child 17792
support, the allocation of parental rights and responsibilities 17793
for the care of children and the designation for the children of a 17794
place of residence and legal custodian, parenting time, and 17795
visitation, and providing counseling and conciliation services 17796
that the division makes available to persons, whether or not the 17797

persons are parties to an action pending in the division, who 17798
request the services. 17799

(Y) In Auglaize county, the judge of the probate and juvenile 17800
divisions of the Auglaize county court of common pleas also shall 17801
be the administrative judge of the domestic relations division of 17802
the court and shall be assigned all divorce, dissolution of 17803
marriage, legal separation, and annulment cases coming before the 17804
court. The judge shall have all powers as administrator of the 17805
domestic relations division and shall have charge of the personnel 17806
engaged in handling, servicing, or investigating divorce, 17807
dissolution of marriage, legal separation, and annulment cases, 17808
including any referees considered necessary for the discharge of 17809
the judge's various duties. 17810

(Z)(1) In Marion county, the judge of the court of common 17811
pleas whose term begins on February 9, 1999, and the successors to 17812
that judge, shall have the same qualifications, exercise the same 17813
powers and jurisdiction, and receive the same compensation as the 17814
other judges of the court of common pleas of Marion county and 17815
shall be elected and designated as judge of the court of common 17816
pleas, domestic relations-juvenile-probate division. Except as 17817
otherwise specified in this division, that judge, and the 17818
successors to that judge, shall have all the powers relating to 17819
juvenile courts, and all cases under Chapters 2151. and 2152. of 17820
the Revised Code, all cases arising under Chapter 3111. of the 17821
Revised Code, all divorce, dissolution of marriage, legal 17822
separation, and annulment cases, all proceedings involving child 17823
support, the allocation of parental rights and responsibilities 17824
for the care of children and the designation for the children of a 17825
place of residence and legal custodian, parenting time, and 17826
visitation, and all post-decree proceedings and matters arising 17827
from those cases and proceedings shall be assigned to that judge 17828
and the successors to that judge. Except as provided in division 17829

(Z)(2) of this section and notwithstanding any other provision of 17830
any section of the Revised Code, on and after February 9, 2003, 17831
the judge of the court of common pleas of Marion county whose term 17832
begins on February 9, 1999, and the successors to that judge, 17833
shall have all the powers relating to the probate division of the 17834
court of common pleas of Marion county in addition to the powers 17835
previously specified in this division, and shall exercise 17836
concurrent jurisdiction with the judge of the probate division of 17837
that court over all matters that are within the jurisdiction of 17838
the probate division of that court under Chapter 2101., and other 17839
provisions, of the Revised Code in addition to the jurisdiction of 17840
the domestic relations-juvenile-probate division of that court 17841
otherwise specified in division (Z)(1) of this section. 17842

(2) The judge of the domestic relations-juvenile-probate 17843
division of the court of common pleas of Marion county or the 17844
judge of the probate division of the court of common pleas of 17845
Marion county, whichever of those judges is senior in total length 17846
of service on the court of common pleas of Marion county, 17847
regardless of the division or divisions of service, shall serve as 17848
the clerk of the probate division of the court of common pleas of 17849
Marion county. 17850

(3) On and after February 9, 2003, all references in law to 17851
"the probate court," "the probate judge," "the juvenile court," or 17852
"the judge of the juvenile court" shall be construed, with respect 17853
to Marion county, as being references to both "the probate 17854
division" and "the domestic relations-juvenile-probate division" 17855
and as being references to both "the judge of the probate 17856
division" and "the judge of the domestic relations- 17857
juvenile-probate division." On and after February 9, 2003, all 17858
references in law to "the clerk of the probate court" shall be 17859
construed, with respect to Marion county, as being references to 17860
the judge who is serving pursuant to division (Z)(2) of this 17861

section as the clerk of the probate division of the court of 17862
common pleas of Marion county. 17863

(AA) In Muskingum county, the judge of the court of common 17864
pleas whose term begins on January 2, 2003, and successors, shall 17865
have the same qualifications, exercise the same powers and 17866
jurisdiction, and receive the same compensation as the other 17867
judges of the court of common pleas of Muskingum county and shall 17868
be elected and designated as the judge of the court of common 17869
pleas, division of domestic relations. The judge shall be assigned 17870
all divorce, dissolution of marriage, legal separation, and 17871
annulment cases, all cases arising under Chapter 3111. of the 17872
Revised Code, all proceedings involving child support, the 17873
allocation of parental rights and responsibilities for the care of 17874
children and the designation for the children of a place of 17875
residence and legal custodian, parenting time, and visitation, and 17876
all post-decree proceedings and matters arising from those cases 17877
and proceedings, except in cases that for some special reason are 17878
assigned to another judge of the court of common pleas. The judge 17879
shall be charged with the assignment and division of the work of 17880
the division and with the employment and supervision of the 17881
personnel of the division. 17882

The judge shall designate the title, compensation, expense 17883
allowances, hours, leaves of absence, and vacations of the 17884
personnel of the division and shall fix the duties of the 17885
personnel of the division. The duties of the personnel of the 17886
division, in addition to other statutory duties, shall include the 17887
handling, servicing, and investigation of divorce, dissolution of 17888
marriage, legal separation, and annulment cases, cases arising 17889
under Chapter 3111. of the Revised Code, and proceedings involving 17890
child support, the allocation of parental rights and 17891
responsibilities for the care of children and the designation for 17892
the children of a place of residence and legal custodian, 17893

parenting time, and visitation and providing any counseling and 17894
conciliation services that the division makes available to 17895
persons, whether or not the persons are parties to an action 17896
pending in the division, who request the services. 17897

(BB) In Henry county, the judge of the court of common pleas 17898
whose term begins on January 1, 2005, and successors, shall have 17899
the same qualifications, exercise the same powers and 17900
jurisdiction, and receive the same compensation as the other judge 17901
of the court of common pleas of Henry county and shall be elected 17902
and designated as the judge of the court of common pleas, division 17903
of domestic relations. The judge shall have all of the powers 17904
relating to juvenile courts, and all cases under Chapter 2151. or 17905
2152. of the Revised Code, all parentage proceedings arising under 17906
Chapter 3111. of the Revised Code over which the juvenile court 17907
has jurisdiction, all divorce, dissolution of marriage, legal 17908
separation, and annulment cases, all proceedings involving child 17909
support, the allocation of parental rights and responsibilities 17910
for the care of children and the designation for the children of a 17911
place of residence and legal custodian, parenting time, and 17912
visitation, and all post-decree proceedings and matters arising 17913
from those cases and proceedings shall be assigned to that judge, 17914
except in cases that for some special reason are assigned to the 17915
other judge of the court of common pleas. 17916

(CC)(1) In Logan county, the judge of the court of common 17917
pleas whose term begins January 2, 2005, and the successors to 17918
that judge, shall have the same qualifications, exercise the same 17919
powers and jurisdiction, and receive the same compensation as the 17920
other judges of the court of common pleas of Logan county and 17921
shall be elected and designated as judge of the court of common 17922
pleas, domestic relations-juvenile-probate division. Except as 17923
otherwise specified in this division, that judge, and the 17924
successors to that judge, shall have all the powers relating to 17925

juvenile courts, and all cases under Chapters 2151. and 2152. of 17926
the Revised Code, all cases arising under Chapter 3111. of the 17927
Revised Code, all divorce, dissolution of marriage, legal 17928
separation, and annulment cases, all proceedings involving child 17929
support, the allocation of parental rights and responsibilities 17930
for the care of children and designation for the children of a 17931
place of residence and legal custodian, parenting time, and 17932
visitation, and all post-decree proceedings and matters arising 17933
from those cases and proceedings shall be assigned to that judge 17934
and the successors to that judge. Notwithstanding any other 17935
provision of any section of the Revised Code, on and after January 17936
2, 2005, the judge of the court of common pleas of Logan county 17937
whose term begins on January 2, 2005, and the successors to that 17938
judge, shall have all the powers relating to the probate division 17939
of the court of common pleas of Logan county in addition to the 17940
powers previously specified in this division and shall exercise 17941
concurrent jurisdiction with the judge of the probate division of 17942
that court over all matters that are within the jurisdiction of 17943
the probate division of that court under Chapter 2101., and other 17944
provisions, of the Revised Code in addition to the jurisdiction of 17945
the domestic relations-juvenile-probate division of that court 17946
otherwise specified in division (CC)(1) of this section. 17947

(2) The judge of the domestic relations-juvenile-probate 17948
division of the court of common pleas of Logan county or the 17949
probate judge of the court of common pleas of Logan county who is 17950
elected as the administrative judge of the probate division of the 17951
court of common pleas of Logan county pursuant to Rule 4 of the 17952
Rules of Superintendence shall be the clerk of the probate 17953
division and juvenile division of the court of common pleas of 17954
Logan county. The clerk of the court of common pleas who is 17955
elected pursuant to section 2303.01 of the Revised Code shall keep 17956
all of the journals, records, books, papers, and files pertaining 17957
to the domestic relations cases. 17958

(3) On and after January 2, 2005, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Logan county, as being references to both "the probate division" and the "domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and the "judge of the domestic relations-juvenile-probate division." On and after January 2, 2005, all references in law to "the clerk of the probate court" shall be construed, with respect to Logan county, as being references to the judge who is serving pursuant to division (CC)(2) of this section as the clerk of the probate division of the court of common pleas of Logan county.

(DD)(1) In Champaign county, the judge of the court of common pleas whose term begins February 9, 2003, and the judge of the court of common pleas whose term begins February 10, 2009, and the successors to those judges, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Champaign county and shall be elected and designated as judges of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, those judges, and the successors to those judges, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to those judges and the successors to those judges.

Notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2009, the judges designated by this division as judges of the court of common pleas of Champaign county, domestic relations-juvenile-probate division, and the successors to those judges, shall have all the powers relating to probate courts in addition to the powers previously specified in this division and shall exercise jurisdiction over all matters that are within the jurisdiction of probate courts under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division otherwise specified in division (DD)(1) of this section.

(2) On and after February 9, 2009, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed with respect to Champaign county as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" shall be construed with respect to Champaign county as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, domestic relations-juvenile-probate division.

(EE) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2301.18. The court of common pleas shall appoint a 18024
~~steno~~graphic reporter as the official ~~shorthand~~ reporter of ~~such~~ 18025
the court, ~~who shall hold the appointment~~ for a term not exceeding 18026
three years ~~from the date thereof~~, unless removed by the court, 18027
after a good cause shown, for neglect of duty, misconduct in 18028
office, or incompetency. ~~Such~~ The court may appoint assistant 18029
reporters as the business of the court requires for terms not 18030
exceeding three years under one appointment. The official 18031
~~shorthand~~ reporter and assistant reporters shall take an oath 18032
faithfully and impartially to discharge the duties of ~~such~~ 18033
~~position~~ their positions. 18034

Sec. 2301.20. ~~Upon the trial of a~~ All civil ~~or~~ and criminal 18035
~~action~~ actions in the court of common pleas, ~~if either party to~~ 18036
~~the action or his attorney requests the services of a shorthand~~ 18037
~~reporter, the trial judge shall grant the request, or may order a~~ 18038
~~full report of the testimony or other proceedings. In either case,~~ 18039
~~the shorthand shall be recorded.~~ The reporter shall take accurate 18040
~~shorthand~~ notes of or electronically record the oral testimony ~~or~~ 18041
~~other oral proceedings.~~ The notes and electronic records shall be 18042
filed in the office of the official ~~shorthand~~ reporter and 18043
carefully preserved for either of the following periods of time: 18044

(A) If the action is not a capital case, the notes and 18045
electronic records shall be preserved for the period of time 18046
specified by the court of common pleas, which period of time shall 18047
not be longer than the period of time that the other records of 18048
the particular action are required to be kept. 18049

(B) If the action is a capital case, the notes and electronic 18050
records shall be preserved for the longer of ten years or until 18051
the final disposition of the action and exhaustion of all appeals. 18052

Sec. 2301.21. In every case ~~reported~~ recorded as provided in 18053

section 2301.20 of the Revised Code, there shall be taxed for each 18054
day's service of the official or assistant ~~shorthand~~ reporters a 18055
fee of twenty-five dollars, to be collected as other costs in the 18056
case. The fees so collected shall be paid quarterly by the clerk 18057
of the court of common pleas in which the cases were tried into 18058
the treasury of the county and shall be credited by the county 18059
treasurer to the general fund. 18060

Sec. 2301.22. Each ~~shorthand~~ reporter shall receive ~~such the~~ 18061
compensation ~~as that~~ the court of common pleas making the 18062
appointment fixes. ~~Such That~~ compensation shall be in place of all 18063
per diem compensation in ~~such those~~ courts. In case ~~such the~~ 18064
appointment is for a term of less than one year, ~~such the~~ court 18065
may allow a per diem compensation to be fixed by the court, plus 18066
actual and necessary expenses incurred, for each day ~~such~~ 18067
~~shorthand the~~ reporter is actually engaged in taking testimony or 18068
performing other duties under the orders of ~~such the~~ court, which 18069
allowance shall be in full payment for all services so rendered. 18070

The county auditor shall issue warrants on the county 18071
treasurer for the payment of ~~such the~~ compensation under this 18072
section in equal monthly installments, ~~when if~~ the compensation is 18073
allowed annually, and ~~when~~ in case of services per diem, for the 18074
amount of the bill approved by the court, from the general fund 18075
upon the presentation of a certified copy of the journal entry of 18076
appointment and compensation of ~~such shorthand the~~ reporters. 18077

Sec. 2301.23. When ~~shorthand~~ notes have been taken or an 18078
electronic recording has been made in a case as provided in 18079
section 2301.20 of the Revised Code, if the court, or either party 18080
to the suit ~~or his attorney,~~ requests written transcripts of any 18081
portion of ~~such notes in longhand the proceeding,~~ the ~~shorthand~~ 18082
reporter reporting the case shall make full and accurate 18083
transcripts of the notes ~~for the use of such court or party or~~ 18084

electronic recording. The court may direct the official ~~shorthand~~ 18085
reporter to furnish to the court and the parties copies of 18086
decisions rendered and charges delivered by the court in pending 18087
cases. 18088

When the compensation for transcripts, copies of decisions, 18089
or charges is taxed as a part of the costs, ~~such the~~ transcripts, 18090
copies of decisions, and charges shall remain on file with the 18091
papers of the case. 18092

Sec. 2301.24. The compensation of ~~shorthand~~ reporters for 18093
making written transcripts ~~and copies~~ as provided in section 18094
2301.23 of the Revised Code shall be fixed by ~~the judges of the~~ 18095
court of common pleas of the county ~~wherein~~ in which the trial is 18096
~~had held~~. Such If more than one transcript of the same testimony 18097
or proceeding is ordered, the reporter shall make copies of the 18098
transcript at cost pursuant to division (B)(1) of section 149.43 18099
of the Revised Code or shall provide an electronic copy of the 18100
transcript free of charge. The compensation shall be paid 18101
~~forthwith~~ by the party for whose benefit a transcript is made. The 18102
compensation for transcripts ~~of testimony~~ requested by the 18103
prosecuting attorney ~~during trial~~ or an indigent defendant in 18104
criminal cases or by the trial judge, in either civil or criminal 18105
cases, and for copies of decisions and charges furnished by 18106
direction of the court shall be paid from the county treasury, and 18107
taxed and collected as costs. 18108

Sec. 2301.25. When ordered by the prosecuting attorney or the 18109
defendant in a criminal ~~trial,~~ case or when ordered by a judge of 18110
the court of common pleas ~~for his use,~~ in either civil or criminal 18111
cases, the costs of transcripts ~~mentioned in section 2301.23 of~~ 18112
~~the Revised Code,~~ shall be taxed as costs in the case, collected 18113
as other costs, whether ~~such the~~ transcripts have been prepaid or 18114
not, as provided by section 2301.24 of the Revised Code, ~~and~~ paid 18115

by the clerk of the court of common pleas, quarterly, into the 18116
county treasury, and credited to the general fund. If, upon final 18117
judgment, the costs or any part ~~thereof shall be~~ of the costs are 18118
adjudged against a defendant in a criminal case, ~~he~~ the defendant 18119
shall be allowed credit on the cost bill of the amount paid ~~by him~~ 18120
for the transcript ~~he~~ the defendant ordered and, if the costs are 18121
finally adjudged against the state, the defendant shall have ~~his~~ 18122
the defendant's deposit refunded. ~~When more than one transcript of~~ 18123
~~the same testimony or proceedings is ordered at the same time by~~ 18124
~~the same party, or by the court, the compensation for making such~~ 18125
~~additional transcript shall be one half the compensation allowed~~ 18126
~~for the first copy, and shall be paid for in the same manner~~ 18127
~~except that where ordered by the same party only the cost of the~~ 18128
~~original shall be taxed as costs. All such~~ transcripts shall be 18129
taken and received as prima-facie evidence of their correctness. 18130
~~When~~ If the testimony of witnesses is taken before the grand jury 18131
by ~~shorthand~~ reporters, they shall receive for ~~such~~ the 18132
transcripts ~~as are ordered by the prosecuting attorney~~ the same 18133
compensation ~~per folio~~ and be paid ~~therefor~~ in the same manner as 18134
provided in this section and section 2301.24 of the Revised Code. 18135
18136

Sec. 2301.26. ~~Shorthand reporters~~ Reporters appointed under 18137
~~sections~~ section 2301.18 ~~and 2301.19~~ of the Revised Code, may be 18138
appointed referees to take and report evidence in causes pending 18139
in any of the courts of this state. In the taking of evidence as 18140
~~such~~ referees, ~~they~~ the reporters may administer oaths to 18141
witnesses. They shall be furnished by the board of county 18142
commissioners with a suitable room in the courthouse, and with 18143
~~stationery,~~ supplies and ~~other~~ equipment necessary ~~in~~ for the 18144
proper discharge of their duties and for the preservation of their 18145
~~stenographic notes~~ and electronic records. ~~Such~~ The notes and 18146
electronic records shall be the property of the county and 18147

carefully preserved in the office of the ~~shorthand~~ reporters. 18148

Sec. 2301.27. (A)(1)(a) The court of common pleas may 18149
establish a county department of probation. The establishment of 18150
the department shall be entered upon the journal of the court, and 18151
the clerk of the court of common pleas shall certify a copy of the 18152
journal entry establishing the department to each elective officer 18153
and board of the county. The department shall consist of a chief 18154
probation officer and the number of other probation officers and 18155
employees, clerks, and stenographers that is fixed from time to 18156
time by the court. The court shall appoint those individuals, fix 18157
their salaries, and supervise their work. 18158

(b) When appointing a chief probation officer, the court 18159
shall do all of the following: 18160

(i) Publicly advertise the position on the court's web site, 18161
including, but not limited to, the job description, qualifications 18162
for the position, and the application requirements; 18163

(ii) Conduct a competitive hiring process that adheres to 18164
state and federal equal employment opportunity laws; 18165

(iii) Review applicants who meet the posted qualifications 18166
and comply with the application requirements. 18167

(c) The court shall not appoint as a probation officer any 18168
person who does not possess the training, experience, and other 18169
qualifications prescribed by the adult parole authority created by 18170
section 5149.02 of the Revised Code. Probation officers have all 18171
the powers of regular police officers and shall perform any duties 18172
that are designated by the judge or judges of the court. All 18173
positions within the department of probation shall be in the 18174
classified service of the civil service of the county. 18175

(2) If two or more counties desire to jointly establish a 18176
probation department for those counties, the judges of the courts 18177

of common pleas of those counties may establish a probation 18178
department for those counties. If a probation department is 18179
established pursuant to division (A)(2) of this section to serve 18180
more than one county, the judges of the courts of common pleas 18181
that established the department shall designate the county 18182
treasurer of one of the counties served by the department as the 18183
treasurer to whom probation fees paid under section 2951.021 of 18184
the Revised Code are to be appropriated and transferred under 18185
division (A)(2) of section 321.44 of the Revised Code for deposit 18186
into the multicounty probation services fund established under 18187
division (B) of section 321.44 of the Revised Code. 18188

The cost of the administration and operation of a probation 18189
department established for two or more counties shall be prorated 18190
to the respective counties on the basis of population. 18191

(3) Probation officers shall receive, in addition to their 18192
respective salaries, their necessary and reasonable travel and 18193
other expenses incurred in the performance of their duties. Their 18194
salaries and expenses shall be paid monthly from the county 18195
treasury in the manner provided for the payment of the 18196
compensation of other appointees of the court. 18197

(4) ~~Probation~~ Adult probation officers shall be trained in 18198
accordance with a set of minimum standards that are established by 18199
the adult parole authority of the department of rehabilitation and 18200
correction. 18201

(B)(1) In lieu of establishing a county department of 18202
probation under division (A) of this section and in lieu of 18203
entering into an agreement with the adult parole authority as 18204
described in division (B) of section 2301.32 of the Revised Code, 18205
the court of common pleas may request the board of county 18206
commissioners to contract with, and upon that request the board 18207
may contract with, any nonprofit, public or private agency, 18208
association, or organization for the provision of probation 18209

services and supervisory services for persons placed under 18210
community control sanctions. The contract shall specify that each 18211
individual providing the probation services and supervisory 18212
services shall possess the training, experience, and other 18213
qualifications prescribed by the adult parole authority. The 18214
individuals who provide the probation services and supervisory 18215
services shall not be included in the classified or unclassified 18216
civil service of the county. 18217

(2) In lieu of establishing a county department of probation 18218
under division (A) of this section and in lieu of entering into an 18219
agreement with the adult parole authority as described in division 18220
(B) of section 2301.32 of the Revised Code, the courts of common 18221
pleas of two or more adjoining counties jointly may request the 18222
boards of county commissioners of those counties to contract with, 18223
and upon that request the boards of county commissioners of two or 18224
more adjoining counties jointly may contract with, any nonprofit, 18225
public or private agency, association, or organization for the 18226
provision of probation services and supervisory services for 18227
persons placed under community control sanctions for those 18228
counties. The contract shall specify that each individual 18229
providing the probation services and supervisory services shall 18230
possess the training, experience, and other qualifications 18231
prescribed by the adult parole authority. The individuals who 18232
provide the probation services and supervisory services shall not 18233
be included in the classified or unclassified civil service of any 18234
of those counties. 18235

(C) The chief probation officer may grant permission to a 18236
probation officer to carry firearms when required in the discharge 18237
of official duties if the probation officer has successfully 18238
completed a basic firearm training program that is approved by the 18239
executive director of the Ohio peace officer training commission. 18240
A probation officer who has been granted permission to carry a 18241

firearm in the discharge of official duties, annually shall 18242
successfully complete a firearms requalification program in 18243
accordance with section 109.801 of the Revised Code. 18244

(D) As used in this section and sections 2301.28 to 2301.32 18245
of the Revised Code, "community control sanction" has the same 18246
meaning as in section 2929.01 of the Revised Code. 18247

Sec. 2301.271. (A) The adult parole authority of the 18248
department of rehabilitation and correction shall develop minimum 18249
standards for the training of adult probation officers as provided 18250
by section 2301.27 of the Revised Code. The adult parole authority 18251
shall consult and collaborate with the supreme court in developing 18252
the standards. 18253

(B) Within six months after ~~the effective date of this~~ 18254
~~section~~ September 30, 2011, the department of rehabilitation and 18255
correction shall make available a copy of the minimum standards to 18256
the following entities: 18257

(1) Every municipal court, county court, and court of common 18258
pleas; 18259

(2) Every probation department. 18260

Sec. 2301.571. (A) A person who has been convicted of or 18261
pleaded guilty to an offense and who is confined in a 18262
community-based correctional facility or district community-based 18263
correctional facility, ~~unless indigent,~~ is financially responsible 18264
for the payment of any medical expense or service requested by and 18265
provided to that person. 18266

(B) ~~Notwithstanding any contrary provision of section 2929.38~~ 18267
~~of the Revised Code, the facility governing board of a~~ 18268
~~community based correctional facility or district community based~~ 18269
~~correctional facility shall establish a policy that requires any~~ 18270
~~person who is not indigent and who is confined in the correctional~~ 18271

~~facility to pay for any medical treatment or service requested by~~ 18272
~~and provided to that person. The fee for the medical treatment or~~ 18273
~~service shall not exceed the actual cost of the treatment or~~ 18274
~~service provided.~~ No person confined in a community-based 18275
correctional facility or district community-based correctional 18276
facility shall be denied any necessary medical care because of 18277
inability to pay for medical treatment or service. 18278

(C) ~~Any fee paid by a person under~~ Nothing in this section 18279
~~shall be deducted from~~ cause a community-based correctional 18280
facility or district community-based correctional facility to be 18281
responsible for the payment of any medical or ~~dental costs that~~ 18282
~~the person is ordered to reimburse under a financial sanction~~ 18283
~~imposed pursuant to section 2929.28 of the Revised Code or to~~ 18284
~~repay under a policy adopted under~~ other health care expenses 18285
incurred in connection with an offender who is serving a term in 18286
the facility pursuant to section 2929.37 2929.16 of the Revised 18287
Code. 18288

Sec. 2305.01. Except as otherwise provided by this section or 18289
section 2305.03 of the Revised Code, the court of common pleas has 18290
original jurisdiction in all civil cases in which the sum or 18291
matter in dispute exceeds the exclusive original jurisdiction of 18292
county courts and appellate jurisdiction from the decisions of 18293
boards of county commissioners. The court of common pleas shall 18294
not have jurisdiction, in any tort action to which the amounts 18295
apply, to award punitive or exemplary damages that exceed the 18296
amounts set forth in section 2315.21 of the Revised Code. The 18297
court of common pleas shall not have jurisdiction in any tort 18298
action to which the limits apply to enter judgment on an award of 18299
compensatory damages for noneconomic loss in excess of the limits 18300
set forth in section 2315.18 of the Revised Code. 18301

The court of common pleas may on its own motion transfer for 18302

trial any action in the court to any municipal court in the county 18303
having concurrent jurisdiction of the subject matter of, and the 18304
parties to, the action, if the amount sought by the plaintiff does 18305
not exceed one thousand dollars and if the judge or presiding 18306
judge of the municipal court concurs in the proposed transfer. 18307
Upon the issuance of an order of transfer, the clerk of courts 18308
shall remove to the designated municipal court the entire case 18309
file. Any untaxed portion of the common pleas deposit for court 18310
costs shall be remitted to the municipal court by the clerk of 18311
courts to be applied in accordance with section 1901.26 of the 18312
Revised Code, and the costs taxed by the municipal court shall be 18313
added to any costs taxed in the common pleas court. 18314

The court of common pleas has jurisdiction in any action 18315
brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the 18316
Revised Code if the residential premises that are the subject of 18317
the action are located within the territorial jurisdiction of the 18318
court. 18319

The courts of common pleas of Adams, Athens, Belmont, Brown, 18320
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 18321
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 18322
beyond the north or northwest shore of the Ohio river extending to 18323
the opposite shore line, between the extended boundary lines of 18324
any adjacent counties or adjacent state. Each of those courts of 18325
common pleas has concurrent jurisdiction on the Ohio river with 18326
any adjacent court of common pleas that borders on that river and 18327
with any court of Kentucky or of West Virginia that borders on the 18328
Ohio river and that has jurisdiction on the Ohio river under the 18329
law of Kentucky or the law of West Virginia, whichever is 18330
applicable, or under federal law. 18331

Sec. 2305.02. A The court of common pleas in the county where 18332
the underlying criminal action was initiated has exclusive, 18333

original jurisdiction to hear and determine ~~an~~ a civil action or 18334
proceeding that is commenced by an individual who seeks a 18335
determination by that court that the individual satisfies 18336
divisions (A)(1) to ~~(4)~~(5) of section 2743.48 of the Revised Code 18337
and that ~~seeks a determination by the court that the offense of~~ 18338
~~which he was found guilty, including all lesser included offenses,~~ 18339
~~either was not committed by him or was not committed by any~~ 18340
~~person.~~ If ~~the~~ that court enters the requested determination, it 18341
shall comply with division (B) of that section. 18342

Sec. 2307.89. The following apply to all tort actions for 18343
silicosis or mixed dust disease claims brought against a premises 18344
owner to recover damages or other relief for exposure to silica or 18345
mixed dust on the premises owner's property: 18346

(A) A premises owner is not liable for any injury to any 18347
individual resulting from silica or mixed dust exposure unless 18348
that individual's alleged exposure occurred while the individual 18349
was at the premises owner's property. 18350

(B) If exposure to silica or mixed dust is alleged to have 18351
occurred before January 1, 1972, it is presumed that a premises 18352
owner knew that this state had adopted safe levels of exposure for 18353
silica or mixed dust and that products containing silica or mixed 18354
dust were used on its property only at levels below those safe 18355
levels of exposure. To rebut this presumption, the plaintiff must 18356
prove by a preponderance of the evidence that the premises owner 18357
knew or should have known that the levels of silica or mixed dust 18358
in the immediate breathing zone of the plaintiff regularly 18359
exceeded the threshold limit values adopted by this state and that 18360
the premises owner allowed that condition to persist. 18361

(C)(1) A premises owner is presumed to be not liable for any 18362
injury to any invitee who was engaged to work with, install, or 18363
remove products containing silica or mixed dust on the premises 18364

owner's property if the invitee's employer held itself out as 18365
qualified to perform the work. To rebut this presumption, the 18366
plaintiff must demonstrate by a preponderance of the evidence that 18367
the premises owner had actual knowledge of the potential dangers 18368
of the products containing silica or mixed dust at the time of the 18369
alleged exposure that was superior to the knowledge of both the 18370
invitee and the invitee's employer. 18371

(2) A premises owner that hired a contractor before January 18372
1, 1972, to perform the type of work at the premises owner's 18373
property that the contractor was qualified to perform cannot be 18374
liable for any injury to any individual resulting from silica or 18375
mixed dust exposure caused by any of the contractor's employees or 18376
agents on the premises owner's property unless the premises owner 18377
directed the activity that resulted in the injury or gave or 18378
denied permission for the critical acts that led to the 18379
individual's injury. 18380

(3) If exposure to silica or mixed dust is alleged to have 18381
occurred after January 1, 1972, a premises owner is not liable for 18382
any injury to any individual resulting from that exposure caused 18383
by a contractor's employee or agent on the premises owner's 18384
property unless the plaintiff establishes the premises owner's 18385
intentional violation of an established safety standard that was 18386
in effect at the time of the exposure and that the alleged 18387
violation was in the plaintiff's breathing zone and was the 18388
proximate cause of the plaintiff's medical condition. 18389

(D) As used in this section: 18390

(1) "Threshold limit values" means the maximum allowable 18391
concentration of silica, or other dust, set forth in regulation 18392
247 of the "regulations for the prevention and control of diseases 18393
resulting from exposure to toxic fumes, vapors, mists, gases, and 18394
dusts in order to preserve and protect the public health," as 18395
adopted by the former public health council of the department of 18396

health on January 1, 1947, and set forth by the industrial 18397
commission of Ohio in bulletin no. 203, "specific requirements and 18398
general safety standards of the industrial commission of Ohio for 18399
work shops and factories, chapter XV, ventilation and exhausts," 18400
effective January 3, 1955. 18401

(2) "Established safety standard" means that, for the years 18402
after 1971, the concentration of silica or mixed dust in the 18403
breathing zone of the worker does not exceed the maximum allowable 18404
exposure limits for the eight-hour time-weighted average airborne 18405
concentration as promulgated by the occupational safety and health 18406
administration (OSHA) in effect at the time of the alleged 18407
exposure. 18408

(3) "Employee" means an individual who performs labor or 18409
provides construction services pursuant to a construction 18410
contract, as defined in section 4123.79 of the Revised Code, or a 18411
remodeling or repair contract, whether written or oral, if at 18412
least ten of the following criteria apply: 18413

(a) The individual is required to comply with instructions 18414
from the other contracting party regarding the manner or method of 18415
performing services. 18416

(b) The individual is required by the other contracting party 18417
to have particular training. 18418

(c) The individual's services are integrated into the regular 18419
functioning of the other contracting party. 18420

(d) The individual is required to perform the work 18421
personally. 18422

(e) The individual is hired, supervised, or paid by the other 18423
contracting party. 18424

(f) A continuing relationship exists between the individual 18425
and the other contracting party that contemplates continuing or 18426

| | |
|--|----------------|
| recurring work even if the work is not full time. | 18427 |
| (g) The individual's hours of work are established by the other contracting party. | 18428 18429 |
| (h) The individual is required to devote full time to the business of the other contracting party. | 18430 18431 |
| (i) The individual is required to perform the work on the premises of the other contracting party. | 18432 18433 |
| (j) The individual is required to follow the order of work set by the other contracting party. | 18434 18435 |
| (k) The individual is required to make oral or written reports of progress to the other contracting party. | 18436 18437 |
| (l) The individual is paid for services on a regular basis, including hourly, weekly, or monthly. | 18438 18439 |
| (m) The individual's expenses are paid for by the other contracting party. | 18440 18441 |
| (n) The individual's tools and materials are furnished by the other contracting party. | 18442 18443 |
| (o) The individual is provided with the facilities used to perform services. | 18444 18445 |
| (p) The individual does not realize a profit or suffer a loss as a result of the services provided. | 18446 18447 |
| (q) The individual is not performing services for a number of employers at the same time. | 18448 18449 |
| (r) The individual does not make the same services available to the general public. | 18450 18451 |
| (s) The other contracting party has a right to discharge the individual. | 18452 18453 |
| (t) The individual has the right to end the relationship with the other contracting party without incurring liability pursuant | 18454 18455 |

to an employment contract or agreement. 18456

Sec. 2317.02. The following persons shall not testify in 18457
certain respects: 18458

(A)(1) An attorney, concerning a communication made to the 18459
attorney by a client in that relation or the attorney's advice to 18460
a client, except that the attorney may testify by express consent 18461
of the client or, if the client is deceased, by the express 18462
consent of the surviving spouse or the executor or administrator 18463
of the estate of the deceased client. However, if the client 18464
voluntarily testifies or is deemed by section 2151.421 of the 18465
Revised Code to have waived any testimonial privilege under this 18466
division, the attorney may be compelled to testify on the same 18467
subject. 18468

The testimonial privilege established under this division 18469
does not apply concerning a communication between a client who has 18470
since died and the deceased client's attorney if the communication 18471
is relevant to a dispute between parties who claim through that 18472
deceased client, regardless of whether the claims are by testate 18473
or intestate succession or by inter vivos transaction, and the 18474
dispute addresses the competency of the deceased client when the 18475
deceased client executed a document that is the basis of the 18476
dispute or whether the deceased client was a victim of fraud, 18477
undue influence, or duress when the deceased client executed a 18478
document that is the basis of the dispute. 18479

(2) An attorney, concerning a communication made to the 18480
attorney by a client in that relationship or the attorney's advice 18481
to a client, except that if the client is an insurance company, 18482
the attorney may be compelled to testify, subject to an in camera 18483
inspection by a court, about communications made by the client to 18484
the attorney or by the attorney to the client that are related to 18485
the attorney's aiding or furthering an ongoing or future 18486

commission of bad faith by the client, if the party seeking 18487
disclosure of the communications has made a prima_facie showing of 18488
bad faith, fraud, or criminal misconduct by the client. 18489

(B)(1) A physician or a dentist concerning a communication 18490
made to the physician or dentist by a patient in that relation or 18491
the physician's or dentist's advice to a patient, except as 18492
otherwise provided in this division, division (B)(2), and division 18493
(B)(3) of this section, and except that, if the patient is deemed 18494
by section 2151.421 of the Revised Code to have waived any 18495
testimonial privilege under this division, the physician may be 18496
compelled to testify on the same subject. 18497

The testimonial privilege established under this division 18498
does not apply, and a physician or dentist may testify or may be 18499
compelled to testify, in any of the following circumstances: 18500

(a) In any civil action, in accordance with the discovery 18501
provisions of the Rules of Civil Procedure in connection with a 18502
civil action, or in connection with a claim under Chapter 4123. of 18503
the Revised Code, under any of the following circumstances: 18504

(i) If the patient or the guardian or other legal 18505
representative of the patient gives express consent; 18506

(ii) If the patient is deceased, the spouse of the patient or 18507
the executor or administrator of the patient's estate gives 18508
express consent; 18509

(iii) If a medical claim, dental claim, chiropractic claim, 18510
or optometric claim, as defined in section 2305.113 of the Revised 18511
Code, an action for wrongful death, any other type of civil 18512
action, or a claim under Chapter 4123. of the Revised Code is 18513
filed by the patient, the personal representative of the estate of 18514
the patient if deceased, or the patient's guardian or other legal 18515
representative. 18516

(b) In any civil action concerning court-ordered treatment or 18517

services received by a patient, if the court-ordered treatment or 18518
services were ordered as part of a case plan journalized under 18519
section 2151.412 of the Revised Code or the court-ordered 18520
treatment or services are necessary or relevant to dependency, 18521
neglect, or abuse or temporary or permanent custody proceedings 18522
under Chapter 2151. of the Revised Code. 18523

(c) In any criminal action concerning any test or the results 18524
of any test that determines the presence or concentration of 18525
alcohol, a drug of abuse, a combination of them, a controlled 18526
substance, or a metabolite of a controlled substance in the 18527
patient's whole blood, blood serum or plasma, breath, urine, or 18528
other bodily substance at any time relevant to the criminal 18529
offense in question. 18530

(d) In any criminal action against a physician or dentist. In 18531
such an action, the testimonial privilege established under this 18532
division does not prohibit the admission into evidence, in 18533
accordance with the Rules of Evidence, of a patient's medical or 18534
dental records or other communications between a patient and the 18535
physician or dentist that are related to the action and obtained 18536
by subpoena, search warrant, or other lawful means. A court that 18537
permits or compels a physician or dentist to testify in such an 18538
action or permits the introduction into evidence of patient 18539
records or other communications in such an action shall require 18540
that appropriate measures be taken to ensure that the 18541
confidentiality of any patient named or otherwise identified in 18542
the records is maintained. Measures to ensure confidentiality that 18543
may be taken by the court include sealing its records or deleting 18544
specific information from its records. 18545

(e)(i) If the communication was between a patient who has 18546
since died and the deceased patient's physician or dentist, the 18547
communication is relevant to a dispute between parties who claim 18548
through that deceased patient, regardless of whether the claims 18549

are by testate or intestate succession or by inter vivos 18550
transaction, and the dispute addresses the competency of the 18551
deceased patient when the deceased patient executed a document 18552
that is the basis of the dispute or whether the deceased patient 18553
was a victim of fraud, undue influence, or duress when the 18554
deceased patient executed a document that is the basis of the 18555
dispute. 18556

(ii) If neither the spouse of a patient nor the executor or 18557
administrator of that patient's estate gives consent under 18558
division (B)(1)(a)(ii) of this section, testimony or the 18559
disclosure of the patient's medical records by a physician, 18560
dentist, or other health care provider under division (B)(1)(e)(i) 18561
of this section is a permitted use or disclosure of protected 18562
health information, as defined in 45 C.F.R. 160.103, and an 18563
authorization or opportunity to be heard shall not be required. 18564

(iii) Division (B)(1)(e)(i) of this section does not require 18565
a mental health professional to disclose psychotherapy notes, as 18566
defined in 45 C.F.R. 164.501. 18567

(iv) An interested person who objects to testimony or 18568
disclosure under division (B)(1)(e)(i) of this section may seek a 18569
protective order pursuant to Civil Rule 26. 18570

(v) A person to whom protected health information is 18571
disclosed under division (B)(1)(e)(i) of this section shall not 18572
use or disclose the protected health information for any purpose 18573
other than the litigation or proceeding for which the information 18574
was requested and shall return the protected health information to 18575
the covered entity or destroy the protected health information, 18576
including all copies made, at the conclusion of the litigation or 18577
proceeding. 18578

(2)(a) If any law enforcement officer submits a written 18579
statement to a health care provider that states that an official 18580

criminal investigation has begun regarding a specified person or 18581
that a criminal action or proceeding has been commenced against a 18582
specified person, that requests the provider to supply to the 18583
officer copies of any records the provider possesses that pertain 18584
to any test or the results of any test administered to the 18585
specified person to determine the presence or concentration of 18586
alcohol, a drug of abuse, a combination of them, a controlled 18587
substance, or a metabolite of a controlled substance in the 18588
person's whole blood, blood serum or plasma, breath, or urine at 18589
any time relevant to the criminal offense in question, and that 18590
conforms to section 2317.022 of the Revised Code, the provider, 18591
except to the extent specifically prohibited by any law of this 18592
state or of the United States, shall supply to the officer a copy 18593
of any of the requested records the provider possesses. If the 18594
health care provider does not possess any of the requested 18595
records, the provider shall give the officer a written statement 18596
that indicates that the provider does not possess any of the 18597
requested records. 18598

(b) If a health care provider possesses any records of the 18599
type described in division (B)(2)(a) of this section regarding the 18600
person in question at any time relevant to the criminal offense in 18601
question, in lieu of personally testifying as to the results of 18602
the test in question, the custodian of the records may submit a 18603
certified copy of the records, and, upon its submission, the 18604
certified copy is qualified as authentic evidence and may be 18605
admitted as evidence in accordance with the Rules of Evidence. 18606
Division (A) of section 2317.422 of the Revised Code does not 18607
apply to any certified copy of records submitted in accordance 18608
with this division. Nothing in this division shall be construed to 18609
limit the right of any party to call as a witness the person who 18610
administered the test to which the records pertain, the person 18611
under whose supervision the test was administered, the custodian 18612
of the records, the person who made the records, or the person 18613

under whose supervision the records were made. 18614

(3)(a) If the testimonial privilege described in division 18615
(B)(1) of this section does not apply as provided in division 18616
(B)(1)(a)(iii) of this section, a physician or dentist may be 18617
compelled to testify or to submit to discovery under the Rules of 18618
Civil Procedure only as to a communication made to the physician 18619
or dentist by the patient in question in that relation, or the 18620
physician's or dentist's advice to the patient in question, that 18621
related causally or historically to physical or mental injuries 18622
that are relevant to issues in the medical claim, dental claim, 18623
chiropractic claim, or optometric claim, action for wrongful 18624
death, other civil action, or claim under Chapter 4123. of the 18625
Revised Code. 18626

(b) If the testimonial privilege described in division (B)(1) 18627
of this section does not apply to a physician or dentist as 18628
provided in division (B)(1)(c) of this section, the physician or 18629
dentist, in lieu of personally testifying as to the results of the 18630
test in question, may submit a certified copy of those results, 18631
and, upon its submission, the certified copy is qualified as 18632
authentic evidence and may be admitted as evidence in accordance 18633
with the Rules of Evidence. Division (A) of section 2317.422 of 18634
the Revised Code does not apply to any certified copy of results 18635
submitted in accordance with this division. Nothing in this 18636
division shall be construed to limit the right of any party to 18637
call as a witness the person who administered the test in 18638
question, the person under whose supervision the test was 18639
administered, the custodian of the results of the test, the person 18640
who compiled the results, or the person under whose supervision 18641
the results were compiled. 18642

(4) The testimonial privilege described in division (B)(1) of 18643
this section is not waived when a communication is made by a 18644
physician to a pharmacist or when there is communication between a 18645

patient and a pharmacist in furtherance of the physician-patient relation. 18646
18647

(5)(a) As used in divisions (B)(1) to (4) of this section, 18648
"communication" means acquiring, recording, or transmitting any 18649
information, in any manner, concerning any facts, opinions, or 18650
statements necessary to enable a physician or dentist to diagnose, 18651
treat, prescribe, or act for a patient. A "communication" may 18652
include, but is not limited to, any medical or dental, office, or 18653
hospital communication such as a record, chart, letter, 18654
memorandum, laboratory test and results, x-ray, photograph, 18655
financial statement, diagnosis, or prognosis. 18656

(b) As used in division (B)(2) of this section, "health care 18657
provider" means a hospital, ambulatory care facility, long-term 18658
care facility, pharmacy, emergency facility, or health care 18659
practitioner. 18660

(c) As used in division (B)(5)(b) of this section: 18661

(i) "Ambulatory care facility" means a facility that provides 18662
medical, diagnostic, or surgical treatment to patients who do not 18663
require hospitalization, including a dialysis center, ambulatory 18664
surgical facility, cardiac catheterization facility, diagnostic 18665
imaging center, extracorporeal shock wave lithotripsy center, home 18666
health agency, inpatient hospice, birthing center, radiation 18667
therapy center, emergency facility, and an urgent care center. 18668
"Ambulatory health care facility" does not include the private 18669
office of a physician or dentist, whether the office is for an 18670
individual or group practice. 18671

(ii) "Emergency facility" means a hospital emergency 18672
department or any other facility that provides emergency medical 18673
services. 18674

(iii) "Health care practitioner" has the same meaning as in 18675
section 4769.01 of the Revised Code. 18676

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 18677
18678

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; ~~an adult care a residential facility, as defined in licensed under~~ section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 18679
18680
18681
18682
18683
18684
18685
18686
18687
18688
18689
18690

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 18691
18692

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code. 18693
18694
18695

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists. 18696
18697
18698

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and 18699
18700
18701
18702
18703
18704
18705
18706
18707

"physician" have the same meanings as in section 2305.33 of the Revised Code. 18708
18709

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust. 18710
18711
18712
18713
18714
18715
18716
18717
18718
18719
18720
18721
18722

(2) As used in division (C) of this section: 18723

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect. 18724
18725
18726
18727

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply: 18728
18729
18730
18731
18732

(i) The confession or confidential communication was made directly to the cleric. 18733
18734

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. 18735
18736
18737
18738

(D) Husband or wife, concerning any communication made by one 18739
to the other, or an act done by either in the presence of the 18740
other, during coverture, unless the communication was made, or act 18741
done, in the known presence or hearing of a third person competent 18742
to be a witness; and such rule is the same if the marital relation 18743
has ceased to exist; 18744

(E) A person who assigns a claim or interest, concerning any 18745
matter in respect to which the person would not, if a party, be 18746
permitted to testify; 18747

(F) A person who, if a party, would be restricted under 18748
section 2317.03 of the Revised Code, when the property or thing is 18749
sold or transferred by an executor, administrator, guardian, 18750
trustee, heir, devisee, or legatee, shall be restricted in the 18751
same manner in any action or proceeding concerning the property or 18752
thing. 18753

(G)(1) A school guidance counselor who holds a valid educator 18754
license from the state board of education as provided for in 18755
section 3319.22 of the Revised Code, a person licensed under 18756
Chapter 4757. of the Revised Code as a professional clinical 18757
counselor, professional counselor, social worker, independent 18758
social worker, marriage and family therapist or independent 18759
marriage and family therapist, or registered under Chapter 4757. 18760
of the Revised Code as a social work assistant concerning a 18761
confidential communication received from a client in that relation 18762
or the person's advice to a client unless any of the following 18763
applies: 18764

(a) The communication or advice indicates clear and present 18765
danger to the client or other persons. For the purposes of this 18766
division, cases in which there are indications of present or past 18767
child abuse or neglect of the client constitute a clear and 18768
present danger. 18769

(b) The client gives express consent to the testimony. 18770

(c) If the client is deceased, the surviving spouse or the 18771
executor or administrator of the estate of the deceased client 18772
gives express consent. 18773

(d) The client voluntarily testifies, in which case the 18774
school guidance counselor or person licensed or registered under 18775
Chapter 4757. of the Revised Code may be compelled to testify on 18776
the same subject. 18777

(e) The court in camera determines that the information 18778
communicated by the client is not germane to the counselor-client, 18779
marriage and family therapist-client, or social worker-client 18780
relationship. 18781

(f) A court, in an action brought against a school, its 18782
administration, or any of its personnel by the client, rules after 18783
an in-camera inspection that the testimony of the school guidance 18784
counselor is relevant to that action. 18785

(g) The testimony is sought in a civil action and concerns 18786
court-ordered treatment or services received by a patient as part 18787
of a case plan journalized under section 2151.412 of the Revised 18788
Code or the court-ordered treatment or services are necessary or 18789
relevant to dependency, neglect, or abuse or temporary or 18790
permanent custody proceedings under Chapter 2151. of the Revised 18791
Code. 18792

(2) Nothing in division (G)(1) of this section shall relieve 18793
a school guidance counselor or a person licensed or registered 18794
under Chapter 4757. of the Revised Code from the requirement to 18795
report information concerning child abuse or neglect under section 18796
2151.421 of the Revised Code. 18797

(H) A mediator acting under a mediation order issued under 18798
division (A) of section 3109.052 of the Revised Code or otherwise 18799
issued in any proceeding for divorce, dissolution, legal 18800

separation, annulment, or the allocation of parental rights and 18801
responsibilities for the care of children, in any action or 18802
proceeding, other than a criminal, delinquency, child abuse, child 18803
neglect, or dependent child action or proceeding, that is brought 18804
by or against either parent who takes part in mediation in 18805
accordance with the order and that pertains to the mediation 18806
process, to any information discussed or presented in the 18807
mediation process, to the allocation of parental rights and 18808
responsibilities for the care of the parents' children, or to the 18809
awarding of parenting time rights in relation to their children; 18810

(I) A communications assistant, acting within the scope of 18811
the communication assistant's authority, when providing 18812
telecommunications relay service pursuant to section 4931.06 of 18813
the Revised Code or Title II of the "Communications Act of 1934," 18814
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 18815
made through a telecommunications relay service. Nothing in this 18816
section shall limit the obligation of a communications assistant 18817
to divulge information or testify when mandated by federal law or 18818
regulation or pursuant to subpoena in a criminal proceeding. 18819

Nothing in this section shall limit any immunity or privilege 18820
granted under federal law or regulation. 18821

(J)(1) A chiropractor in a civil proceeding concerning a 18822
communication made to the chiropractor by a patient in that 18823
relation or the chiropractor's advice to a patient, except as 18824
otherwise provided in this division. The testimonial privilege 18825
established under this division does not apply, and a chiropractor 18826
may testify or may be compelled to testify, in any civil action, 18827
in accordance with the discovery provisions of the Rules of Civil 18828
Procedure in connection with a civil action, or in connection with 18829
a claim under Chapter 4123. of the Revised Code, under any of the 18830
following circumstances: 18831

(a) If the patient or the guardian or other legal 18832

representative of the patient gives express consent. 18833

(b) If the patient is deceased, the spouse of the patient or 18834
the executor or administrator of the patient's estate gives 18835
express consent. 18836

(c) If a medical claim, dental claim, chiropractic claim, or 18837
optometric claim, as defined in section 2305.113 of the Revised 18838
Code, an action for wrongful death, any other type of civil 18839
action, or a claim under Chapter 4123. of the Revised Code is 18840
filed by the patient, the personal representative of the estate of 18841
the patient if deceased, or the patient's guardian or other legal 18842
representative. 18843

(2) If the testimonial privilege described in division (J)(1) 18844
of this section does not apply as provided in division (J)(1)(c) 18845
of this section, a chiropractor may be compelled to testify or to 18846
submit to discovery under the Rules of Civil Procedure only as to 18847
a communication made to the chiropractor by the patient in 18848
question in that relation, or the chiropractor's advice to the 18849
patient in question, that related causally or historically to 18850
physical or mental injuries that are relevant to issues in the 18851
medical claim, dental claim, chiropractic claim, or optometric 18852
claim, action for wrongful death, other civil action, or claim 18853
under Chapter 4123. of the Revised Code. 18854

(3) The testimonial privilege established under this division 18855
does not apply, and a chiropractor may testify or be compelled to 18856
testify, in any criminal action or administrative proceeding. 18857

(4) As used in this division, "communication" means 18858
acquiring, recording, or transmitting any information, in any 18859
manner, concerning any facts, opinions, or statements necessary to 18860
enable a chiropractor to diagnose, treat, or act for a patient. A 18861
communication may include, but is not limited to, any 18862
chiropractic, office, or hospital communication such as a record, 18863

chart, letter, memorandum, laboratory test and results, x-ray, 18864
photograph, financial statement, diagnosis, or prognosis. 18865

(K)(1) Except as provided under division (K)(2) of this 18866
section, a critical incident stress management team member 18867
concerning a communication received from an individual who 18868
receives crisis response services from the team member, or the 18869
team member's advice to the individual, during a debriefing 18870
session. 18871

(2) The testimonial privilege established under division 18872
(K)(1) of this section does not apply if any of the following are 18873
true: 18874

(a) The communication or advice indicates clear and present 18875
danger to the individual who receives crisis response services or 18876
to other persons. For purposes of this division, cases in which 18877
there are indications of present or past child abuse or neglect of 18878
the individual constitute a clear and present danger. 18879

(b) The individual who received crisis response services 18880
gives express consent to the testimony. 18881

(c) If the individual who received crisis response services 18882
is deceased, the surviving spouse or the executor or administrator 18883
of the estate of the deceased individual gives express consent. 18884

(d) The individual who received crisis response services 18885
voluntarily testifies, in which case the team member may be 18886
compelled to testify on the same subject. 18887

(e) The court in camera determines that the information 18888
communicated by the individual who received crisis response 18889
services is not germane to the relationship between the individual 18890
and the team member. 18891

(f) The communication or advice pertains or is related to any 18892
criminal act. 18893

| | |
|---|--|
| (3) As used in division (K) of this section: | 18894 |
| (a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster. | 18895 18896 18897 18898 |
| (b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network. | 18899 18900 18901 18902 18903 |
| (c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster. | 18904 18905 18906 |
| (L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional. | 18907 18908 18909 18910 18911 18912 |
| (2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements: | 18913 18914 18915 |
| (a) Is certified by the employee assistance certification commission to engage in the employee assistance profession; | 18916 18917 |
| (b) Has education, training, and experience in all of the following: | 18918 18919 |
| (i) Providing workplace-based services designed to address employer and employee productivity issues; | 18920 18921 |
| (ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve | 18922 18923 |

| | |
|--|-------|
| personal problems that affect the employees or the employees' | 18924 |
| performance; | 18925 |
| (iii) Identifying and resolving productivity problems | 18926 |
| associated with an employee's concerns about any of the following | 18927 |
| matters: health, marriage, family, finances, substance abuse or | 18928 |
| other addiction, workplace, law, and emotional issues; | 18929 |
| (iv) Selecting and evaluating available community resources; | 18930 |
| (v) Making appropriate referrals; | 18931 |
| (vi) Local and national employee assistance agreements; | 18932 |
| (vii) Client confidentiality. | 18933 |
| (3) Division (L)(1) of this section does not apply to any of | 18934 |
| the following: | 18935 |
| (a) A criminal action or proceeding involving an offense | 18936 |
| under sections 2903.01 to 2903.06 of the Revised Code if the | 18937 |
| employee assistance professional's disclosure or testimony relates | 18938 |
| directly to the facts or immediate circumstances of the offense; | 18939 |
| (b) A communication made by a client to an employee | 18940 |
| assistance professional that reveals the contemplation or | 18941 |
| commission of a crime or serious, harmful act; | 18942 |
| (c) A communication that is made by a client who is an | 18943 |
| unemancipated minor or an adult adjudicated to be incompetent and | 18944 |
| indicates that the client was the victim of a crime or abuse; | 18945 |
| (d) A civil proceeding to determine an individual's mental | 18946 |
| competency or a criminal action in which a plea of not guilty by | 18947 |
| reason of insanity is entered; | 18948 |
| (e) A civil or criminal malpractice action brought against | 18949 |
| the employee assistance professional; | 18950 |
| (f) When the employee assistance professional has the express | 18951 |
| consent of the client or, if the client is deceased or disabled, | 18952 |

the client's legal representative; 18953

(g) When the testimonial privilege otherwise provided by 18954

division (L)(1) of this section is abrogated under law. 18955

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 18956
2317.41 of the Revised Code but subject to division (B) of this 18957
section, the records, or copies or photographs of the records, of 18958
a hospital, homes required to be licensed pursuant to section 18959
3721.01 of the Revised Code, and ~~adult care residential~~ residential facilities 18960
~~required to be licensed pursuant to Chapter 5119.~~ section 5119.22 18961
of the Revised Code that provides accommodations, supervision, and 18962
personal care services for three to sixteen unrelated adults, in 18963
lieu of the testimony in open court of their custodian, person who 18964
made them, or person under whose supervision they were made, may 18965
be qualified as authentic evidence if any such person endorses 18966
thereon the person's verified certification identifying such 18967
records, giving the mode and time of their preparation, and 18968
stating that they were prepared in the usual course of the 18969
business of the institution. Such records, copies, or photographs 18970
may not be qualified by certification as provided in this section 18971
unless the party intending to offer them delivers a copy of them, 18972
or of their relevant portions, to the attorney of record for each 18973
adverse party not less than five days before trial. Nothing in 18974
this section shall be construed to limit the right of any party to 18975
call the custodian, person who made such records, or person under 18976
whose supervision they were made, as a witness. 18977

(B) Division (A) of this section does not apply to any 18978
certified copy of the results of any test given to determine the 18979
presence or concentration of alcohol, a drug of abuse, a 18980
combination of them, a controlled substance, or a metabolite of a 18981
controlled substance in a patient's whole blood, blood serum or 18982
plasma, breath, or urine at any time relevant to a criminal 18983

offense that is submitted in a criminal action or proceeding in 18984
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 18985
of the Revised Code. 18986

Sec. 2317.56. (A) As used in this section: 18987

(1) "Medical emergency" means a condition of a pregnant woman 18988
that, in the reasonable judgment of the physician who is attending 18989
the woman, creates an immediate threat of serious risk to the life 18990
or physical health of the woman from the continuation of the 18991
pregnancy necessitating the immediate performance or inducement of 18992
an abortion. 18993

(2) "Medical necessity" means a medical condition of a 18994
pregnant woman that, in the reasonable judgment of the physician 18995
who is attending the woman, so complicates the pregnancy that it 18996
necessitates the immediate performance or inducement of an 18997
abortion. 18998

(3) "Probable gestational age of the embryo or fetus" means 18999
the gestational age that, in the judgment of a physician, is, with 19000
reasonable probability, the gestational age of the embryo or fetus 19001
at the time that the physician informs a pregnant woman pursuant 19002
to division (B)(1)(b) of this section. 19003

(B) Except when there is a medical emergency or medical 19004
necessity, an abortion shall be performed or induced only if all 19005
of the following conditions are satisfied: 19006

(1) At least twenty-four hours prior to the performance or 19007
inducement of the abortion, a physician meets with the pregnant 19008
woman in person in an individual, private setting and gives her an 19009
adequate opportunity to ask questions about the abortion that will 19010
be performed or induced. At this meeting, the physician shall 19011
inform the pregnant woman, verbally or, if she is hearing 19012
impaired, by other means of communication, of all of the 19013

| | |
|---|--|
| following: | 19014 |
| (a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure; | 19015 19016 19017 |
| (b) The probable gestational age of the embryo or fetus; | 19018 |
| (c) The medical risks associated with the pregnant woman carrying the pregnancy to term. | 19019 19020 |
| The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion. | 19021 19022 19023 19024 |
| (2) At least twenty-four hours prior to the performance or inducement of the abortion, one or more physicians or one or more agents of one or more physicians do each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing: | 19025 19026 19027 19028 19029 |
| (a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion; | 19030 19031 |
| (b) Give the pregnant woman copies of the published materials described in division (C) of this section; | 19032 19033 |
| (c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are provided <u>published</u> by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials. | 19034 19035 19036 19037 19038 19039 19040 19041 |
| (3) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and | 19042 19043 |

certifies both of the following on that form: 19044

(a) She has received the information and materials described 19045
in divisions (B)(1) and (2) of this section, and her questions 19046
about the abortion that will be performed or induced have been 19047
answered in a satisfactory manner. 19048

(b) She consents to the particular abortion voluntarily, 19049
knowingly, intelligently, and without coercion by any person, and 19050
she is not under the influence of any drug of abuse or alcohol. 19051

(4) Prior to the performance or inducement of the abortion, 19052
the physician who is scheduled to perform or induce the abortion 19053
or the physician's agent receives a copy of the pregnant woman's 19054
signed form on which she consents to the abortion and that 19055
includes the certification required by division (B)(3) of this 19056
section. 19057

(C) The department of health shall ~~cause to be published~~ 19058
publish in English and in Spanish, in a typeface large enough to 19059
be clearly legible, and in an easily comprehensible format, the 19060
following materials on the department's web site: 19061

(1) Materials that inform the pregnant woman about family 19062
planning information, of publicly funded agencies that are 19063
available to assist in family planning, and of public and private 19064
agencies and services that are available to assist her through the 19065
pregnancy, upon childbirth, and while the child is dependent, 19066
including, but not limited to, adoption agencies. The materials 19067
shall be geographically indexed; include a comprehensive list of 19068
the available agencies, a description of the services offered by 19069
the agencies, and the telephone numbers and addresses of the 19070
agencies; and inform the pregnant woman about available medical 19071
assistance benefits for prenatal care, childbirth, and neonatal 19072
care and about the support obligations of the father of a child 19073
who is born alive. The department shall ensure that the materials 19074

described in division (C)(1) of this section are comprehensive and 19075
do not directly or indirectly promote, exclude, or discourage the 19076
use of any agency or service described in this division. 19077

(2) Materials that inform the pregnant woman of the probable 19078
anatomical and physiological characteristics of the zygote, 19079
blastocyte, embryo, or fetus at two-week gestational increments 19080
for the first sixteen weeks of pregnancy and at four-week 19081
gestational increments from the seventeenth week of pregnancy to 19082
full term, including any relevant information regarding the time 19083
at which the fetus possibly would be viable. The department shall 19084
cause these materials to be published only after it consults with 19085
the Ohio state medical association and the Ohio section of the 19086
American college of obstetricians and gynecologists relative to 19087
the probable anatomical and physiological characteristics of a 19088
zygote, blastocyte, embryo, or fetus at the various gestational 19089
increments. The materials shall use language that is 19090
understandable by the average person who is not medically trained, 19091
shall be objective and nonjudgmental, and shall include only 19092
accurate scientific information about the zygote, blastocyte, 19093
embryo, or fetus at the various gestational increments. If the 19094
materials use a pictorial, photographic, or other depiction to 19095
provide information regarding the zygote, blastocyte, embryo, or 19096
fetus, the materials shall include, in a conspicuous manner, a 19097
scale or other explanation that is understandable by the average 19098
person and that can be used to determine the actual size of the 19099
zygote, blastocyte, embryo, or fetus at a particular gestational 19100
increment as contrasted with the depicted size of the zygote, 19101
blastocyte, embryo, or fetus at that gestational increment. 19102

(D) Upon the submission of a request to the department of 19103
health by any person, hospital, physician, or medical facility for 19104
one ~~or more copies~~ copy of the materials published in accordance 19105
with division (C) of this section, the department shall make the 19106

requested ~~number of copies~~ copy of the materials available to the 19107
person, hospital, physician, or medical facility that requested 19108
the ~~copies~~ copy. 19109

(E) If a medical emergency or medical necessity compels the 19110
performance or inducement of an abortion, the physician who will 19111
perform or induce the abortion, prior to its performance or 19112
inducement if possible, shall inform the pregnant woman of the 19113
medical indications supporting the physician's judgment that an 19114
immediate abortion is necessary. Any physician who performs or 19115
induces an abortion without the prior satisfaction of the 19116
conditions specified in division (B) of this section because of a 19117
medical emergency or medical necessity shall enter the reasons for 19118
the conclusion that a medical emergency or medical necessity 19119
exists in the medical record of the pregnant woman. 19120

(F) If the conditions specified in division (B) of this 19121
section are satisfied, consent to an abortion shall be presumed to 19122
be valid and effective. 19123

(G) The performance or inducement of an abortion without the 19124
prior satisfaction of the conditions specified in division (B) of 19125
this section does not constitute, and shall not be construed as 19126
constituting, a violation of division (A) of section 2919.12 of 19127
the Revised Code. The failure of a physician to satisfy the 19128
conditions of division (B) of this section prior to performing or 19129
inducing an abortion upon a pregnant woman may be the basis of 19130
both of the following: 19131

(1) A civil action for compensatory and exemplary damages as 19132
described in division (H) of this section; 19133

(2) Disciplinary action under section 4731.22 of the Revised 19134
Code. 19135

(H)(1) Subject to divisions (H)(2) and (3) of this section, 19136
any physician who performs or induces an abortion with actual 19137

knowledge that the conditions specified in division (B) of this 19138
section have not been satisfied or with a heedless indifference as 19139
to whether those conditions have been satisfied is liable in 19140
compensatory and exemplary damages in a civil action to any 19141
person, or the representative of the estate of any person, who 19142
sustains injury, death, or loss to person or property as a result 19143
of the failure to satisfy those conditions. In the civil action, 19144
the court additionally may enter any injunctive or other equitable 19145
relief that it considers appropriate. 19146

(2) The following shall be affirmative defenses in a civil 19147
action authorized by division (H)(1) of this section: 19148

(a) The physician performed or induced the abortion under the 19149
circumstances described in division (E) of this section. 19150

(b) The physician made a good faith effort to satisfy the 19151
conditions specified in division (B) of this section. 19152

~~(c) The physician or an agent of the physician requested 19153
copies of the materials published in accordance with division (C)
of this section from the department of health, but the physician 19154
was not able to give a pregnant woman copies of the materials 19155
pursuant to division (B)(2) of this section and to obtain a 19156
certification as described in divisions (B)(3) and (4) of this 19157
section because the department failed to make the requested number 19158
of copies available to the physician or agent in accordance with 19159
division (D) of this section. 19160
19161~~

(3) An employer or other principal is not liable in damages 19162
in a civil action authorized by division (H)(1) of this section on 19163
the basis of the doctrine of respondeat superior unless either of 19164
the following applies: 19165

(a) The employer or other principal had actual knowledge or, 19166
by the exercise of reasonable diligence, should have known that an 19167
employee or agent performed or induced an abortion with actual 19168

knowledge that the conditions specified in division (B) of this 19169
section had not been satisfied or with a heedless indifference as 19170
to whether those conditions had been satisfied. 19171

(b) The employer or other principal negligently failed to 19172
secure the compliance of an employee or agent with division (B) of 19173
this section. 19174

(4) Notwithstanding division (E) of section 2919.12 of the 19175
Revised Code, the civil action authorized by division (H)(1) of 19176
this section shall be the exclusive civil remedy for persons, or 19177
the representatives of estates of persons, who allegedly sustain 19178
injury, death, or loss to person or property as a result of a 19179
failure to satisfy the conditions specified in division (B) of 19180
this section. 19181

(I) The department of job and family services shall prepare 19182
and conduct a public information program to inform women of all 19183
available governmental programs and agencies that provide services 19184
or assistance for family planning, prenatal care, child care, or 19185
alternatives to abortion. 19186

Sec. 2319.27. Except as section 147.08 of the Revised Code 19187
governs the fees chargeable by a notary public for services 19188
rendered in connection with depositions, the fees and expenses 19189
chargeable for the taking and certifying of a deposition by a 19190
person who is authorized to do so in this state, including, but 19191
not limited to, a ~~shorthand~~ reporter, stenographer, or person 19192
described in Civil Rule 28, may be established by that person 19193
subject to the qualification specified in this section, and may be 19194
different than the fees and expenses charged for the taking and 19195
certifying of depositions by similar persons in other areas of 19196
this state. Unless, prior to the taking and certifying of a 19197
deposition, the parties who request it agree that the fees or 19198
expenses to be charged may exceed the usual and customary fees or 19199

expenses charged in the particular community for similar services, 19200
such a person shall not charge fees or expenses in connection with 19201
the taking and certifying of the deposition that exceed those 19202
usual and customary fees and expenses. 19203

The person taking and certifying a deposition may retain the 19204
deposition until the fees and expenses that ~~he~~ the person charged 19205
are paid. ~~He~~ The person also shall tax the costs, if any, of a 19206
sheriff or other officer who serves any process in connection with 19207
the taking of a deposition and the fees of the witnesses, and, if 19208
directed by a person entitled to those costs or fees, may retain 19209
the deposition until those costs or fees are paid. 19210

Sec. 2501.02. Each judge of a court of appeals shall have 19211
been admitted to practice as an attorney at law in this state and 19212
have, for a total of six years preceding the judge's appointment 19213
or commencement of the judge's term, engaged in the practice of 19214
law in this state or served as a judge of a court of record in any 19215
jurisdiction in the United States, or both. ~~At least two of the~~ 19216
~~years of practice or service that qualify a judge shall have been~~ 19217
~~in this state.~~ One judge shall be chosen in each court of appeals 19218
district every two years, and shall hold office for six years, 19219
beginning on the ninth day of February next after the judge's 19220
election. 19221

In addition to the original jurisdiction conferred by Section 19222
3 of Article IV, Ohio Constitution, the court shall have 19223
jurisdiction upon an appeal upon questions of law to review, 19224
affirm, modify, set aside, or reverse judgments or final orders of 19225
courts of record inferior to the court of appeals within the 19226
district, including the finding, order, or judgment of a juvenile 19227
court that a child is delinquent, neglected, abused, or dependent, 19228
for prejudicial error committed by such lower court. 19229

The court, on good cause shown, may issue writs of 19230

supersedeas in any case, and all other writs, not specially 19231
provided for or prohibited by statute, necessary to enforce the 19232
administration of justice. 19233

Sec. 2501.16. (A) Each court of appeals may appoint one or 19234
more official ~~shorthand~~ reporters, law clerks, secretaries, and 19235
any other employees that the court considers necessary for its 19236
efficient operation. 19237

The clerk of the court of common pleas, acting as the clerk 19238
of the court of appeals for the county, shall perform the duties 19239
otherwise performed and collect the fees otherwise collected by 19240
the clerk of the court of common pleas, as set forth in section 19241
2303.03 of the Revised Code, and shall maintain the files and 19242
records of the court. The clerk of the court of common pleas, 19243
acting as the clerk of the court of appeals for the county, may 19244
refuse to accept for filing any pleading or paper submitted for 19245
filing by a person who has been found to be a vexatious litigator 19246
under section 2323.52 of the Revised Code and who has failed to 19247
obtain leave from the court of appeals to proceed under that 19248
section. The overhead expenses pertaining to the office of the 19249
clerk of the court of common pleas that result from the clerk's 19250
acting as clerk of the court of appeals for the county, other than 19251
wages and salaries, shall be paid from the funds provided under 19252
sections 2501.18 and 2501.181 of the Revised Code. 19253

Each officer and employee appointed pursuant to this section 19254
shall take an oath of office, serve at the pleasure of the court, 19255
and perform any duties that the court directs. Each ~~shorthand~~ 19256
reporter shall have the powers that are vested in official 19257
~~shorthand~~ reporters of the court of common pleas under sections 19258
2301.18 to 2301.26 of the Revised Code. Whenever an opinion, per 19259
curiam, or report of a case has been prepared in accordance with 19260
section 2503.20 of the Revised Code, the official ~~shorthand~~ 19261

reporter immediately shall forward one copy of the opinion, per 19262
curiam, or report to the reporter of the supreme court, without 19263
expense to the reporter. 19264

(B) The court of appeals may determine that, for the 19265
efficient operation of the court, additional funds are necessary 19266
to acquire and pay for special projects of the court, including, 19267
but not limited to, the acquisition of additional facilities or 19268
the rehabilitation of existing facilities, the acquisition of 19269
equipment, the hiring and training of staff, the employment of 19270
magistrates, the training and education of judges, acting judges, 19271
and magistrates, community service programs, and other related 19272
services. Upon that determination, the court by rule may charge a 19273
fee, in addition to all other court costs, on the filing of each 19274
case or cause over which the court has jurisdiction. 19275

If the court of appeals offers a special program or service 19276
in cases of a specific type, the court by rule may assess an 19277
additional charge in a case of that type, over and above court 19278
costs, to cover the special program or service. The court shall 19279
adjust the special assessment periodically, but not retroactively, 19280
so that the amount assessed in those cases does not exceed the 19281
actual cost of providing the service or program. 19282

All moneys collected under division (B) of this section shall 19283
be paid to the county treasurer of the county selected as the 19284
principal seat of that court of appeals for deposit into either a 19285
general special projects fund or a fund established for a specific 19286
special project. Moneys from a fund of that nature shall be 19287
disbursed upon an order of the court in an amount no greater than 19288
the actual cost to the court of a project. If a specific fund is 19289
terminated because of the discontinuance of a program or service 19290
established under division (B) of this section, the court may 19291
order that moneys remaining in the fund be transferred to an 19292
account established under this division for a similar purpose. 19293

Sec. 2501.17. Each officer and employee of a court of appeals 19294
appointed under section 2501.16 of the Revised Code shall receive 19295
the compensation that is fixed by the court of appeals and payable 19296
from the state treasury upon the certificate of the presiding or 19297
administrative judge of the district in which the officer or 19298
employee serves. The additional amount of compensation that the 19299
clerk of the court of common pleas receives for acting as the 19300
clerk of the court of appeals in ~~his~~ the clerk's county and 19301
assuming the duties of that office and that is equal to one-eighth 19302
of the annual compensation that ~~he~~ the clerk receives pursuant to 19303
sections 325.08 and 325.18 of the Revised Code for being the clerk 19304
of the court of common pleas is payable from the state treasury 19305
upon the certificate of the presiding or administrative judge of 19306
the district in which the clerk serves. 19307

~~Shorthand reporters~~ Reporters may receive additional 19308
compensation for transcripts of evidence, the fee for the 19309
transcripts to be fixed by the judges of the court of appeals and 19310
paid and collected in the same manner as the fees for transcripts 19311
furnished by official ~~shorthand~~ reporters of the court of common 19312
pleas under section 2301.24 of the Revised Code. ~~Shorthand~~ 19313
~~reporters~~ Reporters appointed for a term of less than one year 19314
shall receive a per diem compensation of not less than thirty 19315
dollars per day. All ~~shorthand~~ reporters shall receive their 19316
actual expenses for traveling when attending court in any county 19317
other than that in which they reside, to be paid as provided by 19318
section ~~2301.24~~ 2301.22 of the Revised Code. 19319

Sec. 2503.01. The supreme court shall consist of a chief 19320
justice and six justices, each of whom has been admitted to 19321
practice as an attorney at law in this state and has, for a total 19322
of at least six years preceding appointment or commencement of the 19323
justice's term, engaged in the practice of law in this state or 19324

served as a judge of a court of record in any jurisdiction of the 19325
United States, or both. ~~At least two of the years of practice or~~ 19326
~~service that qualify a justice shall have been in this state.~~ 19327

Sec. 2743.02. (A)(1) The state hereby waives its immunity 19328
from liability, except as provided for the office of the state 19329
fire marshal in division (G)(1) of section 9.60 and division (B) 19330
of section 3737.221 of the Revised Code and subject to division 19331
(H) of this section, and consents to be sued, and have its 19332
liability determined, in the court of claims created in this 19333
chapter in accordance with the same rules of law applicable to 19334
suits between private parties, except that the determination of 19335
liability is subject to the limitations set forth in this chapter 19336
and, in the case of state universities or colleges, in section 19337
3345.40 of the Revised Code, and except as provided in division 19338
(A)(2) or (3) of this section. To the extent that the state has 19339
previously consented to be sued, this chapter has no 19340
applicability. 19341

Except in the case of a civil action filed by the state, 19342
filing a civil action in the court of claims results in a complete 19343
waiver of any cause of action, based on the same act or omission, 19344
~~which that~~ the filing party has against any officer or employee, 19345
as defined in section 109.36 of the Revised Code. The waiver shall 19346
be void if the court determines that the act or omission was 19347
manifestly outside the scope of the officer's or employee's office 19348
or employment or that the officer or employee acted with malicious 19349
purpose, in bad faith, or in a wanton or reckless manner. 19350

(2) If a claimant proves in the court of claims that an 19351
officer or employee, as defined in section 109.36 of the Revised 19352
Code, would have personal liability for the officer's or 19353
employee's acts or omissions but for the fact that the officer or 19354
employee has personal immunity under section 9.86 of the Revised 19355

Code, the state shall be held liable in the court of claims in any 19356
action that is timely filed pursuant to section 2743.16 of the 19357
Revised Code and that is based upon the acts or omissions. 19358

(3)(a) Except as provided in division (A)(3)(b) of this 19359
section, the state is immune from liability in any civil action or 19360
proceeding involving the performance or nonperformance of a public 19361
duty, including the performance or nonperformance of a public duty 19362
that is owed by the state in relation to any action of an 19363
individual who is committed to the custody of the state. 19364

(b) The state immunity provided in division (A)(3)(a) of this 19365
section does not apply to any action of the state under 19366
circumstances in which a special relationship can be established 19367
between the state and an injured party. A special relationship 19368
under this division is demonstrated if all of the following 19369
elements exist: 19370

(i) An assumption by the state, by means of promises or 19371
actions, of an affirmative duty to act on behalf of the party who 19372
was allegedly injured; 19373

(ii) Knowledge on the part of the state's agents that 19374
inaction of the state could lead to harm; 19375

(iii) Some form of direct contact between the state's agents 19376
and the injured party; 19377

(iv) The injured party's justifiable reliance on the state's 19378
affirmative undertaking. 19379

(B) The state hereby waives the immunity from liability of 19380
all hospitals owned or operated by one or more political 19381
subdivisions and consents for them to be sued, and to have their 19382
liability determined, in the court of common pleas, in accordance 19383
with the same rules of law applicable to suits between private 19384
parties, subject to the limitations set forth in this chapter. 19385
This division is also applicable to hospitals owned or operated by 19386

political subdivisions ~~which~~ that have been determined by the 19387
supreme court to be subject to suit prior to July 28, 1975. 19388

(C) Any hospital, as defined in section 2305.113 of the 19389
Revised Code, may purchase liability insurance covering its 19390
operations and activities and its agents, employees, nurses, 19391
interns, residents, staff, and members of the governing board and 19392
committees, and, whether or not such insurance is purchased, may, 19393
to ~~such~~ the extent ~~as~~ that its governing board considers 19394
appropriate, indemnify or agree to indemnify and hold harmless any 19395
such person against expense, including attorney's fees, damage, 19396
loss, or other liability arising out of, or claimed to have arisen 19397
out of, the death, disease, or injury of any person as a result of 19398
the negligence, malpractice, or other action or inaction of the 19399
indemnified person while acting within the scope of the 19400
indemnified person's duties or engaged in activities at the 19401
request or direction, or for the benefit, of the hospital. Any 19402
hospital electing to indemnify ~~such~~ those persons, or to agree to 19403
so indemnify, shall reserve ~~such~~ any funds ~~as~~ that are necessary, 19404
in the exercise of sound and prudent actuarial judgment, to cover 19405
the potential expense, fees, damage, loss, or other liability. The 19406
superintendent of insurance may recommend, or, if ~~such~~ the 19407
hospital requests the superintendent to do so, the superintendent 19408
shall recommend, a specific amount for any period that, in the 19409
superintendent's opinion, represents such a judgment. This 19410
authority is in addition to any authorization otherwise provided 19411
or permitted by law. 19412

(D) Recoveries against the state shall be reduced by the 19413
aggregate of insurance proceeds, disability award, or other 19414
collateral recovery received by the claimant. This division does 19415
not apply to civil actions in the court of claims against a state 19416
university or college under the circumstances described in section 19417
3345.40 of the Revised Code. The collateral benefits provisions of 19418

division (B)(2) of that section apply under those circumstances. 19419

(E) The only defendant in original actions in the court of 19420
claims is the state. The state may file a third-party complaint or 19421
counterclaim in any civil action, except a civil action for ~~two~~ 19422
~~ten~~ thousand ~~five hundred~~ dollars or less, that is filed in the 19423
court of claims. 19424

(F) A civil action against an officer or employee, as defined 19425
in section 109.36 of the Revised Code, that alleges that the 19426
officer's or employee's conduct was manifestly outside the scope 19427
of the officer's or employee's employment or official 19428
responsibilities, or that the officer or employee acted with 19429
malicious purpose, in bad faith, or in a wanton or reckless manner 19430
shall first be filed against the state in the court of claims, 19431
~~which that~~ has exclusive, original jurisdiction to determine, 19432
initially, whether the officer or employee is entitled to personal 19433
immunity under section 9.86 of the Revised Code and whether the 19434
courts of common pleas have jurisdiction over the civil action. 19435
The officer or employee may participate in the immunity 19436
determination proceeding before the court of claims to determine 19437
whether the officer or employee is entitled to personal immunity 19438
under section 9.86 of the Revised Code. 19439

The filing of a claim against an officer or employee under 19440
this division tolls the running of the applicable statute of 19441
limitations until the court of claims determines whether the 19442
officer or employee is entitled to personal immunity under section 19443
9.86 of the Revised Code. 19444

(G) ~~Whenever~~ If a claim lies against an officer or employee 19445
who is a member of the Ohio national guard, and the officer or 19446
employee was, at the time of the act or omission complained of, 19447
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 19448
U.S.C. 2671, et seq., ~~then~~ the Federal Tort Claims Act is the 19449
exclusive remedy of the claimant and the state has no liability 19450

under this section. 19451

(H) If an inmate of a state correctional institution has a 19452
claim against the state for the loss of or damage to property and 19453
the amount claimed does not exceed three hundred dollars, before 19454
commencing an action against the state in the court of claims, the 19455
inmate shall file a claim for the loss or damage under the rules 19456
adopted by the director of rehabilitation and correction pursuant 19457
to this division. The inmate shall file the claim within the time 19458
allowed for commencement of a civil action under section 2743.16 19459
of the Revised Code. If the state admits or compromises the claim, 19460
the director shall make payment from a fund designated by the 19461
director for that purpose. If the state denies the claim or does 19462
not compromise the claim at least sixty days prior to expiration 19463
of the time allowed for commencement of a civil action based upon 19464
the loss or damage under section 2743.16 of the Revised Code, the 19465
inmate may commence an action in the court of claims under this 19466
chapter to recover damages for the loss or damage. 19467

The director of rehabilitation and correction shall adopt 19468
rules pursuant to Chapter 119. of the Revised Code to implement 19469
this division. 19470

Sec. 2743.09. The clerk of the court of claims shall do all 19471
of the following: 19472

(A) Administer oaths and take and certify affidavits, 19473
depositions, and acknowledgments of powers of attorney and other 19474
instruments in writing; 19475

(B) Prepare the dockets, enter and record the orders, 19476
judgments, decisions, awards, and proceedings of the court of 19477
claims and the court of claims commissioners, and issue writs and 19478
process; 19479

(C) Maintain an office in Franklin county in rooms provided 19480

by the supreme court for that purpose; 19481

(D) Keep an appearance docket of civil actions, claims for an 19482
award of reparations, and appeals from decisions of the court of 19483
claims commissioners. The clerk may refuse to accept for filing 19484
any pleading or paper that relates to a civil action in the court 19485
of claims and that is submitted for filing by a person who has 19486
been found to be a vexatious litigator under section 2323.52 of 19487
the Revised Code and who has failed to obtain leave to proceed 19488
under that section. 19489

Upon the commencement of an action or claim, the clerk shall 19490
assign it a number. This number shall be placed on the first page, 19491
and every continuation page, of the appearance docket that 19492
concerns the particular action or claim. In addition, this number 19493
and the names of the parties shall be placed on the case file, and 19494
every paper filed in the action or claim. 19495

At the time the action is commenced the clerk shall enter in 19496
the appearance docket the names of the parties in full and the 19497
names of counsel and shall index the action alphabetically by the 19498
last name of each party. Thereafter, the clerk shall 19499
chronologically note in the appearance docket all process issued 19500
and returns, pleas, motions, papers filed in the action, orders, 19501
verdicts, and judgments. The notations shall be brief but shall 19502
show the date of filing, substance, and journal volume and page of 19503
each order, verdict, and judgment. An action is commenced for 19504
purposes of this division by the filing of a complaint, including 19505
a form complaint under section 2743.10 of the Revised Code or a 19506
petition for removal. 19507

At the time an appeal for an award of reparations is 19508
commenced, the clerk shall enter the full names of the claimant, 19509
the victim, and the attorneys in the appearance docket and shall 19510
index the claim alphabetically by the last name of the claimant 19511
and the victim. Thereafter, the clerk shall chronologically note 19512

in the appearance docket all process issued and returns, motions, 19513
papers filed in the claim, orders, decisions, and awards. The 19514
notations shall be brief but shall show the date of filing, 19515
substance, and journal volume and page of each order. 19516

(E) Keep all original papers filed in an action or claim in a 19517
separate file folder and a journal in which all orders, verdicts, 19518
and judgments of the court and commissioners shall be recorded; 19519

(F) Charge and collect fees pursuant to section 2303.20 of 19520
the Revised Code, keep a cashbook in which the clerk shall enter 19521
the amounts received, make a report to the clerk of the supreme 19522
court each quarter of the fees received during the preceding 19523
quarter, and pay them monthly into the state treasury; 19524

(G) Appoint ~~stenographers, shorthand~~ reporters, and other 19525
clerical personnel; 19526

(H) Under the direction of the chief justice, establish 19527
procedures for hearing and determining appeals for an award of 19528
reparations pursuant to sections 2743.51 to 2743.72 of the Revised 19529
Code. 19530

Sec. 2743.10. (A) Civil actions against the state for ~~two~~ ten 19531
thousand ~~five hundred~~ dollars or less shall be determined 19532
administratively by the clerk of the court of claims, except that 19533
the clerk is not required to administratively determine a civil 19534
action of that nature if the civil action was commenced by a 19535
person who has been found to be a vexatious litigator under 19536
section 2323.52 of the Revised Code and who has failed to obtain 19537
leave to proceed under that section and if the clerk refused 19538
pursuant to division (D) of section 2743.09 of the Revised Code to 19539
accept for filing any pleading or paper that relates to the civil 19540
action and that was submitted for filing by that person and except 19541
that all civil actions against the state that have been removed to 19542
the court of claims shall be heard and determined by a judge of 19543

the court of claims. 19544

(B) Civil actions covered by division (A) of this section 19545
shall be commenced by filing with the clerk on complaint forms 19546
prescribed by the supreme court. The clerk shall forward copies of 19547
the form complaint to the attorney general and the state 19548
department, board, office, commission, agency, institution, or 19549
other instrumentality whose actions or failure to act are the 19550
subject of complaint. The latter shall investigate the allegations 19551
made in the form complaint and report the results of its 19552
investigation to the clerk within sixty days of receipt of a copy 19553
of the form complaint. The clerk shall forward a copy of the 19554
report to the claimant and give the claimant an opportunity to 19555
respond to the report either in writing or by appearing before the 19556
clerk. 19557

(C) The clerk shall determine the civil action covered by 19558
division (A) of this section and make a report of the decision, 19559
together with findings of fact and conclusions of law, copies of 19560
which shall be mailed to the claimant and the state 19561
instrumentality. Except as otherwise provided in this division, 19562
the determination shall be based upon principles of law applicable 19563
in the court of claims, including, but not limited to, section 19564
3345.40 of the Revised Code if a state university or college is a 19565
defendant in the court of claims. 19566

Rules of evidence shall not be applicable in the 19567
determination. Procedures shall be governed by rules promulgated 19568
by the clerk, shall be informal, and shall be designed to 19569
accommodate persons who are not skilled in the law. 19570

(D) Upon the motion of a party, the court of claims shall 19571
review the determination of the clerk upon the clerk's report and 19572
papers filed in the action and shall enter judgment consistent 19573
with its findings. The judgment shall not be the subject of 19574
further appeal. No civil action arising out of the same 19575

transaction or set of facts may be commenced by the claimant in 19576
the court of claims. 19577

(E) The determination of the clerk pursuant to division (C) 19578
of this section shall be processed pursuant to section 2743.19 of 19579
the Revised Code as if it were a judgment. 19580

Sec. 2743.48. (A) As used in this section and section 2743.49 19581
of the Revised Code, a "wrongfully imprisoned individual" means an 19582
individual who satisfies each of the following: 19583

(1) The individual was charged with a violation of a section 19584
of the Revised Code by an indictment or information ~~prior to, or~~ 19585
~~on or after, September 24, 1986,~~ and the violation charged was an 19586
aggravated felony or felony. 19587

(2) The individual was found guilty of, but did not plead 19588
guilty to, the particular charge or a lesser-included offense by 19589
the court or jury involved, and the offense of which the 19590
individual was found guilty was an aggravated felony or felony. 19591

(3) The individual was sentenced to an indefinite or definite 19592
term of imprisonment in a state correctional institution for the 19593
offense of which the individual was found guilty. 19594

(4) The individual's conviction was vacated ~~or was~~, 19595
dismissed, or reversed on appeal, the prosecuting attorney in the 19596
case cannot or will not seek any further appeal of right or upon 19597
leave of court, and no criminal proceeding is pending, can be 19598
brought, or will be brought by any prosecuting attorney, city 19599
director of law, village solicitor, or other chief legal officer 19600
of a municipal corporation against the individual for any act 19601
associated with that conviction. 19602

(5) Subsequent to sentencing and during or subsequent to 19603
imprisonment, an error in procedure resulted in the individual's 19604
release, or it was determined by a the court of common pleas in 19605

the county where the underlying criminal action was initiated that 19606
the charged offense ~~of which the individual was found guilty,~~ 19607
including all lesser-included offenses, either was not committed 19608
by the individual or was not committed by any person. 19609

(B)(1) ~~When a~~ A person may file a civil action to be declared 19610
a wrongfully imprisoned individual in the court of common pleas in 19611
the county where the underlying criminal action was initiated. 19612
That civil action shall be separate from the underlying finding of 19613
guilt by the court of common pleas. Upon the filing of a civil 19614
action to be determined a wrongfully imprisoned individual, the 19615
attorney general shall be served with a copy of the complaint and 19616
shall be heard. 19617

(2) When the court of common pleas in the county where the 19618
underlying criminal action was initiated determines, ~~on or after~~ 19619
~~September 24, 1986,~~ in a separate civil action that a person is a 19620
wrongfully imprisoned individual, the court shall provide the 19621
person with a copy of this section and orally inform the person 19622
and the person's attorney of the person's rights under this 19623
section to commence a civil action against the state in the court 19624
of claims because of the person's wrongful imprisonment and to be 19625
represented in that civil action by counsel of the person's own 19626
choice. 19627

~~(2)~~(3) The court described in division (B)(1) of this section 19628
shall notify the clerk of the court of claims, in writing and 19629
within seven days after the date of the entry of its determination 19630
that the person is a wrongfully imprisoned individual, of the name 19631
and proposed mailing address of the person and of the fact that 19632
the person has the rights to commence a civil action and to have 19633
legal representation as provided in this section. The clerk of the 19634
court of claims shall maintain in the clerk's office a list of 19635
wrongfully imprisoned individuals for whom notices are received 19636
under this section and shall create files in the clerk's office 19637

for each such individual. 19638

~~(3)~~(4) Within sixty days after the date of the entry of a 19639
~~court of common plea's~~ the determination by the court of common 19640
pleas in the county where the underlying criminal action was 19641
initiated that a person is a wrongfully imprisoned individual, the 19642
clerk of the court of claims shall forward a preliminary judgment 19643
to the president of the controlling board requesting the payment 19644
of fifty per cent of the amount described in division (E)(2)(b) of 19645
this section to the wrongfully imprisoned individual. The board 19646
shall take all actions necessary to cause the payment of that 19647
amount out of the emergency purposes special purpose account of 19648
the board. 19649

(C)(1) In a civil action under this section, a wrongfully 19650
imprisoned individual has the right to have counsel of the 19651
individual's own choice. 19652

(2) If a wrongfully imprisoned individual who is the subject 19653
of a court determination as described in division (B)~~(1)~~(2) of 19654
this section does not commence a civil action under this section 19655
within six months after the entry of that determination, the clerk 19656
of the court of claims shall send a letter to the wrongfully 19657
imprisoned individual, at the address set forth in the notice 19658
received from the court of common pleas pursuant to division 19659
(B)~~(2)~~(3) of this section or to any later address provided by the 19660
wrongfully imprisoned individual, that reminds the wrongfully 19661
imprisoned individual of the wrongfully imprisoned individual's 19662
rights under this section. Until the statute of limitations 19663
provided in division (H) of this section expires and unless the 19664
wrongfully imprisoned individual commences a civil action under 19665
this section, the clerk of the court of claims shall send a 19666
similar letter in a similar manner to the wrongfully imprisoned 19667
individual at least once each three months after the sending of 19668
the first reminder. 19669

(D) Notwithstanding any provisions of this chapter to the contrary, a wrongfully imprisoned individual has and may file a civil action against the state, in the court of claims, to recover a sum of money as described in this section, because of the individual's wrongful imprisonment. The court of claims shall have exclusive, original jurisdiction over such a civil action. The civil action shall proceed, be heard, and be determined as provided in sections 2743.01 to 2743.20 of the Revised Code, except that if a provision of this section conflicts with a provision in any of those sections, the provision in this section controls.

(E)(1) In a civil action as described in division (D) of this section, the complainant may establish that the claimant is a wrongfully imprisoned individual by submitting to the court of claims a certified copy of the judgment entry of the court of common pleas associated with the claimant's conviction and sentencing, and a certified copy of the entry of the determination of a the court of common pleas that the claimant is a wrongfully imprisoned individual under division (B)(2) of this section. No other evidence shall be required of the complainant to establish that the claimant is a wrongfully imprisoned individual, and the claimant shall be irrebuttably presumed to be a wrongfully imprisoned individual.

(2) In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court of claims, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

(a) The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable,

in connection with obtaining the wrongfully imprisoned 19702
individual's discharge from confinement in the state correctional 19703
institution; 19704

(b) For each full year of imprisonment in the state 19705
correctional institution for the offense of which the wrongfully 19706
imprisoned individual was found guilty, forty thousand three 19707
hundred thirty dollars or the adjusted amount determined by the 19708
auditor of state pursuant to section 2743.49 of the Revised Code, 19709
and for each part of a year of being so imprisoned, a pro-rated 19710
share of forty thousand three hundred thirty dollars or the 19711
adjusted amount determined by the auditor of state pursuant to 19712
section 2743.49 of the Revised Code; 19713

(c) Any loss of wages, salary, or other earned income that 19714
directly resulted from the wrongfully imprisoned individual's 19715
arrest, prosecution, conviction, and wrongful imprisonment; 19716

(d) The amount of the following cost debts the department of 19717
rehabilitation and correction recovered from the wrongfully 19718
imprisoned individual who was in custody of the department or 19719
under the department's supervision: 19720

(i) Any user fee or copayment for services at a detention 19721
facility, including, but not limited to, a fee or copayment for 19722
sick call visits; 19723

(ii) The cost of housing and feeding the wrongfully 19724
imprisoned individual in a detention facility; 19725

(iii) The cost of supervision of the wrongfully imprisoned 19726
individual; 19727

(iv) The cost of any ancillary services provided to the 19728
wrongfully imprisoned individual. 19729

(F)(1) If the court of claims determines in a civil action as 19730
described in division (D) of this section that the complainant is 19731

a wrongfully imprisoned individual, it shall enter judgment for 19732
the wrongfully imprisoned individual in the amount of the sum of 19733
money to which the wrongfully imprisoned individual is entitled 19734
under division (E)(2) of this section. In determining that sum, 19735
the court of claims shall not take into consideration any expenses 19736
incurred by the state or any of its political subdivisions in 19737
connection with the arrest, prosecution, and imprisonment of the 19738
wrongfully imprisoned individual, including, but not limited to, 19739
expenses for food, clothing, shelter, and medical services. The 19740
court shall reduce that sum by the amount of the payment to the 19741
wrongfully imprisoned individual described in division (B)~~(3)~~(4) 19742
of this section. 19743

(2) If the wrongfully imprisoned individual was represented 19744
in the civil action under this section by counsel of the 19745
wrongfully imprisoned individual's own choice, the court of claims 19746
shall include in the judgment entry referred to in division (F)(1) 19747
of this section an award for the reasonable attorney's fees of 19748
that counsel. These fees shall be paid as provided in division (G) 19749
of this section. 19750

(3) The state consents to be sued by a wrongfully imprisoned 19751
individual because the imprisonment was wrongful, and to liability 19752
on its part because of that fact, only as provided in this 19753
section. However, this section does not affect any liability of 19754
the state or of its employees to a wrongfully imprisoned 19755
individual on a claim for relief that is not based on the fact of 19756
the wrongful imprisonment, including, but not limited to, a claim 19757
for relief that arises out of circumstances occurring during the 19758
wrongfully imprisoned individual's confinement in the state 19759
correctional institution. 19760

(G) The clerk of the court of claims shall forward a 19761
certified copy of a judgment under division (F) of this section to 19762
the president of the controlling board. The board shall take all 19763

actions necessary to cause the payment of the judgment out of the 19764
emergency purposes special purpose account of the board. 19765

(H) To be eligible to recover a sum of money as described in 19766
this section because of wrongful imprisonment, a both of the 19767
following shall apply to a wrongfully imprisoned individual: 19768

(1) The wrongfully imprisoned individual shall not have been, 19769
prior to September 24, 1986, the subject of an act of the general 19770
assembly that authorized an award of compensation for the wrongful 19771
imprisonment or have been the subject of an action before the 19772
former sundry claims board that resulted in an award of 19773
compensation for the wrongful imprisonment. ~~Additionally, to be~~ 19774
~~eligible to so recover, the~~ 19775

(2) The wrongfully imprisoned individual shall commence a 19776
civil action under this section in the court of claims no later 19777
than two years after the date of the entry of the determination of 19778
~~a the~~ court of common pleas that the individual is a wrongfully 19779
imprisoned individual under division (B)(2) of this section. 19780

Sec. 2746.01. A court of record of this state shall tax as 19781
costs or otherwise require the payment of fees for the following 19782
services rendered or as compensation for the following persons or 19783
any other of the following fees that are applicable in a 19784
particular case: 19785

(A) Appraisers, commissioners, or arbitrators appointed to 19786
make or procure an appraisal or valuation of any property, as 19787
provided in section 2335.02 of the Revised Code; 19788

(B) Auctioneers appointed to conduct any public auction of 19789
goods, chattels, or lands required to be sold by an officer of the 19790
court, as provided in section 2335.021 of the Revised Code; 19791

(C) Commissioners appointed to make partition of lands or to 19792
assign dower and appraisers of real or personal property on 19793

| | |
|---|---|
| execution, replevin, or attachment or to fix the value of exempt property, as provided in section 2335.01 of the Revised Code; | 19794 19795 |
| (D) Deposit of rent with the clerk of court by a resident of a manufactured home park, as provided in section 3733.121 <u>4781.42</u> of the Revised Code, or by a tenant of residential premises, as provided in section 5321.08 of the Revised Code; | 19796 19797 19798 19799 |
| (E) Interpreters, as provided in section 2335.09 of the Revised Code; | 19800 19801 |
| (F) Fees in a civil action or appeal commenced by an inmate against a government entity or employee, as provided in section 2969.22 of the Revised Code; | 19802 19803 19804 |
| (G) Procurement of a transcript of a judgment or proceeding or exemplification of a record in an appeal or other civil action, as provided in section 2303.21 of the Revised Code; | 19805 19806 19807 |
| (H) Publication of an advertisement, notice, or proclamation required to be published by a trustee, assignee, executor, administrator, receiver, or other officer of the court or a party in a case or proceeding, as provided in section 7.13 of the Revised Code; | 19808 19809 19810 19811 19812 |
| (I) Publication of calendars, motion dockets, legal advertisements, and notices, the fees for which are not fixed by law, as provided in section 2701.09 of the Revised Code; | 19813 19814 19815 |
| (J) Sheriffs, as provided in section 311.17 of the Revised Code; | 19816 19817 |
| (K) Township constables or members of the police force of a township police district or joint police district, as provided in section 509.15 of the Revised Code; | 19818 19819 19820 |
| (L) Witnesses, as follows: | 19821 |
| (1) Fees and mileage in civil cases, as provided in section 2335.06 of the Revised Code; | 19822 19823 |

| | |
|--|---|
| (2) Fees and mileage in criminal cases, as provided in section 2335.08 of the Revised Code; | 19824 19825 |
| (3) Fees in all cases or proceedings not specified in sections 2335.06 and 2335.08 of the Revised Code, as provided in section 2335.05 of the Revised Code; | 19826 19827 19828 |
| (4) Fees of municipal police officers in state felony cases, as provided in section 2335.17 of the Revised Code; | 19829 19830 |
| (5) Fees in arbitration proceedings, as provided in section 2711.06 of the Revised Code. | 19831 19832 |
| (M) In an action to abate a nuisance or to enforce a local code relating to buildings, the expenses of operating and conserving the building, as provided in section 3767.41 of the Revised Code. | 19833 19834 19835 19836 |
| Sec. 2746.03. In addition to any applicable fees or costs set forth in sections 2746.01 and 2746.02 of the Revised Code or any other applicable provision of law, the supreme court, a court of appeals, or the court of claims shall tax as costs or otherwise require the payment of fees for the following services rendered or as compensation for the following persons or any other of the following fees that are applicable in a particular case: | 19837 19838 19839 19840 19841 19842 19843 |
| (A) In the supreme court, filing fees, as provided in section 2503.17 of the Revised Code; | 19844 19845 |
| (B) In a court of appeals: | 19846 |
| (1) Fees collectible by the clerk of a court of common pleas when acting as the clerk of the court of appeals of the county, as provided in section 2303.03 of the Revised Code; | 19847 19848 19849 |
| (2) Additional filing fees or charges for special projects, programs, or services, as provided in section 2501.16 of the Revised Code; | 19850 19851 19852 |

| | |
|--|-------|
| (3) Sheriffs or other officers who serve process, as provided | 19853 |
| in section 2501.19 of the Revised Code; | 19854 |
| (4) Shorthand reporters <u>Reporters</u> , as provided in section | 19855 |
| 2501.17 of the Revised Code; | 19856 |
| (5) The expense of preparing and transcribing the record in | 19857 |
| an appeal to the tenth district court of appeals from a ruling of | 19858 |
| the director of health under the certificate of need program, as | 19859 |
| provided in section 3702.60 of the Revised Code. | 19860 |
| (C) In the court of claims: | 19861 |
| (1) The fees provided for in section 2743.09 of the Revised | 19862 |
| Code; | 19863 |
| (2) Witness fees and mileage, as provided in section 2743.06 | 19864 |
| of the Revised Code. | 19865 |
| Sec. 2746.04. In addition to any applicable fees or costs set | 19866 |
| forth in sections 2746.01 and 2746.02 of the Revised Code or any | 19867 |
| other applicable provision of law, a court of common pleas shall | 19868 |
| tax as costs or otherwise require the payment of fees for the | 19869 |
| following services rendered or as compensation for the following | 19870 |
| persons or any other of the following fees that are applicable in | 19871 |
| a particular case: | 19872 |
| (A) The fees provided for in section 2303.20 of the Revised | 19873 |
| Code; | 19874 |
| (B) Additional fees to computerize the court, make available | 19875 |
| computerized legal research services, computerize the office of | 19876 |
| the clerk of the court, provide financial assistance to legal aid | 19877 |
| societies, support the office of the state public defender, fund | 19878 |
| shelters for victims of domestic violence, and special projects of | 19879 |
| the court, as provided in section 2303.201 and, for a court that | 19880 |
| has a domestic relations division, section 2301.031 of the Revised | 19881 |
| Code; | 19882 |

| | |
|--|---|
| (C) Filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, as provided in section 3109.14 of the Revised Code; | 19883 19884 19885 |
| (D) Filing of a foreign judgment pursuant to section 2329.022 of the Revised Code, as provided in section 2329.025 of the Revised Code; | 19886 19887 19888 |
| (E) Interpreters, as provided in section 2301.14 of the Revised Code; | 19889 19890 |
| (F) Jurors in civil actions, as provided in section 2335.28 of the Revised Code; | 19891 19892 |
| (G) Shorthand reporters <u>Reporters</u> , as provided in sections 2301.21 and 2301.24 of the Revised Code; | 19893 19894 |
| (H) In a case involving the operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with his consent, actual traveling expenses of the defendant, as provided in section 1547.36 of the Revised Code; | 19895 19896 19897 19898 19899 |
| (I) In a civil case, the expenses of taking a deposition of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, as provided in section 2317.06 of the Revised Code; | 19900 19901 19902 19903 19904 |
| (J) In proceedings relating to the examination of a judgment debtor under sections 2333.09 to 2333.27 of the Revised Code, compensation for clerks, sheriffs, referees, receivers, and witnesses, as provided in section 2333.27 of the Revised Code; | 19905 19906 19907 19908 |
| (K) In an appeal from an order of an agency issued pursuant to an adjudication under section 119.12 of the Revised Code, the expense of preparing and transcribing the record; | 19909 19910 19911 |
| (L) In a case in which the court issues a protection order | 19912 |

upon a petition alleging that the respondent engaged in domestic 19913
violence against a family or household member, the cost of 19914
supervision of the respondent's exercise of parenting time, 19915
visitation, or companionship rights, as provided in section 19916
3113.31 of the Revised Code; 19917

(M) Upon a petition to have a person involuntarily 19918
institutionalized, the costs of appointed counsel for the 19919
respondent at a full hearing, as provided in section 5123.76 of 19920
the Revised Code; 19921

(N) In a case before the domestic relations division of the 19922
Hamilton county court of common pleas, the expense of serving a 19923
summons, warrant, citation, subpoena, or other writ issued to an 19924
officer other than a bailiff, constable, or staff investigator of 19925
the division, as provided in section 2301.03 of the Revised Code. 19926

Sec. 2901.01. (A) As used in the Revised Code: 19927

(1) "Force" means any violence, compulsion, or constraint 19928
physically exerted by any means upon or against a person or thing. 19929

(2) "Deadly force" means any force that carries a substantial 19930
risk that it will proximately result in the death of any person. 19931

(3) "Physical harm to persons" means any injury, illness, or 19932
other physiological impairment, regardless of its gravity or 19933
duration. 19934

(4) "Physical harm to property" means any tangible or 19935
intangible damage to property that, in any degree, results in loss 19936
to its value or interferes with its use or enjoyment. "Physical 19937
harm to property" does not include wear and tear occasioned by 19938
normal use. 19939

(5) "Serious physical harm to persons" means any of the 19940
following: 19941

(a) Any mental illness or condition of such gravity as would 19942

| | |
|---|-------------------------|
| normally require hospitalization or prolonged psychiatric treatment; | 19943 19944 |
| (b) Any physical harm that carries a substantial risk of death; | 19945 19946 |
| (c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity; | 19947 19948 19949 |
| (d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement; | 19950 19951 19952 |
| (e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. | 19953 19954 19955 |
| (6) "Serious physical harm to property" means any physical harm to property that does either of the following: | 19956 19957 |
| (a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace; | 19958 19959 19960 |
| (b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time. | 19961 19962 19963 |
| (7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist. | 19964 19965 19966 |
| (8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist. | 19967 19968 19969 |
| (9) "Offense of violence" means any of the following: | 19970 |
| (a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, | 19971 19972 |

2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 19973
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 19974
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 19975
2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 19976
2911.12, or of division (B)(1), (2), (3), or (4) of section 19977
2919.22 of the Revised Code or felonious sexual penetration in 19978
violation of former section 2907.12 of the Revised Code; 19979

(b) A violation of an existing or former municipal ordinance 19980
or law of this or any other state or the United States, 19981
substantially equivalent to any section, division, or offense 19982
listed in division (A)(9)(a) of this section; 19983

(c) An offense, other than a traffic offense, under an 19984
existing or former municipal ordinance or law of this or any other 19985
state or the United States, committed purposely or knowingly, and 19986
involving physical harm to persons or a risk of serious physical 19987
harm to persons; 19988

(d) A conspiracy or attempt to commit, or complicity in 19989
committing, any offense under division (A)(9)(a), (b), or (c) of 19990
this section. 19991

(10)(a) "Property" means any property, real or personal, 19992
tangible or intangible, and any interest or license in that 19993
property. "Property" includes, but is not limited to, cable 19994
television service, other telecommunications service, 19995
telecommunications devices, information service, computers, data, 19996
computer software, financial instruments associated with 19997
computers, other documents associated with computers, or copies of 19998
the documents, whether in machine or human readable form, trade 19999
secrets, trademarks, copyrights, patents, and property protected 20000
by a trademark, copyright, or patent. "Financial instruments 20001
associated with computers" include, but are not limited to, 20002
checks, drafts, warrants, money orders, notes of indebtedness, 20003
certificates of deposit, letters of credit, bills of credit or 20004

debit cards, financial transaction authorization mechanisms, 20005
marketable securities, or any computer system representations of 20006
any of them. 20007

(b) As used in division (A)(10) of this section, "trade 20008
secret" has the same meaning as in section 1333.61 of the Revised 20009
Code, and "telecommunications service" and "information service" 20010
have the same meanings as in section 2913.01 of the Revised Code. 20011

(c) As used in divisions (A)(10) and (13) of this section, 20012
"cable television service," "computer," "computer software," 20013
"computer system," "computer network," "data," and 20014
"telecommunications device" have the same meanings as in section 20015
2913.01 of the Revised Code. 20016

(11) "Law enforcement officer" means any of the following: 20017

(a) A sheriff, deputy sheriff, constable, police officer of a 20018
township or joint police district, marshal, deputy marshal, 20019
municipal police officer, member of a police force employed by a 20020
metropolitan housing authority under division (D) of section 20021
3735.31 of the Revised Code, or state highway patrol trooper; 20022

(b) An officer, agent, or employee of the state or any of its 20023
agencies, instrumentalities, or political subdivisions, upon whom, 20024
by statute, a duty to conserve the peace or to enforce all or 20025
certain laws is imposed and the authority to arrest violators is 20026
conferred, within the limits of that statutory duty and authority; 20027

(c) A mayor, in the mayor's capacity as chief conservator of 20028
the peace within the mayor's municipal corporation; 20029

(d) A member of an auxiliary police force organized by 20030
county, township, or municipal law enforcement authorities, within 20031
the scope of the member's appointment or commission; 20032

(e) A person lawfully called pursuant to section 311.07 of 20033
the Revised Code to aid a sheriff in keeping the peace, for the 20034

purposes and during the time when the person is called; 20035

(f) A person appointed by a mayor pursuant to section 737.01 20036
of the Revised Code as a special patrolling officer during riot or 20037
emergency, for the purposes and during the time when the person is 20038
appointed; 20039

(g) A member of the organized militia of this state or the 20040
armed forces of the United States, lawfully called to duty to aid 20041
civil authorities in keeping the peace or protect against domestic 20042
violence; 20043

(h) A prosecuting attorney, assistant prosecuting attorney, 20044
secret service officer, or municipal prosecutor; 20045

(i) A veterans' home police officer appointed under section 20046
5907.02 of the Revised Code; 20047

(j) A member of a police force employed by a regional transit 20048
authority under division (Y) of section 306.35 of the Revised 20049
Code; 20050

(k) A special police officer employed by a port authority 20051
under section 4582.04 or 4582.28 of the Revised Code; 20052

(l) The house of representatives sergeant at arms if the 20053
house of representatives sergeant at arms has arrest authority 20054
pursuant to division (E)(1) of section 101.311 of the Revised Code 20055
and an assistant house of representatives sergeant at arms; 20056

(m) The senate sergeant at arms and an assistant senate 20057
sergeant at arms; 20058

(n) A special police officer employed by a municipal 20059
corporation at a municipal airport, or other municipal air 20060
navigation facility, that has scheduled operations, as defined in 20061
section 119.3 of Title 14 of the Code of Federal Regulations, 14 20062
C.F.R. 119.3, as amended, and that is required to be under a 20063
security program and is governed by aviation security rules of the 20064

transportation security administration of the United States 20065
department of transportation as provided in Parts 1542. and 1544. 20066
of Title 49 of the Code of Federal Regulations, as amended. 20067

(12) "Privilege" means an immunity, license, or right 20068
conferred by law, bestowed by express or implied grant, arising 20069
out of status, position, office, or relationship, or growing out 20070
of necessity. 20071

(13) "Contraband" means any property that is illegal for a 20072
person to acquire or possess under a statute, ordinance, or rule, 20073
or that a trier of fact lawfully determines to be illegal to 20074
possess by reason of the property's involvement in an offense. 20075
"Contraband" includes, but is not limited to, all of the 20076
following: 20077

(a) Any controlled substance, as defined in section 3719.01 20078
of the Revised Code, or any device or paraphernalia; 20079

(b) Any unlawful gambling device or paraphernalia; 20080

(c) Any dangerous ordnance or obscene material. 20081

(14) A person is "not guilty by reason of insanity" relative 20082
to a charge of an offense only if the person proves, in the manner 20083
specified in section 2901.05 of the Revised Code, that at the time 20084
of the commission of the offense, the person did not know, as a 20085
result of a severe mental disease or defect, the wrongfulness of 20086
the person's acts. 20087

(B)(1)(a) Subject to division (B)(2) of this section, as used 20088
in any section contained in Title XXIX of the Revised Code that 20089
sets forth a criminal offense, "person" includes all of the 20090
following: 20091

(i) An individual, corporation, business trust, estate, 20092
trust, partnership, and association; 20093

(ii) An unborn human who is viable. 20094

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12,

division (B) of section 2919.13, or section 2919.151, 2919.17, or 20126
2919.18 of the Revised Code, may be punished as a violation of 20127
section 2919.12, division (B) of section 2919.13, or section 20128
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 20129
Consent is sufficient under this division if it is of the type 20130
otherwise adequate to permit medical treatment to the pregnant 20131
woman, even if it does not comply with section 2919.12 of the 20132
Revised Code. 20133

(b) In a manner so that the offense is applied or is 20134
construed as applying to a woman based on an act or omission of 20135
the woman that occurs while she is or was pregnant and that 20136
results in any of the following: 20137

(i) Her delivery of a stillborn baby; 20138

(ii) Her causing, in any other manner, the death in utero of 20139
a viable, unborn human that she is carrying; 20140

(iii) Her causing the death of her child who is born alive 20141
but who dies from one or more injuries that are sustained while 20142
the child is a viable, unborn human; 20143

(iv) Her causing her child who is born alive to sustain one 20144
or more injuries while the child is a viable, unborn human; 20145

(v) Her causing, threatening to cause, or attempting to 20146
cause, in any other manner, an injury, illness, or other 20147
physiological impairment, regardless of its duration or gravity, 20148
or a mental illness or condition, regardless of its duration or 20149
gravity, to a viable, unborn human that she is carrying. 20150

(C) As used in Title XXIX of the Revised Code: 20151

(1) "School safety zone" consists of a school, school 20152
building, school premises, school activity, and school bus. 20153

(2) "School," "school building," and "school premises" have 20154
the same meanings as in section 2925.01 of the Revised Code. 20155

(3) "School activity" means any activity held under the 20156
auspices of a board of education of a city, local, exempted 20157
village, joint vocational, or cooperative education school 20158
district; a governing authority of a community school established 20159
under Chapter 3314. of the Revised Code; a governing board of an 20160
educational service center, or the governing body of a school for 20161
which the state board of education prescribes minimum standards 20162
under section 3301.07 of the Revised Code. 20163

(4) "School bus" has the same meaning as in section 4511.01 20164
of the Revised Code. 20165

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 20166
Revised Code: 20167

(A) "Care facility" means any of the following: 20168

(1) Any "home" as defined in section 3721.10 or 5111.20 of 20169
the Revised Code; 20170

(2) Any "residential facility" as defined in section 5123.19 20171
of the Revised Code; 20172

(3) Any institution or facility operated or provided by the 20173
department of mental health or by the department of developmental 20174
disabilities pursuant to sections 5119.02 and 5123.03 of the 20175
Revised Code; 20176

(4) Any "residential facility" as defined in section 5119.22 20177
of the Revised Code; 20178

(5) Any unit of any hospital, as defined in section 3701.01 20179
of the Revised Code, that provides the same services as a nursing 20180
home, as defined in section 3721.01 of the Revised Code; 20181

(6) Any institution, residence, or facility that provides, 20182
for a period of more than twenty-four hours, whether for a 20183
consideration or not, accommodations to one individual or two 20184
unrelated individuals who are dependent upon the services of 20185

| | |
|--|-------|
| others; | 20186 |
| (7) Any "adult care facility" as defined in section 5119.70 | 20187 |
| of the Revised Code; | 20188 |
| (8) Any adult foster home certified under section 5119.692 of | 20189 |
| the Revised Code. | 20190 |
| (B) "Abuse" means knowingly causing physical harm or | 20191 |
| recklessly causing serious physical harm to a person by physical | 20192 |
| contact with the person or by the inappropriate use of a physical | 20193 |
| or chemical restraint, medication, or isolation on the person. | 20194 |
| (C)(1) "Gross neglect" means knowingly failing to provide a | 20195 |
| person with any treatment, care, goods, or service that is | 20196 |
| necessary to maintain the health or safety of the person when the | 20197 |
| failure results in physical harm or serious physical harm to the | 20198 |
| person. | 20199 |
| (2) "Neglect" means recklessly failing to provide a person | 20200 |
| with any treatment, care, goods, or service that is necessary to | 20201 |
| maintain the health or safety of the person when the failure | 20202 |
| results in serious physical harm to the person. | 20203 |
| (D) "Inappropriate use of a physical or chemical restraint, | 20204 |
| medication, or isolation" means the use of physical or chemical | 20205 |
| restraint, medication, or isolation as punishment, for staff | 20206 |
| convenience, excessively, as a substitute for treatment, or in | 20207 |
| quantities that preclude habilitation and treatment. | 20208 |
| Sec. 2907.29. Every hospital of this state that offers | 20209 |
| organized emergency services shall provide that a physician, a | 20210 |
| physician assistant, a clinical nurse specialist, a certified | 20211 |
| nurse practitioner, or a certified nurse-midwife is available on | 20212 |
| call twenty-four hours each day for the examination of persons | 20213 |
| reported to any law enforcement agency to be victims of sexual | 20214 |
| offenses cognizable as violations of any provision of sections | 20215 |

2907.02 to 2907.06 of the Revised Code. The physician, physician 20216
assistant, clinical nurse specialist, certified nurse 20217
practitioner, or certified nurse-midwife, upon the request of any 20218
peace officer or prosecuting attorney and with the consent of the 20219
reported victim or upon the request of the reported victim, shall 20220
examine the person for the purposes of gathering physical evidence 20221
and shall complete any written documentation of the physical 20222
examination. The ~~public~~ director of health council shall establish 20223
procedures for gathering evidence under this section. 20224

Each reported victim shall be informed of available venereal 20225
disease, pregnancy, medical, and psychiatric services. 20226

Notwithstanding any other provision of law, a minor may 20227
consent to examination under this section. The consent is not 20228
subject to disaffirmance because of minority, and consent of the 20229
parent, parents, or guardian of the minor is not required for an 20230
examination under this section. However, the hospital shall give 20231
written notice to the parent, parents, or guardian of a minor that 20232
an examination under this section has taken place. The parent, 20233
parents, or guardian of a minor giving consent under this section 20234
are not liable for payment for any services provided under this 20235
section without their consent. 20236

Sec. 2909.21. As used in sections 2909.21 to ~~2909.34~~ 2909.31 20237
of the Revised Code: 20238

(A) "Act of terrorism" means an act that is committed within 20239
or outside the territorial jurisdiction of this state or the 20240
United States, that constitutes a specified offense if committed 20241
in this state or constitutes an offense in any jurisdiction within 20242
or outside the territorial jurisdiction of the United States 20243
containing all of the essential elements of a specified offense, 20244
and that is intended to do one or more of the following: 20245

(1) Intimidate or coerce a civilian population; 20246

| | |
|---|---|
| (2) Influence the policy of any government by intimidation or coercion; | 20247 20248 |
| (3) Affect the conduct of any government by the act that constitutes the offense. | 20249 20250 |
| (B) "Biological agent," "delivery system," "toxin," and "vector" have the same meanings as in section 2917.33 of the Revised Code. | 20251 20252 20253 |
| (C) "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems. | 20254 20255 20256 20257 |
| (D) "Chemical weapon" means any one or more of the following: | 20258 |
| (1) Any toxic chemical or precursor of a toxic chemical that is listed in Schedule 1, Schedule 2, or Schedule 3 of the international "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)," as entered into force on April 29, 1997; | 20259 20260 20261 20262 20263 |
| (2) A device specifically designed to cause death or other harm through the toxic properties of a toxic chemical or precursor identified in division (D)(1) of this section that would be created or released as a result of the employment of that device; | 20264 20265 20266 20267 |
| (3) Any equipment specifically designed for use directly in connection with the employment of devices identified in division (D)(2) of this section. | 20268 20269 20270 |
| (E) "Radiological or nuclear weapon" means any device that is designed to create or release radiation or radioactivity at a level that is dangerous to human life or in order to cause serious physical harm to persons as a result of the radiation or radioactivity created or released. | 20271 20272 20273 20274 20275 |
| (F) "Explosive device" has the same meaning as in section | 20276 |

| | |
|---|--|
| 2923.11 of the Revised Code. | 20277 |
| (G) "Key component of a binary or multicomponent chemical system" means the precursor that plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent chemical system. | 20278 20279 20280 20281 20282 |
| (H) "Material assistance" means any of the following: | 20283 |
| (1) Membership in an organization on the United States department of state terrorist exclusion list; | 20284 20285 |
| (2) Use of the person's position of prominence within any country to persuade others to support an organization on the United States department of state terrorist exclusion list; | 20286 20287 20288 |
| (3) Knowingly soliciting funds or other things of value for an organization on the United States department of state terrorist exclusion list; | 20289 20290 20291 |
| (4) Solicitation of any individual for membership in an organization on the United States department of state terrorist exclusion list; | 20292 20293 20294 |
| (5) Commission of an act that the person knows, or reasonably should have known, affords material support or resources to an organization on the United States department of state terrorist exclusion list; | 20295 20296 20297 20298 |
| (6) Hiring or compensating a person known by the person hiring or providing the compensation to be a member of an organization on the United States department of state terrorist exclusion list or a person known by the person hiring or providing the compensation to be engaged in planning, assisting, or carrying out an act of terrorism. | 20299 20300 20301 20302 20303 20304 |
| (I) "Material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, | 20305 20306 |

financial services, communications, lodging, training, safe 20307
houses, false documentation or identification, communications 20308
equipment, facilities, weapons, lethal substances, explosives, 20309
personnel, transportation, and other physical assets, except 20310
medicine or religious materials. 20311

~~(J)~~(I) "Payment instrument" means a check, draft, money 20312
order, traveler's check, cashier's check, teller's check, or other 20313
instrument or order for the transmission or payment of money, 20314
regardless of whether the item in question is negotiable. 20315

~~(K)~~(J) "Peace officer" and "prosecutor" have the same 20316
meanings as in section 2935.01 of the Revised Code. 20317

~~(L)~~(K) "Precursor" means any chemical reactant that takes 20318
part at any stage in the production by whatever method of a toxic 20319
chemical, including any key component of a binary or 20320
multicomponent chemical system. 20321

~~(M)~~(L) "Response costs" means all costs a political 20322
subdivision incurs as a result of, or in making any response to, a 20323
threat of a specified offense made as described in section 2909.23 20324
of the Revised Code or a specified offense committed as described 20325
in section 2909.24 of the Revised Code, including, but not limited 20326
to, all costs so incurred by any law enforcement officers, 20327
firefighters, rescue personnel, or emergency medical services 20328
personnel of the political subdivision and all costs so incurred 20329
by the political subdivision that relate to laboratory testing or 20330
hazardous material cleanup. 20331

~~(N)~~(M) "Specified offense" means any of the following: 20332

(1) A felony offense of violence, a violation of section 20333
2909.04, 2909.081, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 20334
2909.28, 2909.29, or 2927.24 of the Revised Code, a felony of the 20335
first degree that is not a violation of any provision in Chapter 20336
2925. or 3719. of the Revised Code; 20337

(2) An attempt to commit, complicity in committing, or a conspiracy to commit an offense listed in division ~~(N)~~(M)(1) of this section. 20338
20339
20340

~~(O)~~(N) "Toxic chemical" means any chemical that through its chemical action on life processes can cause death or serious physical harm to persons or animals, regardless of its origin or of its method of production and regardless of whether it is produced in facilities, in munitions, or elsewhere. 20341
20342
20343
20344
20345

~~(P)~~ "~~United States department of state terrorist exclusion list~~" and "~~terrorist exclusion list~~" means the list compiled by the United States secretary of state, in consultation with or upon the request of the United States attorney general, that designates terrorist organizations for immigration purposes. "United States department of state terrorist exclusion list" and "terrorist exclusion list" also mean the list of terrorist organizations the director of public safety prepares pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, that is comprised of lists of organizations officials of the United States government designate as terrorist, including the "terrorist exclusion list" described in this division, the list of "foreign terrorist organizations" the United States secretary of state prepares in consultation with the United States attorney general and the United States secretary of the treasury, and the list of charities that support terrorist activities, known as "designated charities," that the United States department of treasury compiles. 20346
20347
20348
20349
20350
20351
20352
20353
20354
20355
20356
20357
20358
20359
20360
20361
20362
20363

~~(Q)~~(O) "Hazardous radioactive substance" means any substance or item that releases or is designed to release radiation or radioactivity at a level dangerous to human life. 20364
20365
20366

Sec. 2909.28. (A) No person, with the intent to manufacture a chemical weapon, biological weapon, radiological or nuclear 20367
20368

weapon, or explosive device, shall knowingly assemble or possess 20369
one or more toxins, toxic chemicals, precursors of toxic 20370
chemicals, vectors, biological agents, or hazardous radioactive 20371
substances, ~~including, but not limited to, those listed in rules~~ 20372
~~the director of public safety adopts,~~ that may be used to 20373
manufacture a chemical weapon, biological weapon, radiological or 20374
nuclear weapon, or explosive device. 20375

(B) In a prosecution under this section, it is not necessary 20376
to allege or prove that the offender assembled or possessed all 20377
chemicals or substances necessary to manufacture a chemical 20378
weapon, biological weapon, radiological or nuclear weapon, or 20379
explosive device. The assembly or possession of a single chemical 20380
or substance, with the intent to use that chemical or substance in 20381
the manufacture of a chemical weapon, biological weapon, 20382
radiological or nuclear weapon, or explosive device, is sufficient 20383
to violate this section. 20384

(C) Whoever violates this section is guilty of illegal 20385
assembly or possession of chemicals or substances for the 20386
manufacture of a chemical weapon, biological weapon, radiological 20387
or nuclear weapon, or explosive device, which is a felony of the 20388
fourth degree. 20389

(D) This section does not apply when the items described in 20390
division (A) of this section are assembled or possessed for a 20391
purpose related to the performance of official duties related to 20392
any military purpose of the United States and any law enforcement 20393
purpose, including any domestic riot control purpose. 20394

Sec. 2927.023. (A) As used in this section ~~"authorized:~~ 20395

(1) "Authorized recipient of tobacco products" means a person 20396
who is: 20397

~~(1)~~(a) Licensed as a cigarette wholesale dealer under section 20398

| | |
|--|---|
| 5743.15 of the Revised Code; | 20399 |
| (2) (b) Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed; | 20400 20401 |
| (3) (c) An export warehouse proprietor as defined in section 5702 of the Internal Revenue Code; | 20402 20403 |
| (4) (d) An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555; | 20404 20405 |
| (5) (e) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity; | 20406 20407 20408 |
| (6) (f) A department, agency, instrumentality, or political subdivision of the federal government or of this state; | 20409 20410 |
| (7) (g) A person having a consent for consumer shipment issued by the tax commissioner under section 5743.71 of the Revised Code. | 20411 20412 |
| <u>(2) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.</u> | 20413 20414 |
| The purpose of this section is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in section 1346.01 of the Revised Code. | 20415 20416 20417 20418 |
| (B)(1) No person shall cause to be shipped any cigarettes to any person in this state other than an authorized recipient of tobacco products. | 20419 20420 20421 |
| (2) No common carrier, contract <u>motor</u> carrier, or other person shall knowingly transport cigarettes to any person in this state that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the common carrier, contract <u>motor</u> carrier, or other person knew that the person to whom the cigarettes were delivered was not an | 20422 20423 20424 20425 20426 20427 20428 |

authorized recipient of tobacco products. 20429

(C) No person engaged in the business of selling cigarettes 20430
who ships or causes to be shipped cigarettes to any person in this 20431
state in any container or wrapping other than the original 20432
container or wrapping of the cigarettes shall fail to plainly and 20433
visibly mark the exterior of the container or wrapping in which 20434
the cigarettes are shipped with the words "cigarettes." 20435

(D) A court shall impose a fine of up to one thousand dollars 20436
for each violation of division (B)(1), (B)(2), or (C) of this 20437
section. 20438

Sec. 2929.01. As used in this chapter: 20439

(A)(1) "Alternative residential facility" means, subject to 20440
division (A)(2) of this section, any facility other than an 20441
offender's home or residence in which an offender is assigned to 20442
live and that satisfies all of the following criteria: 20443

(a) It provides programs through which the offender may seek 20444
or maintain employment or may receive education, training, 20445
treatment, or habilitation. 20446

(b) It has received the appropriate license or certificate 20447
for any specialized education, training, treatment, habilitation, 20448
or other service that it provides from the government agency that 20449
is responsible for licensing or certifying that type of education, 20450
training, treatment, habilitation, or service. 20451

(2) "Alternative residential facility" does not include a 20452
community-based correctional facility, jail, halfway house, or 20453
prison. 20454

(B) "Basic probation supervision" means a requirement that 20455
the offender maintain contact with a person appointed to supervise 20456
the offender in accordance with sanctions imposed by the court or 20457
imposed by the parole board pursuant to section 2967.28 of the 20458

Revised Code. "Basic probation supervision" includes basic parole supervision and basic post-release control supervision. 20459
20460

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have the same meanings as in section 2925.01 of the Revised Code. 20461
20462

(D) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to 2301.58 of the Revised Code. 20463
20464
20465
20466

(E) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction that is not a jail term and that is described in section 2929.26, 2929.27, or 2929.28 of the Revised Code. "Community control sanction" includes probation if the sentence involved was imposed for a felony that was committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor that was committed prior to January 1, 2004. 20467
20468
20469
20470
20471
20472
20473
20474
20475

(F) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code. 20476
20477
20478

(G) "Curfew" means a requirement that an offender during a specified period of time be at a designated place. 20479
20480

(H) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center. 20481
20482
20483
20484
20485

(I) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code. 20486
20487

(J) "Drug and alcohol use monitoring" means a program under 20488

which an offender agrees to submit to random chemical analysis of 20489
the offender's blood, breath, or urine to determine whether the 20490
offender has ingested any alcohol or other drugs. 20491

(K) "Drug treatment program" means any program under which a 20492
person undergoes assessment and treatment designed to reduce or 20493
completely eliminate the person's physical or emotional reliance 20494
upon alcohol, another drug, or alcohol and another drug and under 20495
which the person may be required to receive assessment and 20496
treatment on an outpatient basis or may be required to reside at a 20497
facility other than the person's home or residence while 20498
undergoing assessment and treatment. 20499

(L) "Economic loss" means any economic detriment suffered by 20500
a victim as a direct and proximate result of the commission of an 20501
offense and includes any loss of income due to lost time at work 20502
because of any injury caused to the victim, and any property loss, 20503
medical cost, or funeral expense incurred as a result of the 20504
commission of the offense. "Economic loss" does not include 20505
non-economic loss or any punitive or exemplary damages. 20506

(M) "Education or training" includes study at, or in 20507
conjunction with a program offered by, a university, college, or 20508
technical college or vocational study and also includes the 20509
completion of primary school, secondary school, and literacy 20510
curricula or their equivalent. 20511

(N) "Firearm" has the same meaning as in section 2923.11 of 20512
the Revised Code. 20513

(O) "Halfway house" means a facility licensed by the division 20514
of parole and community services of the department of 20515
rehabilitation and correction pursuant to section 2967.14 of the 20516
Revised Code as a suitable facility for the care and treatment of 20517
adult offenders. 20518

(P) "House arrest" means a period of confinement of an 20519

offender that is in the offender's home or in other premises 20520
specified by the sentencing court or by the parole board pursuant 20521
to section 2967.28 of the Revised Code and during which all of the 20522
following apply: 20523

(1) The offender is required to remain in the offender's home 20524
or other specified premises for the specified period of 20525
confinement, except for periods of time during which the offender 20526
is at the offender's place of employment or at other premises as 20527
authorized by the sentencing court or by the parole board. 20528

(2) The offender is required to report periodically to a 20529
person designated by the court or parole board. 20530

(3) The offender is subject to any other restrictions and 20531
requirements that may be imposed by the sentencing court or by the 20532
parole board. 20533

(Q) "Intensive probation supervision" means a requirement 20534
that an offender maintain frequent contact with a person appointed 20535
by the court, or by the parole board pursuant to section 2967.28 20536
of the Revised Code, to supervise the offender while the offender 20537
is seeking or maintaining necessary employment and participating 20538
in training, education, and treatment programs as required in the 20539
court's or parole board's order. "Intensive probation supervision" 20540
includes intensive parole supervision and intensive post-release 20541
control supervision. 20542

(R) "Jail" means a jail, workhouse, minimum security jail, or 20543
other residential facility used for the confinement of alleged or 20544
convicted offenders that is operated by a political subdivision or 20545
a combination of political subdivisions of this state. 20546

(S) "Jail term" means the term in a jail that a sentencing 20547
court imposes or is authorized to impose pursuant to section 20548
2929.24 or 2929.25 of the Revised Code or pursuant to any other 20549
provision of the Revised Code that authorizes a term in a jail for 20550

a misdemeanor conviction. 20551

(T) "Mandatory jail term" means the term in a jail that a 20552
sentencing court is required to impose pursuant to division (G) of 20553
section 1547.99 of the Revised Code, division (E) of section 20554
2903.06 or division (D) of section 2903.08 of the Revised Code, 20555
division (E) or (G) of section 2929.24 of the Revised Code, 20556
division (B) of section 4510.14 of the Revised Code, or division 20557
(G) of section 4511.19 of the Revised Code or pursuant to any 20558
other provision of the Revised Code that requires a term in a jail 20559
for a misdemeanor conviction. 20560

(U) "Delinquent child" has the same meaning as in section 20561
2152.02 of the Revised Code. 20562

(V) "License violation report" means a report that is made by 20563
a sentencing court, or by the parole board pursuant to section 20564
2967.28 of the Revised Code, to the regulatory or licensing board 20565
or agency that issued an offender a professional license or a 20566
license or permit to do business in this state and that specifies 20567
that the offender has been convicted of or pleaded guilty to an 20568
offense that may violate the conditions under which the offender's 20569
professional license or license or permit to do business in this 20570
state was granted or an offense for which the offender's 20571
professional license or license or permit to do business in this 20572
state may be revoked or suspended. 20573

(W) "Major drug offender" means an offender who is convicted 20574
of or pleads guilty to the possession of, sale of, or offer to 20575
sell any drug, compound, mixture, preparation, or substance that 20576
consists of or contains at least one thousand grams of hashish; at 20577
least one hundred grams of cocaine; at least two thousand five 20578
hundred unit doses or two hundred fifty grams of heroin; at least 20579
five thousand unit doses of L.S.D. or five hundred grams of L.S.D. 20580
in a liquid concentrate, liquid extract, or liquid distillate 20581
form; or at least one hundred times the amount of any other 20582

schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

(X) "Mandatory prison term" means any of the following:

(1) Subject to division (X)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 2929.13 and division (B) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 or 2929.142 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G)(2) of section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(3) The term in prison imposed pursuant to division (A) of section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code or pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(Y) "Monitored time" means a period of time during which an

offender continues to be under the control of the sentencing court 20614
or parole board, subject to no conditions other than leading a 20615
law-abiding life. 20616

(Z) "Offender" means a person who, in this state, is 20617
convicted of or pleads guilty to a felony or a misdemeanor. 20618

(AA) "Prison" means a residential facility used for the 20619
confinement of convicted felony offenders that is under the 20620
control of the department of rehabilitation and correction but 20621
does not include a violation sanction center operated under 20622
authority of section 2967.141 of the Revised Code. 20623

(BB) "Prison term" includes either of the following sanctions 20624
for an offender: 20625

(1) A stated prison term; 20626

(2) A term in a prison shortened by, or with the approval of, 20627
the sentencing court pursuant to section 2929.143, 2929.20, 20628
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 20629

(CC) "Repeat violent offender" means a person about whom both 20630
of the following apply: 20631

(1) The person is being sentenced for committing or for 20632
complicity in committing any of the following: 20633

(a) Aggravated murder, murder, any felony of the first or 20634
second degree that is an offense of violence, or an attempt to 20635
commit any of these offenses if the attempt is a felony of the 20636
first or second degree; 20637

(b) An offense under an existing or former law of this state, 20638
another state, or the United States that is or was substantially 20639
equivalent to an offense described in division (CC)(1)(a) of this 20640
section. 20641

(2) The person previously was convicted of or pleaded guilty 20642
to an offense described in division (CC)(1)(a) or (b) of this 20643

section. 20644

(DD) "Sanction" means any penalty imposed upon an offender 20645
who is convicted of or pleads guilty to an offense, as punishment 20646
for the offense. "Sanction" includes any sanction imposed pursuant 20647
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 20648
2929.28 of the Revised Code. 20649

(EE) "Sentence" means the sanction or combination of 20650
sanctions imposed by the sentencing court on an offender who is 20651
convicted of or pleads guilty to an offense. 20652

(FF) "Stated prison term" means the prison term, mandatory 20653
prison term, or combination of all prison terms and mandatory 20654
prison terms imposed by the sentencing court pursuant to section 20655
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 20656
2919.25 of the Revised Code. "Stated prison term" includes any 20657
credit received by the offender for time spent in jail awaiting 20658
trial, sentencing, or transfer to prison for the offense and any 20659
time spent under house arrest or house arrest with electronic 20660
monitoring imposed after earning credits pursuant to section 20661
2967.193 of the Revised Code. If an offender is serving a prison 20662
term as a risk reduction sentence under sections 2929.143 and 20663
5120.036 of the Revised Code, "stated prison term" includes any 20664
period of time by which the prison term imposed upon the offender 20665
is shortened by the offender's successful completion of all 20666
assessment and treatment or programming pursuant to those 20667
sections. 20668

(GG) "Victim-offender mediation" means a reconciliation or 20669
mediation program that involves an offender and the victim of the 20670
offense committed by the offender and that includes a meeting in 20671
which the offender and the victim may discuss the offense, discuss 20672
restitution, and consider other sanctions for the offense. 20673

(HH) "Fourth degree felony OVI offense" means a violation of 20674

division (A) of section 4511.19 of the Revised Code that, under 20675
division (G) of that section, is a felony of the fourth degree. 20676

(II) "Mandatory term of local incarceration" means the term 20677
of sixty or one hundred twenty days in a jail, a community-based 20678
correctional facility, a halfway house, or an alternative 20679
residential facility that a sentencing court may impose upon a 20680
person who is convicted of or pleads guilty to a fourth degree 20681
felony OVI offense pursuant to division (G)(1) of section 2929.13 20682
of the Revised Code and division (G)(1)(d) or (e) of section 20683
4511.19 of the Revised Code. 20684

(JJ) "Designated homicide, assault, or kidnapping offense," 20685
"violent sex offense," "sexual motivation specification," 20686
"sexually violent offense," "sexually violent predator," and 20687
"sexually violent predator specification" have the same meanings 20688
as in section 2971.01 of the Revised Code. 20689

(KK) "Sexually oriented offense," "child-victim oriented 20690
offense," and "tier III sex offender/child-victim offender," have 20691
the same meanings as in section 2950.01 of the Revised Code. 20692

(LL) An offense is "committed in the vicinity of a child" if 20693
the offender commits the offense within thirty feet of or within 20694
the same residential unit as a child who is under eighteen years 20695
of age, regardless of whether the offender knows the age of the 20696
child or whether the offender knows the offense is being committed 20697
within thirty feet of or within the same residential unit as the 20698
child and regardless of whether the child actually views the 20699
commission of the offense. 20700

(MM) "Family or household member" has the same meaning as in 20701
section 2919.25 of the Revised Code. 20702

(NN) "Motor vehicle" and "manufactured home" have the same 20703
meanings as in section 4501.01 of the Revised Code. 20704

(OO) "Detention" and "detention facility" have the same 20705

meanings as in section 2921.01 of the Revised Code. 20706

(PP) "Third degree felony OVI offense" means a violation of 20707
division (A) of section 4511.19 of the Revised Code that, under 20708
division (G) of that section, is a felony of the third degree. 20709

(QQ) "Random drug testing" has the same meaning as in section 20710
5120.63 of the Revised Code. 20711

(RR) "Felony sex offense" has the same meaning as in section 20712
2967.28 of the Revised Code. 20713

(SS) "Body armor" has the same meaning as in section 20714
2941.1411 of the Revised Code. 20715

(TT) "Electronic monitoring" means monitoring through the use 20716
of an electronic monitoring device. 20717

(UU) "Electronic monitoring device" means any of the 20718
following: 20719

(1) Any device that can be operated by electrical or battery 20720
power and that conforms with all of the following: 20721

(a) The device has a transmitter that can be attached to a 20722
person, that will transmit a specified signal to a receiver of the 20723
type described in division (UU)(1)(b) of this section if the 20724
transmitter is removed from the person, turned off, or altered in 20725
any manner without prior court approval in relation to electronic 20726
monitoring or without prior approval of the department of 20727
rehabilitation and correction in relation to the use of an 20728
electronic monitoring device for an inmate on transitional control 20729
or otherwise is tampered with, that can transmit continuously and 20730
periodically a signal to that receiver when the person is within a 20731
specified distance from the receiver, and that can transmit an 20732
appropriate signal to that receiver if the person to whom it is 20733
attached travels a specified distance from that receiver. 20734

(b) The device has a receiver that can receive continuously 20735

the signals transmitted by a transmitter of the type described in 20736
division (UU)(1)(a) of this section, can transmit continuously 20737
those signals by a wireless or landline telephone connection to a 20738
central monitoring computer of the type described in division 20739
(UU)(1)(c) of this section, and can transmit continuously an 20740
appropriate signal to that central monitoring computer if the 20741
device has been turned off or altered without prior court approval 20742
or otherwise tampered with. The device is designed specifically 20743
for use in electronic monitoring, is not a converted wireless 20744
phone or another tracking device that is clearly not designed for 20745
electronic monitoring, and provides a means of text-based or voice 20746
communication with the person. 20747

(c) The device has a central monitoring computer that can 20748
receive continuously the signals transmitted by a wireless or 20749
landline telephone connection by a receiver of the type described 20750
in division (UU)(1)(b) of this section and can monitor 20751
continuously the person to whom an electronic monitoring device of 20752
the type described in division (UU)(1)(a) of this section is 20753
attached. 20754

(2) Any device that is not a device of the type described in 20755
division (UU)(1) of this section and that conforms with all of the 20756
following: 20757

(a) The device includes a transmitter and receiver that can 20758
monitor and determine the location of a subject person at any 20759
time, or at a designated point in time, through the use of a 20760
central monitoring computer or through other electronic means. 20761

(b) The device includes a transmitter and receiver that can 20762
determine at any time, or at a designated point in time, through 20763
the use of a central monitoring computer or other electronic means 20764
the fact that the transmitter is turned off or altered in any 20765
manner without prior approval of the court in relation to the 20766
electronic monitoring or without prior approval of the department 20767

of rehabilitation and correction in relation to the use of an 20768
electronic monitoring device for an inmate on transitional control 20769
or otherwise is tampered with. 20770

(3) Any type of technology that can adequately track or 20771
determine the location of a subject person at any time and that is 20772
approved by the director of rehabilitation and correction, 20773
including, but not limited to, any satellite technology, voice 20774
tracking system, or retinal scanning system that is so approved. 20775

(VV) "Non-economic loss" means nonpecuniary harm suffered by 20776
a victim of an offense as a result of or related to the commission 20777
of the offense, including, but not limited to, pain and suffering; 20778
loss of society, consortium, companionship, care, assistance, 20779
attention, protection, advice, guidance, counsel, instruction, 20780
training, or education; mental anguish; and any other intangible 20781
loss. 20782

(WW) "Prosecutor" has the same meaning as in section 2935.01 20783
of the Revised Code. 20784

(XX) "Continuous alcohol monitoring" means the ability to 20785
automatically test and periodically transmit alcohol consumption 20786
levels and tamper attempts at least every hour, regardless of the 20787
location of the person who is being monitored. 20788

(YY) A person is "adjudicated a sexually violent predator" if 20789
the person is convicted of or pleads guilty to a violent sex 20790
offense and also is convicted of or pleads guilty to a sexually 20791
violent predator specification that was included in the 20792
indictment, count in the indictment, or information charging that 20793
violent sex offense or if the person is convicted of or pleads 20794
guilty to a designated homicide, assault, or kidnapping offense 20795
and also is convicted of or pleads guilty to both a sexual 20796
motivation specification and a sexually violent predator 20797
specification that were included in the indictment, count in the 20798

indictment, or information charging that designated homicide, 20799
assault, or kidnapping offense. 20800

(ZZ) An offense is "committed in proximity to a school" if 20801
the offender commits the offense in a school safety zone or within 20802
five hundred feet of any school building or the boundaries of any 20803
school premises, regardless of whether the offender knows the 20804
offense is being committed in a school safety zone or within five 20805
hundred feet of any school building or the boundaries of any 20806
school premises. 20807

(AAA) "Human trafficking" means a scheme or plan to which all 20808
of the following apply: 20809

(1) Its object is to subject a victim or victims to 20810
involuntary servitude, as defined in section 2905.31 of the 20811
Revised Code, to compel a victim or victims to engage in sexual 20812
activity for hire, to engage in a performance that is obscene, 20813
sexually oriented, or nudity oriented, or to be a model or 20814
participant in the production of material that is obscene, 20815
sexually oriented, or nudity oriented. 20816

(2) It involves at least two felony offenses, whether or not 20817
there has been a prior conviction for any of the felony offenses, 20818
to which all of the following apply: 20819

(a) Each of the felony offenses is a violation of section 20820
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, division 20821
(A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), 20822
(4), or (5) of section 2919.22 of the Revised Code or is a 20823
violation of a law of any state other than this state that is 20824
substantially similar to any of the sections or divisions of the 20825
Revised Code identified in this division. 20826

(b) At least one of the felony offenses was committed in this 20827
state. 20828

(c) The felony offenses are related to the same scheme or 20829

plan and are not isolated instances. 20830

(BBB) "Material," "nudity," "obscene," "performance," and 20831
"sexual activity" have the same meanings as in section 2907.01 of 20832
the Revised Code. 20833

(CCC) "Material that is obscene, sexually oriented, or nudity 20834
oriented" means any material that is obscene, that shows a person 20835
participating or engaging in sexual activity, masturbation, or 20836
bestiality, or that shows a person in a state of nudity. 20837

(DDD) "Performance that is obscene, sexually oriented, or 20838
nudity oriented" means any performance that is obscene, that shows 20839
a person participating or engaging in sexual activity, 20840
masturbation, or bestiality, or that shows a person in a state of 20841
nudity. 20842

Sec. 2929.19. (A) The court shall hold a sentencing hearing 20843
before imposing a sentence under this chapter upon an offender who 20844
was convicted of or pleaded guilty to a felony and before 20845
resentencing an offender who was convicted of or pleaded guilty to 20846
a felony and whose case was remanded pursuant to section 2953.07 20847
or 2953.08 of the Revised Code. At the hearing, the offender, the 20848
prosecuting attorney, the victim or the victim's representative in 20849
accordance with section 2930.14 of the Revised Code, and, with the 20850
approval of the court, any other person may present information 20851
relevant to the imposition of sentence in the case. The court 20852
shall inform the offender of the verdict of the jury or finding of 20853
the court and ask the offender whether the offender has anything 20854
to say as to why sentence should not be imposed upon the offender. 20855

(B)(1) At the sentencing hearing, the court, before imposing 20856
sentence, shall consider the record, any information presented at 20857
the hearing by any person pursuant to division (A) of this 20858
section, and, if one was prepared, the presentence investigation 20859
report made pursuant to section 2951.03 of the Revised Code or 20860

Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code. 20861
20862

(2) Subject to division (B)(3) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following: 20863
20864
20865
20866

(a) Impose a stated prison term and, if the court imposes a mandatory prison term, notify the offender that the prison term is a mandatory prison term; 20867
20868
20869

(b) In addition to any other information, include in the sentencing entry the name and section reference to the offense or offenses, the sentence or sentences imposed and whether the sentence or sentences contain mandatory prison terms, if sentences are imposed for multiple counts whether the sentences are to be served concurrently or consecutively, and the name and section reference of any specification or specifications for which sentence is imposed and the sentence or sentences imposed for the specification or specifications; 20870
20871
20872
20873
20874
20875
20876
20877
20878

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. If a court imposes a sentence including a prison term of a type described in division (B)(2)(c) of this section on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(c) of this 20879
20880
20881
20882
20883
20884
20885
20886
20887
20888
20889
20890
20891
20892

section that the offender will be supervised under section 2967.28 20893
of the Revised Code after the offender leaves prison or to include 20894
in the judgment of conviction entered on the journal a statement 20895
to that effect does not negate, limit, or otherwise affect the 20896
mandatory period of supervision that is required for the offender 20897
under division (B) of section 2967.28 of the Revised Code. Section 20898
2929.191 of the Revised Code applies if, prior to July 11, 2006, a 20899
court imposed a sentence including a prison term of a type 20900
described in division (B)(2)(c) of this section and failed to 20901
notify the offender pursuant to division (B)(2)(c) of this section 20902
regarding post-release control or to include in the judgment of 20903
conviction entered on the journal or in the sentence a statement 20904
regarding post-release control. 20905

(d) Notify the offender that the offender may be supervised 20906
under section 2967.28 of the Revised Code after the offender 20907
leaves prison if the offender is being sentenced for a felony of 20908
the third, fourth, or fifth degree that is not subject to division 20909
(B)(2)(c) of this section. This division applies with respect to 20910
all prison terms imposed for an offense of a type described in 20911
this division, including a term imposed for any such offense that 20912
is a risk reduction sentence, as defined in section 2967.28 of the 20913
Revised Code. Section 2929.191 of the Revised Code applies if, 20914
prior to July 11, 2006, a court imposed a sentence including a 20915
prison term of a type described in division (B)(2)(d) of this 20916
section and failed to notify the offender pursuant to division 20917
(B)(2)(d) of this section regarding post-release control or to 20918
include in the judgment of conviction entered on the journal or in 20919
the sentence a statement regarding post-release control. 20920

(e) Notify the offender that, if a period of supervision is 20921
imposed following the offender's release from prison, as described 20922
in division (B)(2)(c) or (d) of this section, and if the offender 20923
violates that supervision or a condition of post-release control 20924

imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender. If a court imposes a sentence including a prison term on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(e) of this section that the parole board may impose a prison term as described in division (B)(2)(e) of this section for a violation of that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the authority of the parole board to so impose a prison term for a violation of that nature if, pursuant to division (D)(1) of section 2967.28 of the Revised Code, the parole board notifies the offender prior to the offender's release of the board's authority to so impose a prison term. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(2)(e) of this section regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(f) Require that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in section 341.26, 753.33, or 5120.63 of the Revised Code, whichever is applicable to the offender who is serving a prison term, and require that the results of the drug test administered under any of those sections indicate that the offender did not ingest or was not injected with a drug of abuse.

(g) Include in the offender's sentence a statement notifying the offender of the information described in division (F)(3) of section 2929.14 of the Revised Code regarding earned credits under

section 2967.193 of the Revised Code. 20957

(h)(i) Determine, notify the offender of, and include in the 20958
sentencing entry the number of days that the offender has been 20959
confined for any reason arising out of the offense for which the 20960
offender is being sentenced and by which the department of 20961
rehabilitation and correction must reduce the stated prison term 20962
under section 2967.191 of the Revised Code. The court's 20963
calculation shall not include the number of days, if any, that the 20964
offender previously served in the custody of the department of 20965
rehabilitation and correction arising out of the offense for which 20966
the prisoner was convicted and sentenced. 20967

(ii) In making a determination under division (B)(2)(h)(i) of 20968
this section, the court shall consider the arguments of the 20969
parties and conduct a hearing if one is requested. 20970

(iii) The sentencing court retains continuing jurisdiction to 20971
correct any error not previously raised at sentencing in making a 20972
determination under division (B)(2)(h)(i) of this section. The 20973
offender may, at any time after sentencing, file a motion in the 20974
sentencing court to correct any error made in making a 20975
determination under division (B)(2)(h)(i) of this section, and the 20976
court may in its discretion grant or deny that motion. If the 20977
court changes the number of days in its determination or 20978
redetermination, the court shall cause the entry granting that 20979
change to be delivered to the department of rehabilitation and 20980
correction without delay. Sections 2931.15 and 2953.21 of the 20981
Revised Code do not apply to a motion made under this section. 20982

(iv) An inaccurate determination under division (B)(2)(h)(i) 20983
of this section is not grounds for setting aside the offender's 20984
conviction or sentence and does not otherwise render the sentence 20985
void or voidable. 20986

(3)(a) The court shall include in the offender's sentence a 20987

statement that the offender is a tier III sex 20988
offender/child-victim offender, and the court shall comply with 20989
the requirements of section 2950.03 of the Revised Code if any of 20990
the following apply: 20991

(i) The offender is being sentenced for a violent sex offense 20992
or designated homicide, assault, or kidnapping offense that the 20993
offender committed on or after January 1, 1997, and the offender 20994
is adjudicated a sexually violent predator in relation to that 20995
offense. 20996

(ii) The offender is being sentenced for a sexually oriented 20997
offense that the offender committed on or after January 1, 1997, 20998
and the offender is a tier III sex offender/child-victim offender 20999
relative to that offense. 21000

(iii) The offender is being sentenced on or after July 31, 21001
2003, for a child-victim oriented offense, and the offender is a 21002
tier III sex offender/child-victim offender relative to that 21003
offense. 21004

(iv) The offender is being sentenced under section 2971.03 of 21005
the Revised Code for a violation of division (A)(1)(b) of section 21006
2907.02 of the Revised Code committed on or after January 2, 2007. 21007

(v) The offender is sentenced to a term of life without 21008
parole under division (B) of section 2907.02 of the Revised Code. 21009

(vi) The offender is being sentenced for attempted rape 21010
committed on or after January 2, 2007, and a specification of the 21011
type described in section 2941.1418, 2941.1419, or 2941.1420 of 21012
the Revised Code. 21013

(vii) The offender is being sentenced under division 21014
(B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code 21015
for an offense described in those divisions committed on or after 21016
January 1, 2008. 21017

(b) Additionally, if any criterion set forth in divisions 21018
(B)(3)(a)(i) to (vii) of this section is satisfied, in the 21019
circumstances described in division (E) of section 2929.14 of the 21020
Revised Code, the court shall impose sentence on the offender as 21021
described in that division. 21022

(4) If the sentencing court determines at the sentencing 21023
hearing that a community control sanction should be imposed and 21024
the court is not prohibited from imposing a community control 21025
sanction, the court shall impose a community control sanction. The 21026
court shall notify the offender that, if the conditions of the 21027
sanction are violated, if the offender commits a violation of any 21028
law, or if the offender leaves this state without the permission 21029
of the court or the offender's probation officer, the court may 21030
impose a longer time under the same sanction, may impose a more 21031
restrictive sanction, or may impose a prison term on the offender 21032
and shall indicate the specific prison term that may be imposed as 21033
a sanction for the violation, as selected by the court from the 21034
range of prison terms for the offense pursuant to section 2929.14 21035
of the Revised Code. 21036

(5) Before imposing a financial sanction under section 21037
2929.18 of the Revised Code or a fine under section 2929.32 of the 21038
Revised Code, the court shall consider the offender's present and 21039
future ability to pay the amount of the sanction or fine. 21040

(6) If the sentencing court sentences the offender to a 21041
sanction of confinement pursuant to section 2929.14 or 2929.16 of 21042
the Revised Code that is to be served in a local detention 21043
facility, as defined in section 2929.36 of the Revised Code, and 21044
if the local detention facility is covered by a policy adopted 21045
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 21046
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 21047
and section 2929.37 of the Revised Code, both of the following 21048
apply: 21049

(a) The court shall specify both of the following as part of the sentence: 21050
21051

(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section. 21052
21053
21054
21055

(ii) If the offender does not dispute the bill described in division (B)(6)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section. 21056
21057
21058
21059
21060

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section. 21061
21062
21063

(7) The failure of the court to notify the offender that a prison term is a mandatory prison term pursuant to division (B)(2)(a) of this section or to include in the sentencing entry any information required by division (B)(2)(b) of this section does not affect the validity of the imposed sentence or sentences. 21064
21065
21066
21067
21068
21069
21070
21071
21072
21073
21074
21075
21076
21077

(C)(1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local 21078
21079
21080

incarceration in accordance with that division, shall impose a 21081
mandatory fine in accordance with division (B)(3) of section 21082
2929.18 of the Revised Code, and, in addition, may impose 21083
additional sanctions as specified in sections 2929.15, 2929.16, 21084
2929.17, and 2929.18 of the Revised Code. The court shall not 21085
impose a prison term on the offender except that the court may 21086
impose a prison term upon the offender as provided in division 21087
(A)(1) of section 2929.13 of the Revised Code. 21088

(2) If the offender is being sentenced for a third or fourth 21089
degree felony OVI offense under division (G)(2) of section 2929.13 21090
of the Revised Code, the court shall impose the mandatory prison 21091
term in accordance with that division, shall impose a mandatory 21092
fine in accordance with division (B)(3) of section 2929.18 of the 21093
Revised Code, and, in addition, may impose an additional prison 21094
term as specified in section 2929.14 of the Revised Code. In 21095
addition to the mandatory prison term or mandatory prison term and 21096
additional prison term the court imposes, the court also may 21097
impose a community control sanction on the offender, but the 21098
offender shall serve all of the prison terms so imposed prior to 21099
serving the community control sanction. 21100

(D) The sentencing court, pursuant to division (I)(1) of 21101
section 2929.14 of the Revised Code, may recommend placement of 21102
the offender in a program of shock incarceration under section 21103
5120.031 of the Revised Code or an intensive program prison under 21104
section 5120.032 of the Revised Code, disapprove placement of the 21105
offender in a program or prison of that nature, or make no 21106
recommendation. If the court recommends or disapproves placement, 21107
it shall make a finding that gives its reasons for its 21108
recommendation or disapproval. 21109

Sec. 2935.01. As used in this chapter: 21110

(A) "Magistrate" has the same meaning as in section 2931.01 21111

of the Revised Code. 21112

(B) "Peace officer" includes, except as provided in section 21113
2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; 21114
deputy marshal; member of the organized police department of any 21115
municipal corporation, including a member of the organized police 21116
department of a municipal corporation in an adjoining state 21117
serving in Ohio under a contract pursuant to section 737.04 of the 21118
Revised Code; member of a police force employed by a metropolitan 21119
housing authority under division (D) of section 3735.31 of the 21120
Revised Code; member of a police force employed by a regional 21121
transit authority under division (Y) of section 306.05 of the 21122
Revised Code; state university law enforcement officer appointed 21123
under section 3345.04 of the Revised Code; enforcement agent of 21124
the department of public safety designated under section 5502.14 21125
of the Revised Code; employee of the department of taxation to 21126
whom investigation powers have been delegated under section 21127
5743.45 of the Revised Code; employee of the department of natural 21128
resources who is a natural resources law enforcement staff officer 21129
designated pursuant to section 1501.013 of the Revised Code, a 21130
forest officer designated pursuant to section 1503.29 of the 21131
Revised Code, a preserve officer designated pursuant to section 21132
1517.10 of the Revised Code, a wildlife officer designated 21133
pursuant to section 1531.13 of the Revised Code, a park officer 21134
designated pursuant to section 1541.10 of the Revised Code, or a 21135
state watercraft officer designated pursuant to section 1547.521 21136
of the Revised Code; individual designated to perform law 21137
enforcement duties under section 511.232, 1545.13, or 6101.75 of 21138
the Revised Code; veterans' home police officer appointed under 21139
section 5907.02 of the Revised Code; special police officer 21140
employed by a port authority under section 4582.04 or 4582.28 of 21141
the Revised Code; police constable of any township; police officer 21142
of a township or joint police district; a special police officer 21143
employed by a municipal corporation at a municipal airport, or 21144

other municipal air navigation facility, that has scheduled 21145
operations, as defined in section 119.3 of Title 14 of the Code of 21146
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 21147
required to be under a security program and is governed by 21148
aviation security rules of the transportation security 21149
administration of the United States department of transportation 21150
as provided in Parts 1542. and 1544. of Title 49 of the Code of 21151
Federal Regulations, as amended; the house of representatives 21152
sergeant at arms if the house of representatives sergeant at arms 21153
has arrest authority pursuant to division (E)(1) of section 21154
101.311 of the Revised Code; ~~and~~ an assistant house of 21155
representatives sergeant at arms; the senate sergeant at arms; an 21156
assistant senate sergeant at arms; officer or employee of the 21157
bureau of criminal identification and investigation established 21158
pursuant to section 109.51 of the Revised Code who has been 21159
awarded a certificate by the executive director of the Ohio peace 21160
officer training commission attesting to the officer's or 21161
employee's satisfactory completion of an approved state, county, 21162
municipal, or department of natural resources peace officer basic 21163
training program and who is providing assistance upon request to a 21164
law enforcement officer or emergency assistance to a peace officer 21165
pursuant to section 109.54 or 109.541 of the Revised Code; a state 21166
fire marshal law enforcement officer described in division (A)(23) 21167
of section 109.71 of the Revised Code; and, for the purpose of 21168
arrests within those areas, for the purposes of Chapter 5503. of 21169
the Revised Code, and the filing of and service of process 21170
relating to those offenses witnessed or investigated by them, the 21171
superintendent and troopers of the state highway patrol. 21172

(C) "Prosecutor" includes the county prosecuting attorney and 21173
any assistant prosecutor designated to assist the county 21174
prosecuting attorney, and, in the case of courts inferior to 21175
courts of common pleas, includes the village solicitor, city 21176
director of law, or similar chief legal officer of a municipal 21177

corporation, any such officer's assistants, or any attorney 21178
designated by the prosecuting attorney of the county to appear for 21179
the prosecution of a given case. 21180

(D) "Offense," except where the context specifically 21181
indicates otherwise, includes felonies, misdemeanors, and 21182
violations of ordinances of municipal corporations and other 21183
public bodies authorized by law to adopt penal regulations. 21184

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 21185
deputy marshal, municipal police officer, township constable, 21186
police officer of a township or joint police district, member of a 21187
police force employed by a metropolitan housing authority under 21188
division (D) of section 3735.31 of the Revised Code, member of a 21189
police force employed by a regional transit authority under 21190
division (Y) of section 306.35 of the Revised Code, state 21191
university law enforcement officer appointed under section 3345.04 21192
of the Revised Code, veterans' home police officer appointed under 21193
section 5907.02 of the Revised Code, special police officer 21194
employed by a port authority under section 4582.04 or 4582.28 of 21195
the Revised Code, or a special police officer employed by a 21196
municipal corporation at a municipal airport, or other municipal 21197
air navigation facility, that has scheduled operations, as defined 21198
in section 119.3 of Title 14 of the Code of Federal Regulations, 21199
14 C.F.R. 119.3, as amended, and that is required to be under a 21200
security program and is governed by aviation security rules of the 21201
transportation security administration of the United States 21202
department of transportation as provided in Parts 1542. and 1544. 21203
of Title 49 of the Code of Federal Regulations, as amended, shall 21204
arrest and detain, until a warrant can be obtained, a person found 21205
violating, within the limits of the political subdivision, 21206
metropolitan housing authority housing project, regional transit 21207
authority facilities or areas of a municipal corporation that have 21208
been agreed to by a regional transit authority and a municipal 21209

corporation located within its territorial jurisdiction, college, 21210
university, veterans' home operated under Chapter 5907. of the 21211
Revised Code, port authority, or municipal airport or other 21212
municipal air navigation facility, in which the peace officer is 21213
appointed, employed, or elected, a law of this state, an ordinance 21214
of a municipal corporation, or a resolution of a township. 21215

(2) A peace officer of the department of natural resources, a 21216
state fire marshal law enforcement officer described in division 21217
(A)(23) of section 109.71 of the Revised Code, or an individual 21218
designated to perform law enforcement duties under section 21219
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 21220
detain, until a warrant can be obtained, a person found violating, 21221
within the limits of the peace officer's, state fire marshal law 21222
enforcement officer's, or individual's territorial jurisdiction, a 21223
law of this state. 21224

(3) The house sergeant at arms, if the house sergeant at arms 21225
has arrest authority pursuant to division (E)(1) of section 21226
101.311 of the Revised Code, and an assistant house sergeant at 21227
arms shall arrest and detain, until a warrant can be obtained, a 21228
person found violating, within the limits of the sergeant at 21229
arms's or assistant sergeant at arms's territorial jurisdiction 21230
specified in division (D)(1)(a) of section 101.311 of the Revised 21231
Code or while providing security pursuant to division (D)(1)(f) of 21232
section 101.311 of the Revised Code, a law of this state, an 21233
ordinance of a municipal corporation, or a resolution of a 21234
township. 21235

(4) The senate sergeant at arms and an assistant senate 21236
sergeant at arms shall arrest and detain, until a warrant can be 21237
obtained, a person found violating, within the limits of the 21238
sergeant at arms's or assistant sergeant at arms's territorial 21239
jurisdiction specified in division (B) of section 101.312 of the 21240
Revised Code, a law of this state, an ordinance of a municipal 21241

corporation, or a resolution of a township. 21242

(B)(1) When there is reasonable ground to believe that an 21243
offense of violence, the offense of criminal child enticement as 21244
defined in section 2905.05 of the Revised Code, the offense of 21245
public indecency as defined in section 2907.09 of the Revised 21246
Code, the offense of domestic violence as defined in section 21247
2919.25 of the Revised Code, the offense of violating a protection 21248
order as defined in section 2919.27 of the Revised Code, the 21249
offense of menacing by stalking as defined in section 2903.211 of 21250
the Revised Code, the offense of aggravated trespass as defined in 21251
section 2911.211 of the Revised Code, a theft offense as defined 21252
in section 2913.01 of the Revised Code, or a felony drug abuse 21253
offense as defined in section 2925.01 of the Revised Code, has 21254
been committed within the limits of the political subdivision, 21255
metropolitan housing authority housing project, regional transit 21256
authority facilities or those areas of a municipal corporation 21257
that have been agreed to by a regional transit authority and a 21258
municipal corporation located within its territorial jurisdiction, 21259
college, university, veterans' home operated under Chapter 5907. 21260
of the Revised Code, port authority, or municipal airport or other 21261
municipal air navigation facility, in which the peace officer is 21262
appointed, employed, or elected or within the limits of the 21263
territorial jurisdiction of the peace officer, a peace officer 21264
described in division (A) of this section may arrest and detain 21265
until a warrant can be obtained any person who the peace officer 21266
has reasonable cause to believe is guilty of the violation. 21267

(2) For purposes of division (B)(1) of this section, the 21268
execution of any of the following constitutes reasonable ground to 21269
believe that the offense alleged in the statement was committed 21270
and reasonable cause to believe that the person alleged in the 21271
statement to have committed the offense is guilty of the 21272
violation: 21273

(a) A written statement by a person alleging that an alleged 21274
offender has committed the offense of menacing by stalking or 21275
aggravated trespass; 21276

(b) A written statement by the administrator of the 21277
interstate compact on mental health appointed under section 21278
5119.51 of the Revised Code alleging that a person who had been 21279
hospitalized, institutionalized, or confined in any facility under 21280
an order made pursuant to or under authority of section 2945.37, 21281
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 21282
Revised Code has escaped from the facility, from confinement in a 21283
vehicle for transportation to or from the facility, or from 21284
supervision by an employee of the facility that is incidental to 21285
hospitalization, institutionalization, or confinement in the 21286
facility and that occurs outside of the facility, in violation of 21287
section 2921.34 of the Revised Code; 21288

(c) A written statement by the administrator of any facility 21289
in which a person has been hospitalized, institutionalized, or 21290
confined under an order made pursuant to or under authority of 21291
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 21292
2945.402 of the Revised Code alleging that the person has escaped 21293
from the facility, from confinement in a vehicle for 21294
transportation to or from the facility, or from supervision by an 21295
employee of the facility that is incidental to hospitalization, 21296
institutionalization, or confinement in the facility and that 21297
occurs outside of the facility, in violation of section 2921.34 of 21298
the Revised Code. 21299

(3)(a) For purposes of division (B)(1) of this section, a 21300
peace officer described in division (A) of this section has 21301
reasonable grounds to believe that the offense of domestic 21302
violence or the offense of violating a protection order has been 21303
committed and reasonable cause to believe that a particular person 21304
is guilty of committing the offense if any of the following 21305

occurs: 21306

(i) A person executes a written statement alleging that the 21307
person in question has committed the offense of domestic violence 21308
or the offense of violating a protection order against the person 21309
who executes the statement or against a child of the person who 21310
executes the statement. 21311

(ii) No written statement of the type described in division 21312
(B)(3)(a)(i) of this section is executed, but the peace officer, 21313
based upon the peace officer's own knowledge and observation of 21314
the facts and circumstances of the alleged incident of the offense 21315
of domestic violence or the alleged incident of the offense of 21316
violating a protection order or based upon any other information, 21317
including, but not limited to, any reasonably trustworthy 21318
information given to the peace officer by the alleged victim of 21319
the alleged incident of the offense or any witness of the alleged 21320
incident of the offense, concludes that there are reasonable 21321
grounds to believe that the offense of domestic violence or the 21322
offense of violating a protection order has been committed and 21323
reasonable cause to believe that the person in question is guilty 21324
of committing the offense. 21325

(iii) No written statement of the type described in division 21326
(B)(3)(a)(i) of this section is executed, but the peace officer 21327
witnessed the person in question commit the offense of domestic 21328
violence or the offense of violating a protection order. 21329

(b) If pursuant to division (B)(3)(a) of this section a peace 21330
officer has reasonable grounds to believe that the offense of 21331
domestic violence or the offense of violating a protection order 21332
has been committed and reasonable cause to believe that a 21333
particular person is guilty of committing the offense, it is the 21334
preferred course of action in this state that the officer arrest 21335
and detain that person pursuant to division (B)(1) of this section 21336
until a warrant can be obtained. 21337

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of

violating a protection order against each other, a peace officer 21370
described in division (A) of this section, in addition to any 21371
other relevant circumstances, should consider all of the 21372
following: 21373

(i) Any history of domestic violence or of any other violent 21374
acts by either person involved in the alleged offense that the 21375
officer reasonably can ascertain; 21376

(ii) If violence is alleged, whether the alleged violence was 21377
caused by a person acting in self-defense; 21378

(iii) Each person's fear of physical harm, if any, resulting 21379
from the other person's threatened use of force against any person 21380
or resulting from the other person's use or history of the use of 21381
force against any person, and the reasonableness of that fear; 21382

(iv) The comparative severity of any injuries suffered by the 21383
persons involved in the alleged offense. 21384

(e)(i) A peace officer described in division (A) of this 21385
section shall not require, as a prerequisite to arresting or 21386
charging a person who has committed the offense of domestic 21387
violence or the offense of violating a protection order, that the 21388
victim of the offense specifically consent to the filing of 21389
charges against the person who has committed the offense or sign a 21390
complaint against the person who has committed the offense. 21391

(ii) If a person is arrested for or charged with committing 21392
the offense of domestic violence or the offense of violating a 21393
protection order and if the victim of the offense does not 21394
cooperate with the involved law enforcement or prosecuting 21395
authorities in the prosecution of the offense or, subsequent to 21396
the arrest or the filing of the charges, informs the involved law 21397
enforcement or prosecuting authorities that the victim does not 21398
wish the prosecution of the offense to continue or wishes to drop 21399
charges against the alleged offender relative to the offense, the 21400

involved prosecuting authorities, in determining whether to 21401
continue with the prosecution of the offense or whether to dismiss 21402
charges against the alleged offender relative to the offense and 21403
notwithstanding the victim's failure to cooperate or the victim's 21404
wishes, shall consider all facts and circumstances that are 21405
relevant to the offense, including, but not limited to, the 21406
statements and observations of the peace officers who responded to 21407
the incident that resulted in the arrest or filing of the charges 21408
and of all witnesses to that incident. 21409

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 21410
this section whether to arrest a person pursuant to division 21411
(B)(1) of this section, a peace officer described in division (A) 21412
of this section shall not consider as a factor any possible 21413
shortage of cell space at the detention facility to which the 21414
person will be taken subsequent to the person's arrest or any 21415
possibility that the person's arrest might cause, contribute to, 21416
or exacerbate overcrowding at that detention facility or at any 21417
other detention facility. 21418

(g) If a peace officer described in division (A) of this 21419
section intends pursuant to divisions (B)(3)(a) to (g) of this 21420
section to arrest a person pursuant to division (B)(1) of this 21421
section and if the officer is unable to do so because the person 21422
is not present, the officer promptly shall seek a warrant for the 21423
arrest of the person. 21424

(h) If a peace officer described in division (A) of this 21425
section responds to a report of an alleged incident of the offense 21426
of domestic violence or an alleged incident of the offense of 21427
violating a protection order and if the circumstances of the 21428
incident involved the use or threatened use of a deadly weapon or 21429
any person involved in the incident brandished a deadly weapon 21430
during or in relation to the incident, the deadly weapon that was 21431
used, threatened to be used, or brandished constitutes contraband, 21432

and, to the extent possible, the officer shall seize the deadly 21433
weapon as contraband pursuant to Chapter 2981. of the Revised 21434
Code. Upon the seizure of a deadly weapon pursuant to division 21435
(B)(3)(h) of this section, section 2981.12 of the Revised Code 21436
shall apply regarding the treatment and disposition of the deadly 21437
weapon. For purposes of that section, the "underlying criminal 21438
offense" that was the basis of the seizure of a deadly weapon 21439
under division (B)(3)(h) of this section and to which the deadly 21440
weapon had a relationship is any of the following that is 21441
applicable: 21442

(i) The alleged incident of the offense of domestic violence 21443
or the alleged incident of the offense of violating a protection 21444
order to which the officer who seized the deadly weapon responded; 21445

(ii) Any offense that arose out of the same facts and 21446
circumstances as the report of the alleged incident of the offense 21447
of domestic violence or the alleged incident of the offense of 21448
violating a protection order to which the officer who seized the 21449
deadly weapon responded. 21450

(4) If, in the circumstances described in divisions (B)(3)(a) 21451
to (g) of this section, a peace officer described in division (A) 21452
of this section arrests and detains a person pursuant to division 21453
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 21454
this section, a peace officer described in division (A) of this 21455
section seizes a deadly weapon, the officer, to the extent 21456
described in and in accordance with section 9.86 or 2744.03 of the 21457
Revised Code, is immune in any civil action for damages for 21458
injury, death, or loss to person or property that arises from or 21459
is related to the arrest and detention or the seizure. 21460

(C) When there is reasonable ground to believe that a 21461
violation of division (A)(1), (2), (3), (4), or (5) of section 21462
4506.15 or a violation of section 4511.19 of the Revised Code has 21463
been committed by a person operating a motor vehicle subject to 21464

regulation by the public utilities commission of Ohio under Title 21465
XLIX of the Revised Code, a peace officer with authority to 21466
enforce that provision of law may stop or detain the person whom 21467
the officer has reasonable cause to believe was operating the 21468
motor vehicle in violation of the division or section and, after 21469
investigating the circumstances surrounding the operation of the 21470
vehicle, may arrest and detain the person. 21471

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 21472
municipal police officer, member of a police force employed by a 21473
metropolitan housing authority under division (D) of section 21474
3735.31 of the Revised Code, member of a police force employed by 21475
a regional transit authority under division (Y) of section 306.35 21476
of the Revised Code, special police officer employed by a port 21477
authority under section 4582.04 or 4582.28 of the Revised Code, 21478
special police officer employed by a municipal corporation at a 21479
municipal airport or other municipal air navigation facility 21480
described in division (A) of this section, township constable, 21481
police officer of a township or joint police district, state 21482
university law enforcement officer appointed under section 3345.04 21483
of the Revised Code, peace officer of the department of natural 21484
resources, individual designated to perform law enforcement duties 21485
under section 511.232, 1545.13, or 6101.75 of the Revised Code, 21486
the house sergeant at arms if the house sergeant at arms has 21487
arrest authority pursuant to division (E)(1) of section 101.311 of 21488
the Revised Code, or an assistant house sergeant at arms is 21489
authorized by division (A) or (B) of this section to arrest and 21490
detain, within the limits of the political subdivision, 21491
metropolitan housing authority housing project, regional transit 21492
authority facilities or those areas of a municipal corporation 21493
that have been agreed to by a regional transit authority and a 21494
municipal corporation located within its territorial jurisdiction, 21495
port authority, municipal airport or other municipal air 21496
navigation facility, college, or university in which the officer 21497

is appointed, employed, or elected or within the limits of the 21498
territorial jurisdiction of the peace officer, a person until a 21499
warrant can be obtained, the peace officer, outside the limits of 21500
that territory, may pursue, arrest, and detain that person until a 21501
warrant can be obtained if all of the following apply: 21502

(1) The pursuit takes place without unreasonable delay after 21503
the offense is committed; 21504

(2) The pursuit is initiated within the limits of the 21505
political subdivision, metropolitan housing authority housing 21506
project, regional transit authority facilities or those areas of a 21507
municipal corporation that have been agreed to by a regional 21508
transit authority and a municipal corporation located within its 21509
territorial jurisdiction, port authority, municipal airport or 21510
other municipal air navigation facility, college, or university in 21511
which the peace officer is appointed, employed, or elected or 21512
within the limits of the territorial jurisdiction of the peace 21513
officer; 21514

(3) The offense involved is a felony, a misdemeanor of the 21515
first degree or a substantially equivalent municipal ordinance, a 21516
misdemeanor of the second degree or a substantially equivalent 21517
municipal ordinance, or any offense for which points are 21518
chargeable pursuant to section 4510.036 of the Revised Code. 21519

(E) In addition to the authority granted under division (A) 21520
or (B) of this section: 21521

(1) A sheriff or deputy sheriff may arrest and detain, until 21522
a warrant can be obtained, any person found violating section 21523
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 21524
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 21525
portion of any street or highway that is located immediately 21526
adjacent to the boundaries of the county in which the sheriff or 21527
deputy sheriff is elected or appointed. 21528

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint police district created under section 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint police district, in the case of a member of a township police district or joint police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships and municipal corporations that created the joint police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F)(1) A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police

officer or a department of developmental disabilities special 21594
police officer finds any person who has been hospitalized, 21595
institutionalized, or confined in an institution under the 21596
jurisdiction of the particular department pursuant to or under 21597
authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 21598
2945.401, or 2945.402 of the Revised Code committing a violation 21599
of section 2921.34 of the Revised Code that involves an escape 21600
from the premises of the institution, or if there is reasonable 21601
ground to believe that a violation of section 2921.34 of the 21602
Revised Code has been committed that involves an escape from the 21603
premises of an institution under the jurisdiction of the 21604
department of mental health or the department of developmental 21605
disabilities and if a department of mental health special police 21606
officer or a department of developmental disabilities special 21607
police officer has reasonable cause to believe that a particular 21608
person who has been hospitalized, institutionalized, or confined 21609
in the institution pursuant to or under authority of section 21610
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 21611
2945.402 of the Revised Code is guilty of the violation, the 21612
special police officer, outside of the premises of the 21613
institution, may pursue, arrest, and detain that person for that 21614
violation of section 2921.34 of the Revised Code, until a warrant 21615
can be obtained, if both of the following apply: 21616

(i) The pursuit takes place without unreasonable delay after 21617
the offense is committed; 21618

(ii) The pursuit is initiated within the premises of the 21619
institution from which the violation of section 2921.34 of the 21620
Revised Code occurred. 21621

(b) For purposes of division (F)(2)(a) of this section, the 21622
execution of a written statement by the administrator of the 21623
institution in which a person had been hospitalized, 21624
institutionalized, or confined pursuant to or under authority of 21625

section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 21626
2945.402 of the Revised Code alleging that the person has escaped 21627
from the premises of the institution in violation of section 21628
2921.34 of the Revised Code constitutes reasonable ground to 21629
believe that the violation was committed and reasonable cause to 21630
believe that the person alleged in the statement to have committed 21631
the offense is guilty of the violation. 21632

(G) As used in this section: 21633

(1) A "department of mental health special police officer" 21634
means a special police officer of the department of mental health 21635
designated under section 5119.14 of the Revised Code who is 21636
certified by the Ohio peace officer training commission under 21637
section 109.77 of the Revised Code as having successfully 21638
completed an approved peace officer basic training program. 21639

(2) A "department of developmental disabilities special 21640
police officer" means a special police officer of the department 21641
of developmental disabilities designated under section 5123.13 of 21642
the Revised Code who is certified by the Ohio peace officer 21643
training council under section 109.77 of the Revised Code as 21644
having successfully completed an approved peace officer basic 21645
training program. 21646

(3) "Deadly weapon" has the same meaning as in section 21647
2923.11 of the Revised Code. 21648

(4) "Family or household member" has the same meaning as in 21649
section 2919.25 of the Revised Code. 21650

(5) "Street" or "highway" has the same meaning as in section 21651
4511.01 of the Revised Code. 21652

(6) "Interstate system" has the same meaning as in section 21653
5516.01 of the Revised Code. 21654

(7) "Peace officer of the department of natural resources" 21655

means an employee of the department of natural resources who is a 21656
natural resources law enforcement staff officer designated 21657
pursuant to section 1501.013 of the Revised Code, a forest officer 21658
designated pursuant to section 1503.29 of the Revised Code, a 21659
preserve officer designated pursuant to section 1517.10 of the 21660
Revised Code, a wildlife officer designated pursuant to section 21661
1531.13 of the Revised Code, a park officer designated pursuant to 21662
section 1541.10 of the Revised Code, or a state watercraft officer 21663
designated pursuant to section 1547.521 of the Revised Code. 21664

(8) "Portion of any street or highway" means all lanes of the 21665
street or highway irrespective of direction of travel, including 21666
designated turn lanes, and any berm, median, or shoulder. 21667

Sec. 2939.11. The official ~~shorthand~~ reporter of the county, 21668
or any ~~shorthand~~ reporter designated by the court of common pleas, 21669
at the request of the prosecuting attorney, or any such reporter 21670
designated by the attorney general in investigations conducted by 21671
~~him~~ the attorney general, may take ~~shorthand~~ notes of or 21672
electronically record testimony before the grand jury, and furnish 21673
a transcript to the prosecuting attorney or the attorney general, 21674
and to no other person. The ~~shorthand~~ reporter shall withdraw from 21675
the jury room before the jurors begin to express their views or 21676
take their vote on the matter before them. Such reporter shall 21677
take an oath to be administered by the judge after the grand jury 21678
is sworn, imposing an obligation of secrecy to not disclose any 21679
testimony taken or heard except to the grand jury, prosecuting 21680
attorney, or attorney general, unless called upon in court to make 21681
disclosures. 21682

Sec. 2945.371. (A) If the issue of a defendant's competence 21683
to stand trial is raised or if a defendant enters a plea of not 21684
guilty by reason of insanity, the court may order one or more 21685
evaluations of the defendant's present mental condition or, in the 21686

case of a plea of not guilty by reason of insanity, of the 21687
defendant's mental condition at the time of the offense charged. 21688
An examiner shall conduct the evaluation. 21689

(B) If the court orders more than one evaluation under 21690
division (A) of this section, the prosecutor and the defendant may 21691
recommend to the court an examiner whom each prefers to perform 21692
one of the evaluations. If a defendant enters a plea of not guilty 21693
by reason of insanity and if the court does not designate an 21694
examiner recommended by the defendant, the court shall inform the 21695
defendant that the defendant may have independent expert 21696
evaluation and that, if the defendant is unable to obtain 21697
independent expert evaluation, it will be obtained for the 21698
defendant at public expense if the defendant is indigent. 21699

(C) If the court orders an evaluation under division (A) of 21700
this section, the defendant shall be available at the times and 21701
places established by the examiners who are to conduct the 21702
evaluation. The court may order a defendant who has been released 21703
on bail or recognizance to submit to an evaluation under this 21704
section. If a defendant who has been released on bail or 21705
recognizance refuses to submit to a complete evaluation, the court 21706
may amend the conditions of bail or recognizance and order the 21707
sheriff to take the defendant into custody and deliver the 21708
defendant to a center, program, or facility operated or certified 21709
by the department of mental health or the department of 21710
developmental disabilities where the defendant may be held for 21711
evaluation for a reasonable period of time not to exceed twenty 21712
days. 21713

(D) A defendant who has not been released on bail or 21714
recognizance may be evaluated at the defendant's place of 21715
detention. Upon the request of the examiner, the court may order 21716
the sheriff to transport the defendant to a program or facility 21717
operated or certified by the department of mental health or the 21718

department of developmental disabilities, where the defendant may 21719
be held for evaluation for a reasonable period of time not to 21720
exceed twenty days, and to return the defendant to the place of 21721
detention after the evaluation. A municipal court may make an 21722
order under this division only upon the request of a certified 21723
forensic center examiner. 21724

(E) If a court orders the evaluation to determine a 21725
defendant's mental condition at the time of the offense charged, 21726
the court shall inform the examiner of the offense with which the 21727
defendant is charged. 21728

(F) In conducting an evaluation of a defendant's mental 21729
condition at the time of the offense charged, the examiner shall 21730
consider all relevant evidence. If the offense charged involves 21731
the use of force against another person, the relevant evidence to 21732
be considered includes, but is not limited to, any evidence that 21733
the defendant suffered, at the time of the commission of the 21734
offense, from the "battered woman syndrome." 21735

(G) The examiner shall file a written report with the court 21736
within thirty days after entry of a court order for evaluation, 21737
and the court shall provide copies of the report to the prosecutor 21738
and defense counsel. The report shall include all of the 21739
following: 21740

(1) The examiner's findings; 21741

(2) The facts in reasonable detail on which the findings are 21742
based; 21743

(3) If the evaluation was ordered to determine the 21744
defendant's competence to stand trial, all of the following 21745
findings or recommendations that are applicable: 21746

(a) Whether the defendant is capable of understanding the 21747
nature and objective of the proceedings against the defendant or 21748
of assisting in the defendant's defense; 21749

(b) If the examiner's opinion is that the defendant is 21750
incapable of understanding the nature and objective of the 21751
proceedings against the defendant or of assisting in the 21752
defendant's defense, whether the defendant presently is mentally 21753
ill or mentally retarded and, if the examiner's opinion is that 21754
the defendant presently is mentally retarded, whether the 21755
defendant appears to be a mentally retarded person subject to 21756
institutionalization by court order; 21757

(c) If the examiner's opinion is that the defendant is 21758
incapable of understanding the nature and objective of the 21759
proceedings against the defendant or of assisting in the 21760
defendant's defense, the examiner's opinion as to the likelihood 21761
of the defendant becoming capable of understanding the nature and 21762
objective of the proceedings against the defendant and of 21763
assisting in the defendant's defense within one year if the 21764
defendant is provided with a course of treatment; 21765

(d) If the examiner's opinion is that the defendant is 21766
incapable of understanding the nature and objective of the 21767
proceedings against the defendant or of assisting in the 21768
defendant's defense and that the defendant presently is mentally 21769
ill or mentally retarded, the examiner's recommendation as to the 21770
least restrictive placement or commitment alternative, consistent 21771
with the defendant's treatment needs for restoration to competency 21772
and with the safety of the community; 21773

~~(e) If the defendant is charged with a misdemeanor offense 21774
that is not an offense of violence and the examiner's opinion is 21775
that the defendant is incapable of understanding the nature and 21776
objective of the proceedings against the defendant or of assisting 21777
in the defendant's defense and that the defendant is presently 21778
mentally ill or mentally retarded, the examiner's recommendation 21779
as to whether the defendant is amenable to engagement in mental 21780
health treatment or developmental disability services. 21781~~

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant

shall be proceeded against as provided by law. If the court finds 21846
the defendant competent to stand trial and the defendant is 21847
receiving psychotropic drugs or other medication, the court may 21848
authorize the continued administration of the drugs or medication 21849
or other appropriate treatment in order to maintain the 21850
defendant's competence to stand trial, unless the defendant's 21851
attending physician advises the court against continuation of the 21852
drugs, other medication, or treatment. 21853

(B)(1)(a) If, after taking into consideration all relevant 21854
reports, information, and other evidence, the court finds that the 21855
defendant is incompetent to stand trial and that there is a 21856
substantial probability that the defendant will become competent 21857
to stand trial within one year if the defendant is provided with a 21858
course of treatment, the court shall order the defendant to 21859
undergo treatment. If the defendant has been charged with a felony 21860
offense and if, after taking into consideration all relevant 21861
reports, information, and other evidence, the court finds that the 21862
defendant is incompetent to stand trial, but the court is unable 21863
at that time to determine whether there is a substantial 21864
probability that the defendant will become competent to stand 21865
trial within one year if the defendant is provided with a course 21866
of treatment, the court shall order continuing evaluation and 21867
treatment of the defendant for a period not to exceed four months 21868
to determine whether there is a substantial probability that the 21869
defendant will become competent to stand trial within one year if 21870
the defendant is provided with a course of treatment. 21871

(b) The court order for the defendant to undergo treatment or 21872
continuing evaluation and treatment under division (B)(1)(a) of 21873
this section shall specify that the defendant, if determined to 21874
require mental health treatment or continuing evaluation and 21875
treatment, either shall be committed to the department of mental 21876
health for treatment or continuing evaluation and treatment at a 21877

hospital, facility, or agency, as determined to be clinically 21878
appropriate by the department of mental health ~~and~~ or shall be 21879
committed to a facility certified by the department of mental 21880
health as being qualified to treat mental illness, to a public or 21881
community mental health facility, or to a psychiatrist or another 21882
mental health professional for treatment or continuing evaluation 21883
and treatment. Prior to placing the defendant, the department of 21884
mental health shall obtain court approval for that placement 21885
following a hearing. The court order for the defendant to undergo 21886
treatment or continuing evaluation and treatment under division 21887
(B)(1)(a) of this section shall specify that the defendant, if 21888
determined to require treatment or continuing evaluation and 21889
treatment for ~~a developmental disability~~ mental retardation, shall 21890
receive treatment or continuing evaluation and treatment at an 21891
institution or facility operated by the department of 21892
developmental disabilities, at a facility certified by the 21893
department of developmental disabilities as being qualified to 21894
treat mental retardation, at a public or private ~~community~~ mental 21895
retardation facility, or by a psychiatrist or another mental 21896
retardation professional. ~~The~~ In any case, the order may restrict 21897
the defendant's freedom of movement as the court considers 21898
necessary. The prosecutor in the defendant's case shall send to 21899
the chief clinical officer of the hospital, facility, or agency 21900
where the defendant is placed by the department of mental health, 21901
or to the managing officer of the institution, the director of the 21902
program or facility, or the person to which the defendant is 21903
committed, copies of relevant police reports and other background 21904
information that pertains to the defendant and is available to the 21905
prosecutor unless the prosecutor determines that the release of 21906
any of the information in the police reports or any of the other 21907
background information to unauthorized persons would interfere 21908
with the effective prosecution of any person or would create a 21909
substantial risk of harm to any person. 21910

~~In committing the defendant to the department of mental health, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the defendant's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In determining the place of commitment alternatives for defendants determined to require treatment or continuing evaluation and treatment for developmental disabilities, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety.~~

21911
21912
21913
21914
21915
21916
21917
21918
21919
21920
21921
21922
21923
21924
21925
21926

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a

21927
21928
21929
21930
21931
21932
21933
21934
21935
21936
21937
21938
21939
21940
21941
21942
21943

municipal court or a county court regarding an incompetent 21944
defendant charged with a misdemeanor or within ten days of the 21945
filing of the petition if the petition was filed in a court of 21946
common pleas regarding an incompetent defendant charged with a 21947
felony offense. Following the hearing, the court may authorize the 21948
involuntary administration of medication or may dismiss the 21949
petition. 21950

~~(d) If the defendant is charged with a misdemeanor offense 21951
that is not an offense of violence, the prosecutor may hold the 21952
charges in abeyance while the defendant engages in mental health 21953
treatment or developmental disability services. 21954~~

(2) If the court finds that the defendant is incompetent to 21955
stand trial and that, even if the defendant is provided with a 21956
course of treatment, there is not a substantial probability that 21957
the defendant will become competent to stand trial within one 21958
year, the court shall order the discharge of the defendant, unless 21959
upon motion of the prosecutor or on its own motion, the court 21960
either seeks to retain jurisdiction over the defendant pursuant to 21961
section 2945.39 of the Revised Code or files an affidavit in the 21962
probate court for the civil commitment of the defendant pursuant 21963
to Chapter 5122. or 5123. of the Revised Code alleging that the 21964
defendant is a mentally ill person subject to hospitalization by 21965
court order or a mentally retarded person subject to 21966
institutionalization by court order. If an affidavit is filed in 21967
the probate court, the trial court shall send to the probate court 21968
copies of all written reports of the defendant's mental condition 21969
that were prepared pursuant to section 2945.371 of the Revised 21970
Code. 21971

The trial court may issue the temporary order of detention 21972
that a probate court may issue under section 5122.11 or 5123.71 of 21973
the Revised Code, to remain in effect until the probable cause or 21974
initial hearing in the probate court. Further proceedings in the 21975

probate court are civil proceedings governed by Chapter 5122. or 21976
5123. of the Revised Code. 21977

(C) No defendant shall be required to undergo treatment, 21978
including any continuing evaluation and treatment, under division 21979
(B)(1) of this section for longer than whichever of the following 21980
periods is applicable: 21981

(1) One year, if the most serious offense with which the 21982
defendant is charged is one of the following offenses: 21983

(a) Aggravated murder, murder, or an offense of violence for 21984
which a sentence of death or life imprisonment may be imposed; 21985

(b) An offense of violence that is a felony of the first or 21986
second degree; 21987

(c) A conspiracy to commit, an attempt to commit, or 21988
complicity in the commission of an offense described in division 21989
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 21990
complicity is a felony of the first or second degree. 21991

(2) Six months, if the most serious offense with which the 21992
defendant is charged is a felony other than a felony described in 21993
division (C)(1) of this section; 21994

(3) Sixty days, if the most serious offense with which the 21995
defendant is charged is a misdemeanor of the first or second 21996
degree; 21997

(4) Thirty days, if the most serious offense with which the 21998
defendant is charged is a misdemeanor of the third or fourth 21999
degree, a minor misdemeanor, or an unclassified misdemeanor. 22000

(D) Any defendant who is committed pursuant to this section 22001
shall not voluntarily admit the defendant or be voluntarily 22002
admitted to a hospital or institution pursuant to section 5122.02, 22003
5122.15, 5123.69, or 5123.76 of the Revised Code. 22004

(E) Except as otherwise provided in this division, a 22005

defendant who is charged with an offense and is committed by the 22006
court under this section to the department of mental health ~~with~~ 22007
~~restrictions on the defendant's freedom of movement~~ or is 22008
committed to an institution or facility for the treatment of 22009
~~developmental disabilities~~ mental retardation shall not be granted 22010
unsupervised on-grounds movement, supervised off-grounds movement, 22011
or nonsecured status except in accordance with the court order. 22012
The court may grant a defendant supervised off-grounds movement to 22013
obtain medical treatment or specialized habilitation treatment 22014
services if the person who supervises the treatment or the 22015
continuing evaluation and treatment of the defendant ordered under 22016
division (B)(1)(a) of this section informs the court that the 22017
treatment or continuing evaluation and treatment cannot be 22018
provided at the hospital or facility where the defendant is placed 22019
by the department of mental health or the institution or facility 22020
to which the defendant is committed. The chief clinical officer of 22021
the hospital or facility where the defendant is placed by the 22022
department of mental health or the managing officer of the 22023
institution or director of the facility to which the defendant is 22024
committed, or a designee of any of those persons, may grant a 22025
defendant movement to a medical facility for an emergency medical 22026
situation with appropriate supervision to ensure the safety of the 22027
defendant, staff, and community during that emergency medical 22028
situation. The chief clinical officer of the hospital or facility 22029
where the defendant is placed by the department of mental health 22030
or the managing officer of the institution or director of the 22031
facility to which the defendant is committed shall notify the 22032
court within twenty-four hours of the defendant's movement to the 22033
medical facility for an emergency medical situation under this 22034
division. 22035

(F) The person who supervises the treatment or continuing 22036
evaluation and treatment of a defendant ordered to undergo 22037
treatment or continuing evaluation and treatment under division 22038

(B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of

assisting in the defendant's defense if the defendant is provided 22070
with a course of treatment, if in the examiner's opinion the 22071
defendant remains mentally ill or mentally retarded, and if the 22072
maximum time for treatment as specified in division (C) of this 22073
section has not expired, the report also shall contain the 22074
examiner's recommendation as to the least restrictive placement or 22075
commitment alternative that is consistent with the defendant's 22076
treatment needs for restoration to competency and with the safety 22077
of the community. The court shall provide copies of the report to 22078
the prosecutor and defense counsel. 22079

(H) If a defendant is committed pursuant to division (B)(1) 22080
of this section, within ten days after the treating physician of 22081
the defendant or the examiner of the defendant who is employed or 22082
retained by the treating facility advises that there is not a 22083
substantial probability that the defendant will become capable of 22084
understanding the nature and objective of the proceedings against 22085
the defendant or of assisting in the defendant's defense even if 22086
the defendant is provided with a course of treatment, within ten 22087
days after the expiration of the maximum time for treatment as 22088
specified in division (C) of this section, within ten days after 22089
the expiration of the maximum time for continuing evaluation and 22090
treatment as specified in division (B)(1)(a) of this section, 22091
within thirty days after a defendant's request for a hearing that 22092
is made after six months of treatment, or within thirty days after 22093
being advised by the treating physician or examiner that the 22094
defendant is competent to stand trial, whichever is the earliest, 22095
the court shall conduct another hearing to determine if the 22096
defendant is competent to stand trial and shall do whichever of 22097
the following is applicable: 22098

(1) If the court finds that the defendant is competent to 22099
stand trial, the defendant shall be proceeded against as provided 22100
by law. 22101

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the ~~least restrictive limitations on the defendant's freedom of movement~~ facility or program at which the treatment is to be continued, and, ~~if applicable,~~ shall specify whether the treatment ~~for developmental disabilities~~ is to be continued at the same or a different facility or ~~institution~~ program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the

same conduct. The court shall discharge the defendant unless the 22134
court or prosecutor files an affidavit in probate court for civil 22135
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 22136
If an affidavit for civil commitment is filed, the court may 22137
detain the defendant for ten days pending civil commitment. All of 22138
the following provisions apply to persons charged with a 22139
misdemeanor or a felony other than a felony listed in division 22140
(C)(1) of this section who are committed by the probate court 22141
subsequent to the court's or prosecutor's filing of an affidavit 22142
for civil commitment under authority of this division: 22143

(a) The chief clinical officer of the entity, hospital, or 22144
facility, the managing officer of the institution, the director of 22145
the program, or the person to which the defendant is committed or 22146
admitted shall do all of the following: 22147

(i) Notify the prosecutor, in writing, of the discharge of 22148
the defendant, send the notice at least ten days prior to the 22149
discharge unless the discharge is by the probate court, and state 22150
in the notice the date on which the defendant will be discharged; 22151

(ii) Notify the prosecutor, in writing, when the defendant is 22152
absent without leave or is granted unsupervised, off-grounds 22153
movement, and send this notice promptly after the discovery of the 22154
absence without leave or prior to the granting of the 22155
unsupervised, off-grounds movement, whichever is applicable; 22156

(iii) Notify the prosecutor, in writing, of the change of the 22157
defendant's commitment or admission to voluntary status, send the 22158
notice promptly upon learning of the change to voluntary status, 22159
and state in the notice the date on which the defendant was 22160
committed or admitted on a voluntary status. 22161

(b) Upon receiving notice that the defendant will be granted 22162
unsupervised, off-grounds movement, the prosecutor either shall 22163
re-indict the defendant or promptly notify the court that the 22164

prosecutor does not intend to prosecute the charges against the 22165
defendant. 22166

(I) If a defendant is convicted of a crime and sentenced to a 22167
jail or workhouse, the defendant's sentence shall be reduced by 22168
the total number of days the defendant is confined for evaluation 22169
to determine the defendant's competence to stand trial or 22170
treatment under this section and sections 2945.37 and 2945.371 of 22171
the Revised Code or by the total number of days the defendant is 22172
confined for evaluation to determine the defendant's mental 22173
condition at the time of the offense charged. 22174

Sec. 2945.39. (A) If a defendant who is charged with an 22175
offense described in division (C)(1) of section 2945.38 of the 22176
Revised Code is found incompetent to stand trial, after the 22177
expiration of the maximum time for treatment as specified in 22178
division (C) of that section or after the court finds that there 22179
is not a substantial probability that the defendant will become 22180
competent to stand trial even if the defendant is provided with a 22181
course of treatment, one of the following applies: 22182

(1) The court or the prosecutor may file an affidavit in 22183
probate court for civil commitment of the defendant in the manner 22184
provided in Chapter 5122. or 5123. of the Revised Code. If the 22185
court or prosecutor files an affidavit for civil commitment, the 22186
court may detain the defendant for ten days pending civil 22187
commitment. If the probate court commits the defendant subsequent 22188
to the court's or prosecutor's filing of an affidavit for civil 22189
commitment, the chief clinical officer of the entity, hospital, or 22190
facility, the managing officer of the institution, the director of 22191
the program, or the person to which the defendant is committed or 22192
admitted shall send to the prosecutor the notices described in 22193
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 22194
Code within the periods of time and under the circumstances 22195

specified in those divisions. 22196

(2) On the motion of the prosecutor or on its own motion, the 22197
court may retain jurisdiction over the defendant if, at a hearing, 22198
the court finds both of the following by clear and convincing 22199
evidence: 22200

(a) The defendant committed the offense with which the 22201
defendant is charged. 22202

(b) The defendant is a mentally ill person subject to 22203
hospitalization by court order or a mentally retarded person 22204
subject to institutionalization by court order. 22205

(B) In making its determination under division (A)(2) of this 22206
section as to whether to retain jurisdiction over the defendant, 22207
the court may consider all relevant evidence, including, but not 22208
limited to, any relevant psychiatric, psychological, or medical 22209
testimony or reports, the acts constituting the offense charged, 22210
and any history of the defendant that is relevant to the 22211
defendant's ability to conform to the law. 22212

(C) If the court conducts a hearing as described in division 22213
(A)(2) of this section and if the court does not make both 22214
findings described in divisions (A)(2)(a) and (b) of this section 22215
by clear and convincing evidence, the court shall dismiss the 22216
indictment, information, or complaint against the defendant. Upon 22217
the dismissal, the court shall discharge the defendant unless the 22218
court or prosecutor files an affidavit in probate court for civil 22219
commitment of the defendant pursuant to Chapter 5122. or 5123. of 22220
the Revised Code. If the court or prosecutor files an affidavit 22221
for civil commitment, the court may order that the defendant be 22222
detained for up to ten days pending the civil commitment. If the 22223
probate court commits the defendant subsequent to the court's or 22224
prosecutor's filing of an affidavit for civil commitment, the 22225
chief clinical officer of the entity, hospital, or facility, the 22226

managing officer of the institution, the director of the program, 22227
or the person to which the defendant is committed or admitted 22228
shall send to the prosecutor the notices described in divisions 22229
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 22230
within the periods of time and under the circumstances specified 22231
in those divisions. A dismissal of charges under this division is 22232
not a bar to further criminal proceedings based on the same 22233
conduct. 22234

(D)(1) If the court conducts a hearing as described in 22235
division (A)(2) of this section and if the court makes the 22236
findings described in divisions (A)(2)(a) and (b) of this section 22237
by clear and convincing evidence, the court shall commit the 22238
defendant, if determined to require mental health treatment, 22239
either to the department of mental health for treatment at a 22240
hospital, facility, or agency as determined clinically appropriate 22241
by the department of mental health or to another medical or 22242
psychiatric facility, as appropriate. Prior to placing the 22243
defendant, the department of mental health shall obtain court 22244
approval for that placement. If the court conducts such a hearing 22245
and if it makes those findings by clear and convincing evidence, 22246
the court shall commit the defendant, if determined to require 22247
treatment for ~~developmental disabilities~~ mental retardation, to a 22248
facility operated by the department of developmental disabilities, 22249
or another facility, as appropriate. ~~In committing the defendant~~ 22250
~~to the department of mental health, the court shall specify the~~ 22251
~~least restrictive limitations on the defendant's freedom of~~ 22252
~~movement determined to be necessary to protect public safety. In~~ 22253
~~determining the place and nature of the commitment to a facility~~ 22254
~~operated by the department of developmental disabilities or~~ 22255
~~another facility for treatment of developmental disabilities, the~~ 22256
~~court~~ In determining the place of commitment, the court shall 22257
consider the extent to which the person is a danger to the person 22258
and to others, the need for security, and the type of crime 22259

involved and shall order the least restrictive ~~commitment~~ 22260
alternative available that is consistent with public safety and 22261
the welfare of the defendant. In weighing these factors, the court 22262
shall give preference to protecting public safety. 22263

(2) If a court makes a commitment of a defendant under 22264
division (D)(1) of this section, the prosecutor shall send to the 22265
hospital, facility, or agency where the defendant is placed by the 22266
department of mental health or to the defendant's place of 22267
commitment all reports of the defendant's current mental condition 22268
and, except as otherwise provided in this division, any other 22269
relevant information, including, but not limited to, a transcript 22270
of the hearing held pursuant to division (A)(2) of this section, 22271
copies of relevant police reports, and copies of any prior arrest 22272
and conviction records that pertain to the defendant and that the 22273
prosecutor possesses. The prosecutor shall send the reports of the 22274
defendant's current mental condition in every case of commitment, 22275
and, unless the prosecutor determines that the release of any of 22276
the other relevant information to unauthorized persons would 22277
interfere with the effective prosecution of any person or would 22278
create a substantial risk of harm to any person, the prosecutor 22279
also shall send the other relevant information. Upon admission of 22280
a defendant committed under division (D)(1) of this section, the 22281
place of commitment shall send to the board of alcohol, drug 22282
addiction, and mental health services or the community mental 22283
health board serving the county in which the charges against the 22284
defendant were filed a copy of all reports of the defendant's 22285
current mental condition and a copy of the other relevant 22286
information provided by the prosecutor under this division, 22287
including, if provided, a transcript of the hearing held pursuant 22288
to division (A)(2) of this section, the relevant police reports, 22289
and the prior arrest and conviction records that pertain to the 22290
defendant and that the prosecutor possesses. 22291

(3) If a court makes a commitment under division (D)(1) of 22292
this section, all further proceedings shall be in accordance with 22293
sections 2945.401 and 2945.402 of the Revised Code. 22294

Sec. 2945.40. (A) If a person is found not guilty by reason 22295
of insanity, the verdict shall state that finding, and the trial 22296
court shall conduct a full hearing to determine whether the person 22297
is a mentally ill person subject to hospitalization by court order 22298
or a mentally retarded person subject to institutionalization by 22299
court order. Prior to the hearing, if the trial judge believes 22300
that there is probable cause that the person found not guilty by 22301
reason of insanity is a mentally ill person subject to 22302
hospitalization by court order or mentally retarded person subject 22303
to institutionalization by court order, the trial judge may issue 22304
a temporary order of detention for that person to remain in effect 22305
for ten court days or until the hearing, whichever occurs first. 22306

Any person detained pursuant to a temporary order of 22307
detention issued under this division shall be held in a suitable 22308
facility, taking into consideration the place and type of 22309
confinement prior to and during trial. 22310

(B) The court shall hold the hearing under division (A) of 22311
this section to determine whether the person found not guilty by 22312
reason of insanity is a mentally ill person subject to 22313
hospitalization by court order or a mentally retarded person 22314
subject to institutionalization by court order within ten court 22315
days after the finding of not guilty by reason of insanity. 22316
Failure to conduct the hearing within the ten-day period shall 22317
cause the immediate discharge of the respondent, unless the judge 22318
grants a continuance for not longer than ten court days for good 22319
cause shown or for any period of time upon motion of the 22320
respondent. 22321

(C) If a person is found not guilty by reason of insanity, 22322

the person has the right to attend all hearings conducted pursuant 22323
to sections 2945.37 to 2945.402 of the Revised Code. At any 22324
hearing conducted pursuant to one of those sections, the court 22325
shall inform the person that the person has all of the following 22326
rights: 22327

(1) The right to be represented by counsel and to have that 22328
counsel provided at public expense if the person is indigent, with 22329
the counsel to be appointed by the court under Chapter 120. of the 22330
Revised Code or under the authority recognized in division (C) of 22331
section 120.06, division (E) of section 120.16, division (E) of 22332
section 120.26, or section 2941.51 of the Revised Code; 22333

(2) The right to have independent expert evaluation and to 22334
have that independent expert evaluation provided at public expense 22335
if the person is indigent; 22336

(3) The right to subpoena witnesses and documents, to present 22337
evidence on the person's behalf, and to cross-examine witnesses 22338
against the person; 22339

(4) The right to testify in the person's own behalf and to 22340
not be compelled to testify; 22341

(5) The right to have copies of any relevant medical or 22342
mental health document in the custody of the state or of any place 22343
of commitment other than a document for which the court finds that 22344
the release to the person of information contained in the document 22345
would create a substantial risk of harm to any person. 22346

(D) The hearing under division (A) of this section shall be 22347
open to the public, and the court shall conduct the hearing in 22348
accordance with the Rules of Civil Procedure. The court shall make 22349
and maintain a full transcript and record of the hearing 22350
proceedings. The court may consider all relevant evidence, 22351
including, but not limited to, any relevant psychiatric, 22352
psychological, or medical testimony or reports, the acts 22353

constituting the offense in relation to which the person was found 22354
not guilty by reason of insanity, and any history of the person 22355
that is relevant to the person's ability to conform to the law. 22356

(E) Upon completion of the hearing under division (A) of this 22357
section, if the court finds there is not clear and convincing 22358
evidence that the person is a mentally ill person subject to 22359
hospitalization by court order or a mentally retarded person 22360
subject to institutionalization by court order, the court shall 22361
discharge the person, unless a detainer has been placed upon the 22362
person by the department of rehabilitation and correction, in 22363
which case the person shall be returned to that department. 22364

(F) If, at the hearing under division (A) of this section, 22365
the court finds by clear and convincing evidence that the person 22366
is a mentally ill person subject to hospitalization by court 22367
order, the court shall commit the person either to the department 22368
of mental health for ~~placement~~ treatment in a hospital, facility, 22369
or agency as determined clinically appropriate by the department 22370
of mental health or to another medical or psychiatric facility, as 22371
appropriate. Prior to placing the defendant, the department of 22372
mental health shall obtain court approval for that placement. If, 22373
at the hearing under division (A) of this section, the court ~~finds~~ 22374
determines by clear and convincing evidence that the person ~~is a~~ 22375
~~mentally retarded person subject to institutionalization by court~~ 22376
~~order~~ requires treatment for mental retardation, it shall commit 22377
the person to a facility operated by the department of 22378
developmental disabilities or another facility, as appropriate. 22379
Further proceedings shall be in accordance with sections 2945.401 22380
and 2945.402 of the Revised Code. ~~In committing the person to the~~ 22381
~~department of mental health, the court shall specify the least~~ 22382
~~restrictive limitations to the defendant's freedom of movement~~ 22383
~~determined to be necessary to protect public safety.~~ In 22384
determining the place ~~and nature~~ of the commitment ~~of a mentally~~ 22385

~~retarded person subject to institutionalization by court order,~~ 22386
the court shall consider the extent to which the person is a 22387
danger to the person and to others, the need for security, and the 22388
type of crime involved and shall order the least restrictive 22389
~~commitment~~ alternative available that is consistent with public 22390
safety and the welfare of the person. In weighing these factors, 22391
the court shall give preference to protecting public safety. 22392

(G) If a court makes a commitment of a person under division 22393
(F) of this section, the prosecutor shall send to the hospital, 22394
facility, or agency where the person is placed by the department 22395
of mental health or to the defendant's place of commitment all 22396
reports of the person's current mental condition, and, except as 22397
otherwise provided in this division, any other relevant 22398
information, including, but not limited to, a transcript of the 22399
hearing held pursuant to division (A) of this section, copies of 22400
relevant police reports, and copies of any prior arrest and 22401
conviction records that pertain to the person and that the 22402
prosecutor possesses. The prosecutor shall send the reports of the 22403
person's current mental condition in every case of commitment, 22404
and, unless the prosecutor determines that the release of any of 22405
the other relevant information to unauthorized persons would 22406
interfere with the effective prosecution of any person or would 22407
create a substantial risk of harm to any person, the prosecutor 22408
also shall send the other relevant information. Upon admission of 22409
a person committed under division (F) of this section, the place 22410
of commitment shall send to the board of alcohol, drug addiction, 22411
and mental health services or the community mental health board 22412
serving the county in which the charges against the person were 22413
filed a copy of all reports of the person's current mental 22414
condition and a copy of the other relevant information provided by 22415
the prosecutor under this division, including, if provided, a 22416
transcript of the hearing held pursuant to division (A) of this 22417
section, the relevant police reports, and the prior arrest and 22418

conviction records that pertain to the person and that the 22419
prosecutor possesses. 22420

(H) A person who is committed pursuant to this section shall 22421
not voluntarily admit the person or be voluntarily admitted to a 22422
hospital or institution pursuant to section 5122.02, 5122.15, 22423
5123.69, or 5123.76 of the Revised Code. 22424

Sec. 2945.401. (A) A defendant found incompetent to stand 22425
trial and committed pursuant to section 2945.39 of the Revised 22426
Code or a person found not guilty by reason of insanity and 22427
committed pursuant to section 2945.40 of the Revised Code shall 22428
remain subject to the jurisdiction of the trial court pursuant to 22429
that commitment, and to the provisions of this section, until the 22430
final termination of the commitment as described in division 22431
(J)(1) of this section. If the jurisdiction is terminated under 22432
this division because of the final termination of the commitment 22433
resulting from the expiration of the maximum prison term or term 22434
of imprisonment described in division (J)(1)(b) of this section, 22435
the court or prosecutor may file an affidavit for the civil 22436
commitment of the defendant or person pursuant to Chapter 5122. or 22437
5123. of the Revised Code. 22438

(B) A hearing conducted under any provision of sections 22439
2945.37 to 2945.402 of the Revised Code shall not be conducted in 22440
accordance with Chapters 5122. and 5123. of the Revised Code. Any 22441
person who is committed pursuant to section 2945.39 or 2945.40 of 22442
the Revised Code shall not voluntarily admit the person or be 22443
voluntarily admitted to a hospital or institution pursuant to 22444
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 22445
All other provisions of Chapters 5122. and 5123. of the Revised 22446
Code regarding hospitalization or institutionalization shall apply 22447
to the extent they are not in conflict with this chapter. A 22448
commitment under section 2945.39 or 2945.40 of the Revised Code 22449

shall not be terminated and the conditions of the commitment shall 22450
not be changed except as otherwise provided in division (D)(2) of 22451
this section with respect to a mentally retarded person subject to 22452
institutionalization by court order or except by order of the 22453
trial court. 22454

(C) The department of mental health or the institution ~~or~~ 22455
facility, or program to which a defendant or person has been 22456
committed under section 2945.39 or 2945.40 of the Revised Code 22457
shall report in writing to the trial court, at the times specified 22458
in this division, as to whether the defendant or person remains a 22459
mentally ill person subject to hospitalization by court order or a 22460
mentally retarded person subject to institutionalization by court 22461
order and, in the case of a defendant committed under section 22462
2945.39 of the Revised Code, as to whether the defendant remains 22463
incompetent to stand trial. The department, institution, ~~or~~ 22464
facility, or program shall make the reports after the initial six 22465
months of treatment and every two years after the initial report 22466
is made. The trial court shall provide copies of the reports to 22467
the prosecutor and to the counsel for the defendant or person. 22468
Within thirty days after its receipt pursuant to this division of 22469
a report from the department, institution, ~~or~~ facility, or 22470
program, the trial court shall hold a hearing on the continued 22471
commitment of the defendant or person or on any changes in the 22472
conditions of the commitment of the defendant or person. The 22473
defendant or person may request a change in the conditions of 22474
confinement, and the trial court shall conduct a hearing on that 22475
request if six months or more have elapsed since the most recent 22476
hearing was conducted under this section. 22477

(D)(1) Except as otherwise provided in division (D)(2) of 22478
this section, when a defendant or person has been committed under 22479
section 2945.39 or 2945.40 of the Revised Code, at any time after 22480
evaluating the risks to public safety and the welfare of the 22481

defendant or person, the designee of the department of mental 22482
health or the managing officer of the institution or director of 22483
the facility or program to which the defendant or person is 22484
committed may recommend a termination of the defendant's or 22485
person's commitment or a change in the conditions of the 22486
defendant's or person's commitment. 22487

Except as otherwise provided in division (D)(2) of this 22488
section, if the designee of the department of mental health 22489
recommends on-grounds unsupervised movement, off-grounds 22490
supervised movement, or nonsecured status for the defendant or 22491
person or termination of the defendant's or person's commitment, 22492
the following provisions apply: 22493

(a) If the department's designee recommends on-grounds 22494
unsupervised movement or off-grounds supervised movement, the 22495
department's designee shall file with the trial court an 22496
application for approval of the movement and shall send a copy of 22497
the application to the prosecutor. Within fifteen days after 22498
receiving the application, the prosecutor may request a hearing on 22499
the application and, if a hearing is requested, shall so inform 22500
the department's designee. If the prosecutor does not request a 22501
hearing within the fifteen-day period, the trial court shall 22502
approve the application by entering its order approving the 22503
requested movement or, within five days after the expiration of 22504
the fifteen-day period, shall set a date for a hearing on the 22505
application. If the prosecutor requests a hearing on the 22506
application within the fifteen-day period, the trial court shall 22507
hold a hearing on the application within thirty days after the 22508
hearing is requested. If the trial court, within five days after 22509
the expiration of the fifteen-day period, sets a date for a 22510
hearing on the application, the trial court shall hold the hearing 22511
within thirty days after setting the hearing date. At least 22512
fifteen days before any hearing is held under this division, the 22513

trial court shall give the prosecutor written notice of the date, 22514
time, and place of the hearing. At the conclusion of each hearing 22515
conducted under this division, the trial court either shall 22516
approve or disapprove the application and shall enter its order 22517
accordingly. 22518

(b) If the department's designee recommends termination of 22519
the defendant's or person's commitment at any time or if the 22520
department's designee recommends the first of any nonsecured 22521
status for the defendant or person, the department's designee 22522
shall send written notice of this recommendation to the trial 22523
court and to the local forensic center. The local forensic center 22524
shall evaluate the committed defendant or person and, within 22525
thirty days after its receipt of the written notice, shall submit 22526
to the trial court and the department's designee a written report 22527
of the evaluation. The trial court shall provide a copy of the 22528
department's designee's written notice and of the local forensic 22529
center's written report to the prosecutor and to the counsel for 22530
the defendant or person. Upon the local forensic center's 22531
submission of the report to the trial court and the department's 22532
designee, all of the following apply: 22533

(i) If the forensic center disagrees with the recommendation 22534
of the department's designee, it shall inform the department's 22535
designee and the trial court of its decision and the reasons for 22536
the decision. The department's designee, after consideration of 22537
the forensic center's decision, shall either withdraw, proceed 22538
with, or modify and proceed with the recommendation. If the 22539
department's designee proceeds with, or modifies and proceeds 22540
with, the recommendation, the department's designee shall proceed 22541
in accordance with division (D)(1)(b)(iii) of this section. 22542

(ii) If the forensic center agrees with the recommendation of 22543
the department's designee, it shall inform the department's 22544
designee and the trial court of its decision and the reasons for 22545

the decision, and the department's designee shall proceed in 22546
accordance with division (D)(1)(b)(iii) of this section. 22547

(iii) If the forensic center disagrees with the 22548
recommendation of the department's designee and the department's 22549
designee proceeds with, or modifies and proceeds with, the 22550
recommendation or if the forensic center agrees with the 22551
recommendation of the department's designee, the department's 22552
designee shall work with community mental health agencies, 22553
programs, facilities, or boards of alcohol, drug addiction, and 22554
mental health services or community mental health boards to 22555
develop a plan to implement the recommendation. If the defendant 22556
or person is on medication, the plan shall include, but shall not 22557
be limited to, a system to monitor the defendant's or person's 22558
compliance with the prescribed medication treatment plan. The 22559
system shall include a schedule that clearly states when the 22560
defendant or person shall report for a medication compliance 22561
check. The medication compliance checks shall be based upon the 22562
effective duration of the prescribed medication, taking into 22563
account the route by which it is taken, and shall be scheduled at 22564
intervals sufficiently close together to detect a potential 22565
increase in mental illness symptoms that the medication is 22566
intended to prevent. 22567

The department's designee, after consultation with the board 22568
of alcohol, drug addiction, and mental health services or the 22569
community mental health board serving the area, shall send the 22570
recommendation and plan developed under division (D)(1)(b)(iii) of 22571
this section, in writing, to the trial court, the prosecutor, and 22572
the counsel for the committed defendant or person. The trial court 22573
shall conduct a hearing on the recommendation and plan developed 22574
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 22575
and (d) and (E) to (J) of this section apply regarding the 22576
hearing. 22577

(c) If the department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a department's designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2)(a) Division (D)(1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the Revised Code, who is a mentally retarded person subject to institutionalization by court order, and who is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities.

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the

certification requirements of the medicaid program under Chapter 22610
5111. of the Revised Code and Title XIX of the "Social Security 22611
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 22612
defendant's receipt of the residential habilitation, care, and 22613
treatment in the facility as being inappropriate under the 22614
certification requirements, if the defendant's receipt of the 22615
residential habilitation, care, and treatment in the facility 22616
potentially jeopardizes the facility's continued receipt of 22617
federal medicaid moneys, and if as a result of the citation the 22618
chief clinical officer of the facility determines that the 22619
conditions of the defendant's commitment should be changed, the 22620
department of developmental disabilities may cause the defendant 22621
to be removed from the particular facility and, after evaluating 22622
the risks to public safety and the welfare of the defendant and 22623
after determining whether another type of placement is consistent 22624
with the certification requirements, may place the defendant in 22625
another facility that the department selects as an appropriate 22626
facility for the defendant's continued receipt of residential 22627
habilitation, care, and treatment and that is a no less secure 22628
setting than the facility in which the defendant had been placed 22629
at the time of the citation. Within three days after the 22630
defendant's removal and alternative placement under the 22631
circumstances described in division (D)(2)(b) of this section, the 22632
department of developmental disabilities shall notify the trial 22633
court and the prosecutor in writing of the removal and alternative 22634
placement. 22635

The trial court shall set a date for a hearing on the removal 22636
and alternative placement, and the hearing shall be held within 22637
twenty-one days after the trial court's receipt of the notice from 22638
the department of developmental disabilities. At least ten days 22639
before the hearing is held, the trial court shall give the 22640
prosecutor, the department of developmental disabilities, and the 22641
counsel for the defendant written notice of the date, time, and 22642

place of the hearing. At the hearing, the trial court shall 22643
consider the citation issued by the individual who conducted the 22644
survey for the department of health to be prima-facie evidence of 22645
the fact that the defendant's commitment to the particular 22646
facility was inappropriate under the certification requirements of 22647
the medicaid program under Chapter 5111. of the Revised Code and 22648
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 22649
U.S.C.A. 301, as amended, and potentially jeopardizes the 22650
particular facility's continued receipt of federal medicaid 22651
moneys. At the conclusion of the hearing, the trial court may 22652
approve or disapprove the defendant's removal and alternative 22653
placement. If the trial court approves the defendant's removal and 22654
alternative placement, the department of developmental 22655
disabilities may continue the defendant's alternative placement. 22656
If the trial court disapproves the defendant's removal and 22657
alternative placement, it shall enter an order modifying the 22658
defendant's removal and alternative placement, but that order 22659
shall not require the department of developmental disabilities to 22660
replace the defendant for purposes of continued residential 22661
habilitation, care, and treatment in the facility associated with 22662
the citation issued by the individual who conducted the survey for 22663
the department of health. 22664

(E) In making a determination under this section regarding 22665
nonsecured status or termination of commitment, the trial court 22666
shall consider all relevant factors, including, but not limited 22667
to, all of the following: 22668

(1) Whether, in the trial court's view, the defendant or 22669
person currently represents a substantial risk of physical harm to 22670
the defendant or person or others; 22671

(2) Psychiatric and medical testimony as to the current 22672
mental and physical condition of the defendant or person; 22673

(3) Whether the defendant or person has insight into the 22674

~~defendant's~~ defendant's or person's condition so that the 22675
defendant or person will continue treatment as prescribed or seek 22676
professional assistance as needed; 22677

(4) The grounds upon which the state relies for the proposed 22678
commitment; 22679

(5) Any past history that is relevant to establish the 22680
defendant's or person's degree of conformity to the laws, rules, 22681
regulations, and values of society; 22682

(6) If there is evidence that the defendant's or person's 22683
mental illness is in a state of remission, the medically suggested 22684
cause and degree of the remission and the probability that the 22685
defendant or person will continue treatment to maintain the 22686
remissive state of the defendant's or person's illness should the 22687
defendant's or person's commitment conditions be altered. 22688

(F) At any hearing held pursuant to division (C) or (D)(1) or 22689
(2) of this section, the defendant or the person shall have all 22690
the rights of a defendant or person at a commitment hearing as 22691
described in section 2945.40 of the Revised Code. 22692

(G) In a hearing held pursuant to division (C) or (D)(1) of 22693
this section, the prosecutor has the burden of proof as follows: 22694

(1) For a recommendation of termination of commitment, to 22695
show by clear and convincing evidence that the defendant or person 22696
remains a mentally ill person subject to hospitalization by court 22697
order or a mentally retarded person subject to 22698
institutionalization by court order; 22699

(2) For a recommendation for a change in the conditions of 22700
the commitment to a less restrictive status, to show by clear and 22701
convincing evidence that the proposed change represents a threat 22702
to public safety or a threat to the safety of any person. 22703

(H) In a hearing held pursuant to division (C) or (D)(1) or 22704

(2) of this section, the prosecutor shall represent the state or the public interest. 22705
22706

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of mental health, managing officer of the institution, or director of a facility or program, the trial court may approve, disapprove, or modify the recommendation and shall enter an order accordingly. 22707
22708
22709
22710
22711
22712

(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following: 22713
22714
22715
22716
22717
22718

(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, as determined by the trial court; 22719
22720
22721
22722

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity; 22723
22724
22725
22726
22727
22728

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section. 22729
22730
22731

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report 22732
22733
22734
22735

filed with the trial court pursuant to division (C) of this 22736
section indicates that the defendant presently is competent to 22737
stand trial or if, at any other time during the period of the 22738
defendant's commitment, the prosecutor, the counsel for the 22739
defendant, or the designee of the department of mental health or 22740
the managing officer of the institution or director of the 22741
facility or program to which the defendant is committed files an 22742
application with the trial court alleging that the defendant 22743
presently is competent to stand trial and requesting a hearing on 22744
the competency issue or the trial court otherwise has reasonable 22745
cause to believe that the defendant presently is competent to 22746
stand trial and determines on its own motion to hold a hearing on 22747
the competency issue, the trial court shall schedule a hearing on 22748
the competency of the defendant to stand trial, shall give the 22749
prosecutor, the counsel for the defendant, and the department's 22750
designee or the managing officer of the institution or the 22751
director of the facility to which the defendant is committed 22752
notice of the date, time, and place of the hearing at least 22753
fifteen days before the hearing, and shall conduct the hearing 22754
within thirty days of the filing of the application or of its own 22755
motion. If, at the conclusion of the hearing, the trial court 22756
determines that the defendant presently is capable of 22757
understanding the nature and objective of the proceedings against 22758
the defendant and of assisting in the defendant's defense, the 22759
trial court shall order that the defendant is competent to stand 22760
trial and shall be proceeded against as provided by law with 22761
respect to the applicable offenses described in division (C)(1) of 22762
section 2945.38 of the Revised Code and shall enter whichever of 22763
the following additional orders is appropriate: 22764

(i) If the trial court determines that the defendant remains 22765
a mentally ill person subject to hospitalization by court order or 22766
a mentally retarded person subject to institutionalization by 22767
court order, the trial court shall order that the defendant's 22768

commitment to the department of mental health or to an institution 22769
~~or, facility, or program~~ for the treatment of ~~developmental~~ 22770
~~disabilities~~ mental retardation be continued during the pendency 22771
of the trial on the applicable offenses described in division 22772
(C)(1) of section 2945.38 of the Revised Code. 22773

(ii) If the trial court determines that the defendant no 22774
longer is a mentally ill person subject to hospitalization by 22775
court order or a mentally retarded person subject to 22776
institutionalization by court order, the trial court shall order 22777
that the defendant's commitment to the department of mental health 22778
or to an institution ~~or, facility, or program~~ for the treatment of 22779
~~developmental disabilities~~ mental retardation shall not be 22780
continued during the pendency of the trial on the applicable 22781
offenses described in division (C)(1) of section 2945.38 of the 22782
Revised Code. This order shall be a final termination of the 22783
commitment for purposes of division (J)(1)(c) of this section. 22784

(b) If, at the conclusion of the hearing described in 22785
division (J)(2)(a) of this section, the trial court determines 22786
that the defendant remains incapable of understanding the nature 22787
and objective of the proceedings against the defendant or of 22788
assisting in the defendant's defense, the trial court shall order 22789
that the defendant continues to be incompetent to stand trial, 22790
that the defendant's commitment to the department of mental health 22791
or to an institution ~~or, facility, or program~~ for the treatment of 22792
~~developmental disabilities~~ mental retardation shall be continued, 22793
and that the defendant remains subject to the jurisdiction of the 22794
trial court pursuant to that commitment, and to the provisions of 22795
this section, until the final termination of the commitment as 22796
described in division (J)(1) of this section. 22797

Sec. 2961.22. (A)(1) Any prisoner serving a prison term in a 22798
state correctional institution who satisfies all of the following 22799

is eligible to apply to the department of rehabilitation and 22800
correction at a time specified in division (A)(2) of this section 22801
and in accordance with division (D) of this section for a 22802
certificate of achievement and employability: 22803

(a) The prisoner has satisfactorily completed one or more 22804
in-prison vocational programs approved by rule by the department 22805
of rehabilitation and correction. 22806

(b) The prisoner has demonstrated exemplary performance as 22807
determined by completion of one or more cognitive or behavioral 22808
improvement programs approved by rule by the department while 22809
incarcerated in a state correctional institution, while under 22810
supervision, or during both periods of time. 22811

(c) The prisoner has completed community service hours. 22812

(d) The prisoner shows other evidence of achievement and 22813
rehabilitation while under the jurisdiction of the department. 22814

(2) An eligible prisoner may apply to the department of 22815
rehabilitation and correction under division (A)(1) of this 22816
section for a certificate of achievement and employability no 22817
earlier than one year prior to the date scheduled for the release 22818
of the prisoner from department custody and no later than the date 22819
of release of the prisoner. 22820

(B)(1) Any prisoner who has been released from a state 22821
correctional institution, who is under supervision on parole or 22822
under a post-release control sanction, and who satisfies all of 22823
the criteria set forth in division (A)(1) of this section is 22824
eligible to apply to the adult parole authority at a time 22825
specified in division (B)(2) of this section and in accordance 22826
with division (D) of this section for a certificate of achievement 22827
and employability. 22828

(2) An eligible prisoner may apply to the adult parole 22829

authority under division (B)(1) of this section for a certificate 22830
of achievement and employability at any time while the prisoner is 22831
under supervision on parole or under a post-release control 22832
sanction. 22833

(C)(1) An eligible prisoner may apply to the department of 22834
rehabilitation and correction or to the adult parole authority at 22835
a time specified in division (A) or (B) of this section, whichever 22836
is applicable, for a certificate of achievement and employability 22837
that grants the prisoner relief from one or more mandatory civil 22838
impacts that would affect a potential job within a field in which 22839
the prisoner trained as part of the prisoner's in-prison 22840
vocational program. The prisoner shall specify the mandatory civil 22841
impacts from which the prisoner is requesting relief under the 22842
certificate. Upon application by a prisoner in accordance with 22843
this division, if the mandatory civil impact of any licensing 22844
agency would be affected by the issuance of the certificate to the 22845
prisoner, the department or authority shall notify the licensing 22846
agency of the filing of the application, provide the licensing 22847
agency with a copy of the application and all evidence that the 22848
department, authority, or court has regarding the prisoner, and 22849
afford the licensing agency with an opportunity to object in 22850
writing to the issuance of the certificate to the prisoner. 22851

(2) Upon application by a prisoner in accordance with 22852
division (C)(1) of this section, the department of rehabilitation 22853
and correction or the adult parole authority, whichever is 22854
applicable, shall consider the application and all objections to 22855
the issuance of a certificate of achievement and employability to 22856
the prisoner, if any, that were made by a licensing agency under 22857
division (C)(1) of this section. If the department or authority 22858
determines that the prisoner is an eligible prisoner, that the 22859
application was filed at a time specified in division (B) of this 22860
section, and that any licensing agency objections to the issuance 22861

of the certificate to the prisoner are not sufficient to deny the 22862
issuance of the certificate to the prisoner, subject to division 22863
(C)(3) of this section, the department or authority shall issue 22864
the prisoner a certificate of achievement and employability that 22865
grants the prisoner relief from the mandatory civil impacts that 22866
are specified in the prisoner's application and that would affect 22867
a potential job within a field in which the prisoner trained as 22868
part of the prisoner's in-prison vocational program. 22869

(3) The mandatory civil impacts identified in division (A)(1) 22870
of section 2961.01 and in division (B) of section 2961.02 of the 22871
Revised Code shall not be affected by any certificate of 22872
achievement and employability issued under this section. No 22873
certificate of achievement and employability issued to a prisoner 22874
under this section grants the prisoner relief from the mandatory 22875
civil impacts identified in division (A)(1) of section 2961.01 and 22876
in division (B) of section 2961.02 of the Revised Code. 22877

(E) The department of rehabilitation and correction shall 22878
adopt rules that define in-prison vocational programs and 22879
cognitive or behavioral improvement programs that a prisoner may 22880
complete to satisfy the criteria described in divisions (A)(1)(a) 22881
and (b) of this section. 22882

(F) The department of rehabilitation and correction and the 22883
adult parole authority shall not be liable for any claim for 22884
damages arising from the department's or authority's issuance, 22885
denial, or revocation of a certificate of achievement and 22886
employability or for the department's or authority's failure to 22887
revoke a certificate of achievement and employability under the 22888
circumstances described in section 2961.24 of the Revised Code. 22889

Sec. 2967.03. The adult parole authority may exercise its 22890
functions and duties in relation to the pardon, commutation of 22891
sentence, or reprieve of a convict upon direction of the governor 22892

or upon its own initiative. It may exercise its functions and 22893
duties in relation to the parole of a prisoner who is eligible for 22894
parole upon the initiative of the head of the institution in which 22895
the prisoner is confined or upon its own initiative. When a 22896
prisoner becomes eligible for parole, the head of the institution 22897
in which the prisoner is confined shall notify the authority in 22898
the manner prescribed by the authority. The authority may 22899
investigate and examine, or cause the investigation and 22900
examination of, prisoners confined in state correctional 22901
institutions concerning their conduct in the institutions, their 22902
mental and moral qualities and characteristics, their knowledge of 22903
a trade or profession, their former means of livelihood, their 22904
family relationships, and any other matters affecting their 22905
fitness to be at liberty without being a threat to society. 22906

The authority may recommend to the governor the pardon, 22907
commutation of sentence, ~~medical release~~, or reprieve of any 22908
convict or prisoner or grant a parole to any prisoner for whom 22909
parole is authorized, if in its judgment there is reasonable 22910
ground to believe that granting a pardon, commutation, ~~medical~~ 22911
~~release~~, or reprieve to the convict or paroling the prisoner would 22912
further the interests of justice and be consistent with the 22913
welfare and security of society. However, the authority shall not 22914
recommend a pardon, or commutation of sentence, ~~or medical release~~ 22915
~~of~~, or grant a parole to, any convict or prisoner until the 22916
authority has complied with the applicable notice requirements of 22917
sections 2930.16 and 2967.12 of the Revised Code and until it has 22918
considered any statement made by a victim or a victim's 22919
representative that is relevant to the convict's or prisoner's 22920
case and that was sent to the authority pursuant to section 22921
2930.17 of the Revised Code, any other statement made by a victim 22922
or a victim's representative that is relevant to the convict's or 22923
prisoner's case and that was received by the authority after it 22924
provided notice of the pendency of the action under sections 22925

2930.16 and 2967.12 of the Revised Code, and any written statement 22926
of any person submitted to the court pursuant to division (G) of 22927
section 2967.12 of the Revised Code. If a victim, victim's 22928
representative, or the victim's spouse, parent, sibling, or child 22929
appears at a full board hearing of the parole board and gives 22930
testimony as authorized by section 5149.101 of the Revised Code, 22931
the authority shall consider the testimony in determining whether 22932
to grant a parole. The trial judge and prosecuting attorney of the 22933
trial court in which a person was convicted shall furnish to the 22934
authority, at the request of the authority, a summarized statement 22935
of the facts proved at the trial and of all other facts having 22936
reference to the propriety of recommending a pardon, commutation, 22937
or medical release, or granting a parole, together with a 22938
recommendation for or against a pardon, commutation, medical 22939
release, or parole, and the reasons for the recommendation. The 22940
trial judge, the prosecuting attorney, specified law enforcement 22941
agency members, and a representative of the prisoner may appear at 22942
a full board hearing of the parole board and give testimony in 22943
regard to the grant of a parole to the prisoner as authorized by 22944
section 5149.101 of the Revised Code. All state and local 22945
officials shall furnish information to the authority, when so 22946
requested by it in the performance of its duties. 22947

The adult parole authority shall exercise its functions and 22948
duties in relation to the release of prisoners who are serving a 22949
stated prison term in accordance with section 2967.28 of the 22950
Revised Code. 22951

Sec. 2967.05. (A) As used in this section: 22952

(1) "Imminent danger of death" means that the inmate has a 22953
medically diagnosable condition that will cause death to occur 22954
within a short period of time. 22955

As used in division (A)(1) of this section, "within a short 22956

period of time" means generally within six months. 22957

(2)(a) "Medically incapacitated" means any diagnosable 22958
medical condition, including mental dementia and severe, permanent 22959
medical or cognitive disability, that prevents the inmate from 22960
completing activities of daily living without significant 22961
assistance, that incapacitates the inmate to the extent that 22962
institutional confinement does not offer additional restrictions, 22963
that is likely to continue throughout the entire period of parole, 22964
and that is unlikely to improve noticeably. 22965

(b) "Medically incapacitated" does not include conditions 22966
related solely to mental illness unless the mental illness is 22967
accompanied by injury, disease, or organic defect. 22968

(3)(a) "Terminal illness" means a condition that satisfies 22969
all of the following criteria: 22970

(i) The condition is irreversible and incurable and is caused 22971
by disease, illness, or injury from which the inmate is unlikely 22972
to recover. 22973

(ii) In accordance with reasonable medical standards and a 22974
reasonable degree of medical certainty, the condition is likely to 22975
cause death to the inmate within twelve months. 22976

(iii) Institutional confinement of the inmate does not offer 22977
additional protections for public safety or against the inmate's 22978
risk to reoffend. 22979

(b) The department of rehabilitation and correction shall 22980
adopt rules pursuant to Chapter 119. of the Revised Code to 22981
implement the definition of "terminal illness" in division 22982
(A)(3)(a) of this section. 22983

(B) Upon the recommendation of the director of rehabilitation 22984
and correction, accompanied by a certificate of the attending 22985
physician that an inmate is terminally ill, medically 22986

incapacitated, or in imminent danger of death, the governor may 22987
order the inmate's release as if on parole, reserving the right to 22988
return the inmate to the institution pursuant to this section. If, 22989
subsequent to the inmate's release, the inmate's health improves 22990
so that the inmate is no longer terminally ill, medically 22991
incapacitated, or in imminent danger of death, the inmate shall be 22992
returned, by order of the governor, to the institution from which 22993
the inmate was released. If the inmate violates any rules or 22994
conditions applicable to the inmate, the inmate may be returned to 22995
an institution under the control of the department of 22996
rehabilitation and correction. The governor may direct the adult 22997
parole authority to investigate or cause to be investigated the 22998
inmate and make a recommendation ~~in the manner set forth in~~ 22999
~~section 2967.03 of the Revised Code.~~ An inmate released under this 23000
section shall be subject to supervision by the adult parole 23001
authority in accordance with any recommendation of the adult 23002
parole authority that is approved by the governor. The adult 23003
parole authority shall adopt rules pursuant to section 119.03 of 23004
the Revised Code to establish the procedure for medical release of 23005
an inmate when an inmate is terminally ill, medically 23006
incapacitated, or in imminent danger of death. 23007

(C) No inmate is eligible for release under this section if 23008
the inmate is serving a death sentence, a sentence of life without 23009
parole, a sentence under Chapter 2971. of the Revised Code for a 23010
felony of the first or second degree, a sentence for aggravated 23011
murder or murder, or a mandatory prison term for an offense of 23012
violence or any specification described in Chapter 2941. of the 23013
Revised Code. 23014

Sec. 2967.14. (A) The department of rehabilitation and 23015
correction or the adult parole authority may require or allow a 23016
parolee, a releasee, or a prisoner otherwise released from a state 23017
correctional institution to reside in a halfway house or other 23018

suitable community residential center that has been licensed by 23019
the division of parole and community services pursuant to division 23020
(C) of this section during a part or for the entire period of the 23021
offender's or parolee's conditional release or of the releasee's 23022
term of post-release control. The court of common pleas that 23023
placed an offender under a sanction consisting of a term in a 23024
halfway house or in an alternative residential sanction may 23025
require the offender to reside in a halfway house or other 23026
suitable community residential center that is designated by the 23027
court and that has been licensed by the division pursuant to 23028
division (C) of this section during a part or for the entire 23029
period of the offender's residential sanction. 23030

(B) The division of parole and community services may 23031
negotiate and enter into agreements with any public or private 23032
agency or a department or political subdivision of the state that 23033
operates a halfway house, reentry center, or community residential 23034
center that has been licensed by the division pursuant to division 23035
(C) of this section. An agreement under this division shall 23036
provide for the purchase of beds, shall set limits of supervision 23037
and levels of occupancy, and shall determine the scope of services 23038
for all eligible offenders, including those subject to a 23039
residential sanction, as defined in rules adopted by the director 23040
of rehabilitation and correction in accordance with Chapter 119. 23041
of the Revised Code, or those released from prison without 23042
supervision. The payments for beds and services shall not exceed 23043
the total operating costs of the halfway house, reentry center, or 23044
community residential center during the term of an agreement. The 23045
director of rehabilitation and correction shall adopt rules in 23046
accordance with Chapter 119. of the Revised Code for determining 23047
includable and excludable costs and income to be used in computing 23048
the agency's average daily per capita costs with its facility at 23049
full occupancy. 23050

The ~~department~~ director of rehabilitation and correction ~~may~~ 23051
shall adopt rules providing for the use of no more than ~~ten~~ 23052
fifteen per cent of the amount appropriated to the department each 23053
fiscal year for the halfway house, reentry center, and community 23054
residential center program to pay for contracts with licensed 23055
halfway houses for nonresidential services for offenders under the 23056
supervision of the adult parole authority, including but not 23057
limited to, offenders supervised pursuant to an agreement entered 23058
into by the adult parole authority and a court of common pleas 23059
under section 2301.32 of the Revised Code. The nonresidential 23060
services may include, but are not limited to, treatment for 23061
substance abuse, mental health counseling, counseling for sex 23062
offenders, ~~and~~ electronic monitoring services, aftercare, and 23063
other nonresidential services that the director identifies by 23064
rule. 23065

(C) The division of parole and community services may license 23066
a halfway house, reentry center, or community residential center 23067
as a suitable facility for the care and treatment of adult 23068
offenders, including offenders sentenced under section 2929.16 or 23069
2929.26 of the Revised Code, only if the halfway house, reentry 23070
center, or community residential center complies with the 23071
standards that the division adopts in accordance with Chapter 119. 23072
of the Revised Code for the licensure of halfway houses, reentry 23073
centers, and community residential centers. The division shall 23074
annually inspect each licensed halfway house, licensed reentry 23075
center, and licensed community residential center to determine if 23076
it is in compliance with the licensure standards. 23077

Sec. 2967.19. (A) As used in this section: 23078

(1) "Deadly weapon" and "dangerous ordnance" have the same 23079
meanings as in section 2923.11 of the Revised Code. 23080

(2) "Disqualifying prison term" means any of the following: 23081

| | |
|--|-------|
| (a) A prison term imposed for aggravated murder, murder, | 23082 |
| voluntary manslaughter, involuntary manslaughter, felonious | 23083 |
| assault, kidnapping, rape, aggravated arson, aggravated burglary, | 23084 |
| or aggravated robbery; | 23085 |
| (b) A prison term imposed for complicity in, an attempt to | 23086 |
| commit, or conspiracy to commit any offense listed in division | 23087 |
| (A)(2)(a) of this section; | 23088 |
| (c) A prison term of life imprisonment, including any term of | 23089 |
| life imprisonment that has parole eligibility; | 23090 |
| (d) A prison term imposed for any felony other than carrying | 23091 |
| a concealed weapon an essential element of which is any conduct or | 23092 |
| failure to act expressly involving any deadly weapon or dangerous | 23093 |
| ordnance; | 23094 |
| (e) A prison term imposed for any violation of section | 23095 |
| 2925.03 of the Revised Code that is a felony of the first or | 23096 |
| second degree; | 23097 |
| (f) A prison term imposed for engaging in a pattern of | 23098 |
| corrupt activity in violation of section 2923.32 of the Revised | 23099 |
| Code; | 23100 |
| (g) A prison term imposed pursuant to section 2971.03 of the | 23101 |
| Revised Code; | 23102 |
| (h) A prison term imposed for any sexually oriented offense. | 23103 |
| (3) "Eligible prison term" means any prison term that is not | 23104 |
| a disqualifying prison term and is not a restricting prison term. | 23105 |
| (4) "Restricting prison term" means any of the following: | 23106 |
| (a) A mandatory prison term imposed under division | 23107 |
| (D) (B)(1)(a), (D) (B)(1)(c), (D) (B)(1)(f), (D) (B)(1)(g), (D) (B)(2), | 23108 |
| or (D) (B)(7) of section 2929.14 of the Revised Code for a | 23109 |
| specification of the type described in that division; | 23110 |
| (b) In the case of an offender who has been sentenced to a | 23111 |

mandatory prison term for a specification of the type described in 23112
division (A)(4)(a) of this section, the prison term imposed for 23113
the felony offense for which the specification was stated at the 23114
end of the body of the indictment, count in the indictment, or 23115
information charging the offense; 23116

(c) A prison term imposed for trafficking in persons; 23117

(d) A prison term imposed for any offense that is described 23118
in division (A)(4)(d)(i) of this section if division (A)(4)(d)(ii) 23119
of this section applies to the offender: 23120

(i) The offense is a felony of the first or second degree 23121
that is an offense of violence and that is not described in 23122
division (A)(2)(a) or (b) of this section, an attempt to commit a 23123
felony of the first or second degree that is an offense of 23124
violence and that is not described in division (A)(2)(a) or (b) of 23125
this section if the attempt is a felony of the first or second 23126
degree, or an offense under an existing or former law of this 23127
state, another state, or the United States that is or was 23128
substantially equivalent to any other offense described in this 23129
division. 23130

(ii) The offender previously was convicted of or pleaded 23131
guilty to any offense listed in division (A)(2) or (A)(4)(d)(i) of 23132
this section. 23133

(5) "Sexually oriented offense" has the same meaning as in 23134
section 2950.01 of the Revised Code. 23135

(B) The director of the department of rehabilitation and 23136
correction may ~~petition~~ recommend in writing to the sentencing 23137
court ~~for the release~~ that the court consider releasing from 23138
prison ~~of~~ any offender who, on or after September 30, 2011, is 23139
confined in a state correctional institution ~~under,~~ who is serving 23140
a stated prison term of one year or more, and who is eligible 23141
under division (C) of this section for a release under this 23142

~~section and who has served at least eighty per cent of that stated~~ 23143
~~prison term that remains to be served after the offender becomes~~ 23144
~~eligible as described in that division.~~ If the director wishes to 23145
~~submit a petition for release~~ recommend that the sentencing court 23146
consider releasing an offender under this section, the director 23147
shall ~~submit the petition~~ notify the sentencing court in writing 23148
of the offender's eligibility not earlier than ninety days prior 23149
to the date on which the offender ~~has served eighty per cent of~~ 23150
~~the offender's stated prison term that remains to be served after~~ 23151
~~the offender~~ becomes eligible as described in division (C) of this 23152
section. The director's submission of a ~~petition for release under~~ 23153
~~this section~~ the written notice constitutes a recommendation by 23154
the director that the court strongly consider release of the 23155
offender consistent with the purposes and principles of sentencing 23156
set forth in sections 2929.11 and 2929.13 of the Revised Code. 23157
Only an offender recommended by the director under division (B) of 23158
this section may be considered for early release under this 23159
section. 23160

(C)(1) An offender serving a stated prison term of one year 23161
or more and who has commenced service of that stated prison term 23162
becomes eligible for release from prison under this section only 23163
as described in this division. An offender serving a stated prison 23164
term that includes a disqualifying prison term is not eligible for 23165
release from prison under this section. An offender serving a 23166
stated prison term that consists solely of one or more restricting 23167
prison terms is not eligible for release under this section. An 23168
offender serving a stated prison term of one year or more that 23169
includes one or more restricting prison terms and one or more 23170
eligible prison terms becomes eligible for release under this 23171
section after having fully served ~~each~~ all restricting prison ~~term~~ 23172
terms and having served eighty per cent of the stated prison term 23173
that remains to be served after all restricting prison terms have 23174
been fully served. An offender serving a stated prison term that 23175

consists solely of one or more eligible prison terms becomes 23176
eligible for release under this section ~~upon the offender's~~ 23177
~~commencement of service~~ after having served eighty per cent of 23178
that stated prison term. ~~After an offender becomes eligible for~~ 23179
~~release under this section, the director of rehabilitation and~~ 23180
~~correction may petition for the release of the offender under~~ 23181
~~division (C)(2) of this section no earlier than ninety days before~~ 23182
~~the offender has served the portion of the offender's stated~~ 23183
~~prison term specified in that division.~~ For purposes of 23184
determining an offender's eligibility for release under this 23185
section, if the offender's stated prison term includes consecutive 23186
prison terms, any restricting prison terms shall be deemed served 23187
prior to any eligible prison terms that run consecutively to the 23188
restricting prison terms, and the eligible prison terms are deemed 23189
to commence after all of the restricting prison terms have been 23190
fully served. 23191

An offender serving a stated prison term ~~one~~ of one year or 23192
more that includes a mandatory prison term that is not a 23193
disqualifying prison term and is not a restricting prison term is 23194
not automatically ineligible as a result of the offender's service 23195
of that mandatory term for release from prison under this section, 23196
and the offender's eligibility for release from prison under this 23197
section is determined in accordance with this division. 23198

(2) If an offender confined in a state correctional 23199
institution under a stated prison term is eligible for release 23200
under this section as described in division (C)(1) of this 23201
section, the director of the department of rehabilitation and 23202
correction may ~~petition~~ recommend in writing that the sentencing 23203
court ~~pursuant to division (B) of this section for the release~~ 23204
consider releasing the offender from prison of the offender under 23205
this section by submitting to the sentencing court the written 23206
notice described in division (B) of this section. 23207

(D) The director shall include with any ~~petition~~ notice 23208
submitted to the sentencing court under division (B) of this 23209
section an institutional summary report that covers the offender's 23210
participation while confined in a state correctional institution 23211
in school, training, work, treatment, and other rehabilitative 23212
activities and any disciplinary action taken against the offender 23213
while so confined. The director shall include with the ~~petition~~ a 23214
~~post release control assessment and placement plan, when relevant,~~ 23215
~~and~~ notice any other documentation requested by the court, if 23216
available. 23217

(E) When the director submits a ~~petition~~ written notice to a 23218
sentencing court that an offender is eligible to be considered for 23219
early release under this section ~~for release of an offender~~, the 23220
department promptly shall provide to the prosecuting attorney of 23221
the county in which the offender was indicted a copy of the 23222
~~petition~~ written notice, a copy of the institutional summary 23223
report, and any other information provided to the court. The 23224
department also promptly shall give written notice of the ~~filing~~ 23225
~~of the petition~~ submission to any victim of the offender or 23226
victim's representative of any victim of the offender who is 23227
registered with the office of victim's services. 23228

The department also shall post a copy of the written notice 23229
~~of the petition~~ on the database it maintains under section 5120.66 23230
of the Revised Code and include information on where a person may 23231
send comments regarding the ~~petition~~ recommendation of early 23232
release. 23233

The information provided to the court, the prosecutor, and 23234
the victim or victim's representative under divisions (D) and (E) 23235
of this section shall include the name and contact information of 23236
a specific department of rehabilitation and correction employee 23237
who is available to answer questions about the offender who is the 23238
subject of the written notice submitted by the director, 23239

including, but not limited to, the offender's institutional 23240
conduct and rehabilitative activities while incarcerated. 23241

(F) Upon receipt of a ~~petition for release of an offender~~ 23242
written notice submitted by the director under division (B) of 23243
this section, the court ~~may deny the petition without either~~ 23244
shall, on its own motion, schedule a hearing to consider releasing 23245
the offender who is the subject of the notice or shall inform the 23246
department that it will not be conducting a hearing relative to 23247
the offender. The court shall not grant a ~~petition for an early~~ 23248
release ~~of~~ to an offender without holding a hearing. If a court 23249
~~denies a petition for release of an offender without declines to~~ 23250
hold a hearing relative to an offender with respect to a written 23251
notice submitted by the director, the court may later consider 23252
release of that offender under this section on a ~~subsequent~~ 23253
~~petition. The court shall enter its ruling within its own motion~~ 23254
by scheduling a hearing for that purpose. Within thirty days after 23255
the ~~petition written notice is filed submitted,~~ the court shall 23256
inform the department whether or not the court is scheduling a 23257
hearing on the offender who is the subject of the notice. 23258

(G) If the court ~~grants schedules~~ schedules a hearing ~~on~~ upon receiving 23259
a ~~petition for release of an offender written notice~~ submitted 23260
under division (B) of this section or upon its own motion under 23261
division (F) of this section, the court shall notify the head of 23262
the state correctional institution in which the offender is 23263
confined of the hearing prior to the hearing. If the court makes a 23264
journal entry ordering the offender to be conveyed to the hearing, 23265
except as otherwise provided in this division, the head of the 23266
correctional institution shall deliver the offender to the sheriff 23267
of the county in which the hearing is to be held, and the sheriff 23268
shall convey the offender to and from the hearing. Upon the 23269
court's own motion or the motion of the offender or the 23270
prosecuting attorney of the county in which the offender was 23271

indicted, the court may permit the offender to appear at the 23272
hearing by video conferencing equipment if equipment of that 23273
nature is available and compatible. 23274

Upon receipt of notice from a court of a hearing on the 23275
release of an offender under this division, the head of the state 23276
correctional institution in which the offender is confined 23277
immediately shall notify the appropriate person at the department 23278
of rehabilitation and correction of the hearing, and the 23279
department within twenty-four hours after receipt of the notice 23280
shall post on the database it maintains pursuant to section 23281
5120.66 of the Revised Code the offender's name and all of the 23282
information specified in division (A)(1)(c)(i) of that section. If 23283
the court ~~grants~~ schedules a hearing ~~on a petition for release of~~ 23284
~~an offender~~ under this section, the court promptly shall give 23285
notice of the hearing to the prosecuting attorney of the county in 23286
which the offender was indicted. Upon receipt of the notice from 23287
the court, the prosecuting attorney shall notify pursuant to 23288
section 2930.16 of the Revised Code any victim of the offender or 23289
the victim's representative of the hearing. 23290

(H) If the court ~~grants~~ schedules a hearing ~~on a petition for~~ 23291
~~release of an offender~~ under this section, at the hearing, the 23292
court shall afford the offender and the offender's attorney an 23293
opportunity to present written information and, if present, oral 23294
information relevant to the ~~motion~~ offender's early release. The 23295
court shall afford a similar opportunity to the prosecuting 23296
attorney, victim or victim's representative, as defined in section 23297
2930.01 of the Revised Code, and any other person the court 23298
determines is likely to present additional relevant information. 23299
If the court pursuant to division (G) of this section permits the 23300
offender to appear at the hearing by video conferencing equipment, 23301
the offender's opportunity to present oral information shall be as 23302
a part of the video conferencing. The court shall consider any 23303

statement of a victim made under section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared under section 2947.051 of the Revised Code, and any report, ~~plan~~, and other documentation submitted by the director under division (D) of this section. After ruling on ~~the motion~~ whether to grant the offender early release, the court shall notify the victim in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(I) If the court grants a ~~petition for release of an offender~~ early release under this section, it shall order the release of the offender, shall place the offender under one or more appropriate community control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender ~~has served at least eighty per cent of the offender's stated prison term that remains to be served after the offender~~ becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the sanction is a new offense, the court may order that the reimposed sentence be served either concurrently with, or consecutive to, any new sentence imposed upon the offender as a result of the violation that is a new offense. The period of all community control sanctions imposed under this division shall not exceed five years. The court, in its discretion, may reduce the period of community control sanctions by the amount of time the offender spent in jail or prison for the

offense. 23337

If the court grants ~~a petition for release of~~ an offender 23338
early release under this section, it shall notify the appropriate 23339
person at the department of rehabilitation and correction of the 23340
release, and the department shall post notice of the release on 23341
the database it maintains pursuant to section 5120.66 of the 23342
Revised Code. 23343

(J) The department shall adopt under Chapter 119. of the 23344
Revised Code any rules necessary to implement this section. 23345

Sec. 2967.191. The department of rehabilitation and 23346
correction shall reduce the stated prison term of a prisoner or, 23347
if the prisoner is serving a term for which there is parole 23348
eligibility, the minimum and maximum term or the parole 23349
eligibility date of the prisoner by the total number of days that 23350
the prisoner was confined for any reason arising out of the 23351
offense for which the prisoner was convicted and sentenced, 23352
including confinement in lieu of bail while awaiting trial, 23353
confinement for examination to determine the prisoner's competence 23354
to stand trial or sanity, and confinement while awaiting 23355
transportation to the place where the prisoner is to serve the 23356
prisoner's prison term, as determined by the sentencing court 23357
under division (B)(2)(h)(i) of section 2929.19 of the Revised 23358
Code. The department of rehabilitation and correction also shall 23359
reduce the stated prison term of a prisoner or, if the prisoner is 23360
serving a term for which there is parole eligibility, the minimum 23361
and maximum term or the parole eligibility date of the prisoner by 23362
the total number of days, if any, that the prisoner previously 23363
served in the custody of the department of rehabilitation and 23364
correction arising out of the offense for which the prisoner was 23365
convicted and sentenced. 23366

Sec. 2967.26. (A)(1) The department of rehabilitation and 23367
correction, by rule, may establish a transitional control program 23368
for the purpose of closely monitoring a prisoner's adjustment to 23369
community supervision during the final one hundred eighty days of 23370
the prisoner's confinement. If the department establishes a 23371
transitional control program under this division, the adult parole 23372
authority may transfer eligible prisoners to transitional control 23373
status under the program during the final one hundred eighty days 23374
of their confinement and under the terms and conditions 23375
established by the department, shall provide for the confinement 23376
as provided in this division of each eligible prisoner so 23377
transferred, and shall supervise each eligible prisoner so 23378
transferred in one or more community control sanctions. Each 23379
eligible prisoner who is transferred to transitional control 23380
status under the program shall be confined in a suitable facility 23381
that is licensed pursuant to division (C) of section 2967.14 of 23382
the Revised Code, or shall be confined in a residence the 23383
department has approved for this purpose and be monitored pursuant 23384
to an electronic monitoring device, as defined in section 2929.01 23385
of the Revised Code. If the department establishes a transitional 23386
control program under this division, the rules establishing the 23387
program shall include criteria that define which prisoners are 23388
eligible for the program, criteria that must be satisfied to be 23389
approved as a residence that may be used for confinement under the 23390
program of a prisoner that is transferred to it and procedures for 23391
the department to approve residences that satisfy those criteria, 23392
and provisions of the type described in division (C) of this 23393
section. At a minimum, the criteria that define which prisoners 23394
are eligible for the program shall provide all of the following: 23395

(a) That a prisoner is eligible for the program if the 23396
prisoner is serving a prison term or term of imprisonment for an 23397
offense committed prior to March 17, 1998, and if, at the time at 23398

which eligibility is being determined, the prisoner would have 23399
been eligible for a furlough under this section as it existed 23400
immediately prior to March 17, 1998, or would have been eligible 23401
for conditional release under former section 2967.23 of the 23402
Revised Code as that section existed immediately prior to March 23403
17, 1998; 23404

(b) That no prisoner who is serving a mandatory prison term 23405
is eligible for the program until after expiration of the 23406
mandatory term; 23407

(c) That no prisoner who is serving a prison term or term of 23408
life imprisonment without parole imposed pursuant to section 23409
2971.03 of the Revised Code is eligible for the program. 23410

(2) At least three weeks prior to transferring to 23411
transitional control under this section a prisoner who is serving 23412
a term of imprisonment or prison term for an offense committed on 23413
or after July 1, 1996, the ~~adult~~ division of parole authority and 23414
community services of the department of rehabilitation and 23415
correction shall give notice of the pendency of the transfer to 23416
transitional control to the court of common pleas of the county in 23417
which the indictment against the prisoner was found and of the 23418
fact that the court may disapprove the transfer of the prisoner to 23419
transitional control and shall include a report prepared by the 23420
head of the state correctional institution in which the prisoner 23421
is confined. The head of the state correctional institution in 23422
which the prisoner is confined, upon the request of the adult 23423
parole authority, shall provide to the authority for inclusion in 23424
the notice sent to the court under this division a report on the 23425
prisoner's conduct in the institution and in any institution from 23426
which the prisoner may have been transferred. The report shall 23427
cover the prisoner's participation in school, vocational training, 23428
work, treatment, and other rehabilitative activities and any 23429
disciplinary action taken against the prisoner. If the court 23430

disapproves of the transfer of the prisoner to transitional control, the court shall notify the authority of the disapproval within thirty days after receipt of the notice. If the court timely disapproves the transfer of the prisoner to transitional control, the authority shall not proceed with the transfer. If the court does not timely disapprove the transfer of the prisoner to transitional control, the authority may transfer the prisoner to transitional control.

(3) If the victim of an offense for which a prisoner was sentenced to a prison term or term of imprisonment has requested notification under section 2930.16 of the Revised Code and has provided the department of rehabilitation and correction with the victim's name and address, the adult parole authority, at least three weeks prior to transferring the prisoner to transitional control pursuant to this section, shall notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the authority regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the authority, the authority shall consider the statement in deciding whether to transfer the prisoner to transitional control.

(4) The department of rehabilitation and correction, at least three weeks prior to transferring a prisoner to transitional control pursuant to this section, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the prisoner's name and all of the information specified in division (A)(1)(c)(iv) of that section. In addition to and independent of the right of a victim to submit a statement as described in division (A)(3) of this section or to otherwise make a statement and in addition to and independent of any other right or duty of a person to present information or make a statement, any person may send to the adult parole authority at any time prior to the

authority's transfer of the prisoner to transitional control a 23463
written statement regarding the transfer of the prisoner to 23464
transitional control. In addition to the information, reports, and 23465
statements it considers under divisions (A)(2) and (3) of this 23466
section or that it otherwise considers, the authority shall 23467
consider each statement submitted in accordance with this division 23468
in deciding whether to transfer the prisoner to transitional 23469
control. 23470

(B) Each prisoner transferred to transitional control under 23471
this section shall be confined in the manner described in division 23472
(A) of this section during any period of time that the prisoner is 23473
not actually working at the prisoner's approved employment, 23474
engaged in a vocational training or another educational program, 23475
engaged in another program designated by the director, or engaged 23476
in other activities approved by the department. 23477

(C) The department of rehabilitation and correction shall 23478
adopt rules for transferring eligible prisoners to transitional 23479
control, supervising and confining prisoners so transferred, 23480
administering the transitional control program in accordance with 23481
this section, and using the moneys deposited into the transitional 23482
control fund established under division (E) of this section. 23483

(D) The department of rehabilitation and correction may adopt 23484
rules for the issuance of passes for the limited purposes 23485
described in this division to prisoners who are transferred to 23486
transitional control under this section. If the department adopts 23487
rules of that nature, the rules shall govern the granting of the 23488
passes and shall provide for the supervision of prisoners who are 23489
temporarily released pursuant to one of those passes. Upon the 23490
adoption of rules under this division, the department may issue 23491
passes to prisoners who are transferred to transitional control 23492
status under this section in accordance with the rules and the 23493
provisions of this division. All passes issued under this division 23494

shall be for a maximum of forty-eight hours and may be issued only 23495
for the following purposes: 23496

(1) To visit a relative in imminent danger of death; 23497

(2) To have a private viewing of the body of a deceased 23498
relative; 23499

(3) To visit with family; 23500

(4) To otherwise aid in the rehabilitation of the prisoner. 23501

(E) The adult parole authority may require a prisoner who is 23502
transferred to transitional control to pay to the division of 23503
parole and community services the reasonable expenses incurred by 23504
the division in supervising or confining the prisoner while under 23505
transitional control. Inability to pay those reasonable expenses 23506
shall not be grounds for refusing to transfer an otherwise 23507
eligible prisoner to transitional control. Amounts received by the 23508
division of parole and community services under this division 23509
shall be deposited into the transitional control fund, which is 23510
hereby created in the state treasury and which hereby replaces and 23511
succeeds the furlough services fund that formerly existed in the 23512
state treasury. All moneys that remain in the furlough services 23513
fund on March 17, 1998, shall be transferred on that date to the 23514
transitional control fund. The transitional control fund shall be 23515
used solely to pay costs related to the operation of the 23516
transitional control program established under this section. The 23517
director of rehabilitation and correction shall adopt rules in 23518
accordance with section 111.15 of the Revised Code for the use of 23519
the fund. 23520

(F) A prisoner who violates any rule established by the 23521
department of rehabilitation and correction under division (A), 23522
(C), or (D) of this section may be transferred to a state 23523
correctional institution pursuant to rules adopted under division 23524
(A), (C), or (D) of this section, but the prisoner shall receive 23525

credit towards completing the prisoner's sentence for the time 23526
spent under transitional control. 23527

If a prisoner is transferred to transitional control under 23528
this section, upon successful completion of the period of 23529
transitional control, the prisoner may be released on parole or 23530
under post-release control pursuant to section 2967.13 or 2967.28 23531
of the Revised Code and rules adopted by the department of 23532
rehabilitation and correction. If the prisoner is released under 23533
post-release control, the duration of the post-release control, 23534
the type of post-release control sanctions that may be imposed, 23535
the enforcement of the sanctions, and the treatment of prisoners 23536
who violate any sanction applicable to the prisoner are governed 23537
by section 2967.28 of the Revised Code. 23538

Sec. 2967.28. (A) As used in this section: 23539

(1) "Monitored time" means the monitored time sanction 23540
specified in section 2929.17 of the Revised Code. 23541

(2) "Deadly weapon" and "dangerous ordnance" have the same 23542
meanings as in section 2923.11 of the Revised Code. 23543

(3) "Felony sex offense" means a violation of a section 23544
contained in Chapter 2907. of the Revised Code that is a felony. 23545

(4) "Risk reduction sentence" means a prison term imposed by 23546
a court, when the court recommends pursuant to section 2929.143 of 23547
the Revised Code that the offender serve the sentence under 23548
section 5120.036 of the Revised Code, and the offender may 23549
potentially be released from imprisonment prior to the expiration 23550
of the prison term if the offender successfully completes all 23551
assessment and treatment or programming required by the department 23552
of rehabilitation and correction under section 5120.036 of the 23553
Revised Code. 23554

(B) Each sentence to a prison term for a felony of the first 23555

degree, for a felony of the second degree, for a felony sex 23556
offense, or for a felony of the third degree that is not a felony 23557
sex offense and in the commission of which the offender caused or 23558
threatened to cause physical harm to a person shall include a 23559
requirement that the offender be subject to a period of 23560
post-release control imposed by the parole board after the 23561
offender's release from imprisonment. This division applies with 23562
respect to all prison terms of a type described in this division, 23563
including a term of any such type that is a risk reduction 23564
sentence. If a court imposes a sentence including a prison term of 23565
a type described in this division on or after July 11, 2006, the 23566
failure of a sentencing court to notify the offender pursuant to 23567
division (B)(2)(c) of section 2929.19 of the Revised Code of this 23568
requirement or to include in the judgment of conviction entered on 23569
the journal a statement that the offender's sentence includes this 23570
requirement does not negate, limit, or otherwise affect the 23571
mandatory period of supervision that is required for the offender 23572
under this division. Section 2929.191 of the Revised Code applies 23573
if, prior to July 11, 2006, a court imposed a sentence including a 23574
prison term of a type described in this division and failed to 23575
notify the offender pursuant to division (B)(2)(c) of section 23576
2929.19 of the Revised Code regarding post-release control or to 23577
include in the judgment of conviction entered on the journal or in 23578
the sentence pursuant to division (D)(1) of section 2929.14 of the 23579
Revised Code a statement regarding post-release control. Unless 23580
reduced by the parole board pursuant to division (D) of this 23581
section when authorized under that division, a period of 23582
post-release control required by this division for an offender 23583
shall be of one of the following periods: 23584

- (1) For a felony of the first degree or for a felony sex 23585
offense, five years; 23586
- (2) For a felony of the second degree that is not a felony 23587

sex offense, three years; 23588

(3) For a felony of the third degree that is not a felony sex 23589
offense and in the commission of which the offender caused or 23590
threatened physical harm to a person, three years. 23591

(C) Any sentence to a prison term for a felony of the third, 23592
fourth, or fifth degree that is not subject to division (B)(1) or 23593
(3) of this section shall include a requirement that the offender 23594
be subject to a period of post-release control of up to three 23595
years after the offender's release from imprisonment, if the 23596
parole board, in accordance with division (D) of this section, 23597
determines that a period of post-release control is necessary for 23598
that offender. This division applies with respect to all prison 23599
terms of a type described in this division, including a term of 23600
any such type that is a risk reduction sentence. Section 2929.191 23601
of the Revised Code applies if, prior to July 11, 2006, a court 23602
imposed a sentence including a prison term of a type described in 23603
this division and failed to notify the offender pursuant to 23604
division (B)(2)(d) of section 2929.19 of the Revised Code 23605
regarding post-release control or to include in the judgment of 23606
conviction entered on the journal or in the sentence pursuant to 23607
division (D)(2) of section 2929.14 of the Revised Code a statement 23608
regarding post-release control. Pursuant to an agreement entered 23609
into under section 2967.29 of the Revised Code, a court of common 23610
pleas or parole board may impose sanctions or conditions on an 23611
offender who is placed on post-release control under this 23612
division. 23613

(D)(1) Before the prisoner is released from imprisonment, the 23614
parole board or, pursuant to an agreement under section 2967.29 of 23615
the Revised Code, the court shall impose upon a prisoner described 23616
in division (B) of this section, shall impose upon a prisoner 23617
described in division (C) of this section who is to be released 23618
before the expiration of the prisoner's stated prison term under a 23619

risk reduction sentence, may impose upon a prisoner described in 23620
division (C) of this section who is not to be released before the 23621
expiration of the prisoner's stated prison term under a risk 23622
reduction sentence, and shall impose upon a prisoner described in 23623
division (B)(2)(b) of section 5120.031 or in division (B)(1) of 23624
section 5120.032 of the Revised Code, one or more post-release 23625
control sanctions to apply during the prisoner's period of 23626
post-release control. Whenever the board or court imposes one or 23627
more post-release control sanctions upon a prisoner, the board or 23628
court, in addition to imposing the sanctions, also shall include 23629
as a condition of the post-release control that the offender not 23630
leave the state without permission of the court or the offender's 23631
parole or probation officer and that the offender abide by the 23632
law. The board or court may impose any other conditions of release 23633
under a post-release control sanction that the board or court 23634
considers appropriate, and the conditions of release may include 23635
any community residential sanction, community nonresidential 23636
sanction, or financial sanction that the sentencing court was 23637
authorized to impose pursuant to sections 2929.16, 2929.17, and 23638
2929.18 of the Revised Code. Prior to the release of a prisoner 23639
for whom it will impose one or more post-release control sanctions 23640
under this division, the parole board or court shall review the 23641
prisoner's criminal history, results from the single validated 23642
risk assessment tool selected by the department of rehabilitation 23643
and correction under section 5120.114 of the Revised Code, all 23644
juvenile court adjudications finding the prisoner, while a 23645
juvenile, to be a delinquent child, and the record of the 23646
prisoner's conduct while imprisoned. The parole board or court 23647
shall consider any recommendation regarding post-release control 23648
sanctions for the prisoner made by the office of victims' 23649
services. After considering those materials, the board or court 23650
shall determine, for a prisoner described in division (B) of this 23651
section, division (B)(2)(b) of section 5120.031, or division 23652

(B)(1) of section 5120.032 of the Revised Code and for a prisoner 23653
described in division (C) of this section who is to be released 23654
before the expiration of the prisoner's stated prison term under a 23655
risk reduction sentence, which post-release control sanction or 23656
combination of post-release control sanctions is reasonable under 23657
the circumstances or, for a prisoner described in division (C) of 23658
this section who is not to be released before the expiration of 23659
the prisoner's stated prison term under a risk reduction sentence, 23660
whether a post-release control sanction is necessary and, if so, 23661
which post-release control sanction or combination of post-release 23662
control sanctions is reasonable under the circumstances. In the 23663
case of a prisoner convicted of a felony of the fourth or fifth 23664
degree other than a felony sex offense, the board or court shall 23665
presume that monitored time is the appropriate post-release 23666
control sanction unless the board or court determines that a more 23667
restrictive sanction is warranted. A post-release control sanction 23668
imposed under this division takes effect upon the prisoner's 23669
release from imprisonment. 23670

Regardless of whether the prisoner was sentenced to the 23671
prison term prior to, on, or after July 11, 2006, prior to the 23672
release of a prisoner for whom it will impose one or more 23673
post-release control sanctions under this division, the parole 23674
board shall notify the prisoner that, if the prisoner violates any 23675
sanction so imposed or any condition of post-release control 23676
described in division (B) of section 2967.131 of the Revised Code 23677
that is imposed on the prisoner, the parole board may impose a 23678
prison term of up to one-half of the stated prison term originally 23679
imposed upon the prisoner. 23680

(2) If a prisoner who is placed on post-release control under 23681
this section is released before the expiration of the prisoner's 23682
stated prison term by reason of credit earned under section 23683
2967.193 of the Revised Code and if the prisoner earned sixty or 23684

more days of credit, the adult parole authority shall supervise 23685
the offender with an active global positioning system device for 23686
the first fourteen days after the offender's release from 23687
imprisonment. This division does not prohibit or limit the 23688
imposition of any post-release control sanction otherwise 23689
authorized by this section. 23690

(3) At any time after a prisoner is released from 23691
imprisonment and during the period of post-release control 23692
applicable to the releasee, the adult parole authority or, 23693
pursuant to an agreement under section 2967.29 of the Revised 23694
Code, the court may review the releasee's behavior under the 23695
post-release control sanctions imposed upon the releasee under 23696
this section. The authority or court may determine, based upon the 23697
review and in accordance with the standards established under 23698
division (E) of this section, that a more restrictive or a less 23699
restrictive sanction is appropriate and may impose a different 23700
sanction. The authority also may recommend that the parole board 23701
or court increase or reduce the duration of the period of 23702
post-release control imposed by the court. If the authority 23703
recommends that the board or court increase the duration of 23704
post-release control, the board or court shall review the 23705
releasee's behavior and may increase the duration of the period of 23706
post-release control imposed by the court up to eight years. If 23707
the authority recommends that the board or court reduce the 23708
duration of control for an offense described in division (B) or 23709
(C) of this section, the board or court shall review the 23710
releasee's behavior and may reduce the duration of the period of 23711
control imposed by the court. In no case shall the board or court 23712
reduce the duration of the period of control imposed for an 23713
offense described in division (B)(1) of this section to a period 23714
less than the length of the stated prison term originally imposed, 23715
and in no case shall the board or court permit the releasee to 23716
leave the state without permission of the court or the releasee's 23717

parole or probation officer. 23718

(E) The department of rehabilitation and correction, in 23719
accordance with Chapter 119. of the Revised Code, shall adopt 23720
rules that do all of the following: 23721

(1) Establish standards for the imposition by the parole 23722
board of post-release control sanctions under this section that 23723
are consistent with the overriding purposes and sentencing 23724
principles set forth in section 2929.11 of the Revised Code and 23725
that are appropriate to the needs of releasees; 23726

(2) Establish standards that provide for a period of 23727
post-release control of up to three years for all prisoners 23728
described in division (C) of this section who are to be released 23729
before the expiration of their stated prison term under a risk 23730
reduction sentence and standards by which the parole board can 23731
determine which prisoners described in division (C) of this 23732
section who are not to be released before the expiration of their 23733
stated prison term under a risk reduction sentence should be 23734
placed under a period of post-release control; 23735

(3) Establish standards to be used by the parole board in 23736
reducing the duration of the period of post-release control 23737
imposed by the court when authorized under division (D) of this 23738
section, in imposing a more restrictive post-release control 23739
sanction than monitored time upon a prisoner convicted of a felony 23740
of the fourth or fifth degree other than a felony sex offense, or 23741
in imposing a less restrictive control sanction upon a releasee 23742
based on the releasee's activities including, but not limited to, 23743
remaining free from criminal activity and from the abuse of 23744
alcohol or other drugs, successfully participating in approved 23745
rehabilitation programs, maintaining employment, and paying 23746
restitution to the victim or meeting the terms of other financial 23747
sanctions; 23748

| | |
|---|---|
| (4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section; | 23749 23750 23751 |
| (5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following: | 23752 23753 23754 23755 |
| (a) Classify violations according to the degree of seriousness; | 23756 23757 |
| (b) Define the circumstances under which formal action by the parole board is warranted; | 23758 23759 |
| (c) Govern the use of evidence at violation hearings; | 23760 |
| (d) Ensure procedural due process to an alleged violator; | 23761 |
| (e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations; | 23762 23763 |
| (f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control. | 23764 23765 |
| (F)(1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation | 23766 23767 23768 23769 23770 23771 23772 23773 23774 23775 23776 23777 23778 |

directly to the adult parole authority or to the officer of the 23779
authority who supervises the offender. The authority's officers 23780
may treat the offender as if the offender were on parole and in 23781
violation of the parole, and otherwise shall comply with this 23782
section. 23783

(2) If the adult parole authority or, pursuant to an 23784
agreement under section 2967.29 of the Revised Code, the court 23785
determines that a releasee has violated a post-release control 23786
sanction or any conditions described in division (A) of section 23787
2967.131 of the Revised Code imposed upon the releasee and that a 23788
more restrictive sanction is appropriate, the authority or court 23789
may impose a more restrictive sanction upon the releasee, in 23790
accordance with the standards established under division (E) of 23791
this section or in accordance with the agreement made under 23792
section 2967.29 of the Revised Code, or may report the violation 23793
to the parole board for a hearing pursuant to division (F)(3) of 23794
this section. The authority or court may not, pursuant to this 23795
division, increase the duration of the releasee's post-release 23796
control or impose as a post-release control sanction a residential 23797
sanction that includes a prison term, but the authority or court 23798
may impose on the releasee any other residential sanction, 23799
nonresidential sanction, or financial sanction that the sentencing 23800
court was authorized to impose pursuant to sections 2929.16, 23801
2929.17, and 2929.18 of the Revised Code. 23802

(3) The parole board or, pursuant to an agreement under 23803
section 2967.29 of the Revised Code, the court may hold a hearing 23804
on any alleged violation by a releasee of a post-release control 23805
sanction or any conditions described in division (A) of section 23806
2967.131 of the Revised Code that are imposed upon the releasee. 23807
If after the hearing the board or court finds that the releasee 23808
violated the sanction or condition, the board or court may 23809
increase the duration of the releasee's post-release control up to 23810

the maximum duration authorized by division (B) or (C) of this 23811
section or impose a more restrictive post-release control 23812
sanction. When appropriate, the board or court may impose as a 23813
post-release control sanction a residential sanction that includes 23814
a prison term. The board or court shall consider a prison term as 23815
a post-release control sanction imposed for a violation of 23816
post-release control when the violation involves a deadly weapon 23817
or dangerous ordnance, physical harm or attempted serious physical 23818
harm to a person, or sexual misconduct, or when the releasee 23819
committed repeated violations of post-release control sanctions. 23820
Unless a releasee's stated prison term was reduced pursuant to 23821
section 5120.032 of the Revised Code, the period of a prison term 23822
that is imposed as a post-release control sanction under this 23823
division shall not exceed nine months, and the maximum cumulative 23824
prison term for all violations under this division shall not 23825
exceed one-half of the stated prison term originally imposed upon 23826
the offender as part of this sentence. If a releasee's stated 23827
prison term was reduced pursuant to section 5120.032 of the 23828
Revised Code, the period of a prison term that is imposed as a 23829
post-release control sanction under this division and the maximum 23830
cumulative prison term for all violations under this division 23831
shall not exceed the period of time not served in prison under the 23832
sentence imposed by the court. The period of a prison term that is 23833
imposed as a post-release control sanction under this division 23834
shall not count as, or be credited toward, the remaining period of 23835
post-release control. 23836

If an offender is imprisoned for a felony committed while 23837
under post-release control supervision and is again released on 23838
post-release control for a period of time determined by division 23839
(F)(4)(d) of this section, the maximum cumulative prison term for 23840
all violations under this division shall not exceed one-half of 23841
the total stated prison terms of the earlier felony, reduced by 23842
any prison term administratively imposed by the parole board or 23843

court, plus one-half of the total stated prison term of the new 23844
felony. 23845

(4) Any period of post-release control shall commence upon an 23846
offender's actual release from prison. If an offender is serving 23847
an indefinite prison term or a life sentence in addition to a 23848
stated prison term, the offender shall serve the period of 23849
post-release control in the following manner: 23850

(a) If a period of post-release control is imposed upon the 23851
offender and if the offender also is subject to a period of parole 23852
under a life sentence or an indefinite sentence, and if the period 23853
of post-release control ends prior to the period of parole, the 23854
offender shall be supervised on parole. The offender shall receive 23855
credit for post-release control supervision during the period of 23856
parole. The offender is not eligible for final release under 23857
section 2967.16 of the Revised Code until the post-release control 23858
period otherwise would have ended. 23859

(b) If a period of post-release control is imposed upon the 23860
offender and if the offender also is subject to a period of parole 23861
under an indefinite sentence, and if the period of parole ends 23862
prior to the period of post-release control, the offender shall be 23863
supervised on post-release control. The requirements of parole 23864
supervision shall be satisfied during the post-release control 23865
period. 23866

(c) If an offender is subject to more than one period of 23867
post-release control, the period of post-release control for all 23868
of the sentences shall be the period of post-release control that 23869
expires last, as determined by the parole board or court. Periods 23870
of post-release control shall be served concurrently and shall not 23871
be imposed consecutively to each other. 23872

(d) The period of post-release control for a releasee who 23873
commits a felony while under post-release control for an earlier 23874

felony shall be the longer of the period of post-release control 23875
specified for the new felony under division (B) or (C) of this 23876
section or the time remaining under the period of post-release 23877
control imposed for the earlier felony as determined by the parole 23878
board or court. 23879

Sec. 2981.11. (A)(1) Any property that has been lost, 23880
abandoned, stolen, seized pursuant to a search warrant, or 23881
otherwise lawfully seized or forfeited and that is in the custody 23882
of a law enforcement agency shall be kept safely by the agency, 23883
pending the time it no longer is needed as evidence or for another 23884
lawful purpose, and shall be disposed of pursuant to sections 23885
2981.12 and 2981.13 of the Revised Code. 23886

(2) This chapter does not apply to the custody and disposal 23887
of any of the following: 23888

(a) Vehicles subject to forfeiture under Title XLV of the 23889
Revised Code, except as provided in division (A)(6) of section 23890
2981.12 of the Revised Code; 23891

(b) Abandoned junk motor vehicles or other property of 23892
negligible value; 23893

(c) Property held by a department of rehabilitation and 23894
correction institution that is unclaimed, that does not have an 23895
identified owner, that the owner agrees to dispose of, or that is 23896
identified by the department as having little value; 23897

(d) Animals taken, and devices used in unlawfully taking 23898
animals, under section 1531.20 of the Revised Code; 23899

(e) Controlled substances sold by a peace officer in the 23900
performance of the officer's official duties under section 23901
3719.141 of the Revised Code; 23902

(f) Property recovered by a township law enforcement agency 23903
under sections 505.105 to 505.109 of the Revised Code; 23904

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.

(B)(1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:

(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

(ii) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

(c) Complies with section 2981.13 of the Revised Code if the agency has a law enforcement trust fund or similar fund created

under that section. 23936

~~(2) Each law enforcement agency that during any calendar year 23937
has any seized or forfeited property covered by this section in 23938
its custody, including amounts distributed under section 2981.13 23939
of the Revised Code to its law enforcement trust fund or a similar 23940
fund created for the state highway patrol, department of public 23941
safety, department of taxation, or state board of pharmacy, shall 23942
prepare a report covering the calendar year that cumulates all of 23943
the information contained in all of the public records kept by the 23944
agency pursuant to this section for that calendar year. The agency 23945
shall send a copy of the cumulative report to the attorney general 23946
not later than the first day of March in the calendar year 23947
following the calendar year covered by the report. 23948~~

~~(3) The records kept under the internal control policy shall 23949
be open to public inspection during the agency's regular business 23950
hours. The policy adopted under this section and each report 23951
received by the attorney general is a public record open for 23952
inspection under section 149.43 of the Revised Code. 23953~~

~~(4) Not later than the fifteenth day of April in each 23954
calendar year in which reports are sent to the attorney general 23955
under division (B)(2) of this section, the attorney general shall 23956
send to the president of the senate and the speaker of the house 23957
of representatives a written notice that indicates that the 23958
attorney general received reports that cover the previous calendar 23959
year, that the reports are open for inspection under section 23960
149.43 of the Revised Code, and that the attorney general will 23961
provide a copy of any or all of the reports to the president of 23962
the senate or the speaker of the house of representatives upon 23963
request. 23964~~

(C) A law enforcement agency with custody of property to be 23965
disposed of under section 2981.12 or 2981.13 of the Revised Code 23966
shall make a reasonable effort to locate persons entitled to 23967

possession of the property, to notify them of when and where it 23968
may be claimed, and to return the property to them at the earliest 23969
possible time. In the absence of evidence identifying persons 23970
entitled to possession, it is sufficient notice to advertise in a 23971
newspaper of general circulation in the county and to briefly 23972
describe the nature of the property in custody and inviting 23973
persons to view and establish their right to it. 23974

(D) As used in sections 2981.11 to 2981.13 of the Revised 23975
Code: 23976

(1) "Citizens' reward program" has the same meaning as in 23977
section 9.92 of the Revised Code. 23978

(2) "Law enforcement agency" includes correctional 23979
institutions. 23980

(3) "Township law enforcement agency" means an organized 23981
police department of a township, a township police district, a 23982
joint police district, or the office of a township constable. 23983

Sec. 2981.14. (A) Nothing in this chapter precludes the head 23984
of a law enforcement agency that seizes property from seeking 23985
forfeiture under federal law. If the property is forfeitable under 23986
this chapter and federal forfeiture is not sought, the property is 23987
subject only to this chapter. 23988

(B) Any law enforcement agency that receives moneys from a 23989
sale of forfeited property under federal law shall deposit, use, 23990
and account for the amounts, including any interest derived, in 23991
accordance with applicable federal law. If the state highway 23992
patrol or the investigative unit of the department of public 23993
safety receives such federal forfeiture moneys, the appropriate 23994
official shall deposit all interest or other earnings derived from 23995
the investment of the moneys into the ~~contraband, forfeiture, and~~ 23996
~~other fund of the~~ highway patrol treasury contraband fund, the 23997

highway patrol justice contraband fund, the investigative unit 23998
treasury contraband fund, or the department investigative unit 23999
justice contraband fund, whichever is appropriate. 24000

(C) There is hereby created in the state treasury the highway 24001
patrol treasury contraband fund, the highway patrol justice 24002
contraband fund, the investigative unit treasury contraband fund, 24003
and the investigative unit justice contraband fund. Each fund 24004
shall consist of moneys received under division (B) of this 24005
section and shall be used in accordance with any federal or other 24006
requirements associated with moneys received. 24007

Sec. 3109.14. (A) As used in this section, "birth record" and 24008
"certification of birth" have the meanings given in section 24009
3705.01 of the Revised Code. 24010

(B)(1) The director of health, a person authorized by the 24011
director, a local commissioner of health, or a local registrar of 24012
vital statistics shall charge and collect a fee for each certified 24013
copy of a birth record, for each certification of birth, and for 24014
each copy of a death record. The fee shall be three dollars. The 24015
fee is in addition to the fee imposed by section 3705.24 or any 24016
other section of the Revised Code. A local commissioner of health 24017
or a local registrar of vital statistics may retain an amount of 24018
each additional fee collected, not to exceed three per cent of the 24019
amount of the additional fee, to be used for costs directly 24020
related to the collection of the fee and the forwarding of the fee 24021
to the ~~treasurer of state~~ department of health. The 24022

The additional fees collected by the director of health or a 24023
person authorized by the director and the additional fees 24024
collected, but not retained, under division (B)(1) of this section 24025
by a local commissioner of health or a local registrar of vital 24026
statistics shall be forwarded to the ~~treasurer of state~~ department 24027
of health not later than thirty days following the end of each 24028

quarter. Not later than two days after the fees are forwarded to 24029
the department each quarter, the department shall pay the 24030
collected fees to the treasurer of state in accordance with rules 24031
adopted by the treasurer of state under section 113.08 of the 24032
Revised Code. 24033

(2) Upon the filing for a divorce decree under section 24034
3105.10 or a decree of dissolution under section 3105.65 of the 24035
Revised Code, a court of common pleas shall charge and collect a 24036
fee. The fee shall be eleven dollars. The fee is in addition to 24037
any other court costs or fees. The county clerk of courts may 24038
retain an amount of each additional fee collected, not to exceed 24039
three per cent of the amount of the additional fee, to be used for 24040
costs directly related to the collection of the fee and the 24041
forwarding of the fee to the treasurer of state. The additional 24042
fees collected, but not retained, under division (B)(2) of this 24043
section shall be forwarded to the treasurer of state not later 24044
than twenty days following the end of each month. 24045

(C) The treasurer of state shall deposit the fees paid or 24046
forwarded under this section in the state treasury to the credit 24047
of the children's trust fund, which is hereby created. A person or 24048
government entity that fails to forward the fees in a timely 24049
manner, as determined by the treasurer of state, shall ~~forward~~ 24050
send to the treasurer of state, in addition to the fees, a penalty 24051
equal to ten per cent of the fees. 24052

The treasurer of state shall invest the moneys in the fund, 24053
and all earnings resulting from investment of the fund shall be 24054
credited to the fund, except that actual administrative costs 24055
incurred by the treasurer of state in administering the fund may 24056
be deducted from the earnings resulting from investments. The 24057
amount that may be deducted shall not exceed three per cent of the 24058
total amount of fees credited to the fund in each fiscal year, 24059
except that the children's trust fund board may approve an amount 24060

for actual administrative costs exceeding three per cent but not 24061
exceeding four per cent of such amount. The balance of the 24062
investment earnings shall be credited to the fund. Moneys credited 24063
to the fund shall be used only for the purposes described in 24064
sections 3109.13 to 3109.18 of the Revised Code. 24065

Sec. 3125.41. (A) As used in this section: 24066

(1) "Cable television service" has the same meaning as in 24067
section 2913.01 of the Revised Code. 24068

(2) "Public utility" means a person or entity, including an 24069
entity owned or operated by a municipal corporation or other 24070
government entity, that is described in ~~division (A) of~~ section 24071
4905.03 of the Revised Code as a telephone company, electric light 24072
company, gas company, natural gas company, water-works company, 24073
heating or cooling company, or sewage disposal system company, or 24074
that is providing cable television service. 24075

(B) Except as provided in section 3125.43 of the Revised 24076
Code, the office of child support shall have access to all of the 24077
following unless release of the information is prohibited by 24078
federal or state law: 24079

(1) Any information in the possession of any officer or 24080
entity of the state or any political subdivision of the state that 24081
would aid the office in locating an absent parent or child 24082
pursuant to section 3125.06 of the Revised Code; 24083

(2) Any information concerning the employment, compensation, 24084
and benefits of any obligor or obligee subject to a support order 24085
in the possession of any person; 24086

(3) The name and address of any obligor or obligee subject to 24087
a support order and the obligor's or obligee's employer in the 24088
customer records of a public utility. 24089

Sec. 3301.55. (A) A school district, county DD board, or 24090
eligible nonpublic school operating a preschool program shall 24091
house the program in buildings that meet the following 24092
requirements: 24093

(1) The building is operated by the district, county DD 24094
board, or eligible nonpublic school and has been approved by the 24095
division of ~~labor~~ industrial compliance in the department of 24096
commerce or a certified municipal, township, or county building 24097
department for the purpose of operating a program for preschool 24098
children. Any such structure shall be constructed, equipped, 24099
repaired, altered, and maintained in accordance with applicable 24100
provisions of Chapters 3781. and 3791. and with rules adopted by 24101
the board of building standards under Chapter 3781. of the Revised 24102
Code for the safety and sanitation of structures erected for this 24103
purpose. 24104

(2) The building is in compliance with fire and safety laws 24105
and regulations as evidenced by reports of annual school fire and 24106
safety inspections as conducted by appropriate local authorities. 24107

(3) The school is in compliance with rules established by the 24108
state board of education regarding school food services. 24109

(4) The facility includes not less than thirty-five square 24110
feet of indoor space for each child in the program. Safe play 24111
space, including both indoor and outdoor play space, totaling not 24112
less than sixty square feet for each child using the space at any 24113
one time, shall be regularly available and scheduled for use. 24114

(5) First aid facilities and space for temporary placement or 24115
isolation of injured or ill children are provided. 24116

(B) Each school district, county DD board, or eligible 24117
nonpublic school that operates, or proposes to operate, a 24118
preschool program shall submit a building plan including all 24119

information specified by the state board of education to the board 24120
not later than the first day of September of the school year in 24121
which the program is to be initiated. The board shall determine 24122
whether the buildings meet the requirements of this section and 24123
section 3301.53 of the Revised Code, and notify the superintendent 24124
of its determination. If the board determines, on the basis of the 24125
building plan or any other information, that the buildings do not 24126
meet those requirements, it shall cause the buildings to be 24127
inspected by the department of education. The department shall 24128
make a report to the superintendent specifying any aspects of the 24129
building that are not in compliance with the requirements of this 24130
section and section 3301.53 of the Revised Code and the time 24131
period that will be allowed the district, county DD board, or 24132
school to meet the requirements. 24133

Sec. 3302.043. If the United States department of education 24134
approves the application submitted in February 2012 by the Ohio 24135
department of education requesting a waiver from the "No Child 24136
Left Behind Act of 2001," notwithstanding any provision of the 24137
Revised Code to the contrary, the Ohio department of education may 24138
implement the changes contained in the application and approved by 24139
the United States department of education, except for any such 24140
changes related to the report cards issued under sections 3302.03, 24141
3314.012, 3326.17, and 3328.26 of the Revised Code. 24142

Sec. 3304.14. (A) The governor shall appoint an administrator 24143
of the rehabilitation services commission to serve at the pleasure 24144
of the governor and shall fix the administrator's compensation. 24145
The administrator shall devote the administrator's entire time to 24146
the duties of the administrator's office, shall hold no other 24147
office or position of trust and profit, and shall engage in no 24148
other business during the administrator's term of office. The 24149
governor may grant the administrator the authority to appoint, 24150

remove, and discipline without regard to sex, race, creed, color, 24151
age, or national origin, such other professional, administrative, 24152
and clerical staff members as are necessary to carry out the 24153
functions and duties of the commission. 24154

(B)(1) The administrator shall have exclusive authority to 24155
administer the daily operation and provision of vocational 24156
rehabilitation services under this chapter. 24157

(2) The administrator shall establish a fee schedule for 24158
vocational rehabilitation services in accordance with 34 C.F.R. 24159
361.50. 24160

Sec. 3304.16. In carrying out the purposes of sections 24161
3304.11 to 3304.27 of the Revised Code, the rehabilitation 24162
services commission: 24163

(A) Shall develop all necessary rules; 24164

(B) Shall prepare and submit to the governor annual reports 24165
of activities and expenditures and, prior to each first regular 24166
session of the general assembly, an estimate of sums required to 24167
carry out the commission's responsibilities; 24168

(C) Shall certify any disbursement of funds available to the 24169
commission for vocational rehabilitation activities; 24170

(D) Shall serve as the sole state agency designated to 24171
administer the plan under the "Rehabilitation Act of 1973," 87 24172
Stat. 355, 29 U.S.C. 701, as amended; 24173

(E) Shall take appropriate action to guarantee rights of and 24174
services to handicapped persons; 24175

(F) Shall consult with and advise other state agencies to 24176
assist them in meeting the needs of handicapped persons more 24177
effectively and to achieve maximum coordination among programs for 24178
the handicapped; 24179

| | |
|--|--|
| (G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons; | 24180 24181 24182 |
| (H) Shall maintain an inventory of state services that are available to handicapped persons; | 24183 24184 |
| (I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped; | 24185 24186 |
| (J) May delegate to any officer or employee of the commission any necessary powers and duties, <u>except that the commission shall delegate to the administrator of the commission, as provided in section 3304.14 of the Revised Code, the power and duty to administer the daily operation and provision of vocational rehabilitation services;</u> | 24187 24188 24189 24190 24191 24192 |
| (K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include: | 24193 24194 24195 |
| (1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned; | 24196 24197 24198 |
| (2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities; | 24199 24200 24201 24202 |
| (3) Cooperative arrangements with the federal government for carrying out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes; | 24203 24204 24205 24206 24207 24208 24209 24210 |

| | |
|---|-------|
| (4) Upon the designation of the governor, performing | 24211 |
| functions and services for the federal government relating to | 24212 |
| individuals under a physical or mental disability. | 24213 |
| (L) Shall comply with <u>May take</u> any requirements <u>appropriate</u> | 24214 |
| <u>action</u> necessary to obtain federal funds in the maximum amount and | 24215 |
| most advantageous proportion possible-; | 24216 |
| (M) May conduct research and demonstration projects, | 24217 |
| including inquiries concerning the causes of blindness and its | 24218 |
| prevention, provide training and instruction, including the | 24219 |
| establishment and maintenance of research fellowships and | 24220 |
| traineeships along with all necessary stipends and allowances, | 24221 |
| disseminate information, and provide technical assistance relating | 24222 |
| to vocational rehabilitation; | 24223 |
| (N) May plan, establish, and operate programs, facilities, | 24224 |
| and services relating to vocational rehabilitation; | 24225 |
| (O) May accept and hold, invest, reinvest, or otherwise use | 24226 |
| gifts made for the purpose of furthering vocational | 24227 |
| rehabilitation; | 24228 |
| (P) May ameliorate the condition of the aged blind or other | 24229 |
| severely disabled individuals by establishing a program of home | 24230 |
| visitation by commission employees for the purpose of instruction; | 24231 |
| (Q) May establish and manage small business enterprises that | 24232 |
| are operated by persons with a substantial handicap to employment, | 24233 |
| including blind persons; | 24234 |
| (R) May purchase from insurance companies licensed to do | 24235 |
| business in this state any insurance deemed necessary by the | 24236 |
| commission for the efficient operation of a suitable vending | 24237 |
| facility as defined in division (A) of section 3304.28 of the | 24238 |
| Revised Code; | 24239 |
| (S) May accept directly from any state agency, and any state | 24240 |

agency may transfer directly to the commission, surplus computers 24241
and computer equipment to be used for any purposes the commission 24242
considers appropriate, notwithstanding sections 125.12 to 125.14 24243
of the Revised Code. 24244

Sec. 3304.181. If the total of all funds available from 24245
nonfederal sources to support the activities of the rehabilitation 24246
services commission does not comply with the expenditure 24247
requirements of 34 C.F.R. 361.60 and 361.62 for those activities 24248
or would cause the state to lose an allotment or fail to receive a 24249
reallotment under 34 C.F.R. 361.65, the commission ~~shall~~ may 24250
solicit additional funds from, and enter into agreements for the 24251
use of those funds with, private or public entities, including 24252
local government entities of this state. The commission ~~shall~~ may 24253
continue to solicit additional funds and enter into agreements 24254
until the total funding available is sufficient for the commission 24255
to receive federal funds at the maximum amount and in the most 24256
advantageous proportion possible. 24257

Any agreement entered into between the commission and a 24258
private or public entity to provide funds under this section shall 24259
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 24260
Revised Code. 24261

Sec. 3304.182. Any agreement between the rehabilitation 24262
services commission and a private or public entity providing funds 24263
under section 3304.181 of the Revised Code may permit the 24264
commission to receive a specified percentage of the funds, but the 24265
percentage shall be not more than twenty-five per cent of the 24266
total funds available under the agreement. ~~The agreement shall not~~ 24267
~~be for less than six months or be discontinued by the commission~~ 24268
~~without the commission first providing three months notice of~~ 24269
~~intent to discontinue the agreement.~~ The commission may terminate 24270
an agreement only at any time for good just cause. It may 24271

terminate an agreement for any other reason by giving at least 24272
thirty days' notice to the public or private entity. 24273

Any services provided under an agreement entered into under 24274
section 3304.181 of the Revised Code shall be provided by a person 24275
or government entity that meets the accreditation standards 24276
established in rules adopted by the commission under section 24277
3304.16 of the Revised Code. 24278

Sec. 3305.01. As used in this chapter: 24279

(A) "Public institution of higher education" means a state 24280
university as defined in section 3345.011 of the Revised Code, the 24281
northeast Ohio medical university, or a university branch, 24282
technical college, state community college, community college, or 24283
municipal university established or operating under Chapter 3345., 24284
3349., 3354., 3355., 3357., or 3358. of the Revised Code. 24285

(B) "State retirement system" means the public employees 24286
retirement system created under Chapter 145. of the Revised Code, 24287
the state teachers retirement system created under Chapter 3307. 24288
of the Revised Code, or the school employees retirement system 24289
created under Chapter 3309. of the Revised Code. 24290

(C) "Eligible employee" means any person employed as a 24291
full-time employee of a public institution of higher education. 24292

In all cases of doubt, the board of trustees of the public 24293
institution of higher education shall determine whether any person 24294
is an eligible employee for purposes of this chapter, and the 24295
board's decision shall be final. 24296

(D) "Electing employee" means any eligible employee who 24297
elects, pursuant to section 3305.05 or 3305.051 of the Revised 24298
Code, to participate in an alternative retirement plan provided 24299
pursuant to this chapter or an eligible employee who is required 24300
to participate in an alternative retirement plan pursuant to 24301

division (C)~~(4)~~(3) of section 3305.05 or division (F) of section 24302
3305.051 of the Revised Code. 24303

(E) "Compensation," for purposes of an electing employee, has 24304
the same meaning as the applicable one of the following: 24305

(1) If the electing employee would be subject to Chapter 145. 24306
of the Revised Code had the employee not made an election pursuant 24307
to section 3305.05 or 3305.051 of the Revised Code, "earnable 24308
salary" as defined in division (R) of section 145.01 of the 24309
Revised Code; 24310

(2) If the electing employee would be subject to Chapter 24311
3307. of the Revised Code had the employee not made an election 24312
pursuant to section 3305.05 or 3305.051 of the Revised Code, 24313
"compensation" as defined in division (L) of section 3307.01 of 24314
the Revised Code; 24315

(3) If the electing employee would be subject to Chapter 24316
3309. of the Revised Code had the employee not made an election 24317
pursuant to section 3305.05 or 3305.051 of the Revised Code, 24318
"compensation" as defined in division (V) of section 3309.01 of 24319
the Revised Code. 24320

(F) "~~Provider~~ Vendor" means an entity designated under 24321
section 3305.03 of the Revised Code as eligible to be a provider 24322
of investment options for an alternative retirement plan. 24323

(G) "Provider" means, with respect to each public institution 24324
of higher education, a vendor that has entered into an agreement 24325
with that public institution of higher education in accordance 24326
with section 3305.04 of the Revised Code. 24327

Sec. 3305.02. An alternative retirement program is hereby 24328
established in accordance with this chapter for the purpose of 24329
providing to eligible employees the opportunity of participating 24330
in an alternative retirement plan as an alternative to 24331

participating in a state retirement system. The employer is the 24332
sponsor of each alternative retirement plan offered under this 24333
chapter. 24334

Each alternative retirement plan offered under this program 24335
shall be a defined contribution plan qualified under section 401 24336
(a) of the Internal Revenue Code that provides retirement and, to 24337
the extent applicable, death benefits through investment options. 24338
The options shall be offered to electing employees pursuant to 24339
trust or custodial accounts or pursuant to group or individual 24340
annuity contracts, and certificates issued under group contracts, 24341
~~and~~. The options may include life insurance, annuities, variable 24342
annuities, regulated investment trusts, pooled investment funds, 24343
or other forms of investment, at the option of each electing 24344
employee. 24345

Notwithstanding this chapter, any retirement plan established 24346
by a public institution of higher education prior to March 31, 24347
1997, as an alternative to participating in any state retirement 24348
system may continue in effect and be modified without regard to 24349
this chapter for all employees at the public institution eligible 24350
to participate in the plan. 24351

Sec. 3305.03. (A) ~~The department of insurance~~ Ohio board of 24352
regents shall designate ~~three or more~~ the entities that are 24353
eligible to provide investment options under alternative 24354
retirement plans ~~established~~ maintained by public institutions of 24355
higher education ~~in accordance with this chapter. An entity shall~~ 24356
~~be designated a provider under this section if the entity meets.~~ 24357
The board shall accept and review applications from entities 24358
seeking designation as a vendor. The board shall not designate an 24359
entity as a vendor unless the entity meets the requirements 24360
described in division (B) of this section. 24361

(B) To be eligible for designation as a vendor, an entity 24362
must meet both of the following requirements: 24363

(1) ~~It is~~ The entity must be authorized to conduct business 24364
in this state with regard to the investment options to be offered 24365
under an alternative retirement plan ~~maintained by a public~~ 24366
institution of higher education. 24367

(2) ~~It provides~~ The entity must offer the same or similar 24368
investment options ~~to be offered~~ under alternative retirement 24369
plans, ~~as group or individual contracts, or a combination thereof,~~ 24370
optional retirement plans, or similar types of plans with respect 24371
to which all of the following apply: 24372

(a) The plans are defined contribution plans that are 24373
qualified plans under Internal Revenue Code 401(a) or 403(b). 24374

(b) The plans are maintained by institutions of higher 24375
education in at least ten other states. 24376

~~(B)~~(c) The plans are established as primary retirement plans 24377
that are alternatives to or a component of the applicable state 24378
retirement system. 24379

~~(C) In designating a provider under this section determining~~ 24380
~~whether to designate an entity as a vendor, the department of~~ 24381
~~insurance board of regents shall identify, consider, and evaluate~~ 24382
all of the following: 24383

(1) The experience of the ~~provider~~ entity in providing in 24384
other states investment options under alternative retirement 24385
~~programs in other states~~ plans, optional retirement plans, or 24386
similar types of plans that meet the requirements of division 24387
(B)(2) of this section; 24388

(2) The potential effectiveness of the ~~provider~~ entity in 24389
recruiting eligible employees to ~~enter into contracts~~ select that 24390
entity for purposes of participating in an alternative retirement 24391

| | |
|---|-------|
| <u>plan and in retaining those contracts employees' accounts;</u> | 24392 |
| (3) <u>Whether the entity intends to offer a broad range of investment options to the electing employees;</u> | 24393 |
| | 24394 |
| (4) <u>The suitability of the investment options to the needs and interests of the electing employees and their beneficiaries;</u> | 24395 |
| | 24396 |
| (5) <u>The capability of the entity to offer sufficient information to the electing employees and their beneficiaries to make informed decisions with regard to investment options offered by the entity;</u> | 24397 |
| | 24398 |
| | 24399 |
| | 24400 |
| (6) <u>The capability of the entity to perform in a manner that is in the best interests of the electing employees and their beneficiaries;</u> | 24401 |
| | 24402 |
| | 24403 |
| (7) <u>The fees and expenses associated with the entity's investment options and the manner in which the entity intends to disclose those fees and expenses;</u> | 24404 |
| | 24405 |
| | 24406 |
| (8) <u>The nature and extent of the rights and benefits to be provided under the investment options;</u> | 24407 |
| | 24408 |
| (4) The relationship between the rights and benefits under the investment options and the amount of the contributions made under those options; | 24409 |
| | 24410 |
| | 24411 |
| (5) The suitability of the rights and benefits under the investment options to the needs and interests of eligible employees; | 24412 |
| | 24413 |
| | 24414 |
| (6) (9) <u>The capability of the provider entity to provide the rights and benefits under the investment options;</u> | 24415 |
| | 24416 |
| (7) (10) <u>Comments submitted by a public institution of higher education under section 3305.031 of the Revised Code;</u> | 24417 |
| | 24418 |
| (11) <u>Any other matters it the board of regents considers relevant.</u> | 24419 |
| | 24420 |

~~(C)(D)~~ The ~~department of insurance~~ board of regents shall 24421
~~periodically review~~ conduct periodic reviews of each ~~provider~~ 24422
entity designated ~~under division (A) of this section~~ as a vendor 24423
and the investment options being offered to ensure that the 24424
requirements and purposes of this chapter are being met. ~~If the~~ 24425
~~department~~ The reviews of a vendor shall occur not less frequently 24426
than once every three years. 24427

If it finds that the ~~provider~~ vendor is not in compliance 24428
with ~~any requirement~~ the requirements of this chapter or the 24429
~~provider~~ vendor is not satisfactorily meeting the purposes of this 24430
chapter, the ~~department may~~ board shall rescind the ~~provider's~~ 24431
vendor's designation. 24432

~~(D)(E)~~ Notwithstanding sections 125.01 to 125.11 of the 24433
Revised Code, designation of a ~~provider~~ vendor or the execution of 24434
any ~~contract~~ agreement under this chapter is not subject to 24435
competitive bidding under those sections. 24436

Sec. 3305.031. (A) As part of the process established under 24437
section 3305.03 of the Revised Code for designating an entity as a 24438
vendor and conducting periodic reviews of a vendor, the Ohio board 24439
of regents shall do all of the following: 24440

(1) Provide written notice to each public institution of 24441
higher education that an entity has applied to be designated as a 24442
vendor under section 3305.03 of the Revised Code; 24443

(2) Provide written notice to each public institution of 24444
higher education that a vendor is scheduled for a review; 24445

(3) Establish a comment period of not less than thirty days 24446
during which a public institution of higher education is 24447
authorized to comment about an entity's application for 24448
designation or a vendor's review and to request a meeting with the 24449
board of regents concerning the application or review; 24450

(4) Not later than fourteen days after the board makes a decision with respect to an application or review, including any rescission of a vendor's designation, provide written notice to each public institution of higher education of the board's decision. 24451
24452
24453
24454
24455

(B) If a meeting is requested by a public institution of higher education under division (A)(3) of this section, the board of regents shall do all of the following: 24456
24457
24458

(1) Notify each public institution of higher education of the meeting and its time and place; 24459
24460

(2) Hold the meeting not less than ten but not more than thirty days after the end of the comment period; 24461
24462

(3) Continue to accept comments concerning the application or review, as applicable, until five business days after the meeting is held. 24463
24464
24465

(C) The board of regents shall adopt rules under section 3305.032 of the Revised Code specifying the method to be used by public institutions of higher education in submitting comments to the board concerning an application or review. 24466
24467
24468
24469

Sec. 3305.032. The Ohio board of regents shall adopt rules as the board considers necessary to carry out its duties and responsibilities under this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may provide for fees to be charged providers by the board to cover administrative and marketing expenses of the board. 24470
24471
24472
24473
24474
24475

Sec. 3305.04. (A) The board of trustees of each public institution of higher education shall adopt an alternative retirement plan in accordance with this chapter. ~~Each public institution of higher education shall enter into a contract with each provider designated pursuant to section 3305.03 of the~~ 24476
24477
24478
24479
24480

~~Revised Code that is willing to provide investment options under 24481
an alternative retirement plan at that public institution. Each 24482
contract shall provide for termination of the contract if the 24483
provider ceases to be a designated provider. In 24484~~

In accordance with this chapter, each board may perform such 24485
functions and provide as necessary for the administration of its 24486
alternative retirement plan. 24487

(B)(1) In implementing the alternative retirement plan 24488
established by the board, the public institution of higher 24489
education shall develop agreements to be entered into with 24490
entities designated under section 3305.03 of the Revised Code as 24491
vendors. Each agreement shall include such terms and conditions as 24492
are determined by the public institution of higher education in 24493
its sole discretion. 24494

(2) Except as provided in division (B)(3) of this section, 24495
the public institution of higher education shall enter into 24496
agreements with a minimum of four vendors or, if fewer than four 24497
vendors are available, with the number of vendors available. 24498

(3) Division (B)(2) of this section does not require a public 24499
institution of higher education to enter into an agreement with a 24500
vendor if either of the following is the case: 24501

(a) The vendor is not willing to provide investment options 24502
under the alternative retirement plan at that public institution. 24503

(b) The vendor is not willing to agree to the terms and 24504
conditions of the agreement. 24505

(4) After an agreement has been entered into, both of the 24506
following apply with respect to termination of the agreement with 24507
the provider: 24508

(a) The agreement shall be terminated if the provider ceases 24509
to be an entity designated as a vendor. 24510

(b) The agreement may be terminated if the provider fails to 24511
comply with the terms and conditions of such agreement. 24512

Sec. 3305.05. (A) As used in this section and section 24513
3305.051 of the Revised Code, "academic or administrative 24514
employee" means any full-time employee not receiving any benefit, 24515
allowance, or other payment granted on the employee's account from 24516
a state retirement system who, before ~~the effective date of this~~ 24517
~~section~~ August 1, 2005, met one of the following requirements: 24518

(1) The employee was a member of the faculty of a public 24519
institution of higher education. 24520

(2) The employee was a member of the administrative staff of 24521
a public institution of higher education serving in a position in 24522
the unclassified civil service pursuant to section 124.11 of the 24523
Revised Code. 24524

(3) If section 124.11 of the Revised Code did not apply to 24525
the public institution of higher education, the employee was a 24526
member of the administrative staff of a public institution of 24527
higher education serving in a position comparable to a position in 24528
the unclassified civil service. 24529

In all cases of doubt, the board of trustees of the public 24530
institution of higher education shall determine whether any person 24531
is an academic or administrative employee for purposes of this 24532
chapter, and the board's decision shall be final. 24533

(B)(1) Each person who, on ~~the effective date of this section~~ 24534
August 1, 2005, is an eligible employee of a public institution of 24535
higher education and has accrued less than five years of service 24536
credit in a state retirement system may, not later than one 24537
hundred twenty days after ~~the effective date of this section~~ 24538
August 1, 2005, make an election to participate in an alternative 24539
retirement plan available at the employing public institution, 24540

unless, prior to ~~the effective date of this section~~ August 1, 24541
2005, the person had an opportunity pursuant to former section 24542
3305.05 of the Revised Code to make such an election as an 24543
academic or administrative employee of that public institution of 24544
higher education. 24545

(2) An eligible employee whose employment with a public 24546
institution of higher education commences on or after ~~the~~ 24547
~~effective date of this section~~ August 1, 2005, may, not later than 24548
one hundred twenty days after the starting date of the employment, 24549
make an election to participate in an alternative retirement plan 24550
available at the employing public institution. 24551

(3) An eligible employee who, on or after ~~the effective date~~ 24552
~~of this section~~ August 1, 2005, terminates employment at one 24553
public institution of higher education and subsequently is 24554
employed by another public institution of higher education in a 24555
position for which an alternative retirement plan is available 24556
may, not later than one hundred twenty days after the starting 24557
date of the employment, elect to participate in an alternative 24558
retirement plan available at that public institution. 24559

(C)(1) An eligible employee who makes an election under 24560
division (B) of this section shall submit the election in writing 24561
to the designated officer of the employee's employing public 24562
institution of higher education. Once submitted, the election is 24563
irrevocable while the eligible employee continues to be employed 24564
by the public institution of higher education. Not later than ten 24565
days after the election becomes irrevocable, the officer shall 24566
file a certified copy of the election with the state retirement 24567
system to which, apart from the election, the employee's 24568
employment would be subject. 24569

Each public institution of higher education that employs a 24570
person eligible to make an election under division (B) of this 24571
section shall notify, in writing, ~~within ten days of the person's~~ 24572

~~employment,~~ the state retirement system that applies to that 24573
employment in the manner specified by that state retirement 24574
system. The notice shall include the person's name and address. 24575
The notice shall be given not later than ten days after the first 24576
date the person is on the institution's payroll. 24577

(2) Elections made under division (B) of this section take 24578
effect as follows: 24579

(a) An election under division (B)(1) of this section is 24580
effective as of the date on which the employee's election to 24581
participate in the alternative retirement plan becomes 24582
irrevocable. 24583

(b) An election under division (B)(2) or (3) of this section 24584
is effective as of the electing employee's starting date of 24585
employment. 24586

(3) An eligible employee's election under division (B) of 24587
this section applies to the employee's employment in all positions 24588
at that public institution, unless the employee terminates 24589
employment at the public institution and does not return to 24590
employment in any position at that public institution ~~prior to one~~ 24591
year for at least three hundred sixty-five days after the date of 24592
termination. 24593

(4) An eligible employee who makes an election under division 24594
(B) of this section is forever barred from claiming or purchasing 24595
service credit under any state retirement system for the period of 24596
employment while the election is in effect. 24597

(D)(1) An eligible employee who fails to make an election 24598
under division (B) of this section within the one-hundred-twenty 24599
day election period shall be deemed to have elected to participate 24600
in the state retirement system that applies to the employee's 24601
employment. 24602

(2) An eligible employee who fails to make an election under 24603

division (B) of this section shall not be permitted to make an 24604
election for employment in any other position at the public 24605
institution of higher education while employed at that public 24606
institution, unless the employee terminates employment at the 24607
public institution and does not return to employment in any 24608
position at the public institution ~~prior to one year~~ for at least 24609
three hundred sixty-five days after the date of termination. 24610

Sec. 3305.053. The board of trustees of a public institution 24611
of higher education shall permit an employee who makes an election 24612
under section 3305.05 or 3305.051 of the Revised Code to do all of 24613
the following: 24614

(A) Select, from among the providers that have entered into a 24615
~~contract~~ an agreement with the public institution of higher 24616
education under section 3305.04 of the Revised Code, the provider 24617
of an investment option for that employee; 24618

(B) ~~Except as permitted under division (C) of this section,~~ 24619
~~contract with only one provider in any plan year;~~ 24620

~~(C) Change~~ Subject to any terms and conditions established by 24621
the public institution of higher education, change the provider 24622
selected under division (A) of this section ~~at the following~~ 24623
~~times:~~ 24624

~~(1) Once during the first payroll period in any plan year;~~ 24625

~~(2) Any time the provider that the employee selected ceases,~~ 24626
~~under division (C) of section 3305.03 of the Revised Code, to be~~ 24627
~~designated~~ any time during the plan year. 24628

~~(D)~~(C) If under division ~~(C)~~(B) of this section an employee 24629
changes providers, the employee may direct the provider ~~shall to~~ 24630
transfer to the new provider the employee's account balance either 24631
in whole or in part, as directed by the employee, except that the 24632
provider is not required to immediately transfer any part of the 24633

account invested at the employee's election in a fixed annuity 24634
account if the contract with the employee under which the 24635
investment was made permits the provider to make such a transfer 24636
over a period of time not exceeding ten years and the contract was 24637
filed with and approved by the department of insurance pursuant to 24638
section 3911.011 of the Revised Code. 24639

Sec. 3305.06. (A) Each electing employee shall contribute an 24640
amount, which shall be a certain percentage of the employee's 24641
compensation, to the provider of the investment option the 24642
employee has selected. This percentage shall be the percentage the 24643
electing employee would have otherwise been required to contribute 24644
to the state retirement system that applies to the employee's 24645
position, except that the percentage shall not be less than three 24646
per cent. Employee contributions under this division may be 24647
treated as employer contributions in accordance with Internal 24648
Revenue Code 414(h). 24649

(B) Each public institution of higher education employing an 24650
electing employee shall contribute a percentage of the employee's 24651
compensation to the provider of the investment option the employee 24652
has selected. This percentage shall be equal to the percentage 24653
that the public institution of higher education would otherwise 24654
contribute on behalf of that employee to the state retirement 24655
system that would otherwise cover that employee's position, less 24656
the percentage contributed by the public institution of higher 24657
education under division (D) of this section. 24658

(C)(1) In no event shall the amount contributed by the 24659
electing employee pursuant to division (A) of this section and on 24660
the electing employee's behalf pursuant to division (B) of this 24661
section be less than the amount necessary to qualify the plan as a 24662
state retirement system pursuant to Internal Revenue Code 24663
3121-(B)-(b)(7) and the regulations adopted thereunder. 24664

(2) The full amount of the electing employee's contribution under division (A) of this section and the full amount of the employer's contribution made on behalf of that employee under division (B) of this section shall be paid to the appropriate provider for application to the electing employee's investment option.

(D) Each public institution of higher education employing an electing employee shall contribute on behalf of that employee to the state retirement system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be six per cent, except that the percentage may be adjusted by the Ohio retirement study council to reflect the determinations made by actuarial studies conducted under section 171.07 of the Revised Code. Any adjustment shall become effective on the first day of the second month following submission of the actuarial study to the Ohio board of regents under section 171.07 of the Revised Code.

Contributions on behalf of an electing employee shall continue in accordance with this division until the occurrence of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 145.325 or 145.58 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 145.22 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election

pursuant to section 3305.05 or 3305.051 of the Revised Code, until 24697
the unfunded actuarial accrued liability for all benefits, except 24698
health care benefits provided under section 3307.39 or 3307.61 of 24699
the Revised Code and benefit increases provided after March 31, 24700
1997, is fully amortized, as determined by the annual actuarial 24701
valuation prepared under section 3307.51 of the Revised Code; 24702

(3) If the electing employee would be subject to Chapter 24703
3309. of the Revised Code had the employee not made an election 24704
pursuant to section 3305.05 or 3305.051 of the Revised Code, until 24705
the unfunded actuarial accrued liability for all benefits, except 24706
health care benefits provided under section 3309.375 or 3309.69 of 24707
the Revised Code and benefit increases provided after March 31, 24708
1997, is fully amortized, as determined by the annual actuarial 24709
valuation prepared under section 3309.21 of the Revised Code. 24710

Sec. 3313.65. (A) As used in this section and section 3313.64 24711
of the Revised Code: 24712

(1) A person is "in a residential facility" if the person is 24713
a resident or a resident patient of an institution, home, or other 24714
residential facility that is: 24715

(a) Licensed as a nursing home, residential care facility, or 24716
home for the aging by the director of health under section 3721.02 24717
of the Revised Code; 24718

~~(b) Licensed as an adult care facility by the director of 24719
mental health under sections 5119.70 to 5119.88 of the Revised 24720
Code;~~ 24721

~~(e)~~ Maintained as a county home or district home by the board 24722
of county commissioners or a joint board of county commissioners 24723
under Chapter 5155. of the Revised Code; 24724

~~(d)~~(c) Operated or administered by a board of alcohol, drug 24725
addiction, and mental health services under section 340.03 or 24726

340.06 of the Revised Code, or provides residential care pursuant 24727
to contracts made under section 340.03 or 340.033 of the Revised 24728
Code; 24729

~~(e)~~(d) Maintained as a state institution for the mentally ill 24730
under Chapter 5119. of the Revised Code; 24731

~~(f)~~(e) Licensed by the department of mental health under 24732
section 5119.20 or 5119.22 of the Revised Code; 24733

~~(g)~~(f) Licensed as a residential facility by the department 24734
of developmental disabilities under section 5123.19 of the Revised 24735
Code; 24736

~~(h)~~(g) Operated by the veteran's administration or another 24737
agency of the United States government; 24738

~~(i)~~(h) Operated by the Ohio veterans' home. 24739

(2) A person is "in a correctional facility" if any of the 24740
following apply: 24741

(a) The person is an Ohio resident and is: 24742

(i) Imprisoned, as defined in section 1.05 of the Revised 24743
Code; 24744

(ii) Serving a term in a community-based correctional 24745
facility or a district community-based correctional facility; 24746

(iii) Required, as a condition of parole, a post-release 24747
control sanction, a community control sanction, transitional 24748
control, or early release from imprisonment, as a condition of 24749
shock parole or shock probation granted under the law in effect 24750
prior to July 1, 1996, or as a condition of a furlough granted 24751
under the version of section 2967.26 of the Revised Code in effect 24752
prior to March 17, 1998, to reside in a halfway house or other 24753
community residential center licensed under section 2967.14 of the 24754
Revised Code or a similar facility designated by the court of 24755
common pleas that established the condition or by the adult parole 24756

authority. 24757

(b) The person is imprisoned in a state correctional 24758
institution of another state or a federal correctional institution 24759
but was an Ohio resident at the time the sentence was imposed for 24760
the crime for which the person is imprisoned. 24761

(3) A person is "in a juvenile residential placement" if the 24762
person is an Ohio resident who is under twenty-one years of age 24763
and has been removed, by the order of a juvenile court, from the 24764
place the person resided at the time the person became subject to 24765
the court's jurisdiction in the matter that resulted in the 24766
person's removal. 24767

(4) "Community control sanction" has the same meaning as in 24768
section 2929.01 of the Revised Code. 24769

(5) "Post-release control sanction" has the same meaning as 24770
in section 2967.01 of the Revised Code. 24771

(B) If the circumstances described in division (C) of this 24772
section apply, the determination of what school district must 24773
admit a child to its schools and what district, if any, is liable 24774
for tuition shall be made in accordance with this section, rather 24775
than section 3313.64 of the Revised Code. 24776

(C) A child who does not reside in the school district in 24777
which the child's parent resides and for whom a tuition obligation 24778
previously has not been established under division (C)(2) of 24779
section 3313.64 of the Revised Code shall be admitted to the 24780
schools of the district in which the child resides if at least one 24781
of the child's parents is in a residential or correctional 24782
facility or a juvenile residential placement and the other parent, 24783
if living and not in such a facility or placement, is not known to 24784
reside in this state. 24785

(D) Regardless of who has custody or care of the child, 24786
whether the child resides in a home, or whether the child receives 24787

special education, if a district admits a child under division (C) 24788
of this section, tuition shall be paid to that district as 24789
follows: 24790

(1) If the child's parent is in a juvenile residential 24791
placement, by the district in which the child's parent resided at 24792
the time the parent became subject to the jurisdiction of the 24793
juvenile court; 24794

(2) If the child's parent is in a correctional facility, by 24795
the district in which the child's parent resided at the time the 24796
sentence was imposed; 24797

(3) If the child's parent is in a residential facility, by 24798
the district in which the parent resided at the time the parent 24799
was admitted to the residential facility, except that if the 24800
parent was transferred from another residential facility, tuition 24801
shall be paid by the district in which the parent resided at the 24802
time the parent was admitted to the facility from which the parent 24803
first was transferred; 24804

(4) In the event of a disagreement as to which school 24805
district is liable for tuition under division (C)(1), (2), or (3) 24806
of this section, the superintendent of public instruction shall 24807
determine which district shall pay tuition. 24808

(E) If a child covered by division (D) of this section 24809
receives special education in accordance with Chapter 3323. of the 24810
Revised Code, the tuition shall be paid in accordance with section 24811
3323.13 or 3323.14 of the Revised Code. Tuition for children who 24812
do not receive special education shall be paid in accordance with 24813
division (J) of section 3313.64 of the Revised Code. 24814

Sec. 3313.71. School physicians may make examinations, which 24815
shall include tests to determine the existence of hearing defects, 24816
and diagnoses of all children referred to them. They may make such 24817

examination of teachers and other school employees and inspection 24818
of school buildings as in their opinion the protection of health 24819
of the pupils, teachers, and other school employees requires. 24820

Boards of education shall require and provide, in accordance 24821
with section 3313.67 of the Revised Code, such tests and 24822
examinations for tuberculosis of pupils in selected grades and of 24823
school employees as may be required by the ~~Ohio public~~ director of 24824
health ~~council~~. 24825

Boards may require annual tuberculin tests of any grades. All 24826
pupils with positive reactions to the test shall have chest x-rays 24827
and all positive reactions and x-ray findings shall be reported 24828
promptly to the county record bureau of tuberculosis cases 24829
provided for in section 339.74 of the Revised Code. Boards shall 24830
waive the required test where a pupil presents a written statement 24831
from the pupil's family physician certifying that such test has 24832
been given and that such pupil is free from tuberculosis in a 24833
communicable stage, or that such test is inadvisable for medical 24834
reasons, or from the pupil's parent or guardian objecting to such 24835
test because of religious convictions. 24836

Whenever a pupil, teacher, or other school employee is found 24837
to be ill or suffering from tuberculosis in a communicable stage 24838
or other communicable disease, the school physician shall promptly 24839
send such pupil, teacher, or other school employee home, with a 24840
statement, in the case of a pupil, to the pupil's parents or 24841
guardian, briefly setting forth the discovered facts, and advising 24842
that the family physician be consulted. School physicians shall 24843
keep accurate card-index records of all examinations, and said 24844
records, that they may be uniform throughout the state, shall be 24845
according to the form prescribed by the state board of education, 24846
and the reports shall be made according to the method of said 24847
form. If the parent or guardian of any pupil or any teacher or 24848
other school employee, after notice from the board of education, 24849

furnishes within two weeks thereafter the written certificate of 24850
any reputable physician that the pupil, teacher, or other school 24851
employee has been examined, in such cases the service of the 24852
school physician shall be dispensed with, and such certificate 24853
shall be furnished by such parent or guardian, as required by the 24854
board of education. Such individual records shall not be open to 24855
the public and shall be solely for the use of the boards of 24856
education and boards of health officer. If any teacher or other 24857
school employee is found to have tuberculosis in a communicable 24858
stage or other communicable disease, the teacher's or employee's 24859
employment shall be discontinued or suspended upon such terms as 24860
to salary as the board deems just until the school physician has 24861
certified to a recovery from such disease. The methods of making 24862
the tuberculin tests and chest x-rays required by this section 24863
shall be such as are approved by the director of health. 24864

Sec. 3313.976. (A) No private school may receive scholarship 24865
payments from parents pursuant to section 3313.979 of the Revised 24866
Code until the chief administrator of the private school registers 24867
the school with the superintendent of public instruction. The 24868
state superintendent shall register any school that meets the 24869
following requirements: 24870

(1) The school is located within the boundaries of the pilot 24871
project school district; 24872

(2) The school indicates in writing its commitment to follow 24873
all requirements for a state-sponsored scholarship program 24874
specified under sections 3313.974 to 3313.979 of the Revised Code, 24875
including, but not limited to, the requirements for admitting 24876
students pursuant to section 3313.977 of the Revised Code; 24877

(3) The school meets all state minimum standards for 24878
chartered nonpublic schools in effect on July 1, 1992, except that 24879
the state superintendent at the superintendent's discretion may 24880

register nonchartered nonpublic schools meeting the other 24881
requirements of this division; 24882

(4) The school does not discriminate on the basis of race, 24883
religion, or ethnic background; 24884

(5) The school enrolls a minimum of ten students per class or 24885
a sum of at least twenty-five students in all the classes offered; 24886

(6) The school does not advocate or foster unlawful behavior 24887
or teach hatred of any person or group on the basis of race, 24888
ethnicity, national origin, or religion; 24889

(7) The school does not provide false or misleading 24890
information about the school to parents, students, or the general 24891
public; 24892

(8) For students in grades kindergarten through eight with 24893
family incomes at or below two hundred per cent of the federal 24894
poverty guidelines, as defined in section 5104.46 of the Revised 24895
Code, the school agrees not to charge any tuition ~~to low income~~ 24896
~~families receiving ninety per cent of the scholarship amount~~ 24897
~~through the scholarship program, pursuant to division (A) of~~ 24898
~~section 3313.978 of the Revised Code, in excess of ten per cent of~~ 24899
the scholarship amount established pursuant to division (C)(1) of 24900
section 3313.978 of the Revised Code, excluding any increase 24901
described in division (C)(2) of that section. ~~The school shall~~ 24902
~~permit any such tuition, at the discretion of the parent, to be~~ 24903
~~satisfied by the low income family's provision of in-kind~~ 24904
~~contributions or services.~~ 24905

(9) For students in grades kindergarten through eight with 24906
family incomes above two hundred per cent of the federal poverty 24907
guidelines, whose scholarship amounts are less than the actual 24908
tuition charge of the school, the school agrees not to charge any 24909
tuition ~~to low income families receiving a seventy five per cent~~ 24910
~~scholarship amount through the scholarship program, pursuant to~~ 24911

~~division (A) of section 3313.978 of the Revised Code,~~ in excess of 24912
the difference between the actual tuition charge of the school and 24913
~~seventy five per cent of the scholarship amount established~~ 24914
pursuant to division (C)(1) of section 3313.978 of the Revised 24915
Code, excluding any increase described in division (C)(2) of that 24916
section. The school shall permit such tuition, at the discretion 24917
of the parent, to be satisfied by the ~~low-income~~ family's 24918
provision of in-kind contributions or services. 24919

(10) The school agrees not to charge any tuition to families 24920
of students in grades nine through twelve receiving a scholarship 24921
in excess of the actual tuition charge of the school less 24922
~~seventy five or ninety per cent of the scholarship amount~~ 24923
established pursuant to division (C)(1) of section 3313.978 of the 24924
Revised Code, ~~as applicable,~~ excluding any increase described in 24925
division (C)(2) of that section. 24926

(11) Notwithstanding division (K) of section 3301.0711 of the 24927
Revised Code, the school annually administers the assessments 24928
prescribed by section 3301.0710 of the Revised Code to each 24929
scholarship student enrolled in the school in accordance with 24930
section 3301.0711 of the Revised Code and reports to the 24931
department of education the results of each such assessment 24932
administered to each scholarship student. 24933

(B) The state superintendent shall revoke the registration of 24934
any school if, after a hearing, the superintendent determines that 24935
the school is in violation of any of the provisions of division 24936
(A) of this section. 24937

(C) Any public school located in a school district adjacent 24938
to the pilot project district may receive scholarship payments on 24939
behalf of parents pursuant to section 3313.979 of the Revised Code 24940
if the superintendent of the district in which such public school 24941
is located notifies the state superintendent prior to the first 24942
day of March that the district intends to admit students from the 24943

pilot project district for the ensuing school year pursuant to 24944
section 3327.06 of the Revised Code. 24945

(D) Any parent wishing to purchase tutorial assistance from 24946
any person or governmental entity pursuant to the pilot project 24947
program under sections 3313.974 to 3313.979 of the Revised Code 24948
shall apply to the state superintendent. The state superintendent 24949
shall approve providers who appear to possess the capability of 24950
furnishing the instructional services they are offering to 24951
provide. 24952

Sec. 3313.978. (A) Annually by the first day of November, the 24953
superintendent of public instruction shall notify the pilot 24954
project school district of the number of initial scholarships that 24955
the state superintendent will be awarding in each of grades 24956
kindergarten through twelve. 24957

The state superintendent shall provide information about the 24958
scholarship program to all students residing in the district, 24959
shall accept applications from any such students until such date 24960
as shall be established by the state superintendent as a deadline 24961
for applications, and shall establish criteria for the selection 24962
of students to receive scholarships from among all those applying 24963
prior to the deadline, which criteria shall give preference to 24964
students from low-income families. ~~For each student selected, the~~ 24965
~~state superintendent shall also determine whether the student~~ 24966
~~qualifies for seventy five or ninety per cent of the scholarship~~ 24967
~~amount. Students whose family income is at or above two hundred~~ 24968
~~per cent of the maximum income level established by the state~~ 24969
~~superintendent for low income families shall qualify for~~ 24970
~~seventy five per cent of the scholarship amount and students whose~~ 24971
~~family income is below two hundred per cent of that maximum income~~ 24972
~~level shall qualify for ninety per cent of the scholarship amount.~~ 24973
The state superintendent shall notify students of their selection 24974

prior to the fifteenth day of January ~~and whether they qualify for~~ 24975
~~seventy five or ninety per cent of the scholarship amount.~~ 24976

(1) A student receiving a pilot project scholarship may 24977
utilize it at an alternative public school by notifying the 24978
district superintendent, at any time before the beginning of the 24979
school year, of the name of the public school in an adjacent 24980
school district to which the student has been accepted pursuant to 24981
section 3327.06 of the Revised Code. 24982

(2) A student may decide to utilize a pilot project 24983
scholarship at a registered private school in the district if all 24984
of the following conditions are met: 24985

(a) By the fifteenth day of February of the preceding school 24986
year, or at any time prior to the start of the school year, the 24987
parent makes an application on behalf of the student to a 24988
registered private school. 24989

(b) The registered private school notifies the parent and the 24990
state superintendent as follows that the student has been 24991
admitted: 24992

(i) By the fifteenth day of March of the preceding school 24993
year if the student filed an application by the fifteenth day of 24994
February and was admitted by the school pursuant to division (A) 24995
of section 3313.977 of the Revised Code; 24996

(ii) Within one week of the decision to admit the student if 24997
the student is admitted pursuant to division (C) of section 24998
3313.977 of the Revised Code. 24999

(c) The student actually enrolls in the registered private 25000
school to which the student was first admitted or in another 25001
registered private school in the district or in a public school in 25002
an adjacent school district. 25003

(B) The state superintendent shall also award in any school 25004

year tutorial assistance grants to a number of students equal to 25005
the number of students who receive scholarships under division (A) 25006
of this section. Tutorial assistance grants shall be awarded 25007
solely to students who are enrolled in the public schools of the 25008
district in a grade level covered by the pilot project. Tutorial 25009
assistance grants may be used solely to obtain tutorial assistance 25010
from a provider approved pursuant to division (D) of section 25011
3313.976 of the Revised Code. 25012

All students wishing to obtain tutorial assistance grants 25013
shall make application to the state superintendent by the first 25014
day of the school year in which the assistance will be used. The 25015
state superintendent shall award assistance grants in accordance 25016
with criteria the superintendent shall establish. ~~For each student~~ 25017
~~awarded a grant, the state superintendent shall also determine~~ 25018
~~whether the student qualifies for seventy five or ninety per cent~~ 25019
~~of the grant amount and so notify the student. Students whose~~ 25020
~~family income is at or above two hundred per cent of the maximum~~ 25021
~~income level established by the state superintendent for~~ 25022
~~low income families shall qualify for seventy five per cent of the~~ 25023
~~grant amount and students whose family income is below two hundred~~ 25024
~~per cent of that maximum income level shall qualify for ninety per~~ 25025
~~cent of the grant amount.~~ 25026

(C)(1) In the case of basic scholarships for students in 25027
grades kindergarten through eight, the scholarship amount shall 25028
not exceed the lesser of the net tuition charges of the 25029
alternative school the scholarship recipient attends or three 25030
thousand dollars before fiscal year 2007, three thousand four 25031
hundred fifty dollars in fiscal year 2007 through fiscal year 25032
2011, and four thousand two hundred fifty dollars in fiscal year 25033
2012 and thereafter. 25034

In the case of basic scholarships for students in grades nine 25035
through twelve, the scholarship amount shall not exceed the lesser 25036

of the net tuition charges of the alternative school the 25037
scholarship recipient attends or two thousand seven hundred 25038
dollars before fiscal year 2007, three thousand four hundred fifty 25039
dollars in fiscal year 2007 through fiscal year 2011, and five 25040
thousand dollars in fiscal year 2012 and thereafter. 25041

The net tuition and fees charged to a student shall be the 25042
tuition amount specified by the alternative school minus all other 25043
financial aid, discounts, and adjustments received for the 25044
student. In cases where discounts are offered for multiple 25045
students from the same family, and not all students in the same 25046
family are scholarship recipients, the net tuition amount 25047
attributable to the scholarship recipient shall be the lowest net 25048
tuition to which the family is entitled. 25049

(2) The state superintendent shall provide for an increase in 25050
the basic scholarship amount in the case of any student who is a 25051
mainstreamed student with a disability and shall further increase 25052
such amount in the case of any separately educated student with a 25053
disability. Such increases shall take into account the 25054
instruction, related services, and transportation costs of 25055
educating such students. 25056

(3) In the case of tutorial assistance grants, the grant 25057
amount shall not exceed the lesser of the provider's actual 25058
charges for such assistance or: 25059

(a) Before fiscal year 2007, a percentage established by the 25060
state superintendent, not to exceed twenty per cent, of the amount 25061
of the pilot project school district's average basic scholarship 25062
amount; 25063

(b) In fiscal year 2007 and thereafter, four hundred dollars. 25064

~~(4) No scholarship or tutorial assistance grant shall be 25065~~
~~awarded unless the state superintendent determines that 25066~~
~~twenty five or ten per cent, as applicable, of the amount 25067~~

~~specified for such scholarship or grant pursuant to division 25068
(C)(1), (2), or (3) of this section will be furnished by a 25069
political subdivision, a private nonprofit or for profit entity, 25070
or another person. Only seventy five or ninety per cent of such 25071
amounts, as applicable, shall be paid from state funds pursuant to 25072
section 3313.979 of the Revised Code. 25073~~

(D)(1) Annually by the first day of November, the state 25074
superintendent shall estimate the maximum per-pupil scholarship 25075
amounts for the ensuing school year. The state superintendent 25076
shall make this estimate available to the general public at the 25077
offices of the district board of education together with the forms 25078
required by division (D)(2) of this section. 25079

(2) Annually by the fifteenth day of January, the chief 25080
administrator of each registered private school located in the 25081
pilot project district and the principal of each public school in 25082
such district shall complete a parental information form and 25083
forward it to the president of the board of education. The 25084
parental information form shall be prescribed by the department of 25085
education and shall provide information about the grade levels 25086
offered, the numbers of students, tuition amounts, achievement 25087
test results, and any sectarian or other organizational 25088
affiliations. 25089

(E)(1) Only for the purpose of administering the pilot 25090
project scholarship program, the department may request from any 25091
of the following entities the data verification code assigned 25092
under division (D)(2) of section 3301.0714 of the Revised Code to 25093
any student who is seeking a scholarship under the program: 25094

(a) The school district in which the student is entitled to 25095
attend school under section 3313.64 or 3313.65 of the Revised 25096
Code; 25097

(b) If applicable, the community school in which the student 25098

is enrolled; 25099

(c) The independent contractor engaged to create and maintain 25100
data verification codes. 25101

(2) Upon a request by the department under division (E)(1) of 25102
this section for the data verification code of a student seeking a 25103
scholarship or a request by the student's parent for that code, 25104
the school district or community school shall submit that code to 25105
the department or parent in the manner specified by the 25106
department. If the student has not been assigned a code, because 25107
the student will be entering kindergarten during the school year 25108
for which the scholarship is sought, the district shall assign a 25109
code to that student and submit the code to the department or 25110
parent by a date specified by the department. If the district does 25111
not assign a code to the student by the specified date, the 25112
department shall assign a code to the student. 25113

The department annually shall submit to each school district 25114
the name and data verification code of each student residing in 25115
the district who is entering kindergarten, who has been awarded a 25116
scholarship under the program, and for whom the department has 25117
assigned a code under this division. 25118

(3) The department shall not release any data verification 25119
code that it receives under division (E) of this section to any 25120
person except as provided by law. 25121

(F) Any document relative to the pilot project scholarship 25122
program that the department holds in its files that contains both 25123
a student's name or other personally identifiable information and 25124
the student's data verification code shall not be a public record 25125
under section 149.43 of the Revised Code. 25126

(G)(1) The department annually shall compile the scores 25127
attained by scholarship students enrolled in registered private 25128
schools on the assessments administered to the students pursuant 25129

to division (A)(11) of section 3313.976 of the Revised Code. The 25130
scores shall be aggregated as follows: 25131

(a) By school district, which shall include all scholarship 25132
students residing in the pilot project school district who are 25133
enrolled in a registered private school and were required to take 25134
an assessment pursuant to division (A)(11) of section 3313.976 of 25135
the Revised Code; 25136

(b) By registered private school, which shall include all 25137
scholarship students enrolled in that school who were required to 25138
take an assessment pursuant to division (A)(11) of section 25139
3313.976 of the Revised Code. 25140

(2) The department shall disaggregate the student performance 25141
data described in division (G)(1) of this section according to the 25142
following categories: 25143

(a) Age; 25144

(b) Race and ethnicity; 25145

(c) Gender; 25146

(d) Students who have participated in the scholarship program 25147
for three or more years; 25148

(e) Students who have participated in the scholarship program 25149
for more than one year and less than three years; 25150

(f) Students who have participated in the scholarship program 25151
for one year or less; 25152

(g) Economically disadvantaged students. 25153

(3) The department shall post the student performance data 25154
required under divisions (G)(1) and (2) of this section on its web 25155
site and shall include that data in the information about the 25156
scholarship program provided to students under division (A) of 25157
this section. In reporting student performance data under this 25158
division, the department shall not include any data that is 25159

statistically unreliable or that could result in the 25160
identification of individual students. For this purpose, the 25161
department shall not report performance data for any group that 25162
contains less than ten students. 25163

(4) The department shall provide the parent of each 25164
scholarship student enrolled in a registered private school with 25165
information comparing the student's performance on the assessments 25166
administered pursuant to division (A)(11) of section 3313.976 of 25167
the Revised Code with the average performance of similar students 25168
enrolled in the building operated by the pilot project school 25169
district that the scholarship student would otherwise attend. In 25170
calculating the performance of similar students, the department 25171
shall consider age, grade, race and ethnicity, gender, and 25172
socioeconomic status. 25173

Sec. 3313.979. Each scholarship to be used for payments to a 25174
registered private school is payable to the parents of the student 25175
entitled to the scholarship. Each scholarship to be used for 25176
payments to a public school in an adjacent school district is 25177
payable to the school district of attendance by the superintendent 25178
of public instruction. Each grant to be used for payments to an 25179
approved tutorial assistance provider is payable to the approved 25180
tutorial assistance provider. 25181

(A)(1) By the fifteenth day of each month of the school year 25182
that any scholarship students are enrolled in a registered private 25183
school, the chief administrator of that school shall notify the 25184
state superintendent of: 25185

(a) The number of scholarship students who were reported to 25186
the school district as having been admitted by that private school 25187
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 25188
Code and who were still enrolled in the private school as of the 25189
first day of such month, ~~and the numbers of such students who~~ 25190

~~qualify for seventy five and ninety per cent of the scholarship amount;~~ 25191
25192

(b) The number of scholarship students who were reported to 25193
the school district as having been admitted by another private 25194
school pursuant to division (A)(2)(b) of section 3313.978 of the 25195
Revised Code and since the date of admission have transferred to 25196
the school providing the notification under division (A)(1) of 25197
this section, ~~and the numbers of such students who qualify for~~ 25198
~~seventy five and ninety per cent of the scholarship amount.~~ 25199

(2) From time to time, the state superintendent shall make a 25200
payment to the parent of each student entitled to a scholarship. 25201
Each payment shall include for each student reported under 25202
division (A)(1) of this section, a portion of ~~seventy five or~~ 25203
~~ninety per cent, as applicable, of~~ the scholarship amount 25204
specified in divisions (C)(1) and (2) of section 3313.978 of the 25205
Revised Code. This amount shall be proportionately reduced in the 25206
case of any such student who is not enrolled in a registered 25207
private school for the entire school year. 25208

(3) The first payment under this division shall be made by 25209
the last day of November and shall equal one-third of ~~seventy five~~ 25210
~~or ninety per cent, as applicable, of~~ the estimated total amount 25211
that will be due to the parent for the school year pursuant to 25212
division (A)(2) of this section. 25213

(B) The state superintendent, on behalf of the parents of a 25214
scholarship student enrolled in a public school in an adjacent 25215
school district pursuant to section 3327.06 of the Revised Code, 25216
shall make the tuition payments required by that section to the 25217
school district admitting the student, except that, 25218
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 25219
Revised Code, the total payments in any school year shall not 25220
exceed ~~seventy five or ninety per cent, as applicable, of~~ the 25221
scholarship amount provided in divisions (C)(1) and (2) of section 25222

3313.978 of the Revised Code. 25223

(C) Whenever an approved provider provides tutorial 25224
assistance to a student, the state superintendent shall pay the 25225
approved provider for such costs upon receipt of a statement 25226
specifying the services provided and the costs of the services, 25227
which statement shall be signed by the provider and verified by 25228
the chief administrator having supervisory control over the 25229
tutoring site. The total payments to any approved provider under 25230
this division for all provider services to any individual student 25231
in any school year shall not exceed ~~seventy five or ninety per~~ 25232
~~cent, as applicable, of~~ the grant amount provided in division 25233
(C)(3) of section 3313.978 of the Revised Code. 25234

Sec. 3318.034. (A) This section applies to both of the 25235
following: 25236

(1) Any school district that has not executed an agreement 25237
for a project under sections 3318.01 to 3318.20 of the Revised 25238
Code prior to June 24, 2008; 25239

(2) Any school district that is eligible for additional 25240
assistance under sections 3318.01 to 3318.20 of the Revised Code 25241
pursuant to division (B)(2) of section 3318.04 of the Revised 25242
Code. 25243

Notwithstanding any provision of this chapter to the 25244
contrary, with the approval of the Ohio school facilities 25245
commission, any school district to which this section applies may 25246
opt to divide the district's entire classroom facilities needs, as 25247
those needs are jointly determined by the staff of the commission 25248
and the school district, into discrete segments and shall comply 25249
with all of the provisions of those sections unless otherwise 25250
provided in this section. 25251

(B) Except as provided in division (C) of this section, each 25252

segment shall comply with all of the following: 25253

(1) The segment shall consist of the new construction of one 25254
or more entire buildings or the complete renovation of one or more 25255
entire existing buildings, with any necessary additions to that 25256
building. 25257

(2) The segment shall not include any construction of or 25258
renovation or repair to any building that does not complete the 25259
needs of the district with respect to that particular building at 25260
the time the segment is completed. 25261

(3) The segment shall consist of new construction, 25262
renovations, additions, reconstruction, or repair of classroom 25263
facilities to the extent that the school district portion, as 25264
determined under section 3318.032 of the Revised Code, is an 25265
amount not less than the product of 0.040 times the district's 25266
valuation at the time the agreement for the segment is executed, 25267
unless the district previously has undertaken a segment under this 25268
section and the district's portion of the estimated basic project 25269
cost of the remainder of its entire classroom facilities needs, as 25270
determined jointly by the staff of the commission and the 25271
district, is less than the amount otherwise required by this 25272
division. 25273

(C) A district described in division (A)(2) of this section 25274
that has not received the additional assistance authorized under 25275
division (B)(2) of section 3318.04 of the Revised Code may 25276
undertake a segment, with commission approval, for the purpose of 25277
renovating or replacing work performed on a facility under the 25278
district's prior project. The commission may approve that segment 25279
if the commission determines that the renovation or replacement is 25280
necessary to protect the facility. The basic project cost of the 25281
segment shall be allocated between the state and the district in 25282
accordance with section 3318.032 of the Revised Code. However, the 25283
requirements of division (B) of this section shall not apply to a 25284

segment undertaken under this division. 25285

(D) The commission shall conditionally approve and seek 25286
controlling board approval in accordance with division (A) of 25287
section 3318.04 of the Revised Code of each segment. 25288

(E) ~~The school district's maintenance levy requirement, as~~ 25289
~~defined in section 3318.18 of the Revised Code, (1) When~~ 25290
undertaking a segment under this section, a school district may 25291
elect to prorate its full maintenance amount by setting aside for 25292
maintenance the amount calculated under division (E)(2) of this 25293
section to maintain the classroom facilities acquired under the 25294
segment, if the district will use one or more of the alternative 25295
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 25296
the Revised Code to generate the entire amount calculated under 25297
that division. If the district so elects, the commission and the 25298
district shall include in the agreement entered into under section 25299
3318.08 of the Revised Code a statement specifying that the 25300
district will use the amount calculated under that division only 25301
to maintain the classroom facilities acquired under the segment. 25302

(2) The commission shall calculate the amount for a school 25303
district to maintain the classroom facilities acquired under a 25304
segment as follows: 25305

The full maintenance amount X (the school district's portion 25306
of the basic project cost for the segment / the school district's 25307
portion of the basic project cost for the district's entire 25308
classroom facilities needs, as determined jointly by the staff of 25309
the commission and the district) 25310

(3) A school district may elect to prorate its full 25311
maintenance amount for any number of segments, provided the 25312
district will use one or more of the alternative methods 25313
authorized in sections 3318.051, 3318.052, and 3318.084 of the 25314
Revised Code to generate the entire amount calculated under 25315

division (E)(2) of this section to maintain the classroom 25316
facilities acquired under each segment for which it so elects. If 25317
the district cannot use one or more of those alternative methods 25318
to generate the entire amount calculated under that division, the 25319
district shall levy the tax described in division (B) of section 25320
3318.05 of the Revised Code or an extension of that tax under 25321
section 3318.061 of the Revised Code in an amount necessary to 25322
generate the remainder of its full maintenance amount. The 25323
commission shall calculate the remainder of the district's full 25324
maintenance amount as follows: 25325

The full maintenance amount - the sum of the amounts 25326
calculated for the district under division (E)(2) of this section 25327
for each prior segment of the district's project 25328

(4) In no case shall the sum of the amounts calculated for a 25329
school district's maintenance of classroom facilities under 25330
divisions (E)(2) and (3) of this section exceed the amount that 25331
would have been required for maintenance if the district had 25332
elected to undertake its project in its entirety instead of 25333
segmenting the project under this section. 25334

(5) If a school district commenced a segment under this 25335
section prior to the effective date of this amendment but has not 25336
completed that segment, and has not levied the tax described in 25337
division (B) of section 3318.05 of the Revised Code or an 25338
extension of that tax under section 3318.061 of the Revised Code, 25339
the district may request approval from the commission to prorate 25340
its full maintenance amount in accordance with divisions (E)(1) to 25341
(4) of this section. If the commission approves the request, the 25342
commission and the district shall amend the agreement entered into 25343
under section 3318.08 of the Revised Code to reflect the change. 25344

(F) If a school district levies the tax described in division 25345
(B) of section 3318.05 of the Revised Code or an extension of that 25346
tax under section 3318.061 of the Revised Code, the tax shall run 25347

for twenty-three years from the date the ~~first~~ segment for which 25348
the tax is initially levied is undertaken; ~~however, the~~. The 25349
maintenance levy requirement, as defined in section 3318.18 of the 25350
Revised Code, does not apply to a segment undertaken under 25351
division (C) of this section. 25352

(G) As used in this section, "full maintenance amount" means 25353
the amount of total revenue that a school district likely would 25354
generate by one-half mill of the tax described in division (B) of 25355
section 3318.05 of the Revised Code over the entire 25356
twenty-three-year period required under that section, as 25357
determined by the commission in consultation with the department 25358
of taxation. 25359

Sec. 3318.08. Except in the case of a joint vocational school 25360
district that receives assistance under sections 3318.40 to 25361
3318.45 of the Revised Code, if the requisite favorable vote on 25362
the election is obtained, or if the school district board has 25363
resolved to apply the proceeds of a property tax levy or the 25364
proceeds of an income tax, or a combination of proceeds from such 25365
taxes, as authorized in section 3318.052 of the Revised Code, the 25366
Ohio school facilities commission, upon certification to it of 25367
either the results of the election or the resolution under section 25368
3318.052 of the Revised Code, shall enter into a written agreement 25369
with the school district board for the construction and sale of 25370
the project. In the case of a joint vocational school district 25371
that receives assistance under sections 3318.40 to 3318.45 of the 25372
Revised Code, if the school district board of education and the 25373
school district electors have satisfied the conditions prescribed 25374
in division (D)(1) of section 3318.41 of the Revised Code, the 25375
commission shall enter into an agreement with the school district 25376
board for the construction and sale of the project. In either 25377
case, the agreement shall include, but need not be limited to, the 25378
following provisions: 25379

(A) The sale and issuance of bonds or notes in anticipation 25380
thereof, as soon as practicable after the execution of the 25381
agreement, in an amount equal to the school district's portion of 25382
the basic project cost, including any securities authorized under 25383
division (J) of section 133.06 of the Revised Code and dedicated 25384
by the school district board to payment of the district's portion 25385
of the basic project cost of the project; provided, that if at 25386
that time the county treasurer of each county in which the school 25387
district is located has not commenced the collection of taxes on 25388
the general duplicate of real and public utility property for the 25389
year in which the controlling board approved the project, the 25390
school district board shall authorize the issuance of a first 25391
installment of bond anticipation notes in an amount specified by 25392
the agreement, which amount shall not exceed an amount necessary 25393
to raise the net bonded indebtedness of the school district as of 25394
the date of the controlling board's approval to within five 25395
thousand dollars of the required level of indebtedness for the 25396
preceding year. In the event that a first installment of bond 25397
anticipation notes is issued, the school district board shall, as 25398
soon as practicable after the county treasurer of each county in 25399
which the school district is located has commenced the collection 25400
of taxes on the general duplicate of real and public utility 25401
property for the year in which the controlling board approved the 25402
project, authorize the issuance of a second and final installment 25403
of bond anticipation notes or a first and final issue of bonds. 25404

The combined value of the first and second installment of 25405
bond anticipation notes or the value of the first and final issue 25406
of bonds shall be equal to the school district's portion of the 25407
basic project cost. The proceeds of any such bonds shall be used 25408
first to retire any bond anticipation notes. Otherwise, the 25409
proceeds of such bonds and of any bond anticipation notes, except 25410
the premium and accrued interest thereon, shall be deposited in 25411
the school district's project construction fund. In determining 25412

the amount of net bonded indebtedness for the purpose of fixing 25413
the amount of an issue of either bonds or bond anticipation notes, 25414
gross indebtedness shall be reduced by moneys in the bond 25415
retirement fund only to the extent of the moneys therein on the 25416
first day of the year preceding the year in which the controlling 25417
board approved the project. Should there be a decrease in the tax 25418
valuation of the school district so that the amount of 25419
indebtedness that can be incurred on the tax duplicates for the 25420
year in which the controlling board approved the project is less 25421
than the amount of the first installment of bond anticipation 25422
notes, there shall be paid from the school district's project 25423
construction fund to the school district's bond retirement fund to 25424
be applied against such notes an amount sufficient to cause the 25425
net bonded indebtedness of the school district, as of the first 25426
day of the year following the year in which the controlling board 25427
approved the project, to be within five thousand dollars of the 25428
required level of indebtedness for the year in which the 25429
controlling board approved the project. The maximum amount of 25430
indebtedness to be incurred by any school district board as its 25431
share of the cost of the project is either an amount that will 25432
cause its net bonded indebtedness, as of the first day of the year 25433
following the year in which the controlling board approved the 25434
project, to be within five thousand dollars of the required level 25435
of indebtedness, or an amount equal to the required percentage of 25436
the basic project costs, whichever is greater. All bonds and bond 25437
anticipation notes shall be issued in accordance with Chapter 133. 25438
of the Revised Code, and notes may be renewed as provided in 25439
section 133.22 of the Revised Code. 25440

(B) The transfer of such funds of the school district board 25441
available for the project, together with the proceeds of the sale 25442
of the bonds or notes, except premium, accrued interest, and 25443
interest included in the amount of the issue, to the school 25444
district's project construction fund; 25445

(C) For all school districts except joint vocational school 25446
districts that receive assistance under sections 3318.40 to 25447
3318.45 of the Revised Code, the following provisions as 25448
applicable: 25449

(1) If section 3318.052 of the Revised Code applies, the 25450
earmarking of the proceeds of a tax levied under section 5705.21 25451
of the Revised Code for general permanent improvements or under 25452
section 5705.218 of the Revised Code for the purpose of permanent 25453
improvements, or the proceeds of a school district income tax 25454
levied under Chapter 5748. of the Revised Code, or the proceeds 25455
from a combination of those two taxes, in an amount to pay all or 25456
part of the service charges on bonds issued to pay the school 25457
district portion of the project and an amount equivalent to all or 25458
part of the tax required under division (B) of section 3318.05 of 25459
the Revised Code; 25460

(2) If section 3318.052 of the Revised Code does not apply, 25461
one of the following: 25462

(a) The levy of the tax authorized at the election for the 25463
payment of maintenance costs, as specified in division (B) of 25464
section 3318.05 of the Revised Code; 25465

(b) If the school district electors have approved a 25466
continuing tax for general permanent improvements under section 25467
5705.21 of the Revised Code and that tax can be used for 25468
maintenance, the earmarking of an amount of the proceeds from such 25469
tax for maintenance of classroom facilities as specified in 25470
division (B) of section 3318.05 of the Revised Code; 25471

(c) If, in lieu of the tax otherwise required under division 25472
(B) of section 3318.05 of the Revised Code, the commission has 25473
approved the transfer of money to the maintenance fund in 25474
accordance with section 3318.051 of the Revised Code, a 25475
requirement that the district board comply with the provisions 25476

that section. The district board may rescind the provision 25477
prescribed under division (C)(2)(c) of this section only so long 25478
as the electors of the district have approved, in accordance with 25479
section 3318.063 of the Revised Code, the levy of a tax for the 25480
maintenance of the classroom facilities acquired under the 25481
district's project and that levy continues to be collected as 25482
approved by the electors. 25483

(D) For joint vocational school districts that receive 25484
assistance under sections 3318.40 to 3318.45 of the Revised Code, 25485
provision for deposit of school district moneys dedicated to 25486
maintenance of the classroom facilities acquired under those 25487
sections as prescribed in section 3318.43 of the Revised Code; 25488

(E) Dedication of any local donated contribution as provided 25489
for under section 3318.084 of the Revised Code, including a 25490
schedule for depositing such moneys applied as an offset of the 25491
district's obligation to levy the tax described in division (B) of 25492
section 3318.05 of the Revised Code as required under division 25493
(D)(2) of section 3318.084 of the Revised Code; 25494

(F) Ownership of or interest in the project during the period 25495
of construction, which shall be divided between the commission and 25496
the school district board in proportion to their respective 25497
contributions to the school district's project construction fund; 25498

(G) Maintenance of the state's interest in the project until 25499
any obligations issued for the project under section 3318.26 of 25500
the Revised Code are no longer outstanding; 25501

(H) The insurance of the project by the school district from 25502
the time there is an insurable interest therein and so long as the 25503
state retains any ownership or interest in the project pursuant to 25504
division (F) of this section, in such amounts and against such 25505
risks as the commission shall require; provided, that the cost of 25506
any required insurance until the project is completed shall be a 25507

| | |
|--|---|
| part of the basic project cost; | 25508 |
| (I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code; | 25509 25510 25511 25512 25513 |
| (J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission; | 25514 25515 25516 25517 |
| (K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board; | 25518 25519 25520 25521 25522 |
| (L) Disposal of any balance left in the school district's project construction fund upon completion of the project; | 25523 25524 |
| (M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; | 25525 25526 25527 |
| (N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; | 25528 25529 25530 25531 |
| (O) Provision for deposit of an executed copy of the agreement in the office of the commission; | 25532 25533 |
| (P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund | 25534 25535 25536 25537 |

and if bids for the construction of the project have not been 25538
taken within such period after the execution of the agreement as 25539
may be fixed by the commission; 25540

(Q) Provision for the school district to maintain the project 25541
in accordance with a plan approved by the commission; 25542

(R) Provision that all state funds reserved and encumbered to 25543
pay the state share of the cost of the project and the funds 25544
provided by the school district to pay for its share of the 25545
project cost, including the respective shares of the cost of a 25546
segment if the project is divided into segments, be spent on the 25547
construction and acquisition of the project or segment 25548
simultaneously in proportion to the state's and the school 25549
district's respective shares of that basic project cost as 25550
determined under section 3318.032 of the Revised Code or, if the 25551
district is a joint vocational school district, under section 25552
3318.42 of the Revised Code. However, if the school district 25553
certifies to the commission that expenditure by the school 25554
district is necessary to maintain the federal tax status or 25555
tax-exempt status of notes or bonds issued by the school district 25556
to pay for its share of the project cost or to comply with 25557
applicable temporary investment periods or spending exceptions to 25558
rebate as provided for under federal law in regard to those notes 25559
or bonds, the school district may commit to spend, or spend, a 25560
greater portion of the funds it provides during any specific 25561
period than would otherwise be required under this division. 25562

(S) A provision stipulating that the commission may prohibit 25563
the district from proceeding with any project if the commission 25564
determines that the site is not suitable for construction 25565
purposes. The commission may perform soil tests in its 25566
determination of whether a site is appropriate for construction 25567
purposes. 25568

(T) A provision stipulating that, unless otherwise authorized 25569

by the commission, any contingency reserve portion of the 25570
construction budget prescribed by the commission shall be used 25571
only to pay costs resulting from unforeseen job conditions, to 25572
comply with rulings regarding building and other codes, to pay 25573
costs related to design clarifications or corrections to contract 25574
documents, and to pay the costs of settlements or judgments 25575
related to the project as provided under section 3318.086 of the 25576
Revised Code; 25577

(U) Provision stipulating that for continued release of 25578
project funds the school district board shall comply with section 25579
3313.41 of the Revised Code throughout the project and shall 25580
notify the department of education and the Ohio community school 25581
association when the board plans to dispose of facilities by sale 25582
under that section; 25583

(V) Provision that the commission shall not approve a 25584
contract for demolition of a facility until the school district 25585
board has complied with section 3313.41 of the Revised Code 25586
relative to that facility, unless demolition of that facility is 25587
to clear a site for construction of a replacement facility 25588
included in the district's project; 25589

(W) A requirement for the school district to adhere to a 25590
facilities maintenance plan approved by the commission. 25591

Sec. 3318.10. When such working drawings, specifications, and 25592
estimates of cost have been approved by the school district board 25593
and the Ohio school facilities commission, the treasurer of the 25594
school district board shall advertise for construction bids in 25595
accordance with section 3313.46 of the Revised Code. Such notices 25596
shall state that plans and specifications for the project are on 25597
file in the office of the commission and such other place as may 25598
be designated in such notice, and the time and place when and 25599
where bids therefor will be received. 25600

The form of proposal to be submitted by bidders shall be 25601
supplied by the commission. Bidders may be permitted to bid upon 25602
all the branches of work and materials to be furnished and 25603
supplied, upon any branch thereof, or upon all or any thereof. 25604

When the construction bids for all branches of work and 25605
materials have been tabulated, the commission shall cause to be 25606
prepared a revised estimate of the basic project cost based upon 25607
the lowest responsible bids received. If such revised estimate 25608
exceeds the estimated basic project cost as approved by the 25609
controlling board pursuant to section 3318.04 or division (B)(1) 25610
of section 3318.41 of the Revised Code, no contracts may be 25611
entered into pursuant to this section unless such revised estimate 25612
is approved by the commission and by the controlling board. When 25613
such revised estimate has been prepared, and after such approvals 25614
are given, if necessary, and if the school district board has 25615
caused to be transferred to the project construction fund the 25616
proceeds from the sale of the first or first and final installment 25617
of its bonds or bond anticipation notes pursuant to the provision 25618
of the written agreement required by division (B) of section 25619
3318.08 of the Revised Code, and when the director of budget and 25620
management has certified that there is a balance in the 25621
appropriation, not otherwise obligated to pay precedent 25622
obligations, pursuant to which the state's share of such revised 25623
estimate is required to be paid, the contract for all branches of 25624
work and materials to be furnished and supplied, or for any branch 25625
thereof as determined by the school district board, shall be 25626
awarded by the school district board to the lowest responsible 25627
bidder subject to the approval of the commission. Such award shall 25628
be made within sixty days after the date on which the bids are 25629
opened, and the successful bidder shall enter into a contract 25630
within ten days after the successful bidder is notified of the 25631
award of the contract. 25632

Subject to the approval of the commission, the school 25633
district board may reject all bids and readvertise. Any contract 25634
made under this section shall be made in the name of the state and 25635
executed on its behalf by the president and treasurer of the 25636
school district board. 25637

The provisions of sections 9.312 and 3313.46 of the Revised 25638
Code, which are applicable to construction contracts of boards of 25639
education, shall apply to construction contracts for the project. 25640

The remedies afforded to any subcontractor, materials 25641
supplier, laborer, mechanic, or persons furnishing material or 25642
machinery for the project under sections 1311.26 to 1311.32 of the 25643
Revised Code, shall apply to contracts entered into under this 25644
section and the itemized statement required by section 1311.26 of 25645
the Revised Code shall be filed with the school district board. 25646

Notwithstanding any other requirement of this section, a 25647
school district, with the approval of the commission, may utilize 25648
any otherwise lawful alternative construction delivery method for 25649
the construction of the project. 25650

Sec. 3318.30. (A) There is hereby created the Ohio school 25651
facilities commission as an independent agency of the state within 25652
the Ohio facilities construction commission, which is created 25653
under section 123.20 of the Revised Code. The Ohio school 25654
facilities commission shall administer the provision of financial 25655
assistance to school districts for the acquisition or construction 25656
of classroom facilities in accordance with sections 3318.01 to 25657
3318.33 of the Revised Code. 25658

The Ohio school facilities commission is a body corporate and 25659
politic, an agency of state government and an instrumentality of 25660
the state, performing essential governmental functions of this 25661
state. The carrying out of the purposes and the exercise by the 25662
Ohio school facilities commission of its powers conferred by 25663

sections 3318.01 to 3318.33 of the Revised Code are essential 25664
public functions and public purposes of the state. The Ohio school 25665
facilities commission may, in its own name, sue and be sued, enter 25666
into contracts, and perform all the powers and duties given to it 25667
by sections 3318.01 to 3318.33 of the Revised Code, but it does 25668
not have and shall not exercise the power of eminent domain. In 25669
its discretion and as it determines appropriate, the Ohio school 25670
facilities commission may delegate to any of its members, 25671
executive director, or other employees any of the Ohio school 25672
facilities commission's powers and duties to carry out its 25673
functions. 25674

(B) The Ohio school facilities commission shall consist of 25675
seven members, three of whom are voting members. The voting 25676
members of the Ohio school facilities commission shall be the 25677
director of the office of budget and management, the director of 25678
administrative services, and the superintendent of public 25679
instruction, or their designees. Of the nonvoting members, two 25680
shall be members of the senate appointed by the president of the 25681
senate, and two shall be members of the house of representatives 25682
appointed by the speaker of the house. Each of the appointees of 25683
the president, and each of the appointees of the speaker, shall be 25684
members of different political parties. 25685

Nonvoting members shall serve as members of the Ohio school 25686
facilities commission during the legislative biennium for which 25687
they are appointed, except that any such member who ceases to be a 25688
member of the legislative house from which the member was 25689
appointed shall cease to be a member of the Ohio school facilities 25690
commission. Each nonvoting member shall be appointed within 25691
thirty-one days of the end of the term of that member's 25692
predecessor. Such members may be reappointed. Vacancies of 25693
nonvoting members shall be filled in the manner provided for 25694
original appointments. 25695

Members of the Ohio school facilities commission shall serve 25696
without compensation. 25697

After the initial nonvoting members of the Ohio school 25698
facilities commission have been appointed, the Ohio school 25699
facilities commission shall meet and organize by electing voting 25700
members as the chairperson and vice-chairperson of the Ohio school 25701
facilities commission, who shall hold their offices until the next 25702
organizational meeting of the Ohio school facilities commission. 25703
Organizational meetings of the Ohio school facilities commission 25704
shall be held at the first meeting of each calendar year. At each 25705
organizational meeting, the Ohio school facilities commission 25706
shall elect from among its voting members a chairperson and 25707
vice-chairperson, who shall serve until the next annual 25708
organizational meeting. The Ohio school facilities commission 25709
shall adopt rules pursuant to section 111.15 of the Revised Code 25710
for the conduct of its internal business and shall keep a journal 25711
of its proceedings. Including the organizational meeting, the Ohio 25712
school facilities commission shall meet at least once each 25713
calendar quarter. 25714

Two voting members of the Ohio school facilities commission 25715
constitute a quorum, and the affirmative vote of two members is 25716
necessary for approval of any action taken by the Ohio school 25717
facilities commission. A vacancy in the membership of the Ohio 25718
school facilities commission does not impair a quorum from 25719
exercising all the rights and performing all the duties of the 25720
Ohio school facilities commission. Meetings of the Ohio school 25721
facilities commission may be held anywhere in the state and shall 25722
be held in compliance with section 121.22 of the Revised Code. 25723

(C) The Ohio school facilities commission shall file an 25724
annual report of its activities and finances with the governor, 25725
speaker of the house of representatives, president of the senate, 25726
and chairpersons of the house and senate finance committees. 25727

(D) The Ohio school facilities commission shall be exempt 25728
from the requirements of sections 101.82 to 101.87 of the Revised 25729
Code. 25730

(E) The Ohio school facilities commission may share employees 25731
and facilities with the Ohio facilities construction commission. 25732

Sec. 3318.31. (A) The Ohio school facilities commission may 25733
perform any act and ensure the performance of any function 25734
necessary or appropriate to carry out the purposes of, and 25735
exercise the powers granted under, Chapter 3318. of the Revised 25736
Code, including any of the following: 25737

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 25738
the Revised Code, rules for the administration of programs 25739
authorized under Chapter 3318. of the Revised Code. 25740

(2) Contract with, retain the services of, or designate, and 25741
fix the compensation of, such agents, accountants, consultants, 25742
advisers, and other independent contractors as may be necessary or 25743
desirable to carry out the programs authorized under Chapter 3318. 25744
of the Revised Code, or authorize the executive director to 25745
perform such powers and duties. 25746

(3) Receive and accept any gifts, grants, donations, and 25747
pledges, and receipts therefrom, to be used for the programs 25748
authorized under Chapter 3318. of the Revised Code. 25749

(4) Make and enter into all contracts, commitments, and 25750
agreements, and execute all instruments, necessary or incidental 25751
to the performance of its duties and the execution of its rights 25752
and powers under Chapter 3318. of the Revised Code, or authorize 25753
the executive director to perform such powers and duties. 25754

(5) Request the ~~director of administrative services~~ Ohio 25755
facilities construction commission to debar a contractor as 25756
provided in section 153.02 of the Revised Code. 25757

(B) The Ohio school facilities commission shall appoint and 25758
fix the compensation of an executive director who shall serve at 25759
the pleasure of the Ohio school facilities commission. The 25760
executive director shall exercise all powers that the Ohio school 25761
facilities commission possesses, supervise the operations of the 25762
Ohio school facilities commission and perform such other duties as 25763
delegated by the Ohio school facilities commission. The executive 25764
director also shall employ and fix the compensation of such 25765
employees as will facilitate the activities and purposes of the 25766
Ohio school facilities commission, who shall serve at the pleasure 25767
of the executive director. The employees of the Ohio school 25768
facilities commission shall be exempt from Chapter 4117. of the 25769
Revised Code and shall not be public employees as defined in 25770
section 4117.01 of the Revised Code. Any agreement entered into 25771
prior to July 1, 2012, between the office of collective bargaining 25772
and the exclusive representative for employees of the commission 25773
is binding and shall continue to have effect. 25774

(C) The Ohio school facilities commission may adopt, amend, 25775
and rescind rules pertaining to the administration of the 25776
construction of school facilities of the state under Chapter 119. 25777
of the Revised Code. 25778

(D) The attorney general shall serve as the legal 25779
representative for the Ohio school facilities commission and may 25780
appoint other counsel as necessary for that purpose in accordance 25781
with section 109.07 of the Revised Code. 25782

Sec. 3318.36. (A)(1) As used in this section: 25783

(a) "Ohio school facilities commission," "classroom 25784
facilities," "school district," "school district board," "net 25785
bonded indebtedness," "required percentage of the basic project 25786
costs," "basic project cost," "valuation," and "percentile" have 25787
the same meanings as in section 3318.01 of the Revised Code. 25788

(b) "Required level of indebtedness" means five per cent of 25789
the school district's valuation for the year preceding the year in 25790
which the commission and school district enter into an agreement 25791
under division (B) of this section, plus [two one-hundredths of 25792
one per cent multiplied by (the percentile in which the district 25793
ranks minus one)]. 25794

(c) "Local resources" means any moneys generated in any 25795
manner permitted for a school district board to raise the school 25796
district portion of a project undertaken with assistance under 25797
sections 3318.01 to 3318.20 of the Revised Code. 25798

(d) "Tangible personal property phase-out impacted district" 25799
means a school district for which the taxable value of its 25800
tangible personal property certified under division (A)(2) of 25801
section 3317.021 of the Revised Code for tax year 2005, excluding 25802
the taxable value of public utility personal property, made up 25803
eighteen per cent or more of its total taxable value for tax year 25804
2005 as certified under that section. 25805

(2) For purposes of determining the required level of 25806
indebtedness, the required percentage of the basic project costs 25807
under division (C)(1) of this section, and priority for assistance 25808
under sections 3318.01 to 3318.20 of the Revised Code, the 25809
percentile ranking of a school district with which the commission 25810
has entered into an agreement under this section between the first 25811
day of July and the thirty-first day of August in each fiscal year 25812
is the percentile ranking calculated for that district for the 25813
immediately preceding fiscal year, and the percentile ranking of a 25814
school district with which the commission has entered into such 25815
agreement between the first day of September and the thirtieth day 25816
of June in each fiscal year is the percentile ranking calculated 25817
for that district for the current fiscal year. However, in the 25818
case of a tangible personal property phase-out impacted district, 25819
the district's priority for assistance under sections 3318.01 to 25820

3318.20 of the Revised Code and its portion of the basic project 25821
cost under those sections shall be determined in the manner 25822
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 25823
this section. 25824

(B)(1) There is hereby established the school building 25825
assistance expedited local partnership program. Under the program, 25826
the Ohio school facilities commission may enter into an agreement 25827
with the school district board of any school district under which 25828
the school district board may proceed with the new construction or 25829
major repairs of a part of the school district's classroom 25830
facilities needs, as determined under sections 3318.01 to 3318.20 25831
of the Revised Code, through the expenditure of local resources 25832
prior to the school district's eligibility for state assistance 25833
under those sections and may apply that expenditure toward meeting 25834
the school district's portion of the basic project cost of the 25835
total of the school district's classroom facilities needs, as 25836
determined under sections 3318.01 to 3318.20 of the Revised Code 25837
and as recalculated under division (E) of this section, that are 25838
eligible for state assistance under sections 3318.01 to 3318.20 of 25839
the Revised Code when the school district becomes eligible for 25840
that assistance. Any school district that is reasonably expected 25841
to receive assistance under sections 3318.01 to 3318.20 of the 25842
Revised Code within two fiscal years from the date the school 25843
district adopts its resolution under division (B) of this section 25844
shall not be eligible to participate in the program established 25845
under this section. 25846

(2) To participate in the program, a school district board 25847
shall first adopt a resolution certifying to the commission the 25848
board's intent to participate in the program. 25849

The resolution shall specify the approximate date that the 25850
board intends to seek elector approval of any bond or tax measures 25851
or to apply other local resources to use to pay the cost of 25852

classroom facilities to be constructed under this section. The 25853
resolution may specify the application of local resources or 25854
elector-approved bond or tax measures after the resolution is 25855
adopted by the board, and in such case the board may proceed with 25856
a discrete portion of its project under this section as soon as 25857
the commission and the controlling board have approved the basic 25858
project cost of the district's classroom facilities needs as 25859
specified in division (D) of this section. The board shall submit 25860
its resolution to the commission not later than ten days after the 25861
date the resolution is adopted by the board. 25862

The commission shall not consider any resolution that is 25863
submitted pursuant to division (B)(2) of this section, as amended 25864
by this amendment, sooner than September 14, 2000. 25865

(3) For purposes of determining when a district that enters 25866
into an agreement under this section becomes eligible for 25867
assistance under sections 3318.01 to 3318.20 of the Revised Code, 25868
the commission shall use one of the following as applicable: 25869

(a) Except for a tangible personal property phase-out 25870
impacted district, the district's percentile ranking determined at 25871
the time the district entered into the agreement under this 25872
section, as prescribed by division (A)(2) of this section; 25873

(b) For a tangible personal property phase-out impacted 25874
district, the lesser of (i) the district's percentile ranking 25875
determined at the time the district entered into the agreement 25876
under this section, as prescribed by division (A)(2) of this 25877
section, or (ii) the district's current percentile ranking under 25878
section 3318.011 of the Revised Code. 25879

(4) Any project under this section shall comply with section 25880
3318.03 of the Revised Code and with any specifications for plans 25881
and materials for classroom facilities adopted by the commission 25882
under section 3318.04 of the Revised Code. 25883

(5) If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(6) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of on-site visits and assessment, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the

basic project cost; however, no state funds shall be encumbered 25915
under this section. Upon approval by the controlling board, the 25916
school district board may identify a discrete part of its 25917
classroom facilities needs, which shall include only new 25918
construction of or additions or major repairs to a particular 25919
building, to address with local resources. Upon identifying a part 25920
of the school district's basic project cost to address with local 25921
resources, the school district board may allocate any available 25922
school district moneys to pay the cost of that identified part, 25923
including the proceeds of an issuance of bonds if approved by the 25924
electors of the school district. 25925

All local resources utilized under this division shall first 25926
be deposited in the project construction account required under 25927
section 3318.08 of the Revised Code. 25928

(2) Unless the school district board exercises its option 25929
under division (D)(3) of this section, for a school district to 25930
qualify for participation in the program authorized under this 25931
section, one of the following conditions shall be satisfied: 25932

(a) The electors of the school district by a majority vote 25933
shall approve the levy of taxes outside the ten-mill limitation 25934
for a period of twenty-three years at the rate of not less than 25935
one-half mill for each dollar of valuation to be used to pay the 25936
cost of maintaining the classroom facilities included in the basic 25937
project cost as determined by the commission. The form of the 25938
ballot to be used to submit the question whether to approve the 25939
tax required under this division to the electors of the school 25940
district shall be the form for an additional levy of taxes 25941
prescribed in section 3318.361 of the Revised Code, which may be 25942
combined in a single ballot question with the questions prescribed 25943
under section 5705.218 of the Revised Code. 25944

(b) As authorized under division (C) of section 3318.05 of 25945
the Revised Code, the school district board shall earmark from the 25946

proceeds of a permanent improvement tax levied under section 25947
5705.21 of the Revised Code, an amount equivalent to the 25948
additional tax otherwise required under division (D)(2)(a) of this 25949
section for the maintenance of the classroom facilities included 25950
in the basic project cost as determined by the commission. 25951

(c) As authorized under section 3318.051 of the Revised Code, 25952
the school district board shall, if approved by the commission, 25953
annually transfer into the maintenance fund required under section 25954
3318.05 of the Revised Code the amount prescribed in section 25955
3318.051 of the Revised Code in lieu of the tax otherwise required 25956
under division (D)(2)(a) of this section for the maintenance of 25957
the classroom facilities included in the basic project cost as 25958
determined by the commission. 25959

(d) If the school district board has rescinded the agreement 25960
to make transfers under section 3318.051 of the Revised Code, as 25961
provided under division (F) of that section, the electors of the 25962
school district, in accordance with section 3318.063 of the 25963
Revised Code, first shall approve the levy of taxes outside the 25964
ten-mill limitation for the period specified in that section at a 25965
rate of not less than one-half mill for each dollar of valuation. 25966

(e) The school district board shall apply the proceeds of a 25967
tax to leverage bonds as authorized under section 3318.052 of the 25968
Revised Code or dedicate a local donated contribution in the 25969
manner described in division (B) of section 3318.084 of the 25970
Revised Code in an amount equivalent to the additional tax 25971
otherwise required under division (D)(2)(a) of this section for 25972
the maintenance of the classroom facilities included in the basic 25973
project cost as determined by the commission. 25974

(3) A school district board may opt to delay taking any of 25975
the actions described in division (D)(2) of this section until the 25976
school district becomes eligible for state assistance under 25977
sections 3318.01 to 3318.20 of the Revised Code. In order to 25978

exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking under division (B)(3) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project

cost, which shall be one of the following as applicable: 26010

(a) Except for a tangible personal property phase-out 26011
impacted district, the percentage of the original basic project 26012
cost assigned to the school district as its portion under division 26013
(C) of this section; 26014

(b) For a tangible personal property phase-out impacted 26015
district, the lesser of (i) the percentage of the original basic 26016
project cost assigned to the school district as its portion under 26017
division (C) of this section, or (ii) the percentage of the new 26018
basic project cost determined under section 3318.032 of the 26019
Revised Code using the district's current percentile ranking under 26020
section 3318.011 of the Revised Code. The 26021

The commission shall deduct the expenditure of school 26022
district moneys made under division (D)(1) of this section from 26023
the school district's portion of the basic project cost as 26024
recalculated under this division. If the amount of school district 26025
resources applied by the school district board to the school 26026
district's portion of the basic project cost under this section is 26027
less than the total amount of such portion as recalculated under 26028
this division, the school district board by a majority vote of all 26029
of its members shall, if it desires to seek state assistance under 26030
sections 3318.01 to 3318.20 of the Revised Code, adopt a 26031
resolution as specified in section 3318.06 of the Revised Code to 26032
submit to the electors of the school district the question of 26033
approval of a bond issue in order to pay any additional amount of 26034
school district portion required for state assistance. Any tax 26035
levy approved under division (D) of this section satisfies the 26036
requirements to levy the additional tax under section 3318.06 of 26037
the Revised Code. 26038

(2) If the amount of school district resources applied by the 26039
school district board to the school district's portion of the 26040
basic project cost under this section is more than the total 26041

amount of such portion as recalculated under ~~this~~ division (E)(1) 26042
of this section, within one year after the school district's 26043
portion is so recalculated ~~under division (E)(1) of this section~~ 26044
the commission may grant to the school district the difference 26045
between the two calculated portions, but at no time shall the 26046
commission expend any state funds on a project in an amount 26047
greater than the state's portion of the basic project cost as 26048
recalculated under ~~this~~ division (E)(1) of this section. 26049

Any reimbursement under this division shall be only for local 26050
resources the school district has applied toward construction cost 26051
expenditures for the classroom facilities approved by the 26052
commission, which shall not include any financing costs associated 26053
with that construction. 26054

The school district board shall use any moneys reimbursed to 26055
the district under this division to pay off any debt service the 26056
district owes for classroom facilities constructed under its 26057
project under this section before such moneys are applied to any 26058
other purpose. However, the district board first may deposit 26059
moneys reimbursed under this division into the district's general 26060
fund or a permanent improvement fund to replace local resources 26061
the district withdrew from those funds, as long as, and to the 26062
extent that, those local resources were used by the district for 26063
constructing classroom facilities included in the district's basic 26064
project cost. 26065

(3) A tangible personal property phase-out impacted district 26066
shall receive credit under division (E) of this section for the 26067
expenditure of local resources pursuant to any prior agreement 26068
authorized by this section, notwithstanding any recalculation of 26069
its average taxable value. 26070

Sec. 3318.37. (A)(1) As used in this section: 26071

(a) "Full maintenance amount" has the same meaning as in 26072

section 3318.034 of the Revised Code. 26073

(b) "Large land area school district" means a school district 26074
with a territory of greater than three hundred square miles in any 26075
percentile as determined under section 3318.011 of the Revised 26076
Code. 26077

~~(b)~~(c) "Low wealth school district" means a school district 26078
in the first through seventy-fifth percentiles as determined under 26079
section 3318.011 of the Revised Code. 26080

~~(e)~~(d) A "school district with an exceptional need for 26081
immediate classroom facilities assistance" means a low wealth or 26082
large land area school district with an exceptional need for new 26083
facilities in order to protect the health and safety of all or a 26084
portion of its students. 26085

(2) No school district that participates in the school 26086
building assistance expedited local partnership program under 26087
section 3318.36 of the Revised Code shall receive assistance under 26088
the program established under this section unless the following 26089
conditions are satisfied: 26090

(a) The district board adopted a resolution certifying its 26091
intent to participate in the school building assistance expedited 26092
local partnership program under section 3318.36 of the Revised 26093
Code prior to September 14, 2000. 26094

(b) The district was selected by the Ohio school facilities 26095
commission for participation in the school building assistance 26096
expedited local partnership program under section 3318.36 of the 26097
Revised Code in the manner prescribed by the commission under that 26098
section as it existed prior to September 14, 2000. 26099

(B)(1) There is hereby established the exceptional needs 26100
school facilities assistance program. Under the program, the Ohio 26101
school facilities commission may set aside from the moneys 26102
annually appropriated to it for classroom facilities assistance 26103

projects up to twenty-five per cent for assistance to school 26104
districts with exceptional needs for immediate classroom 26105
facilities assistance. 26106

(2)(a) After consulting with education and construction 26107
experts, the commission shall adopt guidelines for identifying 26108
school districts with an exceptional need for immediate classroom 26109
facilities assistance. 26110

(b) The guidelines shall include application forms and 26111
instructions for school districts to use in applying for 26112
assistance under this section. 26113

(3) The commission shall evaluate the classroom facilities, 26114
and the need for replacement classroom facilities from the 26115
applications received under this section. The commission, 26116
utilizing the guidelines adopted under division (B)(2)(a) of this 26117
section, shall prioritize the school districts to be assessed. 26118

Notwithstanding section 3318.02 of the Revised Code, the 26119
commission may conduct on-site evaluation of the school districts 26120
prioritized under this section and approve and award funds until 26121
such time as all funds set aside under division (B)(1) of this 26122
section have been encumbered. However, the commission need not 26123
conduct the evaluation of facilities if the commission determines 26124
that a district's assessment conducted under section 3318.36 of 26125
the Revised Code is sufficient for purposes of this section. 26126

(4) Notwithstanding division (A) of section 3318.05 of the 26127
Revised Code, the school district's portion of the basic project 26128
cost under this section shall be the "required percentage of the 26129
basic project costs," as defined in division (K) of section 26130
3318.01 of the Revised Code. 26131

(5) Except as otherwise specified in this section, any 26132
project undertaken with assistance under this section shall comply 26133
with all provisions of sections 3318.01 to 3318.20 of the Revised 26134

Code. A school district may receive assistance under sections 26135
3318.01 to 3318.20 of the Revised Code for the remainder of the 26136
district's classroom facilities needs as assessed under this 26137
section when the district is eligible for such assistance pursuant 26138
to section 3318.02 of the Revised Code, but any classroom facility 26139
constructed with assistance under this section shall not be 26140
included in a district's project at that time unless the 26141
commission determines the district has experienced the increased 26142
enrollment specified in division (B)(1) of section 3318.04 of the 26143
Revised Code. 26144

(C) No school district shall receive assistance under this 26145
section for a classroom facility that has been included in the 26146
discrete part of the district's classroom facilities needs 26147
identified and addressed in the district's project pursuant to an 26148
agreement entered into under section 3318.36 of the Revised Code, 26149
unless the district's entire classroom facilities plan consists of 26150
only a single building designed to house grades kindergarten 26151
through twelve. 26152

(D)(1) When undertaking a project under this section, a 26153
school district may elect to prorate its full maintenance amount 26154
by setting aside for maintenance the amount calculated under 26155
division (D)(2) of this section to maintain the classroom 26156
facilities acquired under the project, if the district will use 26157
one or more of the alternative methods authorized in sections 26158
3318.051, 3318.052, and 3318.084 of the Revised Code to generate 26159
the entire amount calculated under that division. If the district 26160
so elects, the commission and the district shall include in the 26161
agreement entered into under section 3318.08 of the Revised Code a 26162
statement specifying that the district will use the amount 26163
calculated under that division only to maintain the classroom 26164
facilities acquired under the project under this section. 26165

(2) The commission shall calculate the amount for a school 26166

district to maintain the classroom facilities acquired under a 26167
project under this section as follows: 26168

The full maintenance amount X (the school district's portion 26169
of the basic project cost under this section / the school 26170
district's portion of the basic project cost for the district's 26171
entire classroom facilities needs, as determined jointly by the 26172
staff of the commission and the district) 26173

(3) A school district may elect to prorate its full 26174
maintenance amount for any number of projects under this section, 26175
provided the district will use one or more of the alternative 26176
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 26177
the Revised Code to generate the entire amount calculated under 26178
division (D)(2) of this section to maintain the classroom 26179
facilities acquired under each project for which it so elects. If 26180
the district cannot use one or more of those alternative methods 26181
to generate the entire amount calculated under that division, the 26182
district shall levy the tax described in division (B) of section 26183
3318.05 of the Revised Code or an extension of that tax under 26184
section 3318.061 of the Revised Code in an amount necessary to 26185
generate the remainder of its full maintenance amount. The 26186
commission shall calculate the remainder of the district's full 26187
maintenance amount as follows: 26188

The full maintenance amount - the sum of the amounts 26189
calculated for the district under division (D)(2) of this section 26190
for each of the district's prior projects under this section 26191

(4) In no case shall the sum of the amounts calculated for a 26192
school district's maintenance of classroom facilities under 26193
divisions (D)(2) and (3) of this section exceed the amount that 26194
would have been required for maintenance if the district had 26195
elected to meet its entire classroom facilities needs with a 26196
project under sections 3318.01 to 3318.20 of the Revised Code and 26197
had not undertaken one or more projects under this section. 26198

(5) If a school district commenced a project under this section prior to the effective date of this amendment but has not completed that project, and has not levied the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code, the district may request approval from the commission to prorate its full maintenance amount in accordance with divisions (D)(1) to (4) of this section. If the commission approves the request, the commission and the district shall amend the agreement entered into under section 3318.08 of the Revised Code to reflect the change.

Sec. 3318.70. (A) As used in this section: 26209

(1) "Acquisition of classroom facilities" has the same meaning as in section 3318.40 of the Revised Code. 26210
26211

(2) "Classroom facilities" has the same meaning as in section 3318.01 of the Revised Code. 26212
26213

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code that is not governed by a single school district board of education, as prescribed by section 3326.51 of the Revised Code. 26214
26215
26216
26217
26218

(B) Upon receipt of a written proposal by the governing body of a STEM school, the Ohio school facilities commission, subject to approval of the controlling board, may provide funding to assist that STEM school in the acquisition of classroom facilities. The proposal of the governing body shall be submitted in a form and in the manner prescribed by the commission ~~and~~. The proposal shall indicate both the total amount of state funding requested from the commission and the amount of nonstate other funding pledged for the acquisition of the classroom facilities, the latter of which shall not be less than the total amount of state funding requested from the commission. If the commission

decides in favor of providing funding for the classroom facilities 26230
and if the controlling board approves that funding, the commission 26231
shall enter into an agreement with the governing body for the 26232
acquisition of the classroom facilities and shall encumber, in 26233
accordance with section 3318.11 of the Revised Code, the approved 26234
funding from the amounts appropriated to the commission for 26235
classroom facilities assistance projects. The agreement shall 26236
include a stipulation of the ownership of the classroom facilities 26237
in the event the STEM school permanently closes at any time. 26238

Sec. 3333.04. The chancellor of the Ohio board of regents 26239
shall: 26240

(A) Make studies of state policy in the field of higher 26241
education and formulate a master plan for higher education for the 26242
state, considering the needs of the people, the needs of the 26243
state, and the role of individual public and private institutions 26244
within the state in fulfilling these needs; 26245

(B)(1) Report annually to the governor and the general 26246
assembly on the findings from the chancellor's studies and the 26247
master plan for higher education for the state; 26248

(2) Report at least semiannually to the general assembly and 26249
the governor the enrollment numbers at each state-assisted 26250
institution of higher education. 26251

(C) Approve or disapprove the establishment of new branches 26252
or academic centers of state colleges and universities; 26253

(D) Approve or disapprove the establishment of state 26254
technical colleges or any other state institution of higher 26255
education; 26256

(E) Recommend the nature of the programs, undergraduate, 26257
graduate, professional, state-financed research, and public 26258
services which should be offered by the state colleges, 26259

universities, and other state-assisted institutions of higher 26260
education in order to utilize to the best advantage their 26261
facilities and personnel; 26262

(F) Recommend to the state colleges, universities, and other 26263
state-assisted institutions of higher education graduate or 26264
professional programs, including, but not limited to, doctor of 26265
philosophy, doctor of education, and juris doctor programs, that 26266
could be eliminated because they constitute unnecessary 26267
duplication, as shall be determined using the process developed 26268
pursuant to this division, or for other good and sufficient cause. 26269
Prior to recommending a program for elimination, the chancellor 26270
shall request the board of regents to hold at least one public 26271
hearing on the matter and advise the chancellor on whether the 26272
program should be recommended for elimination. The board shall 26273
provide notice of each hearing within a reasonable amount of time 26274
prior to its scheduled date. Following the hearing, the board 26275
shall issue a recommendation to the chancellor. The chancellor 26276
shall consider the board's recommendation but shall not be 26277
required to accept it. 26278

For purposes of determining the amounts of any state 26279
instructional subsidies paid to state colleges, universities, and 26280
other state-assisted institutions of higher education, the 26281
chancellor may exclude students enrolled in any program that the 26282
chancellor has recommended for elimination pursuant to this 26283
division except that the chancellor shall not exclude any such 26284
student who enrolled in the program prior to the date on which the 26285
chancellor initially commences to exclude students under this 26286
division. 26287

The chancellor and state colleges, universities, and other 26288
state-assisted institutions of higher education shall jointly 26289
develop a process for determining which existing graduate or 26290
professional programs constitute unnecessary duplication. 26291

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal

impact statement to the president of the senate, the speaker of 26324
the house of representatives, the legislative service commission, 26325
and the director of budget and management. The chancellor shall 26326
work in close cooperation with the director of budget and 26327
management in this respect and in all other matters concerning the 26328
expenditures of appropriated funds by state colleges, 26329
universities, and other institutions of higher education. 26330

(K) Seek the cooperation and advice of the officers and 26331
trustees of both public and private colleges, universities, and 26332
other institutions of higher education in the state in performing 26333
the chancellor's duties and making the chancellor's plans, 26334
studies, and recommendations; 26335

(L) Appoint advisory committees consisting of persons 26336
associated with public or private secondary schools, members of 26337
the state board of education, or personnel of the state department 26338
of education; 26339

(M) Appoint advisory committees consisting of college and 26340
university personnel, or other persons knowledgeable in the field 26341
of higher education, or both, in order to obtain their advice and 26342
assistance in defining and suggesting solutions for the problems 26343
and needs of higher education in this state; 26344

(N) Approve or disapprove all new degrees and new degree 26345
programs at all state colleges, universities, and other 26346
state-assisted institutions of higher education; 26347

(O) Adopt such rules as are necessary to carry out the 26348
chancellor's duties and responsibilities. The rules shall 26349
prescribe procedures for the chancellor to follow when taking 26350
actions associated with the chancellor's duties and 26351
responsibilities and shall indicate which types of actions are 26352
subject to those procedures. The procedures adopted under this 26353
division shall be in addition to any other procedures prescribed 26354

by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

- (1) Provision for public notice of the proposed action;
 - (2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents;
 - (3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;
 - (4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;
 - (5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;
 - (6) A timeline for the process described in divisions (0)(1) to (5) of this section.
- ~~(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the chancellor's supervision that is designed to accomplish any of the following:~~
- ~~(1) Increased access to higher education;~~
 - ~~(2) Job training;~~
 - ~~(3) Adult literacy;~~
 - ~~(4) Research;~~
 - ~~(5) Excellence in higher education;~~
 - ~~(6) Reduction in the number of graduate programs within the~~

~~same subject area.~~ 26384

~~In July of each odd numbered year, the chancellor shall~~ 26385
~~submit to the governor and the general assembly a report on~~ 26386
~~progress made toward these goals.~~ 26387

~~(Q)~~ Make recommendations to the governor and the general 26388
assembly regarding the design and funding of the student financial 26389
aid programs specified in sections 3333.12, 3333.122, 3333.21 to 26390
3333.26, and 5910.02 of the Revised Code; 26391

~~(R)~~(O) Participate in education-related state or federal 26392
programs on behalf of the state and assume responsibility for the 26393
administration of such programs in accordance with applicable 26394
state or federal law; 26395

~~(S)~~(R) Adopt rules for student financial aid programs as 26396
required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 26397
3333.28, and 5910.02 of the Revised Code, and perform any other 26398
administrative functions assigned to the chancellor by those 26399
sections; 26400

~~(T)~~(S) Conduct enrollment audits of state-supported 26401
institutions of higher education; 26402

~~(U)~~(T) Appoint consortia of college and university personnel 26403
to advise or participate in the development and operation of 26404
statewide collaborative efforts, including the Ohio supercomputer 26405
center, the Ohio academic resources network, OhioLink, and the 26406
Ohio learning network. For each consortium, the chancellor shall 26407
designate a college or university to serve as that consortium's 26408
fiscal agent, financial officer, and employer. Any funds 26409
appropriated for the consortia shall be distributed to the fiscal 26410
agents for the operation of the consortia. A consortium shall 26411
follow the rules of the college or university that serves as its 26412
fiscal agent. The chancellor may restructure existing consortia, 26413
appointed under this division, in accordance with procedures 26414

adopted under divisions ~~(D)~~(O)(1) to (6) of this section. 26415

~~(V)~~(U) Adopt rules establishing advisory duties and 26416
responsibilities of the board of regents not otherwise prescribed 26417
by law; 26418

~~(W)~~(V) Respond to requests for information about higher 26419
education from members of the general assembly and direct staff to 26420
conduct research or analysis as needed for this purpose. 26421

Sec. 3333.041. (A) On or before the last day of December of 26422
each year, the chancellor of the Ohio board of regents shall 26423
submit ~~a report~~ to the governor and, in accordance with section 26424
101.68 of the Revised Code, the general assembly, the state board 26425
of education, and the board of education of each city, exempted 26426
village, and local school district on the a report or reports 26427
concerning all of the following: 26428

(1) The status of graduates of Ohio school districts at 26429
~~state assisted colleges or universities~~ state institutions of 26430
higher education during the twelve-month period ending on the 26431
thirtieth day of September of the current calendar year. The 26432
report shall list, by school district, the number of graduates of 26433
each school district who attended ~~such a college or university~~ 26434
state institution of higher education and the percentage of each 26435
district's graduates enrolled in ~~such a college or university~~ 26436
state institution of higher education during the reporting period 26437
who were required during such period by the college or university, 26438
as a prerequisite to enrolling in those courses generally required 26439
for first-year students, to enroll in a remedial course in 26440
English, including composition or reading, mathematics, and any 26441
other area designated by the ~~board~~ chancellor. The chancellor also 26442
shall make the information described in division (A)(1) of this 26443
section available to the board of education of each city, exempted 26444
village, and local school district. 26445

Each state-assisted college and university state institution of higher education shall, by the first day of November of each year, submit to the chancellor in the form specified by the chancellor the information the chancellor requires to compile the report. 26446
26447
26448
26449
26450

(2) Aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code. The chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this section applies, the chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor. 26451
26452
26453
26454
26455
26456
26457
26458
26459
26460
26461
26462
26463

(3) The following information with respect to the Ohio tuition trust authority: 26464
26465

(a) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the chancellor contracts; 26466
26467
26468

(b) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the chancellor has contracted; 26469
26470
26471
26472

(c) Efforts by the chancellor to increase utilization of investment managers that are minority business enterprises or women's business enterprises. 26473
26474
26475

(4) The status of implementation of faculty improvement 26476

programs under section 3345.28 of the Revised Code. The report 26477
shall include, but need not be limited to, the following: the 26478
number of professional leave grants made by each institution; the 26479
purpose of each professional leave; and a statement of the cost to 26480
the institution of each professional leave, to the extent that the 26481
cost exceeds the salary of the faculty member on professional 26482
leave. 26483

(5) The number and types of biobased products purchased under 26484
section 125.092 of the Revised Code and the amount of money spent 26485
by state institutions of higher education for those biobased 26486
products as that information is provided to the chancellor under 26487
division (A) of section 3345.692 of the Revised Code. 26488

(6) A description of dual enrollment programs, as defined in 26489
section 3313.6013 of the Revised Code, that are offered by school 26490
districts, community schools established under Chapter 3314. of 26491
the Revised Code, STEM schools established under Chapter 3326. of 26492
the Revised Code, college-preparatory boarding schools established 26493
under Chapter 3328. of the Revised Code, and chartered nonpublic 26494
high schools. The chancellor also shall post the information on 26495
the chancellor's web site. 26496

(7) The academic and economic impact of the Ohio innovation 26497
partnership established under section 3333.61 of the Revised Code. 26498
At a minimum, the report shall include the following: 26499

(a) Progress and performance metrics for each initiative that 26500
received an award in the previous fiscal year; 26501

(b) Economic indicators of the impact of each initiative, and 26502
all initiatives as a whole, on the regional economies and the 26503
statewide economy; 26504

(c) The chancellor's strategy in assigning choose Ohio first 26505
scholarships among state universities and colleges and how the 26506
actual awards fit that strategy. 26507

(8) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following: 26508
26509
26510
26511

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year; 26512
26513

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy; 26514
26515
26516

(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy. 26517
26518
26519

(B) As used in this section, ~~"state-assisted college or university"~~ means a state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community colleges, state community colleges, university branches, and technical colleges.: 26520
26521
26522
26523
26524

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code. 26525
26526

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code. 26527
26528
26529

(3) "State university or college" has the same meaning as in section 3345.12 of the Revised Code. 26530
26531

(4) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state. 26532
26533
26534
26535

Sec. 3333.123. (A) As used in this section: 26536

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division ~~(S)~~(R) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the chancellor of the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the assessments prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the chancellor to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.21. As used in sections 3333.21 to 3333.23 of the Revised Code, "term" and "academic year" mean "term" and "academic year" as defined by the chancellor of the Ohio board of regents.

The chancellor shall establish and administer an academic scholarship program. Under the program, a total of one thousand new scholarships shall be awarded annually in the amount of not less than two thousand dollars per award. At least one such new scholarship shall be awarded annually to a student in each public high school and joint vocational school and each nonpublic high school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code.

To be eligible for the award of a scholarship, a student shall be a resident of Ohio and shall be enrolled as a full-time

undergraduate student in an Ohio institution of higher education 26568
that meets the requirements of Title VI of the "Civil Rights Act 26569
of 1964" and is state-assisted, is nonprofit and holds a 26570
certificate of authorization issued under section 1713.02 of the 26571
Revised Code, is a private institution exempt from regulation 26572
under Chapter 3332. of the Revised Code as prescribed in section 26573
3333.046 of the Revised Code, or holds a certificate of 26574
registration and program authorization issued under section 26575
3332.05 of the Revised Code and awards an associate or bachelor's 26576
degree. Students who attend an institution holding a certificate 26577
of registration shall be enrolled in a program leading to an 26578
associate or bachelor's degree for which associate or bachelor's 26579
degree program the institution has program authorization to offer 26580
the program issued under section 3332.05 of the Revised Code. 26581

"Resident" and "full-time student" shall be defined in rules 26582
adopted by the chancellor. 26583

The chancellor shall award the scholarships on the basis of a 26584
formula designed by the chancellor to identify students with the 26585
highest capability for successful college study. The formula shall 26586
weigh the factor of achievement, as measured by grade point 26587
average, and the factor of ability, as measured by performance on 26588
a competitive examination specified by the chancellor. Students 26589
receiving scholarships shall be known as "Ohio academic scholars." 26590
~~Annually, not later than the thirty first day of July, the 26591~~
~~chancellor shall report to the governor and the general assembly 26592~~
~~on the performance of current Ohio academic scholars and the 26593~~
~~effectiveness of the formula. 26594~~

Sec. 3333.60. As used in sections 3333.61 to ~~3333.70~~ 3333.69 26595
of the Revised Code: 26596

(A) "State university or college" has the same meaning as in 26597
section 3345.12 of the Revised Code. 26598

(B) "State university" and "state institution of higher education" have the same meanings as in section 3345.011 of the Revised Code.

Sec. 3333.61. The chancellor of the Ohio board of regents shall establish and administer the Ohio innovation partnership, which shall consist of the choose Ohio first scholarship program and the Ohio research scholars program. Under the programs, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio innovation partnership.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate, or as provided in section 3333.66 of the Revised Code graduate, students in the fields of science, technology, engineering, mathematics, and medicine, or in science, technology, engineering, mathematics, or medical education. Choose Ohio first scholarships shall be awarded to each

participating eligible student as a grant to the state university 26631
or college the student is attending and shall be reflected on the 26632
student's tuition bill. Choose Ohio first scholarships are 26633
student-centered grants from the state to students to use to 26634
attend a university or college and are not grants from the state 26635
to universities or colleges. 26636

Notwithstanding any other provision of this section or 26637
sections 3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, a 26638
nonpublic four-year Ohio institution of higher education may 26639
submit a proposal for choose Ohio first scholarships or Ohio 26640
research scholars grants. If the chancellor awards a nonpublic 26641
institution scholarships or grants, the nonpublic institution 26642
shall comply with all requirements of this section, sections 26643
3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, and the rules 26644
adopted under this section that apply to state universities or 26645
colleges awarded choose Ohio first scholarships or Ohio research 26646
scholars grants. 26647

The Ohio research scholars program shall award grants to use 26648
in recruiting scientists to the faculties of state universities or 26649
colleges. 26650

The chancellor shall adopt rules in accordance with Chapter 26651
119. of the Revised Code to administer the programs. 26652

Sec. 3333.71. As used in sections 3333.71 to ~~3333.80~~ 3333.79 26653
of the Revised Code: 26654

(A) "Cooperative education program" means a partnership 26655
between students, institutions of higher education, and employers 26656
that formally integrates students' academic study with work 26657
experience in cooperating employer organizations and that meets 26658
all of the following conditions: 26659

(1) Alternates or combines periods of academic study and work 26660

| | |
|---|----------------------------------|
| experience in appropriate fields as an integral part of student education; | 26661 26662 |
| (2) Provides students with compensation from the cooperative employer in the form of wages or salaries for work performed; | 26663 26664 |
| (3) Evaluates each participating student's performance in the cooperative position, both from the perspective of the student's institution of higher education and the student's cooperative employer; | 26665 26666 26667 26668 |
| (4) Provides participating students with academic credit from the institution of higher education upon successful completion of their cooperative education; | 26669 26670 26671 |
| (5) Is part of an overall degree or certificate program for which a percentage of the total program acceptable to the chancellor of the Ohio board of regents involves cooperative education. | 26672 26673 26674 26675 |
| (B) "Internship program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience and that does both of the following: | 26676 26677 26678 26679 |
| (1) Offers internships of specified and definite duration; | 26680 |
| (2) Evaluates each participating student's performance in the internship position, both from the perspective of the student's institution of higher education and the student's internship employer. | 26681 26682 26683 26684 |
| An internship program may provide participating students with academic credit upon successful completion of the internship, and may provide students with compensation in the form of wages or salaries, stipends, or scholarships. | 26685 26686 26687 26688 |
| (C) "Nonpublic university or college" means a nonprofit institution holding a certificate of authorization issued under | 26689 26690 |

Chapter 1713. of the Revised Code. 26691

(D) "State institution of higher education" has the same 26692
meaning as in section 3345.011 of the Revised Code. 26693

Sec. 3333.72. The chancellor of the Ohio board of regents 26694
shall establish and administer the Ohio co-op/internship program 26695
to promote and encourage cooperative education programs or 26696
internship programs at Ohio institutions of higher education for 26697
the purpose of recruiting Ohio students to stay in the state, and 26698
recruiting Ohio residents who left Ohio to attend out-of-state 26699
institutions of higher education back to Ohio institutions of 26700
higher education, to participate in high quality academic programs 26701
that use cooperative education programs or significant internship 26702
programs, in order to support the growth of Ohio's businesses by 26703
providing businesses with Ohio's most talented students and 26704
providing Ohio graduates with job opportunities with Ohio's 26705
growing companies. 26706

The chancellor, subject to approval by the controlling board, 26707
shall make awards to state institutions of higher education for 26708
new or existing programs and initiatives meeting the goals of the 26709
Ohio co-op/internship program. Awards may be granted for programs 26710
and initiatives to be implemented by a state institution of higher 26711
education alone or in collaboration with other state institutions 26712
of higher education or nonpublic Ohio universities and colleges. 26713
If the chancellor makes an award to a program or initiative that 26714
is intended to be implemented by a state institution of higher 26715
education in collaboration with other state institutions of higher 26716
education or nonpublic Ohio universities or colleges, the 26717
chancellor may provide that some portion of the award be received 26718
directly by the collaborating universities or colleges consistent 26719
with all terms of the Ohio co-op/internship program. 26720

The Ohio co-op/internship program shall support the creation 26721

and maintenance of high quality academic programs that utilize an 26722
intensive cooperative education or internship program for students 26723
at state institutions of higher education, or assign a number of 26724
scholarships to institutions to recruit Ohio residents as students 26725
in a high quality academic program, or both. If scholarships are 26726
included in an award to an institution of higher education, the 26727
scholarships shall be awarded to each participating eligible 26728
student as a grant to the state institution of higher education 26729
the student is attending and shall be reflected on the student's 26730
tuition bill. 26731

Notwithstanding any other provision of this section or 26732
sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, an Ohio 26733
four-year nonpublic university or college may submit a proposal as 26734
lead applicant or co-lead applicant for an award under the Ohio 26735
co-op/internship program if the proposal is to be implemented in 26736
collaboration with a state institution of higher education. If the 26737
chancellor grants a nonpublic university or college an award, the 26738
nonpublic university or college shall comply with all requirements 26739
of this section, sections 3333.73 to ~~3333.80~~ 3333.79 of the 26740
Revised Code, and the rules adopted under this section that apply 26741
to state institutions of higher education that receive awards 26742
under the program. 26743

The chancellor shall adopt rules in accordance with Chapter 26744
119. of the Revised Code to administer the Ohio co-op/internship 26745
program. 26746

Sec. 3334.08. (A) Subject to division (B) of this section, in 26747
addition to any other powers conferred by this chapter, the Ohio 26748
tuition trust authority may do any of the following: 26749

(1) Impose reasonable residency requirements for 26750
beneficiaries of tuition units; 26751

(2) Impose reasonable limits on the number of tuition unit 26752

| | |
|--|--|
| participants; | 26753 |
| (3) Impose and collect administrative fees and charges in connection with any transaction under this chapter; | 26754 26755 |
| (4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition units; | 26756 26757 26758 26759 |
| (5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner; | 26760 26761 26762 26763 26764 26765 26766 26767 26768 26769 |
| (6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority; | 26770 26771 26772 |
| (7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program; | 26773 26774 |
| (8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program; | 26775 26776 |
| (9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the | 26777 26778 26779 26780 26781 26782 26783 |

controlling board pursuant to division (D)(6) of section 127.16 of 26784
the Revised Code; provided, however, that any funds of the Ohio 26785
college savings program and the variable college savings program 26786
that are not needed for immediate use shall be deposited by the 26787
treasurer of state in the same manner provided under Chapter 135. 26788
of the Revised Code for public moneys of the state. All interest 26789
earned on those deposits shall be credited to the Ohio college 26790
savings program or the variable college savings program, as 26791
applicable. 26792

(10) Contract for other services, or for goods, needed by the 26793
authority in the conduct of its business, including but not 26794
limited to credit card services; 26795

(11) Employ an executive director and other personnel as 26796
necessary to carry out its responsibilities under this chapter, 26797
and fix the compensation of these persons. All employees of the 26798
authority shall be in the unclassified civil service and shall be 26799
eligible for membership in the public employees retirement system. 26800
In the hiring of the executive director, the Ohio tuition trust 26801
authority shall obtain the advice and consent of the Ohio tuition 26802
trust board created in section 3334.03 of the Revised Code, 26803
provided that the executive director shall not be hired unless a 26804
majority of the board votes in favor of the hiring. In addition, 26805
the board may remove the executive director at any time subject to 26806
the advice and consent of the chancellor of the Ohio board of 26807
regents. 26808

(12) Contract with financial consultants, actuaries, 26809
auditors, and other consultants as necessary to carry out its 26810
responsibilities under this chapter; 26811

(13) Enter into agreements with any agency of the state or 26812
its political subdivisions or with private employers under which 26813
an employee may agree to have a designated amount deducted in each 26814
payroll period from the wages or salary due the employee for the 26815

purpose of purchasing tuition units pursuant to a tuition payment 26816
contract or making contributions pursuant to a variable college 26817
savings program contract; 26818

(14) Enter into an agreement with the treasurer of state 26819
under which the treasurer of state will receive, and credit to the 26820
Ohio tuition trust fund or variable college savings program fund, 26821
from any bank or savings and loan association authorized to do 26822
business in this state, amounts that a depositor of the bank or 26823
association authorizes the bank or association to withdraw 26824
periodically from the depositor's account for the purpose of 26825
purchasing tuition units pursuant to a tuition payment contract or 26826
making contributions pursuant to a variable college savings 26827
program contract; 26828

(15) Solicit and accept gifts, grants, and loans from any 26829
person or governmental agency and participate in any governmental 26830
program; 26831

(16) Impose limits on the number of units which may be 26832
purchased on behalf of or assigned or awarded to any beneficiary 26833
and on the total amount of contributions that may be made on 26834
behalf of a beneficiary; 26835

(17) Impose restrictions on the substitution of another 26836
individual for the original beneficiary under the Ohio college 26837
savings program; 26838

(18) Impose a limit on the age of a beneficiary, above which 26839
tuition units may not be purchased on behalf of that beneficiary; 26840

(19) Enter into a cooperative agreement with the treasurer of 26841
state to provide for the direct disbursement of payments under 26842
tuition payment or variable college savings program contracts; 26843

(20) Determine the other higher education expenses for which 26844
tuition units or contributions may be used; 26845

(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3345.16. The board of trustees of a state college or university may receive, and hold in trust, for the use and benefit of the college or university any grant or devise of land, and

donation or bequest of money or other personal property, to be 26877
applied to the general or special use of the college or 26878
university, including use for student loan and scholarship 26879
purposes, unless otherwise directed in the donation or bequest. 26880

The board of trustees of a state college or university may 26881
utilize trust funds to invest in property, real and personal, as a 26882
portion of the holdings in the endowment portfolio under the trust 26883
powers imparted to the board of trustees. Such property, real and 26884
personal, acquired for investment purposes shall be managed by the 26885
board of trustees in the same manner as are other investments in 26886
the college's or university's endowment portfolio. The board of 26887
trustees may lease, lease back, or otherwise contract for the use 26888
of such property in such manner as to provide earning power for 26889
the college or university investment portfolio. Sections 123.01, 26890
~~123.04~~ 123.02, ~~123.15~~ 123.10, and ~~123.47~~ 123.13 of the Revised 26891
Code do not apply to properties, real and personal, held under 26892
this section as earning-power properties in the college or 26893
university endowment portfolio. 26894

Notwithstanding any provision of the Revised Code to the 26895
contrary, the title in properties, real and personal, purchased by 26896
a board of trustees as an investment and held in the college's or 26897
university's endowment portfolio shall not be vested in the state, 26898
but shall be held in trust by the board. 26899

Sec. 3345.28. The board of trustees of any state university, 26900
medical university, technical college, state community college, 26901
community college, or the board of trustees or managing authority 26902
of any university branch may establish and administer a faculty 26903
improvement program, under which any full-time faculty member with 26904
at least seven academic years of teaching service at the college, 26905
university, or branch may be granted professional leave for a 26906
period not to exceed one academic year to engage in further 26907

education, research, or any other purpose approved by the board. A 26908
board of trustees or managing authority that establishes such a 26909
program shall, by rule, adopt a definition of "academic years of 26910
teaching service" and of "full-time faculty member." 26911

No such board or authority shall pay any faculty member for 26912
or during a period of professional leave any salary exceeding the 26913
amount that would have been paid to such faculty member for 26914
performing the faculty member's regular duties during the period 26915
of the leave. No faculty member shall, by virtue of being on 26916
professional leave, suffer a reduction or termination of the 26917
faculty member's regular employee retirement or insurance benefits 26918
or of any other benefit or privilege being received as a faculty 26919
member at the college, university, or branch where the faculty 26920
member is employed. Whenever such a benefit would be reduced 26921
because of a reduction in the faculty member's salary during the 26922
period of professional leave, the faculty member shall be given a 26923
chance to have the benefit increased to its normal level, in 26924
accordance with rules adopted by the board of trustees or the 26925
managing authority. A faculty member who has been granted 26926
professional leave shall complete another seven years of service 26927
at the college, university, or branch at which the faculty member 26928
is employed before becoming eligible for another grant of 26929
professional leave at that college, university, or branch. 26930
Professional leave taken as part of a faculty improvement program 26931
established under this section shall not be deemed to be in lieu 26932
of released time or assigned duty in connection with a specific 26933
research, scholarly, or creative program. 26934

Boards of trustees and managing authorities may accept moneys 26935
from any person, political subdivision, or the federal government 26936
to support a faculty improvement program, and may establish such 26937
additional rules as are necessary to establish and administer it. 26938

Each grant of professional leave shall be in accordance with 26939

a professional improvement policy for professional leaves that has 26940
been approved by the board of trustees or the managing authority. 26941
No professional leave shall be granted that requires a 26942
compensating addition to the permanent faculty or staff of the 26943
college, university, or branch. No professional leave shall be 26944
approved unless a specific plan for the professional improvement 26945
of the faculty member while on leave has been submitted to and 26946
accepted by the president of the university, college, or branch. 26947
At the completion of the leave, the faculty member shall submit to 26948
the president a report detailing the attainments of the faculty 26949
member under this professional improvement plan. 26950

~~Not later than the thirtieth day of June of each year, the 26951
chancellor of the board of regents shall report to the 26952
chairpersons of the education committees of the house of 26953
representatives and the senate on the status of implementation of 26954
faculty improvement programs. The report shall include, but need 26955
not be limited to, the following: the number of professional leave 26956
grants made by each institution; the purpose of each professional 26957
leave; and a statement of the cost to the institution of each 26958
professional leave, to the extent that such cost exceeds the 26959
salary of the faculty member on professional leave. 26960~~

Sec. 3345.50. Notwithstanding anything to the contrary in 26961
sections 123.01 and ~~123.15~~ 123.10 of the Revised Code, a state 26962
university, a state community college, or the northeast Ohio 26963
medical university not certified pursuant to section ~~123.17~~ 123.24 26964
of the Revised Code may administer any capital facilities project 26965
for the construction, reconstruction, improvement, renovation, 26966
enlargement, or alteration of a public improvement under its 26967
jurisdiction for which the total amount of funds expected to be 26968
appropriated by the general assembly does not exceed four million 26969
dollars without the supervision, control, or approval of the 26970
~~department of administrative services~~ Ohio facilities construction 26971

commission as specified in those sections, if both of the 26972
following occur: 26973

(A) Within sixty days after the effective date of the section 26974
of an act in which the general assembly initially makes an 26975
appropriation for the project, the board of trustees of the 26976
institution notifies the chancellor of the Ohio board of regents 26977
in writing of its intent to administer the capital facilities 26978
project; 26979

(B) The board of trustees complies with the guidelines 26980
established pursuant to section 153.16 of the Revised Code and all 26981
laws that govern the selection of consultants, preparation and 26982
approval of contract documents, receipt of bids, and award of 26983
contracts with respect to the project. 26984

The chancellor shall adopt rules in accordance with Chapter 26985
119. of the Revised Code that establish criteria for the 26986
administration by any such institution of higher education of a 26987
capital facilities project for which the total amount of funds 26988
expected to be appropriated by the general assembly exceeds four 26989
million dollars. The criteria, to be developed with the ~~department~~ 26990
~~of administrative services~~ Ohio facilities construction commission 26991
and higher education representatives selected by the chancellor, 26992
shall include such matters as the adequacy of the staffing levels 26993
and expertise needed for the institution to administer the 26994
project, past performance of the institution in administering such 26995
projects, and the amount of institutional or other nonstate money 26996
to be used in financing the project. The chancellor and the 26997
~~department of administrative services~~ Ohio facilities construction 26998
commission shall approve the request of any such institution of 26999
higher education that seeks to administer any such capital 27000
facilities project and meets the criteria set forth in the rules 27001
and in the requirements of division (B) of this section. 27002

Sec. 3345.51. (A) Notwithstanding anything to the contrary in 27003
sections ~~123.01~~ 123.20 and ~~123.15~~ 123.21 of the Revised Code, a 27004
state university, the northeast Ohio medical university, or a 27005
state community college may administer any capital facilities 27006
project for the construction, reconstruction, improvement, 27007
renovation, enlargement, or alteration of a public improvement 27008
under its jurisdiction for which funds are appropriated by the 27009
general assembly without the supervision, control, or approval of 27010
the ~~department of administrative services~~ Ohio facilities 27011
construction commission as specified in those sections, if all of 27012
the following occur: 27013

(1) The institution is certified by the ~~state architect~~ 27014
commission under section ~~123.17~~ 123.24 of the Revised Code; 27015

(2) Within sixty days after the effective date of the section 27016
of an act in which the general assembly initially makes an 27017
appropriation for the project, the board of trustees of the 27018
institution notifies the chancellor of the Ohio board of regents 27019
in writing of its request to administer the capital facilities 27020
project and the chancellor approves that request pursuant to 27021
division (B) of this section; 27022

(3) The board of trustees passes a resolution stating its 27023
intent to comply with section 153.13 of the Revised Code and the 27024
guidelines established pursuant to section 153.16 of the Revised 27025
Code and all laws that govern the selection of consultants, 27026
preparation and approval of contract documents, receipt of bids, 27027
and award of contracts with respect to the project. 27028

(B) The chancellor shall adopt rules in accordance with 27029
Chapter 119. of the Revised Code that establish criteria for the 27030
administration by any such institution of higher education of a 27031
capital facilities project for which the general assembly 27032
appropriates funds. The criteria, to be developed with the 27033

~~department of administrative services~~ commission and higher 27034
education representatives selected by the chancellor, shall 27035
include such matters as the adequacy of the staffing levels and 27036
expertise needed for the institution to administer the project, 27037
past performance of the institution in administering such 27038
projects, and the amount of institutional or other nonstate money 27039
to be used in financing the project. The chancellor shall approve 27040
the request of any such institution of higher education that seeks 27041
to administer any such capital facilities project and meets the 27042
criteria set forth in the rules and the requirements of division 27043
(A) of this section. 27044

(C) Any institution that administers a capital facilities 27045
project under this section shall conduct biennial audits for the 27046
duration of the project to ensure that the institution is 27047
complying with Chapters 9., 123., and 153. of the Revised Code and 27048
that the institution is using its certification issued under 27049
section ~~123.17~~ 123.24 of the Revised Code appropriately. The 27050
chancellor, in consultation with higher education representatives 27051
selected by the chancellor, shall adopt rules in accordance with 27052
Chapter 119. of the Revised Code that establish criteria for the 27053
conduct of the audits. The criteria shall include documentation 27054
necessary to determine compliance with Chapters 9., 123., and 153. 27055
of the Revised Code and a method to determine whether an 27056
institution is using its certification issued under section ~~123.17~~ 27057
123.24 of the Revised Code appropriately. 27058

(D) The chancellor, in consultation with higher education 27059
representatives selected by the chancellor, shall adopt rules in 27060
accordance with Chapter 119. of the Revised Code establishing 27061
criteria for monitoring capital facilities projects administered 27062
by institutions under this section. The criteria shall include the 27063
following: 27064

(1) Conditions under which the chancellor may revoke the 27065

authority of an institution to administer a capital facilities 27066
project under this section, including the failure of an 27067
institution to maintain a sufficient number of employees who have 27068
successfully completed the certification program under section 27069
~~123.17~~ 123.24 of the Revised Code; 27070

(2) A process for institutions to remedy any problems found 27071
by an audit conducted pursuant to division (C) of this section, 27072
including the improper use of state funds or violations of Chapter 27073
9., 123., or 153. of the Revised Code. 27074

(E) If the chancellor revokes an institution's authority to 27075
administer a capital facilities project, the ~~department of~~ 27076
~~administrative services~~ commission shall administer the capital 27077
facilities project. The chancellor also may require an 27078
institution, for which the chancellor revoked authority to 27079
administer a capital facilities project, to acquire a new local 27080
administration competency certification pursuant to section ~~123.17~~ 27081
123.24 of the Revised Code. 27082

Sec. 3345.54. (A) As used in this section: 27083

(1) "Auxiliary facilities" has the same meaning as in section 27084
3345.12 of the Revised Code. 27085

(2) "Conduit entity" means an organization described in 27086
section 501(c)(3) of the Internal Revenue Code qualified as a 27087
public charity under section 509(a)(2) or 509(a)(3) of the 27088
Internal Revenue Code, or any other appropriate legal entity 27089
selected by the state institution, whose corporate purpose allows 27090
it to perform the functions and obligations of a conduit entity 27091
pursuant to the terms of a financing agreement. 27092

(3) "Conveyed property" means auxiliary facilities conveyed 27093
by a state institution to a conduit entity pursuant to a financing 27094
agreement. 27095

| | |
|--|-------|
| (4) "Financing agreement" means a contract described in | 27096 |
| division (C) of this section. | 27097 |
| (5) "Independent funding source" means a private entity that | 27098 |
| enters into a financing agreement with a conduit entity and a | 27099 |
| state institution. | 27100 |
| (6) "State institution" means a state institution of higher | 27101 |
| education as defined in section 3345.011 of the Revised Code. | 27102 |
| (B) The board of trustees of a state institution, with the | 27103 |
| approval of the chancellor of the Ohio board of regents and the | 27104 |
| controlling board, may enter into a financing agreement with a | 27105 |
| conduit entity and an independent funding source selected either | 27106 |
| through a competitive selection process or by direct negotiations, | 27107 |
| and may convey to the conduit entity title to any auxiliary | 27108 |
| facilities owned by the state institution pursuant to the terms of | 27109 |
| a financing agreement. | 27110 |
| (C) A financing agreement under this section is a written | 27111 |
| contract entered into among a state institution, a conduit entity, | 27112 |
| and an independent funding source that provides for: | 27113 |
| (1) The conveyance of auxiliary facilities owned by a state | 27114 |
| institution to the conduit entity for consideration deemed | 27115 |
| adequate by the state institution; | 27116 |
| (2) The lease of the conveyed property by the conduit entity | 27117 |
| to the independent funding source and leaseback of the conveyed | 27118 |
| property to the conduit entity for a term not to exceed | 27119 |
| ninety-nine years; | 27120 |
| (3) Such other terms and conditions that may be negotiated | 27121 |
| and agreed upon by the parties, including, but not limited to, | 27122 |
| terms regarding: | 27123 |
| (a) Payment to the state institution by the conduit entity of | 27124 |
| revenues received by it from the operations of the conveyed | 27125 |

property in excess of the payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section; 27126
27127
27128

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property; 27129
27130
27131

(c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source. 27132
27133
27134

(4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement. 27135
27136
27137

(D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity. 27138
27139
27140
27141
27142
27143

(E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board. 27144
27145
27146

(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law. 27147
27148
27149
27150
27151
27152
27153
27154
27155
27156

(G) Nothing in this section is intended to abrogate, amend, 27157
limit, or replace any existing authority state institutions may 27158
have with respect to the conveyance, lease, lease-leaseback, 27159
finance, or acquisition of auxiliary facilities including, but not 27160
limited to, authority granted under sections 3345.07, 3345.11, and 27161
3345.12 of the Revised Code. 27162

Sec. 3345.69. (A) As used in this section: 27163

(1) "State institution of higher education" has the same 27164
meaning as in section 3345.011 of the Revised Code. 27165

(2) "Board of trustees of a state institution of higher 27166
education" has the same meaning as in section 3345.61 of the 27167
Revised Code. 27168

(B) The chairperson of the interuniversity council of Ohio 27169
and the secretary of the Ohio association of community colleges 27170
shall assist in coordinating the organization and operation of a 27171
committee to carry out this section. The committee shall be 27172
comprised of the presidents of the state institutions of higher 27173
education or their designees. The committee, in consultation with 27174
~~the office of energy services of the department of administrative~~ 27175
~~services~~ Ohio facilities construction commission, shall develop 27176
guidelines for the board of trustees of each state institution of 27177
higher education to use in ensuring energy efficiency and 27178
conservation in on- and off-campus buildings. ~~Initial guidelines~~ 27179
~~shall be adopted not later than ninety days after the effective~~ 27180
~~date of this section.~~ At a minimum, guidelines under this section 27181
shall do all of the following: 27182

(1) Include a goal to reduce on- and off-campus building 27183
energy consumption by at least twenty per cent by 2014, using 27184
calendar year 2004 as the benchmark year, while recognizing the 27185
diverse nature and different energy demands and uses of such 27186
buildings and measures already taken to increase building energy 27187

| | |
|---|--|
| efficiency and conservation; | 27188 |
| (2) Prescribe minimum energy efficiency and conservation standards for any new, on- or off-campus capital improvement project with a construction cost of one hundred thousand dollars or more, which standards shall be based on general building type and cost-effectiveness; | 27189 27190 27191 27192 27193 |
| (3) Prescribe minimum energy efficiency and conservation standards for the leasing of an off-campus space of at least twenty-thousand square feet; | 27194 27195 27196 |
| (4) Incorporate best practices into energy efficiency and conservation standards and plans; | 27197 27198 |
| (5) Provide that each board develop its own fifteen-year plan for phasing in energy efficiency and conservation projects; | 27199 27200 |
| (6) Provide that project impact assessments include the fiscal effects of energy efficiency and conservation recommendations and plans; | 27201 27202 27203 |
| (7) Establish mechanisms for each board to report periodically to the committee on its progress relative to the guidelines. | 27204 27205 27206 |
| (C) The board of trustees of a state institution of higher education shall adopt rules under section 111.15 of the Revised Code to carry out the guidelines established pursuant to division (B) of this section, including in the execution of the board's authority under sections 3345.62 to 3345.66 of the Revised Code. | 27207 27208 27209 27210 27211 |
| Sec. 3345.692. (A) Not later than September 15, 2010, and the fifteenth day of September each year thereafter, a state institution of higher education shall prepare and submit to the chancellor of the board of regents a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by the | 27212 27213 27214 27215 27216 27217 |

state institution of higher education for those biobased products. 27218

~~(B) Not later than September 30, 2010, and the thirtieth day 27219
of September each year thereafter, the chancellor of the board of 27220
regents shall prepare and submit to the governor, the president of 27221
the senate, and the speaker of the house of representatives a 27222
report that describes the number and types of biobased products 27223
purchased under section 125.092 of the Revised Code and the amount 27224
of money spent by state institutions of higher education for those 27225
biobased products as that information is provided to the 27226
chancellor under division (A) of this section. 27227~~

~~(C) As used in this section, "state institution of higher 27228
education" has the same meaning as in section 3345.011 of the 27229
Revised Code. 27230~~

Sec. 3347.03. Each commission created by section 3347.01 of 27231
the Revised Code may acquire property of any kind by purchase, 27232
gift, or devise and hold and use any such property, or may use 27233
state lands at their respective universities upon consent of the 27234
respective boards of trustees thereof, for the erection, 27235
remodeling, or improving and equipping of buildings for suitable 27236
housing, dormitory, dining hall, and recreational accommodations, 27237
referred to as "buildings" in sections 3347.03 to 3347.08 of the 27238
Revised Code, for students, instructors, members of the faculty, 27239
the administration and maintenance staff of the universities with 27240
which each commission is identified, and their families. The 27241
construction, remodeling, or improving of any such buildings shall 27242
be in accordance with plans and specifications approved by the 27243
commission and with sections 153.01 and 153.04 to 153.20 of the 27244
Revised Code, except that the commission may act in all instances 27245
where the ~~department of administrative services~~ Ohio facilities 27246
construction commission is mentioned in such sections. 27247

Sec. 3356.10. During the five-year period after the effective 27248
date of this section, the governor may execute deeds in the name 27249
of the state conveying to one or more purchasers and the 27250
purchasers' heirs and assigns or successors and assigns all of the 27251
state's right, title, and interest in any or all parcels of real 27252
estate held for the use and benefit of Youngstown state university 27253
and located in the city of Youngstown, Mahoning county, in an area 27254
known as "smokey hollow" and bounded on the north by the 27255
east-bound service road of the Madison avenue expressway, on the 27256
east by Andrews avenue, on the south by Rayen avenue, and on the 27257
west by Wick avenue. The parcel or parcels of real estate may be 27258
transferred individually or as a group or multiple groups to a 27259
single purchaser or to multiple purchasers. 27260

The consideration for conveyance of the parcel or parcels of 27261
real estate shall be a purchase price and any terms and conditions 27262
acceptable to the board of trustees of Youngstown state 27263
university. The consideration may include in whole or in part the 27264
benefit that will inure to the university and the students 27265
attending the university from development of a mixed-use urban 27266
neighborhood that will provide convenient housing, retail outlets, 27267
parks, and employment opportunities on a site adjacent to the 27268
university's core campus. 27269

All costs of the conveyance of the parcel or parcels of real 27270
estate shall be paid by the board of trustees of the Youngstown 27271
state university unless otherwise specified in the agreement for 27272
transfer of the property. 27273

Upon adoption of a resolution by the board of trustees of 27274
Youngstown state university specifically describing the parcel or 27275
parcels of real estate to be conveyed, identifying the purchaser 27276
or purchasers of the real estate, and specifying the consideration 27277
paid or to be paid, the auditor of state, with the assistance of 27278

the attorney general, shall prepare a deed or deeds to the parcel 27279
or parcels of real estate described in the resolution. The deed or 27280
deeds shall state the consideration specified in the resolution. 27281
The deed or deeds shall be executed by the governor in the name of 27282
the state, countersigned by the secretary of state, sealed with 27283
the great seal of the state, presented in the office of the 27284
auditor of state for recording, and delivered to the purchaser or 27285
purchasers. The purchaser or purchasers shall present the deed or 27286
deeds for recording in the office of the Mahoning county recorder. 27287

Each deed to any property described in this section shall 27288
contain any exceptions, reservations, or conditions and any right 27289
of reentry or reverter clause specified in the resolution. Any 27290
exceptions, reservations, or conditions or any right of reentry or 27291
reverter clause contained in any deed authorized by this section 27292
may be released by the university without the necessity of further 27293
legislation, provided the release is specifically authorized by 27294
the board of trustees of Youngstown state university. 27295

The net proceeds of the sale of the parcel or parcels of real 27296
estate shall be paid to Youngstown state university and deposited 27297
in university accounts for purposes to be determined by the board 27298
of trustees. 27299

Sec. 3366.05. The issuing authority, as an eligible 27300
not-for-profit holder of federal education loans, may act as an 27301
eligible not-for-profit servicer of certain student loans owned by 27302
the federal government under Section 2212 of the "Health Care and 27303
Education Reconciliation Act of 2010," Pub. L. No. 111-152. The 27304
issuing authority is authorized to take such actions and to enter 27305
into such contracts and to execute all instruments necessary or 27306
appropriate to act as an eligible not-for-profit servicer. 27307
Notwithstanding division (C) of section 3366.03 and division (B) 27308
of section 3366.04 of the Revised Code, revenues received by the 27309

issuing authority under this section shall be deposited in an 27310
account in the custody of the treasurer of state that is not part 27311
of the state treasury and shall be used to pay administrative 27312
costs incurred by the issuing authority. Unexpended amounts shall 27313
be deposited in the state treasury and credited to the treasurer 27314
of state's administrative fund created under section 113.20 of the 27315
Revised Code. 27316

Sec. 3375.405. (A) As used in this section, "energy 27317
conservation measure" means the construction of, installation or 27318
modification of an installation in, or remodeling of, a new or 27319
existing building, to reduce energy consumption. It includes: 27320

(1) Insulation of the building structure and of systems 27321
within the building; 27322

(2) Storm windows and doors, multi-glazed windows and doors, 27323
heat-absorbing or heat-reflective glazed and coated window and 27324
door systems, additional glazing, reductions in glass area, and 27325
other window and door system modifications that reduce energy 27326
consumption; 27327

(3) Automatic energy control systems; 27328

(4) Heating, ventilating, or air conditioning system 27329
modifications or replacements; 27330

(5) Caulking and weather-stripping; 27331

(6) Replacement or modification of lighting fixtures to 27332
increase the energy efficiency of the system without increasing 27333
the overall illumination of a facility, unless such an increase in 27334
illumination is necessary to conform to the applicable state or 27335
local building code for the proposed lighting system; 27336

(7) Energy recovery systems; 27337

(8) Cogeneration systems that produce steam or forms of 27338

energy such as heat, as well as electricity, for use primarily 27339
within a building or complex of buildings; 27340

(9) Acquiring, constructing, furnishing, equipping, improving 27341
the site of, or otherwise improving a central utility plant to 27342
provide heating and cooling services to a building together with 27343
distribution piping and ancillary distribution controls, 27344
equipment, and related facilities from the central utility plant 27345
to the building; and 27346

(10) Any other construction, modification, installation, or 27347
remodeling approved by a board of library trustees as an energy 27348
conservation measure. 27349

(B) For the purpose of evaluating library buildings for 27350
energy conservation measures, a board of library trustees 27351
appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 27352
3375.22, or 3375.30 of the Revised Code may contract with an 27353
architect, professional engineer, energy services company, 27354
contractor, or other person experienced in the design and 27355
implementation of energy conservation measures for an energy 27356
conservation report. Such a report shall include all of the 27357
following: 27358

(1) Analyses of the energy needs of library buildings and 27359
recommendations for building installations, modifications of 27360
existing installations, or building remodeling that would 27361
significantly reduce energy consumption in the buildings; 27362

(2) Estimates of all costs of the recommended installations, 27363
modifications, or remodeling, including costs of design, 27364
engineering, installation, maintenance, and repair; 27365

(3) Estimates of the amounts by which energy consumption 27366
could be reduced; 27367

(4) The interest rate used to estimate the costs of any 27368
energy conservation measures that are to be financed by the 27369

| | |
|---|-------|
| <u>library;</u> | 27370 |
| <u>(5) The average system life of the energy conservation</u> | 27371 |
| <u>measures;</u> | 27372 |
| <u>(6) Estimates of the likely savings that will result from the</u> | 27373 |
| <u>reduction in energy consumption over the average system life of</u> | 27374 |
| <u>the energy conservation measures, including the methods used to</u> | 27375 |
| <u>estimate the savings; and</u> | 27376 |
| <u>(7) A certification under the seal of a registered</u> | 27377 |
| <u>professional engineer that the energy conservation report uses</u> | 27378 |
| <u>reasonable methods of analysis and estimation.</u> | 27379 |
| <u>(C)(1) A board of library trustees appointed pursuant to</u> | 27380 |
| <u>section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of</u> | 27381 |
| <u>the Revised Code desiring to implement energy conservation</u> | 27382 |
| <u>measures may proceed under any of the following methods:</u> | 27383 |
| <u>(a) Procure the energy conservation measures in any manner</u> | 27384 |
| <u>authorized by existing authority.</u> | 27385 |
| <u>(b) Advertise for bids using an energy conservation report or</u> | 27386 |
| <u>any part of an energy conservation report prepared under division</u> | 27387 |
| <u>(B) of this section, and, except as otherwise provided in this</u> | 27388 |
| <u>section, comply with competitive bidding requirements applicable</u> | 27389 |
| <u>to the board of library trustees.</u> | 27390 |
| <u>(c) Notwithstanding any requirement in the Revised Code that</u> | 27391 |
| <u>requires competitive bidding or specifies bidding procedures,</u> | 27392 |
| <u>request proposals from at least three vendors for the</u> | 27393 |
| <u>implementation of energy conservation measures. A request for</u> | 27394 |
| <u>proposals shall require the vendor that is awarded a contract</u> | 27395 |
| <u>under division (C)(2)(b) of this section to prepare an energy</u> | 27396 |
| <u>conservation report in accordance with division (B) of this</u> | 27397 |
| <u>section.</u> | 27398 |
| <u>Prior to sending any vendor a copy of any request for</u> | 27399 |

proposals, the board of library trustees shall advertise its 27400
intent to request proposals for the installation of energy 27401
conservation measures in a newspaper of general circulation within 27402
the territorial boundaries of the political subdivision or 27403
district over which it has jurisdiction of free public library 27404
services once a week for two consecutive weeks. The notice shall 27405
state that the board of trustees intends to request proposals for 27406
the installation of energy conservation measures, indicate the 27407
date on which the request for proposals will be mailed to vendors, 27408
which shall be at least ten days after the second publication in 27409
the newspaper, and state that any vendor interested in receiving 27410
the request for proposals shall submit written notice to the board 27411
of library trustees not later than noon of the day on which the 27412
request for proposals is to be mailed. 27413

(2)(a) Upon receiving bids under division (C)(1)(b) of this 27414
section, the board of library trustees shall analyze them and 27415
select the lowest and best bid or bids most likely to result in 27416
the greatest energy savings considering the cost of the project 27417
and the board of library trustees' ability to pay for the 27418
improvements with current revenues or by financing the 27419
improvements. 27420

(b) Upon receiving proposals under division (C)(1)(c) of this 27421
section, the board of library trustees shall analyze the proposals 27422
and the vendors' qualifications and select the most qualified 27423
vendor to prepare an energy conservation report in accordance with 27424
division (B) of this section. After receipt and review of the 27425
energy conservation report, the board of library trustees may 27426
award a contract to the selected vendor to install the energy 27427
conservation measures that are most likely to result in the 27428
greatest energy savings considering the cost of the project and 27429
the board of library trustees' ability to pay for the improvements 27430
with current revenues or by financing the improvements. 27431

(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the board of library trustees that the amount of money spent on energy conservation measures is not likely to exceed the amount of money the library would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the board of trustees may take into account the increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a board of library trustees from rejecting all bids or proposals under division (C)(1)(b) or (c) of this section or from selecting more than one bid or proposal.

(D) A board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code may contract for the purchase and installation of energy conservation measures as provided in division (C) of section 3375.40 of the Revised Code.

Sec. 3383.02. (A) There is hereby created the Ohio cultural facilities commission. The commission shall engage in and provide for the development, performance, and presentation or making available of culture and professional sports and athletics to the public in this state, and the provision of training or education in culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and

public purposes of the state and of state government. The 27464
commission may, in its own name, sue and be sued, enter into 27465
contracts, and perform all the powers and duties given to it by 27466
this chapter; however, it does not have and shall not exercise the 27467
power of eminent domain. 27468

(B) The commission shall consist of twelve members, nine of 27469
whom shall be voting members and three of whom shall be nonvoting 27470
members. The nine voting members shall be appointed by the 27471
governor, with the advice and consent of the senate, from 27472
different geographical regions of the state. In addition, one of 27473
the voting members shall represent the ~~state architect~~ Ohio 27474
facilities construction commission. Not more than five of the 27475
members appointed by the governor shall be affiliated with the 27476
same political party. The nonvoting members shall be the staff 27477
director of the Ohio arts council, a member of the senate 27478
appointed by the president of the senate, and a member of the 27479
house of representatives appointed by the speaker of the house. 27480

(C) Of the five initial appointments made by the governor, 27481
one shall be for a term expiring December 31, 1989, two shall be 27482
for terms expiring December 31, 1990, and two shall be for terms 27483
expiring December 31, 1991. Of the initial appointments of the 27484
sixth and seventh voting members made by the governor, one shall 27485
be for a term expiring December 31, 2003, and one shall be for a 27486
term expiring December 31, 2004. Of the initial appointments of 27487
the eighth and ninth voting members made by the governor, one 27488
shall be for a term expiring December 31, 2007, and one shall be 27489
for a term expiring December 31, 2008. These voting members shall 27490
be appointed within sixty days after ~~the effective date of this~~ 27491
~~amendment~~ September 29, 2005. Thereafter, each such term shall be 27492
for three years, commencing on the first day of January and ending 27493
on the thirty-first day of December. Each appointment by the 27494
president of the senate and by the speaker of the house of 27495

representatives shall be for the balance of the then legislative 27496
biennium. Each member shall hold office from the date of the 27497
member's appointment until the end of the term for which the 27498
member was appointed. Any member appointed to fill a vacancy 27499
occurring prior to the expiration of the term for which the 27500
member's predecessor was appointed shall hold office for the 27501
remainder of such term. Any member shall continue in office 27502
subsequent to the expiration date of the member's term until the 27503
member's successor takes office, or until a period of sixty days 27504
has elapsed, whichever occurs first. 27505

(D) Members of the commission shall serve without 27506
compensation. 27507

(E) Organizational meetings of the commission shall be held 27508
at the first meeting of each calendar year. At each organizational 27509
meeting, the commission shall elect from among its voting members 27510
a chairperson, a vice-chairperson, and a secretary-treasurer, who 27511
shall serve until the next annual meeting. The commission shall 27512
adopt rules pursuant to section 111.15 of the Revised Code for the 27513
conduct of its internal business and shall keep a journal of its 27514
proceedings. 27515

(F) Five voting members of the commission constitute a 27516
quorum, and the affirmative vote of five members is necessary for 27517
approval of any action taken by the commission. A vacancy in the 27518
membership of the commission does not impair a quorum from 27519
exercising all the rights and performing all the duties of the 27520
commission. Meetings of the commission may be held anywhere in the 27521
state, and shall be held in compliance with section 121.22 of the 27522
Revised Code. 27523

(G) All expenses incurred in carrying out this chapter are 27524
payable solely from money accrued under this chapter or 27525
appropriated for these purposes by the general assembly, and the 27526
commission shall incur no liability or obligation beyond such 27527

money. 27528

(H) The commission shall file an annual report of its 27529
activities and finances with the governor, director of budget and 27530
management, speaker of the house of representatives, president of 27531
the senate, and chairpersons of the house and senate finance 27532
committees. 27533

(I) There is hereby established in the state treasury the 27534
Ohio cultural facilities commission administration fund. All 27535
revenues of the commission shall be credited to that fund and to 27536
any accounts created in that fund with the commission's approval. 27537
All expenses of the commission, including reimbursement of, or 27538
payment to, any other fund or any governmental agency for advances 27539
made or services rendered to or on behalf of the commission, shall 27540
be paid from that fund as determined by or pursuant to directions 27541
of the commission. All investment earnings of that fund shall be 27542
credited to it and shall be allocated among any accounts created 27543
in the fund in the manner determined by the commission. 27544

(J) Title to all real property and lesser interests in real 27545
property acquired by the commission, including leasehold and other 27546
interests, pursuant to this chapter shall be taken in the name of 27547
the state and shall be held for the use and benefit of the 27548
commission. The commission shall not mortgage such real property 27549
and interests in real property. Title to other property and 27550
interests in it acquired by the commission pursuant to this 27551
chapter shall be taken in its name. 27552

Sec. 3383.07. (A) ~~The department of administrative services~~ 27553
Ohio facilities construction commission shall provide for the 27554
construction of a cultural project in conformity with Chapter 153. 27555
of the Revised Code, except as follows: 27556

(1) For a cultural project other than a state historical 27557
facility, construction services may be provided on behalf of the 27558

state by the Ohio cultural facilities commission, or by a 27559
governmental agency or a cultural organization that occupies, will 27560
occupy, or is responsible for the Ohio cultural facility, as 27561
determined by the Ohio cultural facilities commission. For a 27562
project receiving a state appropriation of fifty thousand dollars 27563
or less, the Ohio cultural facilities commission may delegate to 27564
its executive director the authority to approve the provision of 27565
construction services by such an agency or organization, but not 27566
the authority to disapprove that provision. Construction services 27567
to be provided by a governmental agency or a cultural organization 27568
shall be specified in an agreement between the Ohio cultural 27569
facilities commission and the governmental agency or cultural 27570
organization. The agreement, or any actions taken under it, are 27571
not subject to Chapter 123. or 153. of the Revised Code, except 27572
for sections 123.081 and 153.011 of the Revised Code, and shall be 27573
subject to Chapter 4115. of the Revised Code. 27574

(2) For a cultural project that is a state historical 27575
facility, construction services may be provided by the Ohio 27576
cultural facilities commission or by a cultural organization that 27577
occupies, will occupy, or is responsible for the facility, as 27578
determined by the Ohio cultural facilities commission. For a 27579
facility receiving a state appropriation of fifty thousand dollars 27580
or less, the Ohio cultural facilities commission may delegate to 27581
its executive director the authority to approve the provision of 27582
construction services by such an organization, but not the 27583
authority to disapprove that provision. The construction services 27584
to be provided by the cultural organization shall be specified in 27585
an agreement between the Ohio cultural facilities commission and 27586
the cultural organization. That agreement, and any actions taken 27587
under it, are not subject to Chapter 123., 153., or 4115. of the 27588
Revised Code. 27589

(B) For an Ohio sports facility that is financed in part by 27590

obligations issued pursuant to Chapter 154. of the Revised Code, 27591
construction services shall be provided on behalf of the state by 27592
or at the direction of the governmental agency or nonprofit 27593
corporation that will own or be responsible for the management of 27594
the facility, all as determined by the Ohio cultural facilities 27595
commission. For a facility receiving a state appropriation of 27596
fifty thousand dollars or less, the Ohio cultural facilities 27597
commission may delegate to its executive director the authority to 27598
approve the provision of construction services by or at the 27599
direction of the agency or corporation, but not the authority to 27600
disapprove that provision. Any construction services to be 27601
provided by a governmental agency or nonprofit corporation shall 27602
be specified in an agreement between the Ohio cultural facilities 27603
commission and the governmental agency or nonprofit corporation. 27604
That agreement, and any actions taken under it, are not subject to 27605
Chapter 123. or 153. of the Revised Code, except for sections 27606
123.081 and 153.011 of the Revised Code, and shall be subject to 27607
Chapter 4115. of the Revised Code. 27608

(C) General building services for an Ohio cultural facility 27609
shall be provided by the Ohio cultural facilities commission or by 27610
a cultural organization that occupies, will occupy, or is 27611
responsible for the facility, as determined by the Ohio cultural 27612
facilities commission. For a facility receiving a state 27613
appropriation of fifty thousand dollars or less, the Ohio cultural 27614
facilities commission may delegate to its executive director the 27615
authority to approve the provision of general building services by 27616
such an organization, but not the authority to disapprove that 27617
provision. Alternatively, the Ohio building authority may elect to 27618
provide those services for Ohio cultural facilities financed with 27619
proceeds of state bonds issued by the authority. The costs of 27620
management and general building services shall be paid by the 27621
cultural organization that occupies, will occupy, or is 27622
responsible for the facility as provided in an agreement between 27623

the Ohio cultural facilities commission and the cultural 27624
organization, except that the state may pay for general building 27625
services for state-owned cultural facilities constructed on 27626
state-owned land. 27627

General building services for an Ohio sports facility shall 27628
be provided by or at the direction of the governmental agency or 27629
nonprofit corporation that will be responsible for the management 27630
of the facility, all as determined by the Ohio cultural facilities 27631
commission. For a facility receiving a state appropriation of 27632
fifty thousand dollars or less, the Ohio cultural facilities 27633
commission may delegate to its executive director the authority to 27634
approve the provision of general building services by or at the 27635
direction of the agency or corporation, but not the authority to 27636
disapprove that provision. Any general building services to be 27637
provided by a governmental agency or nonprofit corporation for an 27638
Ohio sports facility shall be specified in an agreement between 27639
the Ohio cultural facilities commission and the governmental 27640
agency or nonprofit corporation. That agreement, and any actions 27641
taken under it, are not subject to Chapter 123. or 153. of the 27642
Revised Code, except for sections 123.081 and 153.011 of the 27643
Revised Code, and shall be subject to Chapter 4115. of the Revised 27644
Code. 27645

(D) This division does not apply to a state historical 27646
facility. No state funds, including any state bond proceeds, shall 27647
be spent on the construction of any cultural project under this 27648
chapter unless, with respect to the cultural project and to the 27649
Ohio cultural facility related to the project, all of the 27650
following apply: 27651

(1) The Ohio cultural facilities commission has determined 27652
that there is a need for the cultural project and the Ohio 27653
cultural facility related to the project in the region of the 27654
state in which the Ohio cultural facility is located or for which 27655

the facility is proposed. For a project receiving a state 27656
appropriation of fifty thousand dollars or less, the Ohio cultural 27657
facilities commission may delegate to its executive director the 27658
authority to determine need but only in the affirmative. 27659

(2) The Ohio cultural facilities commission has determined 27660
that, as an indication of substantial regional support for the 27661
cultural project, the cultural organization has made provision 27662
satisfactory to the Ohio cultural facilities commission, in its 27663
sole discretion, for local contributions amounting to not less 27664
than fifty per cent of the total state funding for the cultural 27665
project. For a project receiving a state appropriation of fifty 27666
thousand dollars or less, the Ohio cultural facilities commission 27667
may delegate to its executive director the authority to determine 27668
the adequacy of the regional support but only in the affirmative. 27669

(3) The general assembly has specifically authorized the 27670
spending of money on, or made an appropriation for, the 27671
construction of the cultural project, or for rental payments 27672
relating to the financing of the construction of the cultural 27673
project. Authorization to spend money, or an appropriation, for 27674
planning the cultural project does not constitute authorization to 27675
spend money on, or an appropriation for, construction of the 27676
cultural project. 27677

(E) No state funds, including any state bond proceeds, shall 27678
be spent on the construction of any state historical facility 27679
under this chapter unless the general assembly has specifically 27680
authorized the spending of money on, or made an appropriation for, 27681
the construction of the state historical project related to the 27682
facility, or for rental payments relating to the financing of the 27683
construction of the state historical project. Authorization to 27684
spend money, or an appropriation, for planning the state 27685
historical project does not constitute authorization to spend 27686
money on, or an appropriation for, the construction of the state 27687

historical project. 27688

(F) State funds shall not be used to pay or reimburse more 27689
than fifteen per cent of the initial estimated construction cost 27690
of an Ohio sports facility, excluding any site acquisition cost, 27691
and no state funds, including any state bond proceeds, shall be 27692
spent on any Ohio sports facility under this chapter unless, with 27693
respect to that facility, all of the following apply: 27694

(1) The Ohio cultural facilities commission has determined 27695
that there is a need for the facility in the region of the state 27696
for which the facility is proposed to provide the function of an 27697
Ohio sports facility as provided for in this chapter. For a 27698
facility receiving a state appropriation of fifty thousand dollars 27699
or less, the Ohio cultural facilities commission may delegate to 27700
its executive director the authority to determine need but only in 27701
the affirmative. 27702

(2) As an indication of substantial local support for the 27703
facility, the Ohio cultural facilities commission has received a 27704
financial and development plan satisfactory to it, and provision 27705
has been made, by agreement or otherwise, satisfactory to the Ohio 27706
cultural facilities commission, for a contribution amounting to 27707
not less than eighty-five per cent of the total estimated 27708
construction cost of the facility, excluding any site acquisition 27709
cost, from sources other than the state. For a facility receiving 27710
a state appropriation of fifty thousand dollars or less, the Ohio 27711
cultural facilities commission may delegate to its executive 27712
director the authority to evaluate the financial and development 27713
plan and the contribution and to determine their adequacy but only 27714
in the affirmative. 27715

(3) The general assembly has specifically authorized the 27716
spending of money on, or made an appropriation for, the 27717
construction of the facility, or for rental payments relating to 27718
state financing of all or a portion of the costs of constructing 27719

the facility. Authorization to spend money, or an appropriation, 27720
for planning or determining the feasibility of or need for the 27721
facility does not constitute authorization to spend money on, or 27722
an appropriation for, costs of constructing the facility. 27723

(4) If state bond proceeds are being used for the Ohio sports 27724
facility, the state or a governmental agency owns or has 27725
sufficient property interests in the facility or in the site of 27726
the facility or in the portion or portions of the facility 27727
financed from proceeds of state bonds, which may include, but is 27728
not limited to, the right to use or to require the use of the 27729
facility for the presentation of sport and athletic events to the 27730
public at the facility. 27731

(G) In addition to the requirements of division (F) of this 27732
section, no state funds, including any state bond proceeds, shall 27733
be spent on any Ohio sports facility that is a motorsports 27734
complex, unless, with respect to that facility, both of the 27735
following apply: 27736

(1) Motorsports events shall be presented at the facility 27737
pursuant to a lease entered into with the owner of the facility. 27738
The term of the lease shall be for a period of not less than the 27739
greater of the useful life of the portion of the facility financed 27740
from proceeds of state bonds as determined using the guidelines 27741
for maximum maturities as provided under divisions (B) and (C) of 27742
section 133.20 of the Revised Code, or the period of time 27743
remaining to the date of payment or provision for payment of 27744
outstanding state bonds allocable to costs of the facility, all as 27745
determined by the director of budget and management and certified 27746
by the director to the Ohio cultural facilities commission and to 27747
the treasurer of state. 27748

(2) Any motorsports organization that commits to using the 27749
facility for an established period of time shall give the 27750
political subdivision in which the facility is located not less 27751

than six months' advance notice if the organization intends to
cease utilizing the facility prior to the expiration of that
established period. Such a motorsports organization shall be
liable to the state for any state funds used on the construction
costs of the facility.

(H) In addition to the requirements of division (F) of this
section, no state bond proceeds shall be spent on any Ohio sports
facility that is a tennis facility, unless the owner or manager of
the facility provides contractual commitments from a national or
international professional tennis organization in a form
acceptable to the cultural facilities commission that assures that
one or more sanctioned professional tennis events will be
presented at the facility during each year that the bonds remain
outstanding.

Sec. 3517.20. (A)(1) As used in this section:

(a) "Political publication for or against a candidate" means
a notice, placard, advertisement, sample ballot, brochure, flyer,
direct mailer, or other form of general publication that is
designed to promote the nomination, election, or defeat of a
candidate.

(b) "Political publication for or against an issue" means a
notice, placard, advertisement, sample ballot, brochure, flyer,
direct mailer, or other form of general publication that is
designed to promote the adoption or defeat of a ballot issue or
question or to influence the voters in an election.

(c) "Public political advertising" means newspapers,
magazines, outdoor advertising facilities, direct mailings, or
other similar types of general public political advertising, or
flyers, handbills, or other nonperiodical printed matter.

(d) "Statewide candidate" has the same meaning as in section

3517.102 of the Revised Code. 27782

(e) "Legislative candidate" means a candidate for the office 27783
of member of the general assembly. 27784

(f) "Local candidate" means a candidate for an elective 27785
office of a political subdivision of this state. 27786

(g) "Legislative campaign fund" has the same meaning as in 27787
section 3517.01 of the Revised Code. 27788

(h) "Limited political action committee" means a political 27789
action committee of fewer than ten members. 27790

(i) "Limited political contributing entity" means a political 27791
contributing entity of fewer than ten members. 27792

(j) "Designated amount" means one hundred dollars in the case 27793
of a local candidate or a local ballot issue, two hundred fifty 27794
dollars in the case of a legislative candidate, or five hundred 27795
dollars in the case of a statewide candidate or a statewide ballot 27796
issue. 27797

(k) "To issue" includes to print, post, distribute, reproduce 27798
for distribution, or cause to be issued, printed, posted, 27799
distributed, or reproduced for distribution. 27800

(l) "Telephone bank" means more than five hundred telephone 27801
calls of an identical or substantially similar nature within any 27802
thirty-day period, whether those telephone calls are made by 27803
individual callers or by recording. 27804

(2)(a) No candidate, ~~campaign committee~~, legislative campaign 27805
fund, political party, or other entity, except a political action 27806
committee ~~or~~, a political contributing entity, or a campaign 27807
committee, shall issue a form of political publication for or 27808
against a candidate, or shall make an expenditure for the purpose 27809
of financing political communications in support of or opposition 27810
to a candidate through public political advertising, unless the 27811

name and residence or business address of the candidate or the 27812
chairperson, treasurer, or secretary of the ~~campaign committee,~~ 27813
legislative campaign fund, political party, or other entity that 27814
issues or otherwise is responsible for that political publication 27815
or that makes an expenditure for that political communication 27816
appears in a conspicuous place on that political publication or is 27817
contained within that political communication. 27818

(b) No campaign committee shall issue a form of political 27819
publication for or against a candidate, or shall make an 27820
expenditure for the purpose of financing political communications 27821
in support of or opposition to a candidate through public 27822
political advertising, unless the name of the campaign committee 27823
appears in a conspicuous place on that political publication or is 27824
contained within that political communication. 27825

(3) No limited political action committee or limited 27826
political contributing entity shall do either of the following 27827
unless the name and residence or business address of the 27828
chairperson, treasurer, or secretary of the limited political 27829
action committee or limited political contributing entity involved 27830
appears in a conspicuous place in the political publication for or 27831
against a candidate described in division (A)(3)(a) of this 27832
section or is contained within the political communication 27833
described in division (A)(3)(b) of this section: 27834

(a) Issue a form of political publication for or against a 27835
candidate that costs in excess of the designated amount or that is 27836
issued in cooperation, consultation, or concert with, or at the 27837
request or suggestion of, a candidate, a campaign committee, a 27838
legislative campaign fund, a political party, a political action 27839
committee with ten or more members, a political contributing 27840
entity with ten or more members, or a limited political action 27841
committee or limited political contributing entity that spends in 27842
excess of the designated amount on a related or the same or 27843

similar political publication for or against a candidate; 27844

(b) Make an expenditure in excess of the designated amount in 27845
support of or opposition to a candidate or make an expenditure in 27846
cooperation, consultation, or concert with, or at the request or 27847
suggestion of, a candidate, a campaign committee, a legislative 27848
campaign fund, a political party, a political action committee 27849
with ten or more members, a political contributing entity with ten 27850
or more members, or a limited political action committee or 27851
limited political contributing entity that spends in excess of the 27852
designated amount in support of or opposition to the same 27853
candidate, for the purpose of financing political communications 27854
in support of or opposition to that candidate through public 27855
political advertising. 27856

(4) No political action committee with ten or more members 27857
and no political contributing entity with ten or more members 27858
shall issue a form of political publication for or against a 27859
candidate, or shall make an expenditure for the purpose of 27860
financing political communications in support of or opposition to 27861
a candidate through public political advertising, unless the name 27862
and residence or business address of the chairperson, treasurer, 27863
or secretary of the political action committee or political 27864
contributing entity that issues or otherwise is responsible for 27865
that political publication or that makes an expenditure for that 27866
political communication through public political advertising 27867
appears in a conspicuous place in that political publication or is 27868
contained within that political communication. 27869

(5)(a) No corporation, labor organization, ~~campaign~~ 27870
~~committee~~, legislative campaign fund, political party, or other 27871
entity, except a political action committee or a campaign 27872
committee, shall issue a form of political publication for or 27873
against an issue, or shall make an expenditure for the purpose of 27874
financing political communications in support of or opposition to 27875

a ballot issue or question through public political advertising, 27876
unless the name and residence or business address of the 27877
chairperson, treasurer, or secretary of the corporation, labor 27878
organization, ~~campaign committee~~, legislative campaign fund, 27879
political party, or other entity that issues or otherwise is 27880
responsible for that political publication or that makes an 27881
expenditure for that political communication through public 27882
political advertising appears in a conspicuous place in that 27883
political publication or is contained within that political 27884
communication. 27885

(b) No campaign committee shall issue a form of political 27886
publication for or against an issue, or shall make an expenditure 27887
for the purpose of financing political communications in support 27888
of or opposition to a ballot issue or question through public 27889
political advertising, unless the name of the campaign committee 27890
appears in a conspicuous place in that political publication or is 27891
contained within that political communication. 27892

(6) No limited political action committee shall do either of 27893
the following unless the name and residence or business address of 27894
the chairperson, treasurer, or secretary of the limited political 27895
action committee involved appears in a conspicuous place in the 27896
political publication for or against a ballot issue described in 27897
division (A)(6)(a) of this section or is contained within the 27898
political communication described in division (A)(6)(b) of this 27899
section: 27900

(a) Issue a form of political publication for or against a 27901
ballot issue that costs in excess of the designated amount or that 27902
is issued in cooperation, consultation, or concert with, or at the 27903
request or suggestion of, a candidate, a campaign committee, a 27904
legislative campaign fund, a political party, a political action 27905
committee with ten or more members, or a limited political action 27906
committee that spends in excess of the designated amount for a 27907

related or the same or similar political publication for or 27908
against an issue; 27909

(b) Make an expenditure in excess of the designated amount in 27910
support of or opposition to a ballot issue or make an expenditure 27911
in cooperation, consultation, or concert with, or at the request 27912
or suggestion of, a candidate, a campaign committee, a legislative 27913
campaign fund, a political party, a political action committee 27914
with ten or more members, or a limited political action committee 27915
that spends in excess of the designated amount in support of or 27916
opposition to the same ballot issue, for the purpose of financing 27917
political communications in support of or opposition to that 27918
ballot issue through public political advertising. 27919

(7) No political action committee with ten or more members 27920
shall issue a form of political publication for or against an 27921
issue, or shall make an expenditure for the purpose of financing 27922
political communications in support of or opposition to a ballot 27923
issue or question through public political advertising, unless the 27924
name and residence or business address of the chairperson, 27925
treasurer, or secretary of the political action committee that 27926
issues or otherwise is responsible for that political publication 27927
or that makes an expenditure for that political communication 27928
appears in a conspicuous place in that political publication or is 27929
contained within that political communication. 27930

(8) The disclaimer "paid political advertisement" is not 27931
sufficient to meet the requirements of this section. 27932

(9) If the political publication described in division (A) of 27933
this section is issued by the regularly constituted central or 27934
executive committee of a political party that is organized as 27935
provided in this chapter, it shall be sufficiently identified if 27936
it bears the name of the committee and its chairperson or 27937
treasurer. 27938

(10) If more than one piece of printed matter or printed political communications are mailed as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name and residence or business address of the chairperson, treasurer, or secretary of the organization or entity that issues or is responsible for the printed matter or other printed political communications, except that if a campaign committee mails more than one piece of printed matter or printed political communications as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name of the campaign committee.

(11) This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution.

(12) The secretary of state, by rule, may exempt from the requirements of this section, printed matter and certain other kinds of printed communications such as campaign buttons, balloons, pencils, or similar items, the size or nature of which makes it unreasonable to add an identification or disclaimer.

(13) The disclaimer or identification described in division (A) of this section, when paid for by a campaign committee, shall be identified by the words "paid for by" followed by the name ~~and address~~ of the campaign committee and the appropriate officer of the committee, identified by name and title. The identification or disclaimer may use reasonable abbreviations for common terms such as "treasurer" or "committee".

(B)(1) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other entity shall utter or

cause to be uttered, over the broadcasting facilities of any radio 27971
or television station within this state, any communication that is 27972
designed to promote the nomination, election, or defeat of a 27973
candidate, or the adoption or defeat of an issue or to influence 27974
the voters in an election, unless the speaker identifies the 27975
speaker with the speaker's name and residence address or unless 27976
the communication identifies the chairperson, treasurer, or 27977
secretary of the organization responsible for the communication 27978
with the name and residence or business address of that officer, 27979
except that communications by radio need not broadcast the 27980
residence or business address of the officer. However, a radio 27981
station, for a period of at least six months, shall keep the 27982
residence or business address on file and divulge it to any person 27983
upon request. 27984

No person operating a broadcast station or an organ of 27985
printed media shall broadcast or print a paid political 27986
communication that does not contain the identification required by 27987
this section. 27988

(2) Division (B) of this section does not apply to any 27989
communications made on behalf of a radio or television station or 27990
network by any employee of such radio or television station or 27991
network while acting in the course of the employee's employment. 27992

(3) No candidate or entity described in division (B)(1) of 27993
this section shall use or cause to be used a false, fictitious, or 27994
fraudulent name or address in the making or issuing of a 27995
publication or communication included within the provisions of 27996
this section. 27997

(C) No candidate, campaign committee, legislative campaign 27998
fund, political party, political action committee, limited 27999
political action committee, political contributing entity, limited 28000
political contributing entity, or other person or entity shall 28001
conduct a telephone bank for the purpose of promoting the 28002

nomination, election, or defeat of a candidate or the adoption or 28003
defeat of an issue or to influence the voters in an election, 28004
unless the call includes a disclaimer that identifies the name of 28005
the candidate, campaign committee, legislative campaign fund, 28006
political party, political action committee, limited political 28007
action committee, political contributing entity, limited political 28008
contributing entity, or other person or entity paying for the 28009
telephone bank. 28010

(D) Before a prosecution may commence under this section, a 28011
complaint shall be filed with the Ohio elections commission under 28012
section 3517.153 of the Revised Code. After the complaint is 28013
filed, the commission shall proceed in accordance with sections 28014
3517.154 to 3517.157 of the Revised Code. 28015

Sec. 3701.021. (A) The ~~public director of health council~~ 28016
shall adopt, in accordance with Chapter 119. of the Revised Code, 28017
such rules as are necessary to carry out sections 3701.021 to 28018
3701.0210 of the Revised Code, including, but not limited to, 28019
rules to establish the following: 28020

(1) Medical and financial eligibility requirements for the 28021
program for medically handicapped children; 28022

(2) Eligibility requirements for providers of services for 28023
medically handicapped children; 28024

(3) Procedures to be followed by the department of health in 28025
disqualifying providers for violating requirements adopted under 28026
division (A)(2) of this section; 28027

(4) Procedures to be used by the department regarding 28028
application for diagnostic services under division (B) of section 28029
3701.023 of the Revised Code and payment for those services under 28030
division (E) of that section; 28031

(5) Standards for the provision of service coordination by 28032

| | |
|--|---|
| the department of health and city and general health districts; | 28033 |
| (6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code; | 28034 28035 28036 28037 28038 |
| (7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis; | 28039 28040 28041 |
| (8) Criteria for payment of approved providers who provide services for medically handicapped children; | 28042 28043 |
| (9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective; | 28044 28045 28046 |
| (10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services; | 28047 28048 28049 |
| (11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code; | 28050 28051 28052 |
| (12) Eligibility requirements for the hemophilia program, including income and hardship requirements; | 28053 28054 |
| (13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas. | 28055 28056 28057 28058 28059 |
| (B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to | 28060 28061 28062 |

3701.0210 of the Revised Code. 28063

Sec. 3701.023. (A) The department of health shall review 28064
applications for eligibility for the program for medically 28065
handicapped children that are submitted to the department by city 28066
and general health districts and physician providers approved in 28067
accordance with division (C) of this section. The department shall 28068
determine whether the applicants meet the medical and financial 28069
eligibility requirements established by the ~~public~~ director of 28070
health ~~council~~ pursuant to division (A)(1) of section 3701.021 of 28071
the Revised Code, and by the department in the manual of 28072
operational procedures and guidelines for the program for 28073
medically handicapped children developed pursuant to division (B) 28074
of that section. Referrals of potentially eligible children for 28075
the program may be submitted to the department on behalf of the 28076
child by parents, guardians, public health nurses, or any other 28077
interested person. The department of health may designate other 28078
agencies to refer applicants to the department of health. 28079

(B) In accordance with the procedures established in rules 28080
adopted under division (A)(4) of section 3701.021 of the Revised 28081
Code, the department of health shall authorize a provider or 28082
providers to provide to any Ohio resident under twenty-one years 28083
of age, without charge to the resident or the resident's family 28084
and without restriction as to the economic status of the resident 28085
or the resident's family, diagnostic services necessary to 28086
determine whether the resident has a medically handicapping or 28087
potentially medically handicapping condition. 28088

(C) The department of health shall review the applications of 28089
health professionals, hospitals, medical equipment suppliers, and 28090
other individuals, groups, or agencies that apply to become 28091
providers. The department shall enter into a written agreement 28092
with each applicant who is determined, pursuant to the 28093

requirements set forth in rules adopted under division (A)(2) of 28094
section 3701.021 of the Revised Code, to be eligible to be a 28095
provider in accordance with the provider agreement required by the 28096
medical assistance program established under section 5111.01 of 28097
the Revised Code. No provider shall charge a medically handicapped 28098
child or the child's parent or guardian for services authorized by 28099
the department under division (B) or (D) of this section. 28100

The department, in accordance with rules adopted under 28101
division (A)(3) of section 3701.021 of the Revised Code, may 28102
disqualify any provider from further participation in the program 28103
for violating any requirement set forth in rules adopted under 28104
division (A)(2) of that section. The disqualification shall not 28105
take effect until a written notice, specifying the requirement 28106
violated and describing the nature of the violation, has been 28107
delivered to the provider and the department has afforded the 28108
provider an opportunity to appeal the disqualification under 28109
division (H) of this section. 28110

(D) The department of health shall evaluate applications from 28111
city and general health districts and approved physician providers 28112
for authorization to provide treatment services, service 28113
coordination, and related goods to children determined to be 28114
eligible for the program for medically handicapped children 28115
pursuant to division (A) of this section. The department shall 28116
authorize necessary treatment services, service coordination, and 28117
related goods for each eligible child in accordance with an 28118
individual plan of treatment for the child. As an alternative, the 28119
department may authorize payment of health insurance premiums on 28120
behalf of eligible children when the department determines, in 28121
accordance with criteria set forth in rules adopted under division 28122
(A)(9) of section 3701.021 of the Revised Code, that payment of 28123
the premiums is cost-effective. 28124

(E) The department of health shall pay, from appropriations 28125

to the department, any necessary expenses, including but not 28126
limited to, expenses for diagnosis, treatment, service 28127
coordination, supportive services, transportation, and accessories 28128
and their upkeep, provided to medically handicapped children, 28129
provided that the provision of the goods or services is authorized 28130
by the department under division (B) or (D) of this section. Money 28131
appropriated to the department of health may also be expended for 28132
reasonable administrative costs incurred by the program. The 28133
department of health also may purchase liability insurance 28134
covering the provision of services under the program for medically 28135
handicapped children by physicians and other health care 28136
professionals. 28137

Payments made to providers by the department of health 28138
pursuant to this division for inpatient hospital care, outpatient 28139
care, and all other medical assistance furnished to eligible 28140
recipients shall be made in accordance with rules adopted by the 28141
~~public~~ director of health council pursuant to division (A) of 28142
section 3701.021 of the Revised Code. 28143

The departments of health and job and family services shall 28144
jointly implement procedures to ensure that duplicate payments are 28145
not made under the program for medically handicapped children and 28146
the medical assistance program established under section 5111.01 28147
of the Revised Code and to identify and recover duplicate 28148
payments. 28149

(F) At the time of applying for participation in the program 28150
for medically handicapped children, a medically handicapped child 28151
or the child's parent or guardian shall disclose the identity of 28152
any third party against whom the child or the child's parent or 28153
guardian has or may have a right of recovery for goods and 28154
services provided under division (B) or (D) of this section. The 28155
department of health shall require a medically handicapped child 28156
who receives services from the program or the child's parent or 28157

guardian to apply for all third-party benefits for which the child 28158
may be eligible and require the child, parent, or guardian to 28159
apply all third-party benefits received to the amount determined 28160
under division (E) of this section as the amount payable for goods 28161
and services authorized under division (B) or (D) of this section. 28162
The department is the payer of last resort and shall pay for 28163
authorized goods or services, up to the amount determined under 28164
division (E) of this section for the authorized goods or services, 28165
only to the extent that payment for the authorized goods or 28166
services is not made through third-party benefits. When a third 28167
party fails to act on an application or claim for benefits by a 28168
medically handicapped child or the child's parent or guardian, the 28169
department shall pay for the goods or services only after ninety 28170
days have elapsed since the date the child, parents, or guardians 28171
made an application or claim for all third-party benefits. 28172
Third-party benefits received shall be applied to the amount 28173
determined under division (E) of this section. Third-party 28174
payments for goods and services not authorized under division (B) 28175
or (D) of this section shall not be applied to payment amounts 28176
determined under division (E) of this section. Payment made by the 28177
department shall be considered payment in full of the amount 28178
determined under division (E) of this section. Medicaid payments 28179
for persons eligible for the medical assistance program 28180
established under section 5111.01 of the Revised Code shall be 28181
considered payment in full of the amount determined under division 28182
(E) of this section. 28183

(G) The department of health shall administer a program to 28184
provide services to Ohio residents who are twenty-one or more 28185
years of age who have cystic fibrosis and who meet the eligibility 28186
requirements established ~~by the~~ in rules ~~of~~ adopted by the ~~public~~ 28187
director of health council pursuant to division (A)(7) of section 28188
3701.021 of the Revised Code, subject to all provisions of this 28189
section, but not subject to section 3701.024 of the Revised Code. 28190

(H) The department of health shall provide for appeals, in 28191
accordance with rules adopted under section 3701.021 of the 28192
Revised Code, of denials of applications for the program for 28193
medically handicapped children under division (A) or (D) of this 28194
section, disqualification of providers, or amounts paid under 28195
division (E) of this section. Appeals under this division are not 28196
subject to Chapter 119. of the Revised Code. 28197

The department may designate ombudspersons to assist 28198
medically handicapped children or their parents or guardians, upon 28199
the request of the children, parents, or guardians, in filing 28200
appeals under this division and to serve as children's, parents', 28201
or guardians' advocates in matters pertaining to the 28202
administration of the program for medically handicapped children 28203
and eligibility for program services. The ombudspersons shall 28204
receive no compensation but shall be reimbursed by the department, 28205
in accordance with rules of the office of budget and management, 28206
for their actual and necessary travel expenses incurred in the 28207
performance of their duties. 28208

(I) The department of health, and city and general health 28209
districts providing service coordination pursuant to division 28210
(A)(2) of section 3701.024 of the Revised Code, shall provide 28211
service coordination in accordance with the standards set forth in 28212
the rules adopted under section 3701.021 of the Revised Code, 28213
without charge, and without restriction as to economic status. 28214

(J)(1) The department of health may establish a manufacturer 28215
discount program under which a manufacturer of a drug or 28216
nutritional formula is permitted to enter into an agreement with 28217
the department to provide a discount on the price of the drug or 28218
nutritional formula distributed to medically handicapped children 28219
participating in the program for medically handicapped children. 28220
The program shall be administered in accordance with rules adopted 28221
under section 3701.021 of the Revised Code. 28222

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.024. (A)(1) Under a procedure established in rules adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the medical assistance program established under section 5111.01 of the Revised Code. The department shall not charge the county for expenses exceeding the difference between the amount determined under division (A)(1) of this section and any amounts retained under divisions (A)(2) and (3) of this section.

All amounts collected by the department under division (A)(1) of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under

section 3701.021 of the Revised Code, may allow each county to 28254
retain up to ten per cent of the amount determined under division 28255
(A)(1) of this section to provide funds to city or general health 28256
districts of the county with which the districts shall provide 28257
service coordination, public health nursing, or transportation 28258
services for medically handicapped children. 28259

(3) In addition to any amount retained under division (A)(2) 28260
of this section, the department, in accordance with rules adopted 28261
under section 3701.021 of the Revised Code, may allow counties 28262
that it determines have significant numbers of potentially 28263
eligible medically handicapped children to retain an amount equal 28264
to the difference between: 28265

(a) Twenty-five per cent of the amount determined under 28266
division (A)(1) of this section; 28267

(b) Any amount retained under division (A)(2) of this 28268
section. 28269

Counties shall use amounts retained under division (A)(3) of 28270
this section to provide funds to city or general health districts 28271
of the county with which the districts shall conduct outreach 28272
activities to increase participation in the program for medically 28273
handicapped children. 28274

(4) Prior to any increase in the millage charged to a county, 28275
the ~~public director of health council~~ shall hold a public hearing 28276
on the proposed increase and shall give notice of the hearing to 28277
each board of county commissioners that would be affected by the 28278
increase at least thirty days prior to the date set for the 28279
hearing. Any county commissioner may appear and give testimony at 28280
the hearing. Any increase in the millage any county is required to 28281
provide for the program for medically handicapped children shall 28282
be determined, and notice of the amount of the increase shall be 28283
provided to each affected board of county commissioners, no later 28284

than the first day of June of the fiscal year next preceding the 28285
fiscal year in which the increase will take effect. 28286

(B) Each board of county commissioners shall establish a 28287
medically handicapped children's fund and shall appropriate 28288
thereto an amount, determined in accordance with division (A)(1) 28289
of this section, for the county's share in providing medical, 28290
surgical, and other aid to medically handicapped children residing 28291
in such county and for the purposes specified in divisions (A)(2) 28292
and (3) of this section. Each county shall use money retained 28293
under divisions (A)(2) and (3) of this section only for the 28294
purposes specified in those divisions. 28295

Sec. 3701.025. There is hereby created the medically 28296
handicapped children's medical advisory council consisting of 28297
twenty-one members to be appointed by the director of health for 28298
terms set in accordance with rules adopted by the ~~public health~~ 28299
council director under division (A)(11) of section 3701.021 of the 28300
Revised Code. The medically handicapped children's medical 28301
advisory council shall advise the director regarding the 28302
administration of the program for medically handicapped children, 28303
the suitable quality of medical practice for providers, and the 28304
requirements for medical eligibility for the program. 28305

All members of the council shall be licensed physicians, 28306
surgeons, dentists, and other professionals in the field of 28307
medicine, representative of the various disciplines involved in 28308
the treatment of children with medically handicapping conditions, 28309
and representative of the treatment facilities involved, such as 28310
hospitals, private and public health clinics, and private 28311
physicians' offices, and shall be eligible for the program. 28312

Members of the council shall receive no compensation, but 28313
shall receive their actual and necessary travel expenses incurred 28314
in the performance of their official duties in accordance with the 28315

rules of the office of budget and management. 28316

Sec. 3701.03. (A) The director of health shall perform duties 28317
that are incident to the director's position as chief executive 28318
officer of the department of health. The director shall administer 28319
the laws relating to health and sanitation and the rules of the 28320
department of health. The director may designate employees of the 28321
department and, during a public health emergency, other persons to 28322
administer the laws and rules on the director's behalf. 28323

28324

(B) Nothing in this section authorizes any action that 28325
prevents the fulfillment of duties or impairs the exercise of 28326
authority established by law for any other person or entity. 28327

~~(C) The director shall prepare sanitary and public health 28328
rules for consideration by the public health council and submit to 28329
the council recommendations for new legislation. The director 28330
shall sit at meetings of the council but shall have no vote. 28331~~

Sec. 3701.05. The director of health shall keep ~~the public~~ 28332
~~health council,~~ health officials, and the general public fully 28333
informed in a printed annual report in regard to the work of the 28334
department of health and on the progress that is being made in 28335
studying the cause and prevention of disease and such kindred 28336
subjects as may contribute to the welfare of the people of the 28337
state. 28338

Sec. 3701.07. (A) The ~~public~~ director of health ~~council~~ shall 28339
adopt rules in accordance with Chapter 119. of the Revised Code 28340
defining and classifying hospitals and dispensaries and providing 28341
for the reporting of information by hospitals and dispensaries. 28342
Except as otherwise provided in the Revised Code, the rules 28343
providing for the reporting of information shall not require 28344
inclusion of any confidential patient data or any information 28345

concerning the financial condition, income, expenses, or net worth 28346
of the facilities other than that financial information already 28347
contained in those portions of the medicare or medicaid cost 28348
report that is necessary for the department of health to certify 28349
the per diem cost under section 3701.62 of the Revised Code. The 28350
rules may require the reporting of information in the following 28351
categories: 28352

(1) Information needed to identify and classify the 28353
institution; 28354

(2) Information on facilities and type and volume of services 28355
provided by the institution; 28356

(3) The number of beds listed by category of care provided; 28357

(4) The number of licensed or certified professional 28358
employees by classification; 28359

(5) The number of births that occurred at the institution the 28360
previous calendar year; 28361

(6) Any other information that the ~~council~~ director considers 28362
relevant to the safety of patients served by the institution. 28363

Every hospital and dispensary, public or private, annually 28364
shall register with and report to the department of health. 28365
Reports shall be submitted in the manner prescribed in rules 28366
adopted under this division. 28367

(B) Every governmental entity or private nonprofit 28368
corporation or association whose employees or representatives are 28369
defined as residents' rights advocates under divisions (E)(1) and 28370
(2) of section 3721.10 of the Revised Code shall register with the 28371
department of health on forms furnished by the director of health 28372
and shall provide such reasonable identifying information as the 28373
director may prescribe. 28374

The department shall compile a list of the governmental 28375

entities, corporations, or associations registering under this 28376
division and shall update the list annually. Copies of the list 28377
shall be made available to nursing home administrators as defined 28378
in division (C) of section 3721.10 of the Revised Code ~~and to~~ 28379
~~adult care facility managers as defined in section 5119.70 of the~~ 28380
~~Revised Code.~~ 28381

Sec. 3701.072. (A) As used in this chapter: 28382

(1) "Bioterrorism" has the same meaning as in section 28383
3701.232 of the Revised Code. 28384

(2) "Surveillance" in the public health service means the 28385
systematic collection, analysis, interpretation, and dissemination 28386
of health data on an ongoing basis, to gain knowledge of the 28387
pattern of disease occurrence and potential in a community in 28388
order to control and prevent disease in the community. 28389

(3) "Trauma center" has the same meaning as in section 28390
4765.01 of the Revised Code. 28391

(B) The ~~public~~ director of health council shall adopt rules 28392
in accordance with Chapter 119. of the Revised Code that require a 28393
trauma center to report information to the director of health 28394
describing the trauma center's preparedness and capacity to 28395
respond to disasters, mass casualties, and bioterrorism. The 28396
~~council's~~ director's rules may require the reporting of any 28397
information the ~~council~~ director considers necessary for an 28398
accurate description of a trauma center's preparedness and 28399
capacity to respond to disasters, mass casualties, and 28400
bioterrorism. Information reported pursuant to this division is 28401
not a public record under section 149.43 of the Revised Code. 28402

(C) Upon request, the department of health shall provide a 28403
summary report of the ~~public health council's~~ rules adopted 28404
pursuant to this section. 28405

(D) The director shall review all information received 28406
pursuant to this section. After reviewing the information, the 28407
director may conduct an evaluation of a trauma center's 28408
preparedness and capacity to respond to disasters, mass 28409
casualties, and bioterrorism. An evaluation conducted pursuant to 28410
this division is not a public record under section 149.43 of the 28411
Revised Code. 28412

Sec. 3701.11. The director of health ~~and the secretary of the~~ 28413
~~public health council~~ shall have power to administer oaths in all 28414
parts of the state so far as the exercise of such power is 28415
incidental to the performance of the duties of the director ~~or of~~ 28416
~~the council.~~ 28417

Sec. 3701.132. The department of health is hereby designated 28418
as the state agency to administer the "special supplemental 28419
nutrition program for women, infants, and children" established 28420
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 28421
1786, as amended. The ~~public~~ director of health ~~council~~ may adopt 28422
rules pursuant to Chapter 119. of the Revised Code as necessary 28423
for administering the program. The rules may include civil money 28424
penalties for violations of the rules. 28425

In determining eligibility for services provided under the 28426
program, the department may use the application form established 28427
under section 5111.013 of the Revised Code for the healthy start 28428
program. The department may require applicants to furnish their 28429
social security numbers. 28430

If the department determines that a vendor has committed an 28431
act with respect to the program that federal statutes or 28432
regulations or state statutes or rules prohibit, the department 28433
shall take action against the vendor in the manner required by 7 28434
C.F.R. part 246, including imposition of a civil money penalty in 28435

accordance with 7 C.F.R. 246.12, or rules adopted under this 28436
section. 28437

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 28438
the director of health has all of the following duties and powers: 28439

(1) The director shall maintain registries of hospitals, 28440
clinics, physicians, or other care providers to whom the director 28441
shall refer persons who make inquiries to the department of health 28442
regarding possible exposure to tuberculosis. 28443

(2) The director shall engage in tuberculosis surveillance 28444
activities, including the collection and analysis of 28445
epidemiological information relative to the frequency of 28446
tuberculosis infection, demographic and geographic distribution of 28447
tuberculosis cases, and trends pertaining to tuberculosis. 28448

(3) The director shall maintain a tuberculosis registry to 28449
record the incidence of tuberculosis in this state. 28450

(4) The director may appoint physicians to serve as 28451
tuberculosis consultants for geographic regions of the state 28452
specified by the director. Each tuberculosis consultant shall act 28453
in accordance with rules the director establishes and shall be 28454
responsible for advising and assisting physicians and other health 28455
care practitioners who participate in tuberculosis control 28456
activities and for reviewing medical records pertaining to the 28457
treatment provided to individuals with tuberculosis. 28458

(B)(1) The ~~public health council~~ director shall adopt rules 28459
establishing standards for the following: 28460

(a) Performing tuberculosis screenings; 28461

(b) Performing examinations of individuals who have been 28462
exposed to tuberculosis and individuals who are suspected of 28463
having tuberculosis; 28464

(c) Providing treatment to individuals with tuberculosis; 28465

| | |
|--|--|
| (d) Preventing individuals with communicable tuberculosis from infecting other individuals; | 28466 28467 |
| (e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs; | 28468 28469 |
| (f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state. | 28470 28471 28472 28473 |
| (2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis. | 28474 28475 28476 28477 28478 28479 28480 28481 |
| Sec. 3701.161. The director of health shall make necessary arrangements for the production and distribution of diphtheria antitoxin. Such antitoxin shall in all respects be equal in purity and potency to the standard of requirements of the United States public health service for antitoxin for interstate commerce. Diphtheria antitoxin shall be distributed in accordance with rules the public health council <u>director</u> adopts pursuant to Chapter 119. of the Revised Code. | 28482 28483 28484 28485 28486 28487 28488 28489 |
| Sec. 3701.20. (A) In accordance with rules adopted by the public health council , under division (C) of this section, the director of health shall establish, promote, and maintain the Ohio poison control network; designate regions within the network; and designate poison prevention and treatment centers within each region. The purposes of the network are to: | 28490 28491 28492 28493 28494 28495 |

| | |
|--|--|
| (1) Reduce the mortality resulting from and the expenditures incurred because of accidental, homicidal, suicidal, occupational, or environmental poisoning; | 28496 28497 28498 |
| (2) Educate the public and health care professionals concerning the prevention and treatment of exposure to poison; | 28499 28500 |
| (3) Organize poison prevention and treatment activities on a regional basis to avoid duplication and waste. | 28501 28502 |
| (B) To be eligible for designation as a poison prevention and treatment center and to retain the designation, a center must maintain compliance with the standards established by the public health council <u>director</u> pursuant to division (C) of this section. A poison prevention and treatment center may be operated by an individual, hospital, institution of higher education, political subdivision, association, corporation, or public or private agency. | 28503 28504 28505 28506 28507 28508 28509 28510 |
| (C) In accordance with Chapter 119. of the Revised Code, the public health council <u>director</u> shall adopt rules that do the following: | 28511 28512 28513 |
| (1) Establish guidelines, based on population density and other relevant factors, and procedures to be followed by the director of health in designating poison control network regions and centers; | 28514 28515 28516 28517 |
| (2) Establish standards for the operation of poison prevention and treatment centers; | 28518 28519 |
| (3) Establish standards and procedures to be followed by the director of health in making grants to poison prevention and treatment centers; | 28520 28521 28522 |
| (4) Establish procedures, other than those prescribed by Chapter 119. of the Revised Code, for reconsideration, at the request of the entity affected, of the denial or revocation of a | 28523 28524 28525 |

designation as a poison prevention and treatment center. 28526

(D) In accordance with rules adopted ~~by the public health~~ 28527
~~council~~ under division (C) of this section, the director of health 28528
shall make grants to poison prevention and treatment centers. A 28529
center is not eligible for a grant unless, prior to receiving the 28530
grant, the entity that operates the center agrees in writing that 28531
the level of the total funds, labor, and services devoted by the 28532
entity to the center during the period of the grant will 28533
approximate, as determined by the director of health, the level of 28534
the total funds, labor, and services devoted to the center by that 28535
entity in the fiscal year preceding the fiscal year in which the 28536
grant begins. 28537

(E) Each poison prevention and treatment center shall do all 28538
of the following: 28539

(1) Maintain and staff a twenty-four-hour per day, toll-free, 28540
telephone line to respond to inquiries and provide information 28541
about poison prevention and treatment and available services; 28542

(2) Provide specialized treatment, consultation, information, 28543
and educational programs to health care professionals and the 28544
public; 28545

(3) Compile information on the types and frequency of 28546
treatment it provides. 28547

A center may provide the services described in divisions 28548
(E)(1) and (2) of this section either directly or through contract 28549
with other facilities, as the director of health considers 28550
appropriate. Each center shall take measures to ensure the 28551
confidentiality of information about individuals to whom treatment 28552
or services are provided. 28553

(F) The director of health may revoke the designation of a 28554
poison treatment and control center, or deny an application for 28555
designation, if the center or applicant fails to meet or maintain 28556

the standards established ~~by rule of the public health council~~ in 28557
rules adopted under division (C) of this section. The entity 28558
seeking the designation may have the revocation or denial 28559
reconsidered in accordance with rules adopted ~~by the public health~~ 28560
~~council~~ under division (C) of this section. 28561

(G)(1) A poison prevention and treatment center, its 28562
officers, employees, volunteers, or other persons associated with 28563
the center, and a person, organization, or institution that 28564
advises or assists a poison prevention and treatment center are 28565
not liable in damages in a tort action for harm that allegedly 28566
arises from advice or assistance rendered to any person unless the 28567
advice or assistance is given in a manner that constitutes willful 28568
or wanton misconduct or intentionally tortious conduct. 28569

(2) This section does not create, and shall not be construed 28570
as creating, a new cause of action or substantive legal right 28571
against a poison prevention and treatment center, its officers, 28572
employees, volunteers, or other persons associated with the 28573
center, or a person, organization, or institution that advises or 28574
assists a poison prevention and treatment center. 28575

(3) This section does not affect, and shall not be construed 28576
as affecting, any immunities from civil liability or defenses 28577
conferred by any other section of the Revised Code or available at 28578
common law, to which a poison prevention and treatment center, its 28579
officers, employees, volunteers, or other persons associated with 28580
the center or a person, organization, or institution that advises 28581
or assists a poison prevention and treatment center may be 28582
entitled under circumstances not specified by this section. 28583

(H) The director shall annually report to the general 28584
assembly findings and recommendations concerning the 28585
effectiveness, impact, and benefits of the poison prevention and 28586
treatment centers. 28587

Sec. 3701.201. (A) As used in this section, "bioterrorism" 28588
has the same meaning as in section 3701.232 of the Revised Code. 28589

(B) The ~~public director of health council~~ shall adopt rules 28590
in accordance with Chapter 119. of the Revised Code under which a 28591
poison prevention and treatment center or other health-related 28592
entity is required to report events that may be caused by 28593
bioterrorism, epidemic or pandemic disease, or established or 28594
novel infectious agents or biological or chemical toxins posing a 28595
risk of human fatality or disability. Rules adopted under this 28596
section may require a report of any of the following: 28597

(1) An unexpected pattern or increase in the number of 28598
telephone inquiries or requests to provide information about 28599
poison prevention and treatment and available services; 28600

(2) An unexpected pattern or increase in the number of 28601
requests to provide specialized treatment, consultation, 28602
information, and educational programs to health care professionals 28603
and the public; 28604

(3) An unexpected pattern or increase in the number of 28605
requests for information on established or novel infectious agents 28606
or biological or chemical toxins posing a risk of human fatality 28607
or disability that is relatively uncommon and may have been caused 28608
by bioterrorism. 28609

(C) Each poison prevention and treatment center and other 28610
health-related entity shall comply with any reporting requirement 28611
established in rules adopted under division (B) of this section. 28612

(D) Information reported under this section that is protected 28613
health information pursuant to section 3701.17 of the Revised Code 28614
shall be released only in accordance with that section. 28615
Information that does not identify an individual may be released 28616
in summary, statistical, or aggregate form. 28617

| | |
|--|---|
| Sec. 3701.21. (A) As used in this section: | 28618 |
| (1) "Amblyopia" means reduced vision in an eye that has not received adequate use during early childhood. | 28619 28620 |
| (2) "501(c) organization" means an organization exempt from federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c). | 28621 28622 |
| (B) There is hereby created in the state treasury the save our sight fund. The fund shall consist of voluntary contributions deposited as provided in section 4503.104 of the Revised Code. All investment earnings from the fund shall be credited to the fund. | 28623 28624 28625 28626 |
| (C) The director of health shall use the money in the save our sight fund as follows: | 28627 28628 |
| (1) To provide support to 501(c) organizations that offer vision services in all counties of the state and have demonstrated experience in the delivery of vision services to do one or more of the following: | 28629 28630 28631 28632 |
| (a) Implement a voluntary children's vision screening training and certification program for volunteers, child care providers, nurses, teachers, health care professionals practicing in primary care settings, and others serving children; | 28633 28634 28635 28636 |
| (b) Provide materials for the program implemented under division (C)(1)(a) of this section; | 28637 28638 |
| (c) Develop and implement a registry and targeted voluntary case management system to determine whether children with amblyopia are receiving professional eye care and to provide their parents with information and support regarding their child's vision care; | 28639 28640 28641 28642 28643 |
| (d) Establish a matching grant program for the purchase and distribution of protective eyewear to children; | 28644 28645 |
| (e) Provide vision health and safety programs and materials | 28646 |

for classrooms. 28647

(2) For the purpose of section 4503.104 of the Revised Code, 28648
to develop and distribute informational materials on the 28649
importance of eye care and safety to the registrar of motor 28650
vehicles and each deputy registrar; 28651

(3) To pay costs incurred by the director in administering 28652
the fund; 28653

(4) To reimburse the bureau of motor vehicles for the 28654
administrative costs incurred in performing its duties under 28655
section 4503.104 of the Revised Code. 28656

(D) A 501(c) organization seeking funding from the save our 28657
sight fund for any of the projects specified in division (C) of 28658
this section shall submit a request for the funding to the 28659
director in accordance with rules adopted under division (E) of 28660
this section. The director shall determine the appropriateness of 28661
and approve or disapprove projects for funding and approve or 28662
disapprove the disbursement of money from the save our sight fund. 28663

(E) The ~~public health council~~ director shall adopt rules in 28664
accordance with Chapter 119. of the Revised Code to implement this 28665
section. The rules shall include the parameters of the projects 28666
specified in division (C)(1) of this section that may be funded 28667
with money in the save our sight fund and procedures for 501(c) 28668
organizations to request funding from the fund. 28669

Sec. 3701.221. (A) The director of health shall have charge 28670
of the public health laboratory authorized by section 3701.22 of 28671
the Revised Code. The director may employ an assistant for the 28672
laboratory who shall be a person skilled in chemistry and 28673
bacteriology, and receive compensation as the director determines. 28674
All expenses of the laboratory shall be paid from appropriations 28675
made for the department of health. 28676

(B) The ~~public health council~~ director, in accordance with 28677
Chapter 119. of the Revised Code, shall adopt, and may amend or 28678
rescind, rules establishing reasonable fees for services the 28679
laboratory performs. The ~~council~~ director need not prescribe fees 28680
where the ~~council~~ director believes that charging fees would 28681
significantly and adversely affect the public health. All fees 28682
collected for services the laboratory performs shall be deposited 28683
into the state treasury to the credit of the "laboratory handling 28684
fee fund," which is hereby created for the purpose of defraying 28685
expenses of operating the laboratory. 28686

Sec. 3701.23. (A) As used in this section, "health care 28687
provider" means any person or government entity that provides 28688
health care services to individuals. "Health care provider" 28689
includes, but is not limited to, hospitals, medical clinics and 28690
offices, special care facilities, medical laboratories, 28691
physicians, pharmacists, dentists, physician assistants, 28692
registered and licensed practical nurses, laboratory technicians, 28693
emergency medical service organization personnel, and ambulance 28694
service organization personnel. 28695

(B) Boards of health, health authorities or officials, health 28696
care providers in localities in which there are no health 28697
authorities or officials, and coroners or medical examiners shall 28698
report promptly to the department of health the existence of any 28699
of the following: 28700

(1) Asiatic cholera; 28701

(2) Yellow fever; 28702

(3) Diphtheria; 28703

(4) Typhus or typhoid fever; 28704

(5) As specified by the ~~public~~ director of health ~~council~~, 28705
other contagious or infectious diseases, illnesses, health 28706

conditions, or unusual infectious agents or biological toxins 28707
posing a risk of human fatality or disability. 28708

(C) No person shall fail to comply with the reporting 28709
requirements established under division (B) of this section. 28710

(D) The reports required by this section shall be submitted 28711
on forms, as required by statute or rule, and in the manner the 28712
director of health prescribes. 28713

(E) Information reported under this section that is protected 28714
health information pursuant to section 3701.17 of the Revised Code 28715
shall be released only in accordance with that section. 28716
Information that does not identify an individual may be released 28717
in summary, statistical, or aggregate form. 28718

Sec. 3701.232. (A) As used in this section: 28719

(1) "Bioterrorism" means the intentional use of any 28720
microorganism, virus, infectious substance, or biological product 28721
that may be engineered as a result of biotechnology, or any 28722
naturally occurring or bioengineered component of a microorganism, 28723
virus, infectious substance, or biological product, to cause 28724
death, disease, or other biological malfunction in a human, 28725
animal, plant, or other living organism as a means of influencing 28726
the conduct of government or intimidating or coercing a 28727
population. 28728

(2) "Pharmacist" means an individual licensed under Chapter 28729
4729. of the Revised Code to engage in the practice of pharmacy as 28730
a pharmacist. 28731

(3) "Pharmacy" and "prescription" have the same meanings as 28732
in section 4729.01 of the Revised Code. 28733

(B) The ~~public~~ director of health ~~council~~ shall adopt rules 28734
in accordance with Chapter 119. of the Revised Code under which a 28735
pharmacy or pharmacist is required to report significant changes 28736

in medication usage that may be caused by bioterrorism, epidemic 28737
or pandemic disease, or established or novel infectious agents or 28738
biological toxins posing a risk of human fatality or disability. 28739
Rules adopted under this section may require a report of any of 28740
the following: 28741

(1) An unexpected increase in the number of prescriptions for 28742
antibiotics; 28743

(2) An unexpected increase in the number of prescriptions for 28744
medication to treat fever or respiratory or gastrointestinal 28745
complaints; 28746

(3) An unexpected increase in sales of, or the number of 28747
requests for information on, over-the-counter medication to treat 28748
fever or respiratory or gastrointestinal complaints; 28749

(4) Any prescription for medication used to treat a disease 28750
that is relatively uncommon and may have been caused by 28751
bioterrorism. 28752

(C) No person shall fail to comply with any reporting 28753
requirement established in rules adopted under division (B) of 28754
this section. 28755

(D) Information reported under this section that is protected 28756
health information pursuant to section 3701.17 of the Revised Code 28757
shall be released only in accordance with that section. 28758
Information that does not identify an individual may be released 28759
in summary, statistical, or aggregate form. 28760

Sec. 3701.24. (A) As used in this section and sections 28761
3701.241 to 3701.249 of the Revised Code: 28762

(1) "AIDS" means the illness designated as acquired 28763
immunodeficiency syndrome. 28764

(2) "HIV" means the human immunodeficiency virus identified 28765
as the causative agent of AIDS. 28766

- (3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.
- (4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.
- (5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.
- (6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.
- (7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.
- (8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.
- (9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.
- (10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 of the Revised Code.
- (11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the ~~public health council~~ director may adopt rules further defining the scope of the term "health care

| | |
|---|-------|
| provider." | 28797 |
| (12) "Significant exposure to body fluids" means a | 28798 |
| percutaneous or mucous membrane exposure of an individual to the | 28799 |
| blood, semen, vaginal secretions, or spinal, synovial, pleural, | 28800 |
| peritoneal, pericardial, or amniotic fluid of another individual. | 28801 |
| (13) "Emergency medical services worker" means all of the | 28802 |
| following: | 28803 |
| (a) A peace officer; | 28804 |
| (b) An employee of an emergency medical service organization | 28805 |
| as defined in section 4765.01 of the Revised Code; | 28806 |
| (c) A firefighter employed by a political subdivision; | 28807 |
| (d) A volunteer firefighter, emergency operator, or rescue | 28808 |
| operator; | 28809 |
| (e) An employee of a private organization that renders rescue | 28810 |
| services, emergency medical services, or emergency medical | 28811 |
| transportation to accident victims and persons suffering serious | 28812 |
| illness or injury. | 28813 |
| (14) "Peace officer" has the same meaning as in division (A) | 28814 |
| of section 109.71 of the Revised Code, except that it also | 28815 |
| includes a sheriff and the superintendent and troopers of the | 28816 |
| state highway patrol. | 28817 |
| (B) Persons designated by rule adopted by the public health | 28818 |
| council <u>director</u> under section 3701.241 of the Revised Code shall | 28819 |
| report promptly every case of AIDS, every AIDS-related condition, | 28820 |
| and every confirmed positive HIV test to the department of health | 28821 |
| on forms and in a manner prescribed by the director. In each | 28822 |
| county the director shall designate the health commissioner of a | 28823 |
| health district in the county to receive the reports. | 28824 |
| (C) No person shall fail to comply with the reporting | 28825 |
| requirements established under division (B) of this section. | 28826 |

(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes

and in alternative settings; 28857

(6) Programs to expand regional outpatient treatment of 28858
individuals with AIDS or AIDS-related condition; 28859

(7) A program to assist communities, including communities of 28860
less than one hundred thousand population, in establishing AIDS 28861
task forces and support groups for individuals with AIDS, 28862
AIDS-related condition, and HIV infection. The program may include 28863
the award of grants if they are matched by local funds. 28864

Information obtained or maintained under the partner 28865
notification system is not a public record under section 149.43 of 28866
the Revised Code and may be released only in accordance with 28867
division (C) of section 3701.243 of the Revised Code. 28868

(B) The director shall: 28869

(1) Approve a test or tests to be used to determine whether 28870
an individual has HIV infection, define a confirmed positive test 28871
result, and develop guidelines for interpreting test results; 28872

(2) Establish sites for confidential and anonymous HIV tests, 28873
and prepare a list of sites where an individual may obtain an 28874
anonymous test; 28875

(3) Prepare a list of counseling services; 28876

(4) Make available a copy of the list of anonymous testing 28877
sites or a copy of the list of counseling services to anyone who 28878
requests it. 28879

(C) The director of health shall require the director or 28880
administrator of each site where anonymous or confidential HIV 28881
tests are given to submit a report every three months evaluating 28882
from an epidemiologic perspective the effectiveness of the HIV 28883
testing program at that site. Not later than January 31, 1991, and 28884
each year thereafter, the director of health shall make a report 28885
evaluating the anonymous and confidential testing programs 28886

throughout the state with regard to their effectiveness as 28887
epidemiologic programs. The report shall be submitted to the 28888
speaker of the house of representatives and the president of the 28889
senate and shall be made available to the public. 28890

The ~~public~~ director of health ~~council~~ shall adopt rules 28891
pursuant to Chapter 119. of the Revised Code for the 28892
implementation of the requirements of division (B)(1) of this 28893
section and division (D) of section 3701.24 of the Revised Code. 28894

(D) The director of health shall administer funds received 28895
under Title XXVI of the "Public Health Services Act," 104 Stat. 28896
576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve 28897
the quality and availability of care for individuals with AIDS, 28898
AIDS-related condition, and HIV infection. In administering these 28899
funds, the director may enter into contracts with any person or 28900
entity for the purpose of administering the programs, including 28901
contracts with the department of job and family services for 28902
establishment of a program of reimbursement of drugs used for 28903
treatment and care of such individuals. The director of health may 28904
adopt rules in accordance with Chapter 119. of the Revised Code 28905
and issue orders as necessary for administration of the funds. If 28906
the department of job and family services enters into a contract 28907
under this division, the director of job and family services may 28908
adopt rules in accordance with Chapter 119. of the Revised Code as 28909
necessary for carrying out the department's duties under the 28910
contract. 28911

Sec. 3701.242. (A) An HIV test may be performed by or on the 28912
order of a health care provider who, in the exercise of the 28913
provider's professional judgment, determines the test to be 28914
necessary for providing diagnosis and treatment to the individual 28915
to be tested, if the individual or the individual's parent or 28916
guardian has given consent to the provider for medical or other 28917

health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.

(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.

(C) The health care provider ordering an HIV test shall provide post-test counseling for an individual who receives an HIV-positive test result. The ~~public director of health council~~ may adopt rules, ~~pursuant to recommendations from the director of health and~~ in accordance with Chapter 119. of the Revised Code, specifying the information to be provided in post-test counseling.

(D) An individual shall have the right to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.

(E) Divisions (B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual if the individual receives an HIV-positive test result;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased

person donated for a purpose specified in Chapter 2108. of the 28949
Revised Code, if the test is medically necessary to ensure that 28950
the body part is acceptable for its intended purpose; 28951

(4) When the test is performed on a person incarcerated in a 28952
correctional institution under the control of the department of 28953
rehabilitation and correction if the head of the institution has 28954
determined, based on good cause, that a test is necessary; 28955

(5) When the test is performed in accordance with section 28956
2907.27 of the Revised Code; 28957

(6) When the test is performed on an individual after the 28958
infection control committee of a health care facility, or other 28959
body of a health care facility performing a similar function 28960
determines that a health care provider, emergency medical services 28961
worker, or peace officer, while rendering health or emergency care 28962
to an individual, has sustained a significant exposure to the body 28963
fluids of that individual, and the individual has refused to give 28964
consent for testing. 28965

Sec. 3701.248. (A) As used in this section: 28966

(1) "Contagious or infectious disease" means a disease 28967
specified ~~by rule~~ in rules adopted by the ~~public director of~~ 28968
health ~~council~~ pursuant to division (F) of this section. 28969

(2) "Patient" means either of the following: 28970

(a) A person, whether alive or dead, who has been treated, or 28971
handled, or transported for medical care by an emergency medical 28972
services worker; 28973

(b) A deceased person whose body is handled by a funeral 28974
services worker. 28975

(3) "Significant exposure" means: 28976

(a) A percutaneous or mucous membrane exposure of an 28977

individual to the blood, semen, vaginal secretions, or spinal, 28978
synovial, pleural, peritoneal, pericardial, or amniotic fluid of 28979
another person; 28980

(b) Exposure to a contagious or infectious disease. 28981

(4) "Funeral services worker" means a person licensed as a 28982
funeral director or embalmer under Chapter 4717. of the Revised 28983
Code or an individual responsible for the direct final disposition 28984
of a deceased person. 28985

(B)(1) An emergency medical services worker or funeral 28986
services worker who believes that significant exposure has 28987
occurred through the worker's contact with a patient may submit to 28988
the health care facility or coroner that received the patient a 28989
written request to be notified of the results of any test 28990
performed on the patient to determine the presence of a contagious 28991
or infectious disease. The request shall include: 28992

(a) The name, address, and telephone number of the individual 28993
submitting the request; 28994

(b) The name of the individual's employer, or, in the case of 28995
a volunteer emergency medical services worker, the entity for 28996
which the worker volunteers, and the individual's supervisor; 28997

(c) The date, time, location, and manner of the exposure. 28998

(2) The request for notification that is submitted by an 28999
emergency medical services worker pursuant to division (B)(1) of 29000
this section is valid for ten days after it is made. If at the end 29001
of that ten-day period no test has been performed to determine the 29002
presence of a contagious or infectious disease, no diagnosis has 29003
been made, or the result of the test is negative, the health care 29004
facility or coroner shall notify the emergency medical services 29005
worker. The notification shall not include the name of the 29006
patient. If necessary, the request may be renewed in accordance 29007
with the same procedures and requirements as the original request. 29008

(3) A health care facility or coroner shall respond 29009
immediately to a request for notification submitted pursuant to 29010
division (B)(1) of this section by a funeral services worker. If 29011
no test has been performed to determine the presence of a 29012
contagious or infectious disease, no diagnosis has been made, or 29013
the result of a test that was performed is negative, the health 29014
care facility or coroner shall immediately notify the funeral 29015
services worker. The notification shall not include the name of 29016
the patient. 29017

On receipt of notification that no test has been performed to 29018
determine the presence of a contagious or infectious disease in a 29019
patient, the funeral services worker may have a test performed on 29020
the patient. The test shall be performed in accordance with rules 29021
adopted by the department of health pursuant to division (G) of 29022
this section. 29023

The consent of the patient's family is not required for 29024
performance of a test pursuant to division (B)(3) of this section. 29025

(C) The health care facility or coroner that receives a 29026
written request for notification shall give an oral notification 29027
of the presence of a contagious or infectious disease, or of a 29028
confirmed positive test result, if known, to the person who made 29029
the request and the person's supervisor and to the infection 29030
control committee or other body described in division (E)(6) of 29031
section 3701.242 of the Revised Code within two days after 29032
determining the presence of a contagious or infectious disease or 29033
after a confirmed positive test result. A written notification 29034
shall follow oral notification within three days. If a contagious 29035
or infectious disease is present, or the test results are 29036
confirmed positive, both the oral and written notification shall 29037
include the name of the disease, its signs and symptoms, the date 29038
of exposure, the incubation period, the mode of transmission of 29039
the disease, the medical precautions necessary to prevent 29040

transmission to other persons, and the appropriate prophylaxis, 29041
treatment, and counseling for the disease. The notification shall 29042
not include the name of the patient. 29043

If the request is made by an emergency medical services 29044
worker and the information is not available from the health care 29045
facility to which the request is made because the patient has been 29046
transferred from that health care facility, the facility shall 29047
assist the emergency medical services worker in locating the 29048
patient and securing the requested information from the health 29049
care facility that treated or is treating the patient. If the 29050
patient has died, the health care facility shall give the 29051
emergency medical services worker the name and address of the 29052
coroner who received the patient. 29053

(D) Each health care facility and coroner shall develop 29054
written procedures to implement the notification procedures 29055
required by this section. A health care facility or coroner may 29056
take measures in addition to those required in this section to 29057
notify emergency medical services workers and funeral services 29058
workers of possible exposure to a contagious or infectious disease 29059
as long as the confidentiality of the information is maintained. 29060

(E) No person shall knowingly fail to comply with division 29061
(C) of this section. 29062

(F) The ~~public~~ director of health ~~council~~ shall adopt rules 29063
in accordance with Chapter 119. of the Revised Code that specify 29064
the diseases that are reasonably likely to be transmitted by air 29065
or blood during the normal course of duties performed by an 29066
emergency medical services worker or funeral services worker. In 29067
adopting such rules, the ~~council~~ director shall consider the types 29068
of contact that typically occur between patients and emergency 29069
medical services workers and funeral services workers. 29070

(G) The department of health shall adopt rules in accordance 29071

with Chapter 119. of the Revised Code specifying the procedures a 29072
funeral services worker must follow when having a test performed 29073
on a patient pursuant to division (B)(3) of this section. The 29074
rules shall specify how and by whom the test is to be performed. 29075
The rules shall require the funeral services worker or the funeral 29076
services worker's employer to pay the cost of the test. No health 29077
care facility shall be required to perform the test. 29078

Sec. 3701.33. (A) There is hereby created the Ohio public 29079
health advisory board. The board shall consist of the following 29080
members: 29081

(1) The following members appointed by the director of health 29082
from among individuals who are not employed by the state and are 29083
recommended by statewide trade or professional organizations that 29084
represent interests in public health: 29085

(a) One individual authorized under Chapter 4731. of the 29086
Revised Code to practice medicine and surgery or osteopathic 29087
medicine and surgery; 29088

(b) One individual authorized under Chapter 4723. of the 29089
Revised Code to practice nursing as a registered nurse; 29090

(c) Three members of the public, two of whom are 29091
representatives of entities licensed by the department of health 29092
or boards of health. 29093

(2) One representative of the association of Ohio health 29094
commissioners, appointed by the association; 29095

(3) One representative of the Ohio public health association, 29096
appointed by the association; 29097

(4) One representative of the Ohio environmental health 29098
association, appointed by the association, who is registered as a 29099
sanitarian under Chapter 4736. of the Revised Code; 29100

(5) One representative of the Ohio association of boards of 29101

health, appointed by the association; 29102

(6) One representative of the Ohio society for public health 29103
education, appointed by the society; 29104

(7) One representative of the Ohio hospital association, 29105
appointed by the association. 29106

The director of health or the director's designee shall serve 29107
as an ex officio, nonvoting member of the board. 29108

(B) Not later than thirty days after the effective date of 29109
this section, initial appointments shall be made to the board. Of 29110
the initial appointments, the members specified in divisions 29111
(A)(5), (6), and (7) and division (A)(1)(c) of this section 29112
representing entities licensed by the department of health or 29113
boards of health shall serve terms ending June 30, 2014, and the 29114
members specified in divisions (A)(1)(a) and (b), divisions 29115
(A)(2), (3), and (4), and division (A)(1)(c) of this section not 29116
representing entities licensed by the department or boards of 29117
health shall serve terms ending June 30, 2015. Thereafter, terms 29118
of office for all members shall be three years, with each term 29119
ending on the same day of the same month as the term it succeeds. 29120
Each member shall hold office from the date of appointment until 29121
the end of the term for which the member was appointed. Members 29122
may be reappointed, except that no member who has served two 29123
consecutive terms may be reappointed until three years have 29124
elapsed since the member's last term ended. 29125

Each member shall hold office from the date of appointment 29126
until the end of the term for which the member was appointed. 29127
Vacancies shall be filled in the same manner as original 29128
appointments. 29129

Any member appointed to fill a vacancy occurring prior to the 29130
expiration of the term for which the member's predecessor was 29131
appointed shall hold office for the remainder of that term. A 29132

member shall continue in office subsequent to the expiration date 29133
of the member's term until the member's successor takes office or 29134
until a period of ninety days has elapsed, whichever occurs first. 29135

(C) The board shall annually select from among its members a 29136
chairperson and vice-chairperson. The director shall designate an 29137
officer or employee of the department to act as the board's 29138
secretary. The secretary shall be a nonvoting board member. 29139

The board may adopt by laws governing its operation. The 29140
chairperson may appoint subcommittees as the chairperson considers 29141
necessary. 29142

(D) The board shall meet at the call of the chairperson, but 29143
not less than four times per year. A majority of the members of 29144
the board constitutes a quorum. Special meetings may be called by 29145
the chairperson and shall be called by the chairperson at the 29146
request of the director. In a request for a special meeting, the 29147
director shall specify the purpose of the meeting and the date and 29148
place the meeting is to be held. No other business shall be 29149
considered at a special meeting except by a unanimous vote of 29150
members present at the meeting. 29151

In conducting any meeting, the board and its subcommittees 29152
may use an interactive video teleconferencing system. If 29153
provisions are made that allow public attendance at a designated 29154
location with respect to a meeting using such a system, the board 29155
members who attend the meeting by video teleconference shall be 29156
counted for purposes of determining whether a quorum is present 29157
and shall be permitted to vote. 29158

Members shall be expected to attend a majority of meetings of 29159
the board. Unexcused absence from three consecutive meetings shall 29160
be considered notice of a member's intent to resign from the 29161
board. 29162

(E)(1) The department shall provide meeting space and staff 29163

and other administrative support for the board to carry out its 29164
duties. 29165

(2) To facilitate the board's review of proposed rules under 29166
division (A)(1) of section 3701.34 of the Revised Code, the 29167
department shall establish and maintain an electronic web-based 29168
database of board meeting agendas, board meeting minutes, proposed 29169
rules, public comments, and other documents relevant to the work 29170
of the board. 29171

(F) Notice of meetings shall be provided to members through 29172
the board's mailing list, the department's web site, or any other 29173
means available to the board. 29174

The minutes of previous meetings, the next meeting's agenda, 29175
and information on any matters to be presented to the board at any 29176
regular or special meeting shall be provided to the board in an 29177
electronic format. 29178

(G) Members shall attend annual ethics training provided by 29179
the Ohio ethics commission. 29180

(H) Members shall serve without compensation, but may be 29181
reimbursed for actual and necessary expenses incurred in the 29182
performance of their official duties. 29183

(I) Sections 101.82 to 101.87 of the Revised Code do not 29184
apply to the Ohio public health advisory board. 29185

Sec. 3701.34. (A) The Ohio public health advisory board shall 29186
review and make recommendations to the director of health on all 29187
of the following: 29188

(1) Developing and adopting proposed rules under Chapters 29189
3701 and 3717 of the Administrative Code; 29190

(2) Prescribing proposed fees for services provided by the 29191
office of vital statistics and the bureau of environmental health; 29192

| | |
|---|-------|
| <u>(3) Issues to improve public health and increase awareness of</u> | 29193 |
| <u>public health issues at the state level, local level, or both;</u> | 29194 |
| <u>(4) Any other public health issues that the director requests</u> | 29195 |
| <u>the board to consider.</u> | 29196 |
| <u>(B) In making recommendations to the director under division</u> | 29197 |
| <u>(A)(1) of this section, all of the following apply:</u> | 29198 |
| <u>(1) Prior to filing a proposed rule with the joint committee</u> | 29199 |
| <u>on agency rule review, the department of health shall provide each</u> | 29200 |
| <u>board member with a copy of the proposed rule, copies of public</u> | 29201 |
| <u>comments received by the department during the public comment</u> | 29202 |
| <u>period, and written evidence of stakeholder involvement.</u> | 29203 |
| <u>(2) Prior to board meetings, copies of proposed rules shall</u> | 29204 |
| <u>be provided to members. On request of a member, the department</u> | 29205 |
| <u>shall ensure that appropriate department employees attend board</u> | 29206 |
| <u>meetings to answer questions concerning proposed rules.</u> | 29207 |
| <u>(3)(a) Not later than sixty days after receiving a copy of a</u> | 29208 |
| <u>proposed rule, the board shall recommend approval or disapproval</u> | 29209 |
| <u>of the rule and submit its recommendation by board action to the</u> | 29210 |
| <u>director. In making its recommendation, the board may consider</u> | 29211 |
| <u>public comments provided to the department or the board.</u> | 29212 |
| <u>(b) If the board fails to make a recommendation within sixty</u> | 29213 |
| <u>days of receiving a copy of the proposed rule, the director may</u> | 29214 |
| <u>file the proposed rule.</u> | 29215 |
| <u>(4) Except as provided in division (B)(3)(b) of this section,</u> | 29216 |
| <u>the director shall consider the board's recommendation before</u> | 29217 |
| <u>filing a proposed rule. On request of the board, the director</u> | 29218 |
| <u>shall meet with the board to discuss the board's recommendation.</u> | 29219 |
| <u>(5) If the director disagrees with the board's</u> | 29220 |
| <u>recommendation, the director shall inform the board in writing of</u> | 29221 |
| <u>the director's decision and the reason for the decision prior to</u> | 29222 |

the next quarterly meeting. The director or the director's 29223
designee may meet with the board at the next quarterly meeting to 29224
answer questions regarding why the director disagreed with the 29225
board's recommendation. 29226

(C) To the extent the board believes that a proposed rule 29227
does not comply with requirements established by the joint 29228
committee on agency rule review or the common sense initiative 29229
office, nothing in this section prohibits the board, in carrying 29230
out its duties under division (A)(1) of this section, from 29231
contacting the joint committee on agency rule review or the common 29232
sense initiative office. 29233

(D) In making recommendations under division (A)(2) of this 29234
section for prescribing proposed fees for services provided by the 29235
bureau of environmental health, the board and the department shall 29236
develop a cost methodology subject to approval by the director. 29237

(E) This section does not apply to the following: 29238

(1) A proposed rule that is to be refiled with the joint 29239
committee on agency rule review solely because of technical or 29240
other nonsubstantive revisions; 29241

(2) The emergency adoption, amendment, or rescission of a 29242
rule under division (F) of section 119.03 of the Revised Code. 29243

Sec. 3701.341. (A) The ~~public~~ director of health council, 29244
pursuant to Chapter 119. and consistent with section 2317.56 of 29245
the Revised Code, shall adopt rules relating to abortions and the 29246
following subjects: 29247

(1) Post-abortion procedures to protect the health of the 29248
pregnant woman; 29249

(2) Pathological reports; 29250

(3) Humane disposition of the product of human conception; 29251

(4) Counseling. 29252

(B) The director of health shall implement the rules and 29253
shall apply to the court of common pleas for temporary or 29254
permanent injunctions restraining a violation or threatened 29255
violation of the rules. This action is an additional remedy not 29256
dependent on the adequacy of the remedy at law. 29257

Sec. 3701.342. After consultation with the public health 29258
standards task force established under section 3701.343 of the 29259
Revised Code, the ~~public~~ director of health ~~council~~ shall adopt 29260
rules establishing minimum standards and optimum achievable 29261
standards for boards of health and local health departments. The 29262
minimum standards shall assure that boards of health and local 29263
health departments provide for: 29264

(A) Analysis and prevention of communicable disease; 29265

(B) Analysis of the causes of, and appropriate treatment for, 29266
the leading causes of morbidity and mortality; 29267

(C) The administration and management of the local health 29268
department; 29269

(D) Access to primary health care by medically underserved 29270
individuals; 29271

(E) Environmental health management programs; 29272

(F) Health promotion services designed to encourage 29273
individual and community wellness. 29274

The ~~public health council~~ director shall adopt rules 29275
establishing a formula for distribution of state health district 29276
subsidy funds to boards of health and local health departments. 29277
The formula shall provide no subsidy funds to a board or 29278
department unless it meets minimum standards and shall provide 29279
higher funding levels for boards and districts that meet optimum 29280
achievable standards. 29281

Notwithstanding section 119.03 of the Revised Code, rules 29282
adopted under this section shall not take effect unless approved 29283
by concurrent resolution of the general assembly. 29284

Sec. 3701.343. The ~~chairman~~ director of the ~~public health~~ 29285
~~council~~ shall, with the advice of the association of Ohio health 29286
commissioners ~~and the director of health~~, appoint a public health 29287
standards task force to assist and advise the ~~public health~~ 29288
~~council~~ director in formulating and evaluating the standards 29289
established under section 3701.342 of the Revised Code for the 29290
provision of public health services. ~~The task force shall~~ 29291
~~recommend its standards for all categories mentioned in section~~ 29292
~~3701.342 of the Revised Code on or before March 1, 1983.~~ 29293

The task force shall have nine members, consisting of: 29294

(A) A sanitarian registered in accordance with Chapter 4736. 29295
of the Revised Code; 29296

(B) A registered nurse licensed in accordance with Chapter 29297
4723. of the Revised Code; 29298

(C) A physician ~~licensed in accordance with~~ who is authorized 29299
under Chapter 4731. of the Revised Code to practice medicine and 29300
surgery or osteopathic medicine and surgery; 29301

(D) Three health commissioners; 29302

(E) Two representatives of the department of health; 29303

(F) One individual with recognized ability in public health 29304
law, public health laboratories, epidemiology, nutrition, or 29305
health education. 29306

~~The public health standards task force shall complete its~~ 29307
~~work within three years after the effective date of this section~~ 29308
~~and shall cease to exist upon completion of its work, provided,~~ 29309
~~that the public health council may reconstitute the public health~~ 29310
~~standards task force, for the purpose of reviewing, evaluating,~~ 29311

~~and revising the standards mandated in section 3701.342 of the Revised Code.~~ 29312
29313

Members of the task force shall elect a ~~chairman~~ chairperson. 29314
Five members of the task force constitute a quorum and six votes 29315
are necessary to validate an action. 29316

~~Within ninety days of the effective date of this section, the chairman of the public health council shall make the appointments to the task force. Within sixty days of their appointment, the task force members shall meet, organize, and begin their work.~~ 29317
29318
29319
29320
Vacancies occurring on the task force shall be filled in the same 29321
manner as the initial appointments. 29322

Members of the task force shall serve without compensation, 29323
but may be reimbursed for necessary expenses. 29324

Sec. 3701.344. As used in this section and sections 3701.345, 29325
3701.346, and 3701.347 of the Revised Code: 29326

(A) "Private water system" means any water system for the 29327
provision of water for human consumption, if such system has fewer 29328
than fifteen service connections and does not regularly serve an 29329
average of at least twenty-five individuals daily at least sixty 29330
days out of the year. A private water system includes any well, 29331
spring, cistern, pond, or hauled water and any equipment for the 29332
collection, transportation, filtration, disinfection, treatment, 29333
or storage of such water extending from and including the source 29334
of the water to the point of discharge from any pressure tank or 29335
other storage vessel; to the point of discharge from the water 29336
pump where no pressure tank or other storage vessel is present; 29337
or, in the case of multiple service connections serving more than 29338
one dwelling, to the point of discharge from each service 29339
connection. "Private water system" does not include the water 29340
service line extending from the point of discharge to a structure. 29341

(B) Notwithstanding section 3701.347 of the Revised Code and 29342
subject to division (C) of this section, rules adopted by the 29343
~~public director of health council~~ regarding private water systems 29344
shall provide for the following: 29345

(1) Except as otherwise provided in this division, boards of 29346
health of city or general health districts shall be given the 29347
exclusive power to establish fees in accordance with section 29348
3709.09 of the Revised Code for administering and enforcing such 29349
rules. Such fees shall establish a different rate for 29350
administering and enforcing the rules relative to private water 29351
systems serving single-family dwelling houses and nonsingle-family 29352
dwelling houses. Except for an amount established by the ~~public~~ 29353
~~health council~~ director, pursuant to division (B)(5) of this 29354
section, for each new private water system installation, no 29355
portion of any fee for administering and enforcing such rules 29356
shall be returned to the department of health. If the director of 29357
health determines that a board of health of a city or general 29358
health district is unable to administer and enforce a private 29359
water system program in the district, the director shall 29360
administer and enforce such a program in the district and 29361
establish fees for such administration and enforcement. 29362

(2) Boards of health of city or general health districts 29363
shall be given the exclusive power to determine the number of 29364
inspections necessary for determining the safe drinking 29365
characteristics of a private water system. 29366

(3) Private water systems contractors, as a condition of 29367
doing business in this state, shall annually register with, and 29368
comply with surety bonding requirements of, the department of 29369
health. No such contractor shall be permitted to register if the 29370
contractor fails to comply with all applicable rules adopted by 29371
the ~~public health council~~ director and the board of health of the 29372
city or general health district. The annual registration fee for 29373

private water systems contractors shall be sixty-five dollars. The 29374
~~public health council director~~, by rule adopted in accordance with 29375
Chapter 119. of the Revised Code, may increase the annual 29376
registration fee. ~~Before January 1, 1993, the fee shall not be~~ 29377
~~increased by more than fifty per cent of the amount prescribed by~~ 29378
~~this section.~~ 29379

(4) ~~Boards~~ Subject to rules adopted by the director, boards 29380
of health of city or general health districts ~~subject to such~~ 29381
~~rules of the public health council~~ shall have the option of 29382
determining whether bacteriological examinations shall be 29383
performed at approved laboratories of the state or at approved 29384
private laboratories. 29385

(5) The ~~public health council director~~ may establish fees for 29386
each new private water system installation, which shall be 29387
collected by the appropriate board of health and transmitted to 29388
the director ~~of health~~ pursuant to section 3709.092 of the Revised 29389
Code. 29390

(6) All fees received by the director of health under 29391
divisions (B)(1), (3), and (5) of this section shall be deposited 29392
in the state treasury to the credit of the general operations fund 29393
created in section 3701.83 of the Revised Code for use in the 29394
administration and enforcement of sections 3701.344 to 3701.347 of 29395
the Revised Code and the rules pertaining to private water systems 29396
adopted under those sections ~~or section 3701.34 of the Revised~~ 29397
~~Code.~~ 29398

(C) To the extent that rules adopted under division (B) of 29399
this section require health districts to follow specific 29400
procedures or use prescribed forms, no such procedure or form 29401
shall be implemented until it is approved by majority vote of an 29402
approval board of health commissioners, hereby created. Members of 29403
the board shall be the officers of the association of Ohio health 29404
commissioners, or any successor organization, and membership on 29405

the board shall be coterminous with holding an office of the 29406
association. No health district is required to follow a procedure 29407
or use a form required by a rule adopted under division (B) of 29408
this section without the approval of the board. 29409

(D) A board of health shall collect well log filing fees on 29410
behalf of the division of soil and water resources in the 29411
department of natural resources in accordance with section 1521.05 29412
of the Revised Code and rules adopted under it. The fees shall be 29413
submitted to the division quarterly as provided in those rules. 29414

Sec. 3701.345. Any applicant for a permit to construct, 29415
develop, install, or modify a private water system required by 29416
rules adopted by the ~~public director of health council~~ under 29417
~~sections 3701.34 and~~ section 3701.347 of the Revised Code may 29418
apply to the board of health of the city or general health 29419
district administering and enforcing the private water supply 29420
program in the health district in which the private water system 29421
is or is to be located or, if the health district is not 29422
administering and enforcing the program, may apply to the 29423
department of health for a variance from such rules governing the 29424
design, construction, development, installation, or modification 29425
of private water systems. The application for a variance shall be 29426
made in writing and shall include a statement of the particular 29427
rule or rules from which a variance is sought, a description of 29428
the proposed system or modification, and the necessity for the 29429
variance. The board of health or the department of health shall 29430
not grant a variance unless the applicant demonstrates that: 29431

(A) There will be an unusual and unnecessary hardship in 29432
complying with the rules from which the variance is sought; 29433

(B) Contamination of the private water system will not occur 29434
as a result of construction and operation of the system as 29435
proposed by the variance application; 29436

(C) The health of persons using water from the private water system will not be endangered as a result of construction and operation of the system as proposed by the variance application; and

(D) No other technically feasible and economically reasonable means exist for obtaining water from the proposed type of water source.

Sec. 3701.347. Notwithstanding division (E) of section 6111.42 of the Revised Code, rules adopted under such division and in effect on December 14, 1978, shall continue in effect until repealed by the environmental protection agency or superseded by rules ~~of~~ adopted by the public director of health ~~council~~ as hereinafter provided, as fully as if such section had not been amended by Amended Substitute Senate Bill No. 445 of the 112th general assembly on such date. Insofar as these rules affect wells for the provision of water for human consumption not used or for use by a public water system, they shall remain in effect notwithstanding repeal by the environmental protection agency until the ~~public health council~~ director adopts rules superseding them which prescribe uniform standards and procedures for the design, construction, inspection, installation, development, maintenance, and abandonment of private water systems, to protect the health of the persons served by such water systems and to establish fees at a level calculated to pay the cost of administering and enforcing such rules by the director ~~health~~ or by boards of health of city and general health districts approved by the director of health. For purposes of this section "public water system" has the meaning ascribed to it in section 6109.01 of the Revised Code.

Sec. 3701.352. No person shall violate any rule the ~~public health council~~, director of health, or department of health adopts

or any order the director or department of health issues under 29468
this chapter to prevent a threat to the public caused by a 29469
pandemic, epidemic, or bioterrorism event. 29470

Sec. 3701.40. The ~~public~~ director of health ~~council~~ shall by 29471
rule prescribe minimum standards for the maintenance and operation 29472
of hospitals and medical facilities which shall receive federal 29473
aid for construction under the state plan provided for by section 29474
3701.39 of the Revised Code. 29475

Boards of trustees or directors of institutions required to 29476
comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 29477
3701.37 to 3701.45 of the Revised Code shall have the right to 29478
select the professional staff members of such institutions and to 29479
select and employ interns, nurses, and other personnel, and no 29480
rules, regulations, or standards of the director of health ~~or the~~ 29481
~~public health council~~ adopted or promulgated severally or jointly 29482
shall be valid which, if enforced, would interfere in such 29483
selection or employment. 29484

The director of health may petition the common pleas court of 29485
the county in which any hospital or medical facility is located 29486
for an order enjoining any person, firm, partnership, association, 29487
corporation, or other entity, private or public, from operating a 29488
hospital or medical facility in violation of any rules adopted 29489
under this section. Irrespective of any other remedy the director 29490
may have in law or equity the court has jurisdiction to grant such 29491
injunctive relief upon a showing that the respondent named in the 29492
petition is operating in violation of such rules. 29493

Sec. 3701.503. As used in sections 3701.504 to 3701.509 of 29494
the Revised Code: 29495

(A) "Parent" means either parent, unless the parents are 29496
separated or divorced or their marriage has been dissolved or 29497

| | |
|--|----------------------------------|
| annulled, in which case "parent" means the parent who is the residential parent and legal custodian. | 29498 29499 |
| (B) "Guardian" has the same meaning as in section 2111.01 of the Revised Code. | 29500 29501 |
| (C) "Custodian" means, except as used in division (A) of this section, a government agency or an individual, other than the parent or guardian, with legal or permanent custody of a child as defined in section 2151.011 of the Revised Code. | 29502 29503 29504 29505 |
| (D) "Hearing screening" means the identification of newborns and infants who may have a hearing impairment, through the use of a physiologic test. | 29506 29507 29508 |
| (E) "Hearing evaluation" means evaluation through the use of audiological procedures by an audiologist or physician. | 29509 29510 |
| (F) "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension. | 29511 29512 29513 |
| (G) "Newborn" means a child who is less than thirty days old. | 29514 |
| (H) "Infant" means a child who is at least thirty days but less than twenty-four months old. | 29515 29516 |
| (I) "Freestanding birthing center" has the same meaning as in section 3702.51 <u>3702.141</u> of the Revised Code. | 29517 29518 |
| (J) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. | 29519 29520 29521 |
| (K) "Audiologist" means an individual authorized under section 4753.07 of the Revised Code to practice audiology. | 29522 29523 |
| (L) "Hospital" means a hospital that has a maternity unit or newborn nursery. | 29524 29525 |
| (M) "Maternity unit" means any unit or place in a hospital | 29526 |

where women are regularly received and provided care during all or 29527
part of the maternity cycle, except that "maternity unit" does not 29528
include an emergency department or similar place dedicated to 29529
providing emergency health care. 29530

(N) "Board of health" means the board of health of a city or 29531
general health district or the authority having the duties of a 29532
board of health under section 3709.05 of the Revised Code. 29533

Sec. 3701.507. (A) To assist in implementing sections 29534
3701.503 to 3701.509 of the Revised Code, the medically 29535
handicapped children's medical advisory council created in section 29536
3701.025 of the Revised Code shall appoint a permanent infant 29537
hearing screening subcommittee. The subcommittee shall consist of 29538
the following members: 29539

(1) One otolaryngologist; 29540

(2) One neonatologist; 29541

(3) One pediatrician; 29542

(4) One neurologist; 29543

(5) One hospital administrator; 29544

(6) Two or more audiologists who are experienced in infant 29545
hearing screening and evaluation; 29546

(7) One speech-language pathologist licensed under section 29547
4753.07 of the Revised Code; 29548

(8) Two persons who are each a parent of a hearing-impaired 29549
child; 29550

(9) One geneticist; 29551

(10) One epidemiologist; 29552

(11) One adult who is deaf or hearing impaired; 29553

(12) One representative from an organization for the deaf or 29554

| | |
|--|----------------------------------|
| hearing impaired; | 29555 |
| (13) One family advocate; | 29556 |
| (14) One nurse from a well-baby neonatal nursery; | 29557 |
| (15) One nurse from a special care neonatal nursery; | 29558 |
| (16) One teacher of the deaf who works with infants and toddlers; | 29559 29560 |
| (17) One representative of the health insurance industry; | 29561 |
| (18) One representative of the bureau for children with medical handicaps; | 29562 29563 |
| (19) One representative of the department of education; | 29564 |
| (20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid; | 29565 29566 |
| (21) Any other person the advisory council appoints. | 29567 |
| (B) The infant hearing subcommittee shall: | 29568 |
| (1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code; | 29569 29570 29571 |
| (2) Advise and make recommendations regarding proposed rules prior to their adoption by the public health council <u>director</u> under section 3701.508 of the Revised Code; | 29572 29573 29574 |
| (3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following: | 29575 29576 29577 29578 |
| (a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment; | 29579 29580 29581 29582 |

| | |
|---|---|
| (b) Identification of locations where hearing evaluations may be conducted; | 29583 29584 |
| (c) Recommendations for methods and techniques of hearing screening and hearing evaluation; | 29585 29586 |
| (d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care; | 29587 29588 |
| (e) Maintenance of a register of newborns and infants who do not pass the hearing screening; | 29589 29590 |
| (f) Preparation of the information required by section 3701.506 of the Revised Code and any other information the public health council requires the department of health to provide. | 29591 29592 29593 |
| Sec. 3701.508. (A) The public director of health council shall adopt rules governing the statewide hearing screening, tracking, and early intervention program established under section 3701.504 of the Revised Code, including rules that do all of the following: | 29594 29595 29596 29597 29598 |
| (1) Specify how hospitals and freestanding birthing centers are to comply with the requirements of section 3701.505 of the Revised Code, including methods to be used for hearing screening, except that with regard to the physiologic equipment to be used for hearing screening, the rules may require only that the equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment; | 29599 29600 29601 29602 29603 29604 29605 |
| (2) Provide that no newborn or infant shall be required to undergo a hearing screening if the parent, guardian, or custodian of the newborn or infant objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices; | 29606 29607 29608 29609 29610 |
| (3) Provide for situations in which the parent, guardian, or custodian of a newborn or infant objects to a hearing screening | 29611 29612 |

for reasons other than religious tenets and practices; 29613

(4) Specify how the department of health will determine 29614
whether a person is financially unable to pay for a hearing 29615
screening and define "third-party payer" for the purpose of 29616
reimbursement of hearing screening by the department under section 29617
3701.505 of the Revised Code; 29618

(5) Specify an inexpensive and efficient format and 29619
procedures for the submission of hearing screening information 29620
from hospitals and freestanding birthing centers to the department 29621
of health; 29622

(6) Specify a procedure whereby the department may conduct 29623
timely reviews of hearing screening information submissions for 29624
purposes of quality assurance, training, and disease prevention 29625
and control; 29626

(7) Specify any additional information that hospitals and 29627
freestanding birthing centers are to provide to the medically 29628
handicapped children's medical advisory council's infant hearing 29629
screening subcommittee under section 3701.509 of the Revised Code. 29630

(B) In addition to the rules adopted under division (A) of 29631
this section, the ~~council~~ director shall adopt rules that specify 29632
the training that must be completed by persons who will conduct 29633
hearing screenings. In adopting these rules, the ~~council~~ director 29634
shall consider incorporating cost-saving training methods, 29635
including computer-assisted learning and on-site training. Neither 29636
the rules nor the director of health may establish a minimum 29637
educational level for persons conducting hearing screenings. 29638

(C) All rules adopted under this section shall be adopted in 29639
accordance with Chapter 119. of the Revised Code and shall be 29640
adopted so as to take effect not later than six months after ~~the~~ 29641
~~effective date of this section~~ August 1, 2002. 29642

Sec. 3701.509. (A) The department of health shall develop a 29643
mechanism to analyze and interpret the hearing screening 29644
information to be reported under division (B) of this section. The 29645
department shall notify all hospitals and freestanding birthing 29646
centers subject to the reporting requirements of the date the 29647
department anticipates that the mechanism will be complete. After 29648
the mechanism is complete, the department shall notify each 29649
hospital and freestanding birthing center subject to the reporting 29650
requirement of the date by which the hospital or center must 29651
submit its first report. 29652

(B) Subject to division (A) of this section and in accordance 29653
with rules adopted by the ~~public director of health council~~ under 29654
section 3701.508 of the Revised Code, each hospital and 29655
freestanding birthing center that has conducted a hearing 29656
screening required by section 3701.505 of the Revised Code shall 29657
provide to the department of health for use by the medically 29658
handicapped children's medical advisory council's infant hearing 29659
screening subcommittee information specifying all of the 29660
following: 29661

(1) The number of newborns born in the hospital or 29662
freestanding birthing center and the number of newborns and 29663
infants not screened because they were transferred to another 29664
hospital; 29665

(2) The number of newborns and infants referred to the 29666
hospital or freestanding birthing center for a hearing screening 29667
and the number of those newborns and infants who received a 29668
hearing screening; 29669

(3) The number of newborns and infants who did not pass the 29670
hearing screenings conducted by the hospital or freestanding 29671
birthing center; 29672

(4) Any other information concerning the program established 29673

under section 3701.504 of the Revised Code. 29674

(C) The department of health shall conduct a timely review of 29675
the information submitted by hospitals and freestanding birthing 29676
centers in accordance with rules adopted by the ~~public health~~ 29677
~~council~~ director under section 3701.508 of the Revised Code. 29678

(D) The infant hearing screening subcommittee, with the 29679
support of the department of health, shall compile and summarize 29680
the information submitted to the department by hospitals and 29681
freestanding birthing centers under division (B) of this section. 29682
Beginning with the first year after the mechanism developed under 29683
division (A) of this section is complete, the subcommittee shall 29684
annually prepare and transmit a report to the director of health, 29685
the speaker of the house of representatives, and the president of 29686
the senate. The council shall make the report available to the 29687
public. 29688

(E) The department and all members of the subcommittee shall 29689
maintain the confidentiality of patient-identifying information 29690
submitted under division (B) of this section and section 3701.505 29691
of the Revised Code. The information is not a public record under 29692
section 149.43 of the Revised Code, except to the extent that the 29693
information is used in preparing reports under this section. 29694

Nothing in this division prohibits the department from 29695
providing patient-identifying information to other entities as it 29696
considers necessary to implement the statewide tracking and early 29697
intervention components of the program established under section 29698
3701.504 of the Revised Code. Any entity that receives 29699
patient-identifying information from the department shall maintain 29700
the confidentiality of the information. 29701

Sec. 3701.57. All prosecutions and proceedings by the 29702
department of health for the violation of sections 3701.01 to 29703
3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 29704

to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of 29705
the Revised Code, or for the violation of any of the orders or 29706
rules of the department, shall be instituted by the director of 29707
health. Except as provided in division (C) of section 3701.571 of 29708
the Revised Code, all fines or judgments the department collects 29709
shall be paid into the state treasury to the credit of the general 29710
revenue fund. 29711

The director of health, the board of health of a general or 29712
city health district, or any person charged with enforcing the 29713
rules of the department of health as provided in section 3701.56 29714
of the Revised Code may petition the court of common pleas for 29715
injunctive or other appropriate relief requiring any person 29716
violating a rule adopted by ~~the public health council under~~ 29717
~~section 3701.34 of the Revised Code~~ or any order issued by the 29718
director of health under this chapter to comply with such rule or 29719
order. The court of common pleas of the county in which the 29720
offense is alleged to be occurring may grant such injunctive or 29721
other appropriate relief as the equities of the case require. 29722

Sec. 3701.63. (A) As used in this section and section 3701.64 29723
of the Revised Code: 29724

(1) "Child day-care center," "type A family day-care home," 29725
and "certified type B family day-care home" have the same meanings 29726
as in section 5104.01 of the Revised Code. 29727

(2) "Child care facility" means a child day-care center, a 29728
type A family day-care home, or a certified type B family day-care 29729
home. 29730

(3) "Freestanding birthing center" has the same meaning as in 29731
section ~~3702.51~~ 3702.141 of the Revised Code. 29732

(4) "Hospital" means a hospital classified pursuant to rules 29733
adopted under section 3701.07 of the Revised Code as a general 29734

hospital or children's hospital. 29735

(5) "Maternity unit" means any unit or place in a hospital 29736
where women are regularly received and provided care during all or 29737
part of the maternity cycle, except that "maternity unit" does not 29738
include an emergency department or similar place dedicated to 29739
providing emergency health care. 29740

(6) "Parent" means either parent, unless the parents are 29741
separated or divorced or their marriage has been dissolved or 29742
annulled, in which case "parent" means the parent who is the 29743
residential parent and legal custodian of the child. "Parent" also 29744
means a prospective adoptive parent with whom a child is placed. 29745

(7) "Shaken Baby Syndrome" means signs and symptoms, 29746
including, but not limited to, retinal hemorrhages in one or both 29747
eyes, subdural hematoma, or brain swelling, resulting from the 29748
violent shaking or the shaking and impacting of the head of an 29749
infant or small child. 29750

(B) The director of health shall establish the shaken baby 29751
syndrome education program by doing all of the following: 29752

(1) By not later than one year after February 29, 2008, 29753
developing educational materials that present readily 29754
comprehensible information on shaken baby syndrome; 29755

(2) Making available on the department of health web site in 29756
an easily accessible format the educational materials developed 29757
under division (B)(1) of this section; 29758

(3) Beginning in 2009, annually assessing the effectiveness 29759
of the shaken baby syndrome education program by evaluating the 29760
reports received pursuant to section 5101.135 of the Revised Code. 29761

(C) In meeting the requirements under division (B) of this 29762
section, the director shall not develop educational materials that 29763
will impose an administrative or financial burden on any of the 29764

entities or persons listed in section 3701.64 of the Revised Code. 29765

Sec. 3701.74. (A) As used in this section and section 29766
3701.741 of the Revised Code: 29767

(1) "Ambulatory care facility" means a facility that provides 29768
medical, diagnostic, or surgical treatment to patients who do not 29769
require hospitalization, including a dialysis center, ambulatory 29770
surgical facility, cardiac catheterization facility, diagnostic 29771
imaging center, extracorporeal shock wave lithotripsy center, home 29772
health agency, inpatient hospice, birthing center, radiation 29773
therapy center, emergency facility, and an urgent care center. 29774
"Ambulatory care facility" does not include the private office of 29775
a physician or dentist, whether the office is for an individual or 29776
group practice. 29777

(2) "Chiropractor" means an individual licensed under Chapter 29778
4734. of the Revised Code to practice chiropractic. 29779

(3) "Emergency facility" means a hospital emergency 29780
department or any other facility that provides emergency medical 29781
services. 29782

(4) "Health care practitioner" means all of the following: 29783

(a) A dentist or dental hygienist licensed under Chapter 29784
4715. of the Revised Code; 29785

(b) A registered or licensed practical nurse licensed under 29786
Chapter 4723. of the Revised Code; 29787

(c) An optometrist licensed under Chapter 4725. of the 29788
Revised Code; 29789

(d) A dispensing optician, spectacle dispensing optician, 29790
contact lens dispensing optician, or spectacle-contact lens 29791
dispensing optician licensed under Chapter 4725. of the Revised 29792
Code; 29793

| | |
|--|----------------------------------|
| (e) A pharmacist licensed under Chapter 4729. of the Revised Code; | 29794 29795 |
| (f) A physician; | 29796 |
| (g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant; | 29797 29798 |
| (h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code; | 29799 29800 |
| (i) A psychologist licensed under Chapter 4732. of the Revised Code; | 29801 29802 |
| (j) A chiropractor; | 29803 |
| (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code; | 29804 29805 |
| (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code; | 29806 29807 |
| (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code; | 29808 29809 |
| (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code; | 29810 29811 |
| (o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code; | 29812 29813 29814 29815 |
| (p) A dietitian licensed under Chapter 4759. of the Revised Code; | 29816 29817 |
| (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code; | 29818 29819 |
| (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code. | 29820 29821 29822 |

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 29823
29824
29825

(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 29826
29827

(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; ~~an adult care a residential facility, as defined in licensed under section 5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 29828
29829
29830
29831
29832
29833
29834
29835
29836
29837
29838
29839

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment. 29840
29841
29842
29843

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative. 29844
29845
29846
29847
29848

(10) "Patient" means either of the following: 29849

(a) An individual who received health care treatment from a health care provider; 29850
29851

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this 29852
29853

section. 29854

(11) "Patient's personal representative" means a minor 29855
patient's parent or other person acting in loco parentis, a 29856
court-appointed guardian, or a person with durable power of 29857
attorney for health care for a patient, the executor or 29858
administrator of the patient's estate, or the person responsible 29859
for the patient's estate if it is not to be probated. "Patient's 29860
personal representative" does not include an insurer authorized 29861
under Title XXXIX of the Revised Code to do the business of 29862
sickness and accident insurance in this state, a health insuring 29863
corporation holding a certificate of authority under Chapter 1751. 29864
of the Revised Code, or any other person not named in this 29865
division. 29866

(12) "Pharmacy" has the same meaning as in section 4729.01 of 29867
the Revised Code. 29868

(13) "Physician" means a person authorized under Chapter 29869
4731. of the Revised Code to practice medicine and surgery, 29870
osteopathic medicine and surgery, or podiatric medicine and 29871
surgery. 29872

(14) "Authorized person" means a person to whom a patient has 29873
given written authorization to act on the patient's behalf 29874
regarding the patient's medical record. 29875

(B) A patient, a patient's personal representative or an 29876
authorized person who wishes to examine or obtain a copy of part 29877
or all of a medical record shall submit to the health care 29878
provider a written request signed by the patient, personal 29879
representative, or authorized person dated not more than one year 29880
before the date on which it is submitted. The request shall 29881
indicate whether the copy is to be sent to the requestor, 29882
physician or chiropractor, or held for the requestor at the office 29883
of the health care provider. Within a reasonable time after 29884

receiving a request that meets the requirements of this division 29885
and includes sufficient information to identify the record 29886
requested, a health care provider that has the patient's medical 29887
records shall permit the patient to examine the record during 29888
regular business hours without charge or, on request, shall 29889
provide a copy of the record in accordance with section 3701.741 29890
of the Revised Code, except that if a physician or chiropractor 29891
who has treated the patient determines for clearly stated 29892
treatment reasons that disclosure of the requested record is 29893
likely to have an adverse effect on the patient, the health care 29894
provider shall provide the record to a physician or chiropractor 29895
designated by the patient. The health care provider shall take 29896
reasonable steps to establish the identity of the person making 29897
the request to examine or obtain a copy of the patient's record. 29898

(C) If a health care provider fails to furnish a medical 29899
record as required by division (B) of this section, the patient, 29900
personal representative, or authorized person who requested the 29901
record may bring a civil action to enforce the patient's right of 29902
access to the record. 29903

(D)(1) This section does not apply to medical records whose 29904
release is covered by section 173.20 or 3721.13 of the Revised 29905
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 29906
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 29907
Records," or by 42 C.F.R. 483.10. 29908

(2) Nothing in this section is intended to supersede the 29909
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 29910
and 2305.252 of the Revised Code. 29911

Sec. 3701.77. (A) The department of health may establish, 29912
promote, and maintain a lupus education and awareness program with 29913
an emphasis on at-risk communities to raise public awareness, 29914
educate consumers, and educate and train health professionals, 29915

| | |
|---|-------|
| <u>human services providers, and other audiences.</u> | 29916 |
| <u>(B) The department, in creating and implementing the program,</u> | 29917 |
| <u>may do all of the following:</u> | 29918 |
| <u>(1) Provide sufficient staff and appropriate training to</u> | 29919 |
| <u>implement the program;</u> | 29920 |
| <u>(2) Establish a grant program to support nonprofit voluntary</u> | 29921 |
| <u>health organizations with expertise in lupus to increase public</u> | 29922 |
| <u>awareness and enhance health professional education and</u> | 29923 |
| <u>understanding of the symptoms and consequences of lupus and the</u> | 29924 |
| <u>populations most at risk;</u> | 29925 |
| <u>(3) Establish an intergovernmental council and advisory panel</u> | 29926 |
| <u>to oversee the implementation of the program;</u> | 29927 |
| <u>(4) Identify the appropriate entities to carry out the</u> | 29928 |
| <u>program;</u> | 29929 |
| <u>(5) Base the program on the most current scientific</u> | 29930 |
| <u>information and findings;</u> | 29931 |
| <u>(6) Work with government entities, community and business</u> | 29932 |
| <u>leaders, community organizations, health and human services</u> | 29933 |
| <u>providers, and national, state, and local lupus organizations,</u> | 29934 |
| <u>such as the lupus foundation of America, inc., to coordinate</u> | 29935 |
| <u>efforts to maximize state resources in the areas of lupus</u> | 29936 |
| <u>education and awareness;</u> | 29937 |
| <u>(7) Identify and use other successful lupus education and</u> | 29938 |
| <u>awareness programs and procure related materials and services from</u> | 29939 |
| <u>organizations with appropriate expertise and knowledge of lupus.</u> | 29940 |
| <u>(C) The department may accept gifts, grants, and donations</u> | 29941 |
| <u>from the federal government, foundations, organizations, medical</u> | 29942 |
| <u>schools, and other entities for fulfilling the obligations of the</u> | 29943 |
| <u>program.</u> | 29944 |
| <u>(D) The department may seek any federal waiver that may be</u> | 29945 |

necessary to maximize funds from the federal government to 29946
implement the program. 29947

Sec. 3701.771. (A)(1) The department of health may conduct a 29948
needs assessment to identify all of the following: 29949

(a) The level of statewide health professional and public 29950
awareness about lupus; 29951

(b) The existence of lupus education, awareness, and 29952
treatment programs and related technical assistance available in 29953
the state and nationwide; 29954

(c) The lupus-related educational and support service needs 29955
of health care providers in the state, including physicians, 29956
nurses, health plans, and other health professionals and health 29957
care entities; 29958

(d) The needs of people with lupus, their families, and 29959
caregivers, including health care providers, physicians, nurses, 29960
health plans, and other health professionals and health care 29961
entities; 29962

(e) The services available to individuals with lupus, 29963
including the existence and availability of lupus treatment and 29964
specialty care, lupus support groups, and other related care and 29965
management services. 29966

(2) Based on the needs assessment, the department may develop 29967
and maintain a directory of lupus-related services and health care 29968
providers with specialization in services to diagnose and treat 29969
lupus. The department may disseminate the directory to all 29970
stakeholders, including individuals with lupus, families, 29971
representatives from voluntary organizations, health 29972
professionals, health plans, and state and local health agencies. 29973

(B) The department may undertake activities to raise public 29974
awareness about the symptoms of lupus, personal risk factors, and 29975

options for diagnosing and treating the disease with a particular 29976
focus on populations at elevated risk for lupus. Such activities 29977
may include, but are not limited to, the following: 29978

(1) Implementing a statewide campaign to educate the general 29979
public about lupus by utilizing print, radio, and television 29980
public service announcements, advertisements, posters, and other 29981
materials; 29982

(2) Disseminating health information and conducting 29983
individual risk assessments at public events, such as health fairs 29984
and community forums sponsored by the department; 29985

(3) Distributing information through local health 29986
departments; schools; area agencies on aging; employer wellness 29987
programs; physicians and other health professionals; hospitals and 29988
health plans; health, nonprofit, and community-based 29989
organizations; and regional offices of the department. 29990

Sec. 3701.772. (A) The department of health may establish a 29991
program to award grants to educate and train physicians, health 29992
professionals, and other service providers on the most current, 29993
accurate scientific and medical information on lupus diagnosis, 29994
treatment, and therapeutic decision-making, including medical best 29995
practices for detecting and treating the disease in special 29996
populations, risks and benefits of medications, and research 29997
advances. If a program to award grants is established, the 29998
department shall allocate the total amount available for the 29999
grants in amounts that are proportionate to the populations of the 30000
areas served by the Ohio chapters of the lupus foundation of 30001
America, inc. 30002

To be eligible for a grant, an applicant must be affiliated 30003
with the foundation. 30004

(B) Each grant recipient shall do all of the following: 30005

| | |
|---|-------|
| <u>(1) Develop health professional educational materials that</u> | 30006 |
| <u>identify the latest scientific and medical information and</u> | 30007 |
| <u>clinical applications;</u> | 30008 |
| <u>(2) Work to increase knowledge among physicians, nurses, and</u> | 30009 |
| <u>other health and human services professionals about the importance</u> | 30010 |
| <u>of lupus diagnosis, treatment, and rehabilitation;</u> | 30011 |
| <u>(3) Use available curricula for training of health and human</u> | 30012 |
| <u>services providers and community leaders on lupus detection and</u> | 30013 |
| <u>treatment;</u> | 30014 |
| <u>(4) Support continuing medical education programs in all</u> | 30015 |
| <u>geographical areas of the state presented by the leading state</u> | 30016 |
| <u>academic institutions by providing the most current information;</u> | 30017 |
| <u>(5) Provide workshops and seminars for in-depth professional</u> | 30018 |
| <u>development in the field of care and management of lupus patients</u> | 30019 |
| <u>to bring the latest information on clinical advances to health</u> | 30020 |
| <u>care providers;</u> | 30021 |
| <u>(6) Conduct statewide conferences on lupus at appropriate</u> | 30022 |
| <u>intervals;</u> | 30023 |
| <u>(7) Prepare an annual report that describes the recipient's</u> | 30024 |
| <u>use of the grant and submit a copy of the report to the</u> | 30025 |
| <u>department.</u> | 30026 |
| | |
| <u>Sec. 3701.773. (A) If the department of health establishes</u> | 30027 |
| <u>the intergovernmental council as permitted by division (B)(3) of</u> | 30028 |
| <u>section 3701.77 of the Revised Code, the department shall seek to</u> | 30029 |
| <u>ensure coordination of lupus education and awareness efforts. The</u> | 30030 |
| <u>director of health shall serve as the council's chairperson. The</u> | 30031 |
| <u>council shall include representatives from appropriate state</u> | 30032 |
| <u>departments and agencies, including entities with responsibility</u> | 30033 |
| <u>for health disparities, medicaid, public health programs,</u> | 30034 |
| <u>education, and public welfare.</u> | 30035 |

| | |
|--|---|
| <u>(B) The council shall do all of the following:</u> | 30036 |
| <u>(1) Provide oversight to the lupus education and awareness program, as well as other lupus programs conducted by the department;</u> | 30037 30038 30039 |
| <u>(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public;</u> | 30040 30041 30042 |
| <u>(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs;</u> | 30043 30044 30045 |
| <u>(4) Assist the department and other offices in developing and coordinating plans for education and health promotion on lupus and ensure that issues related to lupus are integrated into other statewide plans;</u> | 30046 30047 30048 30049 |
| <u>(5) Prepare an annual report that describes educational initiatives on lupus sponsored by the state and make recommendations for new educational initiatives on lupus. The report shall be transmitted to the general assembly and be made available to the public.</u> | 30050 30051 30052 30053 30054 |
| <u>Sec. 3701.774.</u> <u>(A) If the department of health establishes the advisory panel as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall coordinate the panel to provide input and counsel regarding the lupus education and awareness program.</u> | 30055 30056 30057 30058 30059 |
| <u>(B) If the panel is established, all of the following apply:</u> | 30060 |
| <u>(1) Individuals and organizations may submit to the department nominations for appointments to the panel. Each panel member shall have familiarity with lupus and issues that surround lupus.</u> | 30061 30062 30063 30064 |
| <u>(2) The panel shall be comprised of the following members to</u> | 30065 |

be appointed by the director of health: 30066

(a) At least three individuals with lupus; 30067

(b) Not more than two representatives from the department; 30068

(c) At least five individuals from lupus nonprofit health 30069
organizations, with preference given to individuals from the lupus 30070
foundation of America, inc.; 30071

(d) At least five scientists or clinicians with experience in 30072
lupus who participate in various fields of scientific endeavor, 30073
including the fields of biomedical research, social, 30074
translational, behavioral and epidemiological research, and public 30075
health. 30076

(3) The department shall select from among the panel members 30077
one member to serve as chairperson of the panel. 30078

Members of the panel shall serve terms of two years each. 30079
Members may be named to serve a total of two terms and terms may 30080
be consecutive. 30081

A majority of the members of the panel constitutes a quorum. 30082
A majority vote of a quorum is required for any official action of 30083
the panel. 30084

The panel shall meet at the call of the panel chairperson, 30085
but not fewer than four times per year. 30086

All members shall serve without compensation, but may be 30087
reimbursed for actual, necessary expenses incurred in the 30088
performance of their duties. 30089

(4) The panel shall be responsible for advising the 30090
department and the intergovernmental council with respect to the 30091
implementation of the lupus education and awareness program. The 30092
department shall consult with the advisory panel on a regular 30093
basis. 30094

Sec. 3701.775. There is hereby created in the state treasury 30095
the lupus education and awareness program fund. If the department 30096
of health establishes the lupus education and awareness program, 30097
as authorized under section 3701.77 of the Revised Code, all 30098
moneys accepted under division (C) of that section shall be 30099
credited to the fund. Money in the fund shall be used solely to 30100
administer the lupus education and awareness program. 30101

Sec. 3701.87. The governor may authorize the department of 30102
health to enter into an agreement on behalf of the state with the 30103
United States secretary of health, ~~education,~~ and ~~welfare~~ human 30104
services whereby the department may serve as the agency for review 30105
of proposed capital expenditures by health care facilities 30106
pursuant to section 1122 of the "Social Security Act" as amended 30107
by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations 30108
adopted thereunder. Such agreement shall be subject to and include 30109
the following terms and conditions: 30110

(A) All applications, notices, requests for information, and 30111
other official communications shall be on written forms prescribed 30112
by and approved by the director of health ~~and approved by the~~ 30113
~~public health council.~~ 30114

(B) The ~~council~~ director, subject to Chapter 119. of the 30115
Revised Code, shall propose, modify, amend, and adopt rules, 30116
standards, guidelines, and official policies which are consistent 30117
with federal law, as it deems necessary to implement the capital 30118
expenditures review program. 30119

(C) The director shall make all findings and recommendations 30120
required by federal law and shall give due consideration to the 30121
findings, reviews, and comments of areawide health planning 30122
agencies performing reviews pursuant to section 314 (b)(2) of the 30123
"Public Health Service Act," 42 U.S.C. 246, or the appropriate 30124

health systems agency. 30125

(D) The findings and recommendations of the director shall be 30126
in writing and shall clearly specify the provisions of the state 30127
health facilities plan with which any application is found to be 30128
inconsistent. Any applicant adversely affected by the findings and 30129
recommendations of the director may request a hearing before the 30130
~~council~~ director pursuant to Chapter 119. of the Revised Code. The 30131
findings and recommendations of the ~~council~~ director are an 30132
adjudication as defined in Chapter 119. of the Revised Code and 30133
may be appealed as provided in that chapter. 30134

Sec. 3701.881. (A) As used in this section: 30135

(1) "Applicant" means ~~both of the following:~~ 30136

~~(a) A a person who is under final consideration for 30137
appointment to or employment with a home health agency in a 30138
position as a person responsible for the care, custody, or control 30139
of a child;~~ 30140

~~(b) A person who is under final consideration for employment 30141
with a home health agency in a full-time, part-time, or temporary 30142
position that involves providing direct care to an ~~elder adult~~ 30143
individual or is referred to a home health agency by an employment 30144
service for such a position. With regard to persons providing 30145
direct care to older adults, "applicant" does not include a person 30146
who provides direct care as a volunteer without receiving or 30147
expecting to receive any form of remuneration other than 30148
reimbursement for actual expenses. 30149~~

(2) "Community-based long-term care agency" has the same 30150
meaning as in section 173.39 of the Revised Code. 30151

(3) "Criminal records check" ~~and "elder adult" have~~ has the 30152
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 30153

~~(3)~~(4) "Direct care" means any of the following: 30154

(a) Any service identified in divisions (A)(7)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home; 30155
30156
30157

(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient; 30158
30159
30160
30161

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care. 30162
30163
30164

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code. 30165
30166
30167

(6) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service. 30168
30169
30170
30171
30172

(7) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home: 30173
30174
30175
30176
30177

(a) Skilled nursing care; 30178

(b) Physical therapy; 30179

(c) Speech-language pathology; 30180

(d) Occupational therapy; 30181

(e) Medical social services; 30182

(f) Home health aide services. 30183

| | |
|--|-------|
| (4) (8) "Home health aide services" means any of the following services provided by an individual employed with or contracted for <u>employee of</u> a home health agency: | 30184 |
| | 30185 |
| | 30186 |
| (a) Hands-on bathing or assistance with a tub bath or shower; | 30187 |
| (b) Assistance with dressing, ambulation, and toileting; | 30188 |
| (c) Catheter care but not insertion; | 30189 |
| (d) Meal preparation and feeding. | 30190 |
| (5) (9) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code. | 30191 |
| | 30192 |
| (6) (10) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician. | 30193 |
| | 30194 |
| | 30195 |
| (7) (11) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. | 30196 |
| | 30197 |
| (8) (12) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code. | 30198 |
| | 30199 |
| | 30200 |
| (9) (13) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code. | 30201 |
| | 30202 |
| (10) (14) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code. | 30203 |
| | 30204 |
| (11) (15) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker. | 30205 |
| | 30206 |
| | 30207 |
| (12) (16) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code. | 30208 |
| | 30209 |
| <u>(17) "Waiver agency" has the same meaning as in section 5111.033 of the Revised Code.</u> | 30210 |
| | 30211 |
| (B) <u>No home health agency shall employ an applicant or</u> | 30212 |

continue to employ an employee in a position that involves 30213
providing direct care to an individual if any of the following 30214
apply: 30215

(1) A review of the databases listed in division (D) of this 30216
section reveals any of the following: 30217

(a) That the applicant or employee is included in one or more 30218
of the databases listed in divisions (D)(1) to (5) of this 30219
section; 30220

(b) That there is in the state nurse aide registry 30221
established under section 3721.32 of the Revised Code a statement 30222
detailing findings by the director of health that the applicant or 30223
employee neglected or abused a long-term care facility or 30224
residential care facility resident or misappropriated property of 30225
such a resident; 30226

(c) That the applicant or employee is included in one or more 30227
of the databases, if any, specified in rules adopted under this 30228
section and the rules prohibit the home health agency from 30229
employing an applicant or continuing to employ an employee 30230
included in such a database in a position that involves providing 30231
direct care to an individual. 30232

(2) After the applicant or employee is provided, pursuant to 30233
division (E)(2)(a) of this section, a copy of the form prescribed 30234
pursuant to division (C)(1) of section 109.572 of the Revised Code 30235
and the standard impression sheet prescribed pursuant to division 30236
(C)(2) of that section, the applicant or employee fails to 30237
complete the form or provide the applicant's or employee's 30238
fingerprint impressions on the standard impression sheet. 30239

(3) Except as provided in rules adopted under this section, 30240
the applicant or employee is found by a criminal records check 30241
required by this section to have been convicted of, pleaded guilty 30242
to, or been found eligible for intervention in lieu of conviction 30243

for a disqualifying offense. 30244

(C) Except as provided by division (F) of this section, the 30245
chief administrator of a home health agency shall inform each 30246
applicant of both of the following at the time of the applicant's 30247
initial application for employment or referral to the home health 30248
agency by an employment service for a position that involves 30249
providing direct care to an individual: 30250

(1) That a review of the databases listed in division (D) of 30251
this section will be conducted to determine whether the home 30252
health agency is prohibited by division (B)(1) of this section 30253
from employing the applicant in the position; 30254

(2) That, unless the database review reveals that the 30255
applicant may not be employed in the position, a criminal records 30256
check of the applicant will be conducted and the applicant is 30257
required to provide a set of the applicant's fingerprint 30258
impressions as part of the criminal records check. 30259

(D) As a condition of employing any applicant in a position 30260
that involves providing direct care to an individual, the chief 30261
administrator of a home health agency shall conduct a database 30262
review of the applicant in accordance with rules adopted under 30263
this section. If rules adopted under this section so require, the 30264
chief administrator of a home health agency shall conduct a 30265
database review of an employee in accordance with the rules as a 30266
condition of continuing to employ the employee in a position that 30267
involves providing direct care to an individual. However, the 30268
chief administrator is not required to conduct a database review 30269
of an applicant or employee if division (F) of this section 30270
applies. A database review shall determine whether the applicant 30271
or employee is included in any of the following: 30272

(1) The excluded parties list system maintained by the United 30273
States general services administration pursuant to subpart 9.4 of 30274

| | |
|---|-------|
| <u>the federal acquisition regulation;</u> | 30275 |
| <u>(2) The list of excluded individuals and entities maintained</u> | 30276 |
| <u>by the office of inspector general in the United States department</u> | 30277 |
| <u>of health and human services pursuant to section 1128 of the</u> | 30278 |
| <u>"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as</u> | 30279 |
| <u>amended, and section 1156 of the "Social Security Act," 96 Stat.</u> | 30280 |
| <u>388 (1982), 42 U.S.C. 1320c-5, as amended;</u> | 30281 |
| <u>(3) The registry of MR/DD employees established under section</u> | 30282 |
| <u>5123.52 of the Revised Code;</u> | 30283 |
| <u>(4) The internet-based sex offender and child-victim offender</u> | 30284 |
| <u>database established under division (A)(11) of section 2950.13 of</u> | 30285 |
| <u>the Revised Code;</u> | 30286 |
| <u>(5) The internet-based database of inmates established under</u> | 30287 |
| <u>section 5120.66 of the Revised Code;</u> | 30288 |
| <u>(6) The state nurse aide registry established under section</u> | 30289 |
| <u>3721.32 of the Revised Code;</u> | 30290 |
| <u>(7) Any other database, if any, specified in rules adopted</u> | 30291 |
| <u>under this section.</u> | 30292 |
| <u>(E)(1) Except as provided in division (I) of this section As</u> | 30293 |
| <u>a condition of employing any applicant in a position that involves</u> | 30294 |
| <u>providing direct care to an individual, the chief administrator of</u> | 30295 |
| <u>a home health agency shall request the superintendent of the</u> | 30296 |
| <u>bureau of criminal identification and investigation to conduct a</u> | 30297 |
| <u>criminal records check with respect to each of the applicant. If</u> | 30298 |
| <u>the position may involve both responsibility for the care,</u> | 30299 |
| <u>eustody, or control of a child and provision of direct care to an</u> | 30300 |
| <u>elder adult, the chief administrator shall request that the</u> | 30301 |
| <u>superintendent conduct a single criminal records check for the</u> | 30302 |
| <u>applicant. If rules adopted under this section so require, the</u> | 30303 |
| <u>chief administrator of a home health agency shall request the</u> | 30304 |
| <u>superintendent to conduct a criminal records check of an employee</u> | 30305 |

at times specified in the rules as a condition of continuing to 30306
employ the employee in a position that involves providing direct 30307
care to an individual. However, the chief administrator is not 30308
required to request the criminal records check of the applicant or 30309
the employee if division (F) of this section applies or the home 30310
health agency is prohibited by division (B)(1) of this section 30311
from employing the applicant or continuing to employ the employee 30312
in a position that involves providing direct care to an 30313
individual. If an applicant or employee for whom a criminal 30314
records check request is required ~~under~~ by this division section 30315
does not present proof of having been a resident of this state for 30316
the five-year period immediately prior to the date upon which the 30317
criminal records check is requested or does not provide evidence 30318
that within that five-year period the superintendent has requested 30319
information about the applicant from the federal bureau of 30320
investigation in a criminal records check, the chief administrator 30321
shall request that the superintendent obtain information from the 30322
federal bureau of investigation as a part of the criminal records 30323
check ~~for the applicant.~~ Even if an applicant or employee for whom 30324
a criminal records check request is required ~~under~~ by this 30325
~~division section~~ presents proof that the applicant or employee has 30326
been a resident of this state for that five-year period, the chief 30327
administrator may request that the superintendent include 30328
information from the federal bureau of investigation in the 30329
criminal records check. 30330

(2) ~~Any person required by division (B)(1) of this section to~~ 30331
~~request a criminal records check~~ The chief administrator shall 30332
provide do all of the following: 30333

(a) Provide to each applicant and employee for whom a 30334
criminal records check request is required ~~under that division by~~ 30335
this section a copy of the form prescribed pursuant to division 30336
(C)(1) of section 109.572 of the Revised Code and a standard 30337

impression sheet prescribed pursuant to division (C)(2) of that 30338
~~section 109.572 of the Revised Code, obtain;~~ 30339

(b) Obtain the completed form and standard impression sheet 30340
from each applicant, and ~~forward~~ employee; 30341

(c) Forward the completed form and standard impression sheet 30342
to the superintendent ~~of the bureau of criminal identification and~~ 30343
~~investigation~~ at the time the chief administrator requests a the 30344
criminal records check ~~pursuant to division (B)(1) of this~~ 30345
~~section.~~ 30346

~~(3) An applicant who receives pursuant to division (B)(2) of~~ 30347
~~this section a copy of the form prescribed pursuant to division~~ 30348
~~(C)(1) of section 109.572 of the Revised Code and a copy of an~~ 30349
~~impression sheet prescribed pursuant to division (C)(2) of that~~ 30350
~~section and who is requested to complete the form and provide a~~ 30351
~~set of fingerprint impressions shall complete the form or provide~~ 30352
~~all the information necessary to complete the form and shall~~ 30353
~~provide the impression sheets with the impressions of the~~ 30354
~~applicant's fingerprints. If an applicant, upon request, fails to~~ 30355
~~provide the information necessary to complete the form or fails to~~ 30356
~~provide fingerprint impressions, the home health agency shall not~~ 30357
~~employ that applicant for any position for which a criminal~~ 30358
~~records check is required by division (B)(1) of this section.~~ 30359

~~(C)(1) Except as provided in rules adopted by the department~~ 30360
~~of health in accordance with division (F) of this section and~~ 30361
~~subject to division (C)(3) of this section, no home health agency~~ 30362
~~shall employ a person as a person responsible for the care,~~ 30363
~~custody, or control of a child if the person previously has been~~ 30364
~~convicted of or pleaded guilty to any of the following:~~ 30365

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 30366
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 30367
~~2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05,~~ 30368

~~2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 30369~~
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 30370~~
~~2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 30371~~
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 30372~~
~~2925.06, or 3716.11 of the Revised Code, a violation of section 30373~~
~~2905.04 of the Revised Code as it existed prior to July 1, 1996, a 30374~~
~~violation of section 2919.23 of the Revised Code that would have 30375~~
~~been a violation of section 2905.04 of the Revised Code as it 30376~~
~~existed prior to July 1, 1996, had the violation been committed 30377~~
~~prior to that date, a violation of section 2925.11 of the Revised 30378~~
~~Code that is not a minor drug possession offense, or felonious 30379~~
~~sexual penetration in violation of former section 2907.12 of the 30380~~
~~Revised Code; 30381~~

~~(b) A violation of an existing or former law of this state, 30382~~
~~any other state, or the United States that is substantially 30383~~
~~equivalent to any of the offenses listed in division (C)(1)(a) of 30384~~
~~this section. 30385~~

~~(2) Except as provided in rules adopted by the department of 30386~~
~~health in accordance with division (F) of this section and subject 30387~~
~~to division (C)(3) of this section, no home health agency shall 30388~~
~~employ a person in a position that involves providing direct care 30389~~
~~to an older adult if the person previously has been convicted of 30390~~
~~or pleaded guilty to any of the following: 30391~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 30392~~
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30393~~
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 30394~~
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 30395~~
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 30396~~
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 30397~~
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 30398~~
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 30399~~
~~2925.22, 2925.23, or 3716.11 of the Revised Code. 30400~~

~~(b) A violation of an existing or former law of this state,
any other state, or the United States that is substantially
equivalent to any of the offenses listed in division (C)(2)(a) of
this section.~~

(3)(a) A home health agency shall pay to the bureau of
criminal identification and investigation the fee prescribed
pursuant to division (C)(3) of section 109.572 of the Revised Code
for each criminal records check the agency requests under this
section. A home health agency may charge an applicant a fee not
exceeding the amount the agency pays to the bureau under this
section if both of the following apply:

(a) The home health agency notifies the applicant at the time
of initial application for employment of the amount of the fee and
that, unless the fee is paid, the applicant will not be considered
for employment.

(b) The medicaid program established under Chapter 5111. of
the Revised Code does not reimburse the home health agency for the
fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with
regard to an applicant or employee if the applicant or employee is
referred to a home health agency by an employment service that
supplies full-time, part-time, or temporary staff for positions
that involve providing direct care to an individual and both of
the following apply:

(1) The chief administrator of the home health agency
receives from the employment service confirmation that a review of
the databases listed in division (D) of this section was conducted
with regard to the applicant or employee.

(2) The chief administrator of the home health agency
receives from the employment service, applicant, or employee a
report of the results of a criminal records check of the applicant

or employee that has been conducted by the superintendent within 30432
the one-year period immediately preceding the following: 30433

(a) In the case of an applicant, the date of the applicant's 30434
referral by the employment service to the home health agency; 30435

(b) In the case of an employee, the date by which the home 30436
health agency would otherwise have to request a criminal records 30437
check of the employee under division (E) of this section. 30438

(G)(1) A home health agency may employ conditionally an 30439
applicant for whom a criminal records check request is required 30440
under division (B) of by this section as a person responsible for 30441
the care, custody, or control of a child until the criminal 30442
records check regarding the applicant required by this section is 30443
completed and the agency receives before obtaining the results of 30444
the criminal records check if the agency is not prohibited by 30445
division (B) of this section from employing the applicant in a 30446
position that involves providing direct care to an individual and 30447
either of the following applies: 30448

(a) The chief administrator of the home health agency 30449
requests the criminal records check in accordance with division 30450
(E) of this section not later than five business days after the 30451
applicant begins conditional employment. 30452

(b) The applicant is referred to the home health agency by an 30453
employment service, the employment service or the applicant 30454
provides the chief administrator of the agency a letter that is on 30455
the letterhead of the employment service, the letter is dated and 30456
signed by a supervisor or another designated official of the 30457
employment service, and the letter states all of the following: 30458

(i) That the employment service has requested the 30459
superintendent to conduct a criminal records check regarding the 30460
applicant; 30461

(ii) That the requested criminal records check is to include 30462

a determination of whether the applicant has been convicted of, 30463
pleaded guilty to, or been found eligible for intervention in lieu 30464
of conviction for a disqualifying offense; 30465

(iii) That the employment service has not received the 30466
results of the criminal records check as of the date set forth on 30467
the letter; 30468

(iv) That the employment service promptly will send a copy of 30469
the results of the criminal records check to the chief 30470
administrator of the home health agency when the employment 30471
service receives the results. 30472

(2) If a home health agency employs an applicant 30473
conditionally pursuant to division (G)(1)(b) of this section, the 30474
employment service, on its receipt of the results of the criminal 30475
records check, promptly shall send a copy of the results to the 30476
chief administrator of the agency. If the results of the criminal 30477
records check indicate that, pursuant to division (C)(1) of this 30478
section, the applicant does not qualify for employment, the agency 30479
shall release the applicant from employment unless the agency 30480
chooses to employ the applicant pursuant to division (F) of this 30481
section. 30482

~~(b)(i) A home health agency may employ conditionally an~~ 30483
~~applicant for whom a criminal records check request is required~~ 30484
~~under division (B) of this section in a position that involves~~ 30485
~~providing direct care to an older adult or in a position that~~ 30486
~~involves both responsibility for the care, custody, and control of~~ 30487
~~a child and the provision of direct care to older adults prior to~~ 30488
~~obtaining the results of a criminal records check regarding the~~ 30489
~~individual, provided that the agency shall request a criminal~~ 30490
~~records check regarding the individual in accordance with division~~ 30491
~~(B)(1) of this section not later than five business days after the~~ 30492
~~individual begins conditional employment. In the circumstances~~ 30493
~~described in division (I)(2) of this section, a home health agency~~ 30494

~~may employ conditionally in a position that involves providing 30495
direct care to an older adult an applicant who has been referred 30496
to the home health agency by an employment service that supplies 30497
full time, part time, or temporary staff for positions involving 30498
the direct care of older adults and for whom, pursuant to that 30499
division, a criminal records check is not required under division 30500
(B) of this section. In the circumstances described in division 30501
(I)(4) of this section, a home health agency may employ 30502
conditionally in a position that involves both responsibility for 30503
the care, custody, and control of a child and the provision of 30504
direct care to older adults an applicant who has been referred to 30505
the home health agency by an employment service that supplies 30506
full time, part time, or temporary staff for positions involving 30507
both responsibility for the care, custody, and control of a child 30508
and the provision of direct care to older adults and for whom, 30509
pursuant to that division, a criminal records check is not 30510
required under division (B) of this section. 30511~~

~~(ii)(3) A home health agency that employs an individual 30512
applicant conditionally under authority of pursuant to division 30513
(C)(3)(b)(i)(G)(1)(a) or (b) of this section shall terminate the 30514
individual's applicant's employment if the results of the criminal 30515
records check requested under division (B)(1) of this section or 30516
described in division (I)(2) or (4) of this section, other than 30517
the results of any request for information from the federal bureau 30518
of investigation, are not obtained within the period ending thirty 30519
sixty days after the date the request for the criminal records 30520
check is made. Regardless of when the results of the criminal 30521
records check are obtained, if the individual was employed 30522
conditionally in a position that involves the provision of direct 30523
care to older adults and the results indicate that the individual 30524
applicant has been convicted of or, pleaded guilty to any of the 30525
offenses listed or described in division (C)(2) of this section, 30526
or if the individual was employed conditionally in a position that 30527~~

~~involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) or (2) of this section, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the individual's applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the individual pursuant to division (F) of this section applicant.~~ Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual applicant makes any attempt to deceive the home health agency about the individual's applicant's criminal record.

~~(D)(1) Each home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (B)(1) of this section of the chief administrator of the home health agency.~~

~~(2) A home health agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section, unless the medical assistance program established under Chapter 5111. of the Revised Code reimburses the agency for the costs. A fee charged under division (D)(2) of this section shall not exceed the amount of fees the agency pays under division (D)(1) of this section. If a fee is charged under division (D)(2) of this section, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency~~

~~will not consider the applicant for employment.~~ 30560

~~(E)~~(H) The report of any criminal records check conducted by 30561
the bureau of criminal identification and investigation in 30562
accordance with section 109.572 of the Revised Code and pursuant 30563
to a request made under ~~division (B)(1)~~ of this section is not a 30564
public record for the purposes of section 149.43 of the Revised 30565
Code and shall not be made available to any person other than the 30566
following: 30567

(1) The ~~individual~~ applicant or employee who is the subject 30568
of the criminal records check or the ~~individual's~~ applicant's or 30569
employee's representative; 30570

(2) The home health agency requesting the criminal records 30571
check or its representative; 30572

(3) The administrator of any other facility, agency, or 30573
program that provides direct care to ~~elder adults~~ individuals that 30574
is owned or operated by the same entity that owns or operates the 30575
home health agency that requested the criminal records check; 30576

(4) The employment service that requested the criminal 30577
records check; 30578

(5) The director of health and the staff of the department of 30579
health who monitor a home health agency's compliance with this 30580
section; 30581

(6) The director of aging or the director's designee if 30582
either of the following apply: 30583

(a) In the case of a criminal records check requested by a 30584
home health agency, the home health agency also is a 30585
community-based long-term care agency; 30586

(b) In the case of a criminal records check requested by an 30587
employment service, the employment service makes the request for 30588
an applicant or employee the employment service refers to a home 30589

health agency that also is a community-based long-term care 30590
agency. 30591

(7) The director of job and family services and the staff of 30592
the department of job and family services who are involved in the 30593
administration of the medicaid program if either of the following 30594
apply: 30595

(a) In the case of a criminal records check requested by a 30596
home health agency, the home health agency also is a waiver 30597
agency; 30598

(b) In the case of a criminal records check requested by an 30599
employment service, the employment service makes the request for 30600
an applicant or employee the employment service refers to a home 30601
health agency that also is a waiver agency. 30602

(8) Any court, hearing officer, or other necessary individual 30603
involved in a case dealing with a ~~a~~ any of the following: 30604

(a) A denial of employment of the applicant or ~~dealing with~~ 30605
employment ~~employee~~; 30606

(b) Employment or unemployment benefits of the applicant or 30607
employee; 30608

~~(5) Any person to whom the report is provided pursuant to,~~ 30609
~~and in accordance with, division (I)(1), (2), (3), or (4) of this~~ 30610
~~section (c) A civil or criminal action regarding the medicaid~~ 30611
~~program.~~ 30612

~~(F) The department of health shall adopt rules in accordance~~ 30613
~~with Chapter 119. of the Revised Code to implement this section.~~ 30614
~~The rules shall specify circumstances under which the home health~~ 30615
~~agency may employ a person who has been convicted of or pleaded~~ 30616
~~guilty to an offense listed or described in division (C)(1) of~~ 30617
~~this section but who meets standards in regard to rehabilitation~~ 30618
~~set by the department or employ a person who has been convicted of~~ 30619

~~or pleaded guilty to an offense listed or described in division 30620
(C)(2) of this section but meets personal character standards set 30621
by the department. 30622~~

~~(G) Any person required by division (B)(1) of this section to 30623
request a criminal records check shall inform each person, at the 30624
time of initial application for employment that the person is 30625
required to provide a set of fingerprint impressions and that a 30626
criminal records check is required to be conducted and 30627
satisfactorily completed in accordance with section 109.572 of the 30628
Revised Code if the person comes under final consideration for 30629
appointment or employment as a precondition to employment for that 30630
position. 30631~~

~~(H)(I) In a tort or other civil action for damages that is 30632
brought as the result of an injury, death, or loss to person or 30633
property caused by an individual applicant or employee who a home 30634
health agency employs in a position that involves providing direct 30635
care to ~~elder adults~~ an individual, all of the following shall 30636
apply: 30637~~

~~(1) If the home health agency employed the individual 30638
applicant or employee in good faith and reasonable reliance on the 30639
report of a criminal records check requested under this section, 30640
the agency shall not be found negligent solely because of its 30641
reliance on the report, even if the information in the report is 30642
determined later to have been incomplete or inaccurate. 30643~~

~~(2) If the home health agency employed the individual 30644
applicant in good faith on a conditional basis pursuant to 30645
division ~~(C)(3)(b)~~(G) of this section, the agency shall not be 30646
found negligent solely because it employed the individual 30647
applicant prior to receiving the report of a criminal records 30648
check requested under this section. 30649~~

~~(3) If the home health agency in good faith employed the 30650~~

~~individual applicant or employee according to the personal 30651
character standards established in rules adopted under division 30652
(F) of this section, the agency shall not be found negligent 30653
solely because the individual prior to being employed applicant or 30654
employee had been convicted of or, pleaded guilty to an, or been 30655
found eligible for intervention in lieu of conviction for a 30656
disqualifying offense listed or described in division (C)(1) or 30657
(2) of this section. 30658~~

~~(I)(1) The chief administrator of a home health agency is not 30659
required to request that the superintendent of the bureau of 30660
criminal identification and investigation conduct a criminal 30661
records check of an applicant for a position that involves the 30662
provision of direct care to older adults if the applicant has been 30663
referred to the agency by an employment service that supplies 30664
full time, part time, or temporary staff for positions involving 30665
the direct care of older adults and both of the following apply: 30666~~

~~(a) The chief administrator receives from the employment 30667
service or the applicant a report of the results of a criminal 30668
records check regarding the applicant that has been conducted by 30669
the superintendent within the one year period immediately 30670
preceding the applicant's referral; 30671~~

~~(b) The report of the criminal records check demonstrates 30672
that the person has not been convicted of or pleaded guilty to an 30673
offense listed or described in division (C)(2) of this section, or 30674
the report demonstrates that the person has been convicted of or 30675
pleaded guilty to one or more of those offenses, but the home 30676
health agency chooses to employ the individual pursuant to 30677
division (F) of this section. 30678~~

~~(2) The chief administrator of a home health agency is not 30679
required to request that the superintendent of the bureau of 30680
criminal identification and investigation conduct a criminal 30681
records check of an applicant for a position that involves 30682~~

~~providing direct care to older adults and may employ the applicant 30683
conditionally in a position of that nature as described in this 30684
division, if the applicant has been referred to the agency by an 30685
employment service that supplies full time, part time, or 30686
temporary staff for positions involving the direct care of older 30687
adults and if the chief administrator receives from the employment 30688
service or the applicant a letter from the employment service that 30689
is on the letterhead of the employment service, dated, and signed 30690
by a supervisor or another designated official of the employment 30691
service and that states that the employment service has requested 30692
the superintendent to conduct a criminal records check regarding 30693
the applicant, that the requested criminal records check will 30694
include a determination of whether the applicant has been 30695
convicted of or pleaded guilty to any offense listed or described 30696
in division (C)(2) of this section, that, as of the date set forth 30697
on the letter, the employment service had not received the results 30698
of the criminal records check, and that, when the employment 30699
service receives the results of the criminal records check, it 30700
promptly will send a copy of the results to the home health 30701
agency. If a home health agency employs an applicant conditionally 30702
in accordance with this division, the employment service, upon its 30703
receipt of the results of the criminal records check, promptly 30704
shall send a copy of the results to the home health agency, and 30705
division (C)(3)(b) of this section applies regarding the 30706
conditional employment. 30707~~

~~(3) The chief administrator of a home health agency is not 30708
required to request that the superintendent of the bureau of 30709
criminal identification and investigation conduct a criminal 30710
records check of an applicant for a position that involves both 30711
responsibility for the care, custody, and control of a child and 30712
the provision of direct care to older adults if the applicant has 30713
been referred to the agency by an employment service that supplies 30714
full time, part time, or temporary staff for positions involving 30715~~

~~both responsibility for the care, custody, and control of a child 30716
and the provision of direct care to older adults and both of the 30717
following apply: 30718~~

~~(a) The chief administrator receives from the employment 30719
service or applicant a report of a criminal records check of the 30720
type described in division (I)(1)(a) of this section: 30721~~

~~(b) The report of the criminal records check demonstrates 30722
that the person has not been convicted of or pleaded guilty to an 30723
offense listed or described in division (C)(1) or (2) of this 30724
section, or the report demonstrates that the person has been 30725
convicted of or pleaded guilty to one or more of those offenses, 30726
but the home health agency chooses to employ the individual 30727
pursuant to division (F) of this section. 30728~~

~~(4) The chief administrator of a home health agency is not 30729
required to request that the superintendent of the bureau of 30730
criminal identification and investigation conduct a criminal 30731
records check of an applicant for a position that involves both 30732
responsibility for the care, custody, and control of a child and 30733
the provision of direct care to older adults and may employ the 30734
applicant conditionally in a position of that nature as described 30735
in this division, if the applicant has been referred to the agency 30736
by an employment service that supplies full time, part time, or 30737
temporary staff for positions involving both responsibility for 30738
the care, custody, and control of a child and the direct care of 30739
older adults and if the chief administrator receives from the 30740
employment service or the applicant a letter from the employment 30741
service that is on the letterhead of the employment service, 30742
dated, and signed by a supervisor or another designated official 30743
of the employment service and that states that the employment 30744
service has requested the superintendent to conduct a criminal 30745
records check regarding the applicant, that the requested criminal 30746
records check will include a determination of whether the 30747~~

~~applicant has been convicted of or pleaded guilty to any offense 30748
listed or described in division (C)(1) or (2) of this section, 30749
that, as of the date set forth on the letter, the employment 30750
service had not received the results of the criminal records 30751
check, and that, when the employment service receives the results 30752
of the criminal records check, it promptly will send a copy of the 30753
results to the home health agency. If a home health agency employs 30754
an applicant conditionally in accordance with this division, the 30755
employment service, upon its receipt of the results of the 30756
criminal records check, promptly shall send a copy of the results 30757
to the home health agency, and division (C)(3)(b) of this section 30758
applies regarding the conditional employment. 30759~~

(J) The director of health shall adopt rules in accordance 30760
with Chapter 119. of the Revised Code to implement this section. 30761

(1) The rules may do the following: 30762

(a) Require employees to undergo database reviews and 30763
criminal records checks under this section; 30764

(b) If the rules require employees to undergo database 30765
reviews and criminal records checks under this section, exempt one 30766
or more classes of employees from the requirements; 30767

(c) For the purpose of division (D)(7) of this section, 30768
specify other databases that are to be checked as part of a 30769
database review conducted under this section. 30770

(2) The rules shall specify all of the following: 30771

(a) The procedures for conducting database reviews under this 30772
section; 30773

(b) If the rules require employees to undergo database 30774
reviews and criminal records checks under this section, the times 30775
at which the database reviews and criminal records checks are to 30776
be conducted; 30777

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases; 30778
30779
30780
30781
30782

(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards. 30783
30784
30785
30786
30787
30788

Sec. ~~185.01~~ 3701.92. As used in ~~this chapter~~ sections 3701.921 to 3701.929 of the Revised Code: 30789
30790

(A) "Advanced practice nurse" has the same meaning as in section 4723.01 of the Revised Code. 30791
30792

~~(B) "Collaboration" has the same meaning as in section 4723.01 of the Revised Code.~~ 30793
30794

~~(C) "Patient centered medical home education advisory group" means the entity established under section ~~185.03~~ 3701.924 of the Revised Code to implement and administer the patient centered medical home education pilot project.~~ 30795
30796
30797
30798

(D) "Patient centered medical home education program" means the program established under section 3701.921 of the Revised Code and any pilot projects operated pursuant to that section. 30799
30800
30801

(E) "Patient centered medical home education pilot project" means the pilot project established under section ~~185.02~~ 3701.923 of the Revised Code. 30802
30803
30804

(F) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code. 30805
30806

Sec. 3701.921. There is hereby established the patient 30807
centered medical home education program in the department of 30808
health. For the purpose of advancing education in the patient 30809
centered medical home model of care, the director of health may 30810
implement and administer the program pursuant to sections 3701.922 30811
to 3701.929 of the Revised Code. The patient centered medical home 30812
model of care is an enhanced model of primary care in which care 30813
teams attend to the multifaceted needs of patients, providing 30814
whole person comprehensive and coordinate patient centered care. 30815

To the extent that funds are available, the program shall 30816
include the patient centered medical home education pilot project 30817
and may include any other pilot projects the director establishes 30818
pursuant to division (A)(3) of section 3701.922 of the Revised 30819
Code. 30820

Sec. 3701.922. (A) The director of health may do any of the 30821
following to implement and administer the patient centered medical 30822
home education program: 30823

(1) Develop and implement programs of education or training 30824
on the patient centered medical home model of care or other 30825
similar enhanced models of coordinated patient centered care that 30826
are intended to address the multifaceted needs of patients and 30827
provide whole person comprehensive and coordinated patient 30828
centered care; 30829

(2) Advise, consult, cooperate with, and assist, by contract 30830
or other arrangement, government agencies or institutions or 30831
private organizations, corporations, or associations in the 30832
development and promotion of programs pertaining to the evaluation 30833
and implementation of the patient centered medical home model of 30834
care or other similar enhanced models of coordinated patient 30835
centered care; 30836

| | |
|--|-------|
| <u>(3) Establish pilot projects that do any of the following:</u> | 30837 |
| <u>(a) Evaluate or implement the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;</u> | 30838 |
| | 30839 |
| | 30840 |
| <u>(b) Provide education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care.</u> | 30841 |
| | 30842 |
| | 30843 |
| <u>(4) Seek and administer state funds or grants from other sources to carry out any functions of the patient centered medical home education program.</u> | 30844 |
| | 30845 |
| | 30846 |
| <u>Any funds or grants received by the director for purposes of the program shall be used for the program.</u> | 30847 |
| | 30848 |
| <u>(B) The director may adopt rules as necessary to implement and administer the patient centered medical home education program, including rules that define what constitutes a "patient centered medical home" for purposes of an entity authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u> | 30849 |
| | 30850 |
| | 30851 |
| | 30852 |
| | 30853 |
| | 30854 |
| Sec. 185.02 3701.923. (A) There is hereby established the patient centered medical home education pilot project. The pilot project shall be implemented and administered by the patient centered medical home education advisory group. | 30855 |
| | 30856 |
| | 30857 |
| | 30858 |
| (B) The pilot project shall be operated to advance medical education in the patient centered medical home model of care. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care. | 30859 |
| | 30860 |
| | 30861 |
| | 30862 |
| | 30863 |
| | 30864 |
| (C) To the extent that funds are available, the director of health shall establish the patient centered medical home education | 30865 |
| | 30866 |

pilot project. If the director establishes the project, all of the 30867
following apply: 30868

(1) The director shall select practices led by physicians and 30869
primary care practices led by advanced practice nurses to 30870
participate in the project. The director may consider the 30871
recommendations of the advisory group made in accordance with 30872
section 3701.925 of the Revised Code, but may not select a 30873
practice unless the practice complies with any applicable 30874
requirements under section 3701.926 of the Revised Code. 30875

(2) The director shall conduct the project in a manner that 30876
advances education in the patient centered medical home model of 30877
care. 30878

(3) The director shall evaluate all of the following: 30879

(a) Learning opportunities generated by the project; 30880

(b) Training of physicians and advanced practice nurses under 30881
the project; 30882

(c) Costs of the project; 30883

(d) The extent to which the project met the expected outcomes 30884
developed under division (A) of section 3701.924 of the Revised 30885
Code. 30886

(4) The director shall assess and review results of the 30887
project. 30888

(5) The director shall recommend best practices and 30889
opportunities for improving technology, education, comprehensive 30890
training, consultation, and technical assistance for health care 30891
service providers in the patient centered medical home model of 30892
care. 30893

(B) The director may contract with an entity that has 30894
significant experience in assisting physician-led practices and 30895
advanced practice nurse-led primary care practices in 30896

transitioning to the patient centered medical home model of care. 30897

The contract shall require the entity to do both of the following: 30898

(1) Provide, to each practice that enters into a contract 30899
with the director pursuant to section 3701.927 of the Revised 30900
Code, comprehensive training, consultation, and technical 30901
assistance in the operation of a patient centered medical home, 30902
including assistance with leadership training, scheduling changes, 30903
staff support, and care management for chronic health conditions; 30904

(2) Assist the director in identifying necessary financial 30905
and operational requirements and any barriers or challenges 30906
associated with transitioning to a patient centered medical home 30907
model of care. 30908

(C) The project established under this section shall begin 30909
not later than the date the first practice enters into a contract 30910
with the director pursuant to section 3701.927 of the Revised Code 30911
and shall cease not later than the date the final report is 30912
submitted pursuant to division (B)(3) of section 3701.929 of the 30913
Revised Code. 30914

(D) The ~~pilot~~ project shall not be operated in a manner that 30915
requires a patient, unless otherwise required by the Revised Code, 30916
to receive a referral from a physician in a practice selected for 30917
inclusion in the pilot project under division (A)(1) of this 30918
section ~~185.05~~ of the Revised Code as a condition of being 30919
authorized to receive specialized health care services from an 30920
individual licensed or certified under Title XLVII of the Revised 30921
Code to provide those services. 30922

Sec. ~~185.03~~ 3701.924. (A) The patient centered medical home 30923
education advisory group is hereby created for the purpose of 30924
~~implementing and administering~~ advising the director of health on 30925
the implementation and administration of the patient centered 30926
medical home ~~pilot project~~ education program. The advisory group 30927

shall develop and provide to the director a set of expected 30928
outcomes for the pilot project. The advisory group shall consider 30929
and provide other recommendations to the director and complete 30930
other duties as the director considers appropriate. 30931

(B) The advisory group shall consist of the following ~~voting~~ 30932
members: 30933

(1) The following members appointed by the director of 30934
health: 30935

~~(1)~~(a) One individual with expertise in the training and 30936
education of primary care physicians ~~who is appointed~~ recommended 30937
by the dean of the university of Toledo college of medicine; 30938

~~(2)~~(b) One individual with expertise in the training and 30939
education of primary care physicians ~~who is appointed~~ recommended 30940
by the dean of the Boonshoft school of medicine at Wright state 30941
university; 30942

~~(3)~~(c) One individual with expertise in the training and 30943
education of primary care physicians ~~who is appointed~~ recommended 30944
by the president and dean of the northeast Ohio medical 30945
university; 30946

~~(4)~~(d) One individual with expertise in the training and 30947
education of primary care physicians ~~who is appointed~~ recommended 30948
by the dean of the Ohio university college of osteopathic 30949
medicine; 30950

~~(5)~~(e) Two individuals ~~appointed~~ recommended by the governing 30951
board of the Ohio academy of family physicians; 30952

~~(6)~~(f) One individual ~~appointed~~ recommended by the governing 30953
board of the Ohio chapter of the American college of physicians; 30954

~~(7)~~(g) One individual ~~appointed~~ recommended by the governing 30955
board of the Ohio chapter of the American academy of pediatrics; 30956

~~(8)~~(h) One individual ~~appointed~~ recommended by the governing 30957

| | |
|---|-------|
| board of the Ohio osteopathic association; | 30958 |
| (9)(i) One individual with expertise in the training and education of advanced practice nurses who is appointed, | 30959 |
| <u>recommended</u> by the governing board of the Ohio council of deans | 30960 |
| and directors of baccalaureate and higher degree programs in nursing; | 30961 |
| | 30962 |
| | 30963 |
| (10)(j) One individual appointed <u>recommended</u> by the governing board of the Ohio nurses association; | 30964 |
| | 30965 |
| (11)(k) One individual appointed <u>recommended</u> by the governing board of the Ohio association of advanced practice nurses; | 30966 |
| | 30967 |
| (12)(l) One individual appointed <u>recommended</u> by the governing board of the Ohio council for home care and hospice; | 30968 |
| | 30969 |
| (13)(m) One individual appointed <u>recommended</u> by the superintendent of insurance; | 30970 |
| | 30971 |
| <u>(n) An employee of the department of health;</u> | 30972 |
| <u>(o) Not more than five additional members who have relevant expertise that the director considers appropriate.</u> | 30973 |
| | 30974 |
| (C)(2) The advisory group shall consist of the following nonvoting, ex officio members: | 30975 |
| | 30976 |
| (1)(a) The executive director of the state medical board, or the director's designee; | 30977 |
| | 30978 |
| (2)(b) The executive director of the board of nursing or the director's designee; | 30979 |
| | 30980 |
| (3)(c) The chancellor of the Ohio board of regents, or the chancellor's designee; | 30981 |
| | 30982 |
| (4)(d) The individual within the department of job and family services who serves as the <u>medical assistance</u> director of medicaid, or the director's designee; | 30983 |
| | 30984 |
| | 30985 |
| (5) The director of health or the director's designee. | 30986 |

~~(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.~~ 30987
30988
30989
30990
30991

(C)(1) In making the original appointments of the members specified in divisions (B)(1)(a) to (m) of this section, the director shall appoint the member who served in that capacity in the patient centered medical home advisory group, as it existed immediately prior to the effective date of this section. If for any reason the member who served immediately prior to the effective date of this section is unable to serve on the advisory group, the director shall request from the specified recommending authority a list of not less than two persons qualified to serve as members of the advisory group. The director shall appoint as a member one person from the list submitted by the recommending authority. 30992
30993
30994
30995
30996
30997
30998
30999
31000
31001
31002
31003

(2) The advisory group members specified in divisions (B)(1)(a) to (m) of this section shall serve at the pleasure of the director, in consultation with their respective recommending authorities. 31004
31005
31006
31007

(3) Vacancies shall be filled in the manner provided for original appointments. 31008
31009

(D) Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties. 31010
31011
31012

~~(E) The advisory group shall select director may appoint from ~~among its~~ the members of the advisory group a chairperson and vice-chairperson. ~~The advisory group may select any other officers it considers necessary to conduct its business.~~ 31013
31014
31015
31016~~

A majority of the members of the advisory group constitutes a 31017

~~quorum for the transaction of official business. A majority of a 31018
quorum is necessary for the advisory group to take any action, 31019
except that when one or more members of a quorum are required to 31020
abstain from voting as provided in division (C)(1)(d) or (C)(2)(e) 31021
of section 185.05 of the Revised Code, the number of members 31022
necessary for a majority of a quorum shall be reduced accordingly 31023
make any recommendations to the director. 31024~~

~~The advisory group shall meet as necessary to fulfill its 31025
duties. The times and places for the meetings shall be selected by 31026
the chairperson at the call of the director. The director shall 31027
call the advisory group to meet not less than annually to discuss 31028
or consider recommendations to the director on the administration 31029
of the patient centered medical home education program. 31030~~

~~(F) Sections 101.82 to 101.87 of the Revised Code do not 31031
apply to the advisory group. 31032~~

Sec. 185.05 3701.925. (A) The patient centered medical home 31033
education advisory group shall accept applications for inclusion 31034
in the patient centered medical home education pilot project from 31035
primary care practices with educational affiliations, as 31036
determined by the advisory group, with one or more of the 31037
following: 31038

(1) The Boonshoft school of medicine at Wright state 31039
university; 31040

(2) The university of Toledo college of medicine; 31041

(3) The northeast Ohio medical university; 31042

(4) The Ohio university college of osteopathic medicine; 31043

(5) The college of nursing at the university of Toledo; 31044

(6) The Wright state university college of nursing and 31045
health; 31046

| | |
|---|-------|
| (7) The college of nursing at Kent state university; | 31047 |
| (8) The university of Akron college of nursing; | 31048 |
| (9) The school of nursing at Ohio university. | 31049 |
| (B)(1) Subject to division (C)(1) of this section, the | 31050 |
| advisory group shall select <u>recommend to the director of health</u> | 31051 |
| for inclusion in the pilot project not more <u>less</u> than the | 31052 |
| following number of physician practices <u>led by physicians</u> : | 31053 |
| (a) Ten practices affiliated with the Boonshoft school of | 31054 |
| medicine at Wright state university; | 31055 |
| (b) Ten practices affiliated with the university of Toledo | 31056 |
| college of medicine; | 31057 |
| (c) Ten practices affiliated with the northeast Ohio medical | 31058 |
| university; | 31059 |
| (d) Ten practices affiliated with the centers for osteopathic | 31060 |
| research and education of the Ohio university college of | 31061 |
| osteopathic medicine. | 31062 |
| (2) Subject to division (C)(2) of this section, the advisory | 31063 |
| group shall select <u>recommend to the director of health</u> for | 31064 |
| inclusion in the pilot project not less than the following number | 31065 |
| of advanced practice nurse primary care practices <u>led by advanced</u> | 31066 |
| <u>practice nurses</u> : | 31067 |
| (a) One practice affiliated with the college of nursing at | 31068 |
| the university of Toledo; | 31069 |
| (b) One practice affiliated with the Wright state university | 31070 |
| college of nursing and health; | 31071 |
| (c) One practice affiliated with the college of nursing at | 31072 |
| Kent state university or the university of Akron college of | 31073 |
| nursing; | 31074 |
| (d) One practice affiliated with the school of nursing at | 31075 |

Ohio university. 31076

(C)(1) All of the following apply with respect to the 31077
~~selection~~ recommendation of ~~physician~~ physician-led practices 31078
under division (B) of this section: 31079

(a) The advisory group shall strive to ~~select~~ physician 31080
recommend physician-led practices in such a manner that the pilot 31081
project includes a diverse range of primary care specialties, 31082
including practices specializing in pediatrics, geriatrics, 31083
general internal medicine, or family medicine. 31084

(b) When evaluating an application, the advisory group shall 31085
consider the percentage of patients in the ~~physician~~ physician-led 31086
practice who are part of a medically underserved population, 31087
including medicaid recipients and individuals without health 31088
insurance. 31089

(c) The advisory group shall ~~select~~ recommend not fewer than 31090
six practices that serve rural areas of this state, as those areas 31091
are determined by the advisory group. 31092

(d) A member of the advisory group shall abstain from 31093
participating in any vote taken regarding the ~~selection~~ 31094
recommendation of a ~~physician~~ physician-led practice if the member 31095
would receive any financial benefit from having the practice 31096
included in the pilot project. 31097

(2) All of the following apply with respect to the ~~selection~~ 31098
recommendation of advanced practice ~~nurse~~ nurse-led primary care 31099
practices under division (B) of this section: 31100

(a) When evaluating an application, the advisory group shall 31101
consider the percentage of patients in the advanced practice ~~nurse~~ 31102
nurse-led primary care practice who are part of a medically 31103
underserved population, including medicaid recipients and 31104
individuals without health insurance. 31105

(b) If the advisory group determines that it has not received 31106
an application from a sufficiently qualified advanced practice 31107
~~nurse~~ nurse-led primary care practice affiliated with a particular 31108
institution specified in division (B)(2) of this section, the 31109
advisory group shall make the ~~selections~~ recommendations required 31110
under that division in such a manner that the greatest possible 31111
number of those institutions are ~~represented~~ recommended to be 31112
included in the pilot project. To be ~~selected~~ recommended in this 31113
manner, a practice remains subject to the eligibility requirements 31114
specified in division (B) of section ~~185.06~~ 3701.926 of the 31115
Revised Code. As specified in division (B)(2) of this section, the 31116
number of practices ~~selected~~ recommended for inclusion in the 31117
pilot project shall be at least four. 31118

(c) A member of the advisory group shall abstain from 31119
participating in any vote taken regarding the ~~selection~~ 31120
recommendation of an advanced practice ~~nurse~~ nurse-led primary 31121
care practice if the member would receive any financial benefit 31122
from having the practice included in the pilot project. 31123

(D) The advisory group shall provide a copy of all 31124
applications received under this section to the director of health 31125
after making recommendations under division (B)(1) of this 31126
section. 31127

Sec. ~~185.06~~ 3701.926. (A) To be eligible for inclusion in the 31128
patient centered medical home education pilot project, a ~~physician~~ 31129
physician-led practice shall meet all of the following 31130
requirements: 31131

(1) Consist of physicians who are board-certified in family 31132
medicine, general pediatrics, or internal medicine, as those 31133
designations are issued by a medical specialty certifying board 31134
recognized by the American board of medical specialties or 31135
American osteopathic association; 31136

(2) Be capable of adapting the practice during the period in which the practice ~~receives funding from~~ participates in the patient centered medical home education ~~advisory group~~ pilot project in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the ~~advisory group~~ director of health;

(3) Have submitted an application to participate in the project established under former section 185.05 of the Revised Code not later than April 15, 2011.

(4) Meet any other criteria established by the ~~advisory group~~ director as part of the selection process.

(B) To be eligible for inclusion in the pilot project, an advanced practice ~~nurse~~ nurse-led primary care practice shall meet all of the following requirements:

(1) Consist of advanced practice nurses ~~who meet, each of whom meets~~ all of the following requirements:

(a) ~~Hold~~ Holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

(b) ~~Are~~ Is board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;

(c) ~~Has a collaboration agreement~~ Collaborates under a standard care arrangement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.

(2) Be capable of adapting the primary care practice during 31168
the period in which the practice ~~receives funding from~~ 31169
participates in the advisory group project in such a manner that 31170
the practice is fully compliant with the minimum standards for 31171
operation of a patient centered medical home, as those standards 31172
are established by the ~~advisory group~~ director; 31173

(3) Have submitted an application to participate in the 31174
project established under former section 185.05 of the Revised 31175
Code not later than April 15, 2011. 31176

(4) Meet any other criteria established by the ~~advisory group~~ 31177
director as part of the selection process. 31178

Sec. 185.07 3701.927. The ~~patient centered medical home~~ 31179
~~education advisory group~~ director of health shall enter into a 31180
contract with each primary care practice selected by the director 31181
for inclusion in the patient centered medical home education pilot 31182
project. The contract shall specify the terms and conditions for 31183
inclusion in the pilot project, including a requirement that the 31184
practice provide comprehensive, coordinated primary care services 31185
to patients and serve as the patients' medical home. The contract 31186
shall also require the practice to participate in the training of 31187
medical students, advanced practice nursing students, ~~or~~ physician 31188
assistant students, and primary care medical residents. 31189

The director may include as part of the contract any other 31190
requirements necessary for a practice to be included in the 31191
project, including requirements regarding the number of patients 31192
served who are medicaid recipients and individuals without health 31193
insurance. 31194

Sec. 185.09 3701.928. (A) The director of health or, at the 31195
director's request, the patient centered medical home education 31196
advisory group ~~shall jointly~~ may work with ~~all~~ medical ~~and,~~ 31197

nursing, and physician assistant schools or programs in this state 31198
to develop appropriate curricula designed to prepare primary care 31199
physicians ~~and~~, advanced practice nurses, and physician assistants 31200
to practice within the patient centered medical home model of 31201
care. In developing the curricula, the director or advisory group~~,~~ 31202
~~medical schools, and nursing~~ and the schools or programs shall 31203
include all of the following: 31204

(1) Components for use at the medical student, advanced 31205
practice nursing student, physician assistant student, and primary 31206
care resident training levels; 31207

(2) Components that reflect, as appropriate, the special 31208
needs of patients who are part of a medically underserved 31209
population, including medicaid recipients, individuals without 31210
health insurance, individuals with disabilities, individuals with 31211
chronic health conditions, and individuals within racial or ethnic 31212
minority groups; 31213

(3) Components that include training in interdisciplinary 31214
cooperation between physicians ~~and~~, advanced practice nurses, and 31215
physician assistants in the patient centered medical home model of 31216
care, including curricula ensuring that a common conception of a 31217
patient centered medical home model of care is provided to medical 31218
students, advanced practice nurses, physician assistants, and 31219
primary care residents. 31220

(B) The director or advisory group ~~shall~~ may work in 31221
association with the medical ~~and~~, nursing, and physician assistant 31222
schools or programs to identify funding sources to ensure that the 31223
curricula developed under division (A) of this section are 31224
accessible to medical students, advanced practice nursing 31225
students, physician assistant students, and primary care 31226
residents. The director or advisory group shall consider 31227
scholarship options or incentives provided to students in addition 31228
to those provided under the choose Ohio first scholarship program 31229

operated under section 3333.61 of the Revised Code. 31230

Sec. ~~185.12~~ 3701.929. (A) ~~The patient-centered medical home education advisory group~~ If the director of health establishes the patient centered medical home education pilot project, the director shall prepare reports of its findings and recommendations from the ~~patient-centered medical home education~~ pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs of the pilot project, and the extent to which the pilot project has met the set of expected outcomes developed under division (A) of section ~~185.03~~ 3701.924 of the Revised Code.

(B) The reports shall be completed in accordance with the following schedule:

(1) An interim report not later than six months after the date on which the ~~first funding is released~~ last primary care practice selected to participate in the project enters into a contract with the department of health pursuant to section ~~185.11~~ 3701.927 of the Revised Code;

(2) An update of the interim report not later than one year after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section;

(3) A final report not later than two years after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section.

(C) The ~~advisory group~~ director shall submit each of the reports to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly.

Sec. 3701.93. Subject to available funds, the director of health shall establish the Ohio violent death reporting system to

collect and maintain information, data, and records regarding 31260
violent deaths in Ohio. 31261

Sec. 3701.931. The Ohio violent death reporting system shall 31262
do all of the following regarding violent death information, data, 31263
and records maintained in the system: 31264

(A) Monitor the incidence and causes of the various types of 31265
violent deaths; 31266

(B) Make appropriate epidemiologic studies of the violent 31267
deaths; 31268

(C) Analyze trends and patterns in, and circumstances related 31269
to, the violent deaths; 31270

(D) With the assistance of the advisory group established 31271
pursuant to section 3701.932 of the Revised Code, recommend 31272
actions to relevant entities to prevent violent deaths and make 31273
any other such recommendations the director of health determines 31274
necessary. 31275

Sec. 3701.932. The director of health shall establish an 31276
advisory group of interested parties and stakeholders to recommend 31277
actions to relevant entities to prevent violent deaths, and make 31278
other recommendations the director determines necessary, in 31279
accordance with division (D) of section 3701.931 of the Revised 31280
Code. 31281

Sec. 3701.933. The data collection model used by the Ohio 31282
violent death reporting system shall follow the data collection 31283
model used by the United States centers for disease control and 31284
prevention national violent death reporting system and any other 31285
data collection model set forth by the director of health pursuant 31286
to section 3701.934 of the Revised Code. 31287

Sec. 3701.934. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall do all of the following: 31288
31289
31290

(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system; 31291
31292

(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system; 31293
31294

(C) Specify the sources from which the information, data, and records are to be collected for use by the Ohio violent death reporting system; 31295
31296
31297

(D) If determined appropriate by the director, set forth any other data collection model to be used by the Ohio violent death reporting system. 31298
31299
31300

Sec. 3701.935. The director of health shall collect information about violent deaths in Ohio only from existing sources related to violent crimes and shall not conduct independent criminal investigations in order to obtain information, data, or records for use by the Ohio violent death reporting system. 31301
31302
31303
31304
31305
31306

Sec. 3701.936. At the request of the director of health, every department, agency, and political subdivision of the state shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. 31307
31308
31309
31310
31311

Sec. 3701.937. At the request of the director of health, any individual or entity not specified in section 3701.936 of the Revised Code, at the individual's or entity's discretion, may provide information, data, records, and otherwise assist in the 31312
31313
31314
31315

execution of sections 3701.93 to 3701.9314 of the Revised Code. 31316
Any information, data, and records provided to the director by any 31317
other individual or entity shall contain only information, data, 31318
or records that are available or reasonably drawn from any 31319
information, data, and record developed and kept in the normal 31320
course of business. 31321

Sec. 3701.938. Notwithstanding any section of the Revised 31322
Code pertaining to confidentiality, any individual, public social 31323
service agency, or public agency that provides services to 31324
individuals or families, law enforcement agency, coroner, or 31325
public entity that provided services to an individual whose death 31326
is the type of death specified by the director of health under 31327
section 3701.934 of the Revised Code shall provide information, 31328
data, records, and otherwise assist in the execution of sections 31329
3701.93 to 3701.9314 of the Revised Code. 31330

Sec. 3701.9310. Except as otherwise provided in section 31331
3701.9212 of the Revised Code, all of the following are not public 31332
records under section 149.43 of the Revised Code, shall be 31333
confidential, and shall be published only in statistical form: 31334

(A) Information, data, and records collected for use and 31335
maintained by the Ohio violent death reporting system including, 31336
but not limited to, medical records, law enforcement investigative 31337
records, coroner investigative records, laboratory reports, and 31338
other records concerning a decedent; 31339

(B) Work products created in carrying out the purposes of the 31340
Ohio violent death reporting system. 31341

Sec. 3701.9311. Information, data, and records collected for 31342
use and maintained by, and all work products created in carrying 31343
out the purposes of, the Ohio violent death reporting system shall 31344

not be subject to subpoena or discovery while in the possession of 31345
the system or admissible in any criminal or civil proceeding if 31346
obtained through, or from, the system. 31347

Sec. 3701.9312. The director of health, pursuant to rules 31348
adopted in accordance with Chapter 119. of the Revised Code, shall 31349
establish standards and procedures to make available to 31350
researchers confidential information collected by the Ohio violent 31351
death reporting system. Researchers complying with those standards 31352
and procedures also shall comply with the confidentiality 31353
requirements of section 3701.9310 of the Revised Code. 31354

Sec. 3701.9314. The director of health may adopt rules in 31355
accordance with Chapter 119. of the Revised Code necessary to 31356
establish, maintain, and carry out the purposes of the Ohio 31357
violent death reporting system under sections 3701.93 to 3701.9314 31358
of the Revised Code. 31359

Sec. 3702.141. (A) As used in this section: 31360

(1) "Existing health care facility" means a health care 31361
facility that is licensed or otherwise approved to practice in 31362
this state, in accordance with applicable law, is staffed and 31363
equipped to provide health care services, and actively provides 31364
health services or has not been actively providing health services 31365
for less than twelve consecutive months. 31366

(2) "Freestanding birthing center" means any facility in 31367
which deliveries routinely occur, regardless of whether the 31368
facility is located on the campus of another health care facility, 31369
and which is not licensed under Chapter 3711. of the Revised Code 31370
as a level one, two, or three maternity unit or a limited 31371
maternity unit. 31372

(3) "Health care facility" and "health service" have the same 31373

| | |
|--|-------|
| <u>meanings as in section 3702.51 of the Revised Code means:</u> | 31374 |
| <u>(a) A hospital registered under section 3701.07 of the Revised Code;</u> | 31375 |
| <u>Revised Code;</u> | 31376 |
| <u>(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;</u> | 31377 |
| <u>Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;</u> | 31378 |
| <u>section 3721.09 of the Revised Code;</u> | 31379 |
| <u>(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;</u> | 31380 |
| <u>section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;</u> | 31381 |
| <u>U.S.C.A. 301, as amended;</u> | 31382 |
| <u>U.S.C.A. 301, as amended;</u> | 31383 |
| <u>(d) A freestanding dialysis center;</u> | 31384 |
| <u>(e) A freestanding inpatient rehabilitation facility;</u> | 31385 |
| <u>(f) An ambulatory surgical facility;</u> | 31386 |
| <u>(g) A freestanding cardiac catheterization facility;</u> | 31387 |
| <u>(h) A freestanding birthing center;</u> | 31388 |
| <u>(i) A freestanding or mobile diagnostic imaging center;</u> | 31389 |
| <u>(j) A freestanding radiation therapy center.</u> | 31390 |
| <u>A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31391 |
| <u>private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31392 |
| <u>practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31393 |
| <u>the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31394 |
| <u>exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31395 |
| <u>for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31396 |
| <u>religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31397 |
| <u>organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31398 |
| <u>501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31399 |
| <u>U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31400 |
| <u>of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u> | 31401 |
| <u>4723. of the Revised Code.</u> | 31402 |
| <u>4723. of the Revised Code.</u> | 31403 |

(4) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service. 31404
31405

(B) Section 3702.14 of the Revised Code shall not be construed to require any existing health care facility that is conducting an activity specified in section 3702.11 of the Revised Code, which activity was initiated on or before March 20, 1997, to alter, upgrade, or otherwise improve the structure or fixtures of the facility in order to comply with any rule adopted under section 3702.11 of the Revised Code relating to that activity, unless one of the following applies: 31406
31407
31408
31409
31410
31411
31412
31413

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted. 31414
31415
31416
31417
31418

(2) The facility initiates another activity specified in section 3702.11 of the Revised Code. 31419
31420

~~(3) The facility initiates a service level designation change for obstetric and newborn care.~~ 31421
31422

~~(4)~~ The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service. 31423
31424

~~(5)~~(4) The facility proposes to add an open-heart operating room to an existing open-heart surgery service. 31425
31426

~~(6)~~(5) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient. 31427
31428
31429

(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set 31430
31431
31432
31433

forth in division (B)(1) of this section. 31434

(D) No person or government entity shall divide or otherwise 31435
segment a construction, renovation, or reconstruction project in 31436
order to evade application of the capital expenditure threshold 31437
set forth in division (B)(1) of this section. 31438

Sec. 3702.31. (A) The quality monitoring and inspection fund 31439
is hereby created in the state treasury. The director of health 31440
shall use the fund to administer and enforce this section and 31441
sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and~~ 3702.32, and 31442
3702.33 of the Revised Code and rules adopted pursuant to those 31443
sections. The director shall deposit in the fund any moneys 31444
collected pursuant to this section or section 3702.32 of the 31445
Revised Code. All investment earnings of the fund shall be 31446
credited to the fund. 31447

(B) The director of health shall adopt rules pursuant to 31448
Chapter 119. of the Revised Code establishing fees for both of the 31449
following: 31450

(1) Initial and renewal license applications submitted under 31451
section 3702.30 of the Revised Code. The fees established under 31452
division (B)(1) of this section shall not exceed the actual and 31453
necessary costs of performing the activities described in division 31454
(A) of this section. 31455

(2) Inspections conducted under section 3702.15 or 3702.30 of 31456
the Revised Code. The fees established under division (B)(2) of 31457
this section shall not exceed the actual and necessary costs 31458
incurred during an inspection, including any indirect costs 31459
incurred by the department for staff, salary, or other 31460
administrative costs. The director of health shall provide to each 31461
health care facility or provider inspected pursuant to section 31462
3702.15 or 3702.30 of the Revised Code a written statement of the 31463
fee. The statement shall itemize and total the costs incurred. 31464

Within fifteen days after receiving a statement from the director, 31465
the facility or provider shall forward the total amount of the fee 31466
to the director. 31467

(3) The fees described in divisions (B)(1) and (2) of this 31468
section shall meet both of the following requirements: 31469

(a) For each service described in section 3702.11 of the 31470
Revised Code, the fee shall not exceed one thousand seven hundred 31471
fifty dollars annually, except that the total fees charged to a 31472
health care provider under this section shall not exceed five 31473
thousand dollars annually. 31474

(b) The fee shall exclude any costs reimbursable by the 31475
United States centers for medicare and medicaid services as part 31476
of the certification process for the medicare program established 31477
under Title XVIII of the "Social Security Act," 79 Stat. 286 31478
(1935), 42 U.S.C.A. 1395, as amended, and the medicaid program 31479
established under Title XIX of the "Social Security Act," 79 Stat. 31480
286 (1965), 42 U.S.C. 1396. 31481

(4) The director shall not establish a fee for any service 31482
for which a licensure or inspection fee is paid by the health care 31483
provider to a state agency for the same or similar licensure or 31484
inspection. 31485

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 31486
Revised Code: 31487

(A) "Applicant" means any person that submits an application 31488
for a certificate of need and who is designated in the application 31489
as the applicant. 31490

(B) "Person" means any individual, corporation, business 31491
trust, estate, firm, partnership, association, joint stock 31492
company, insurance company, government unit, or other entity. 31493

(C) "Certificate of need" means a written approval granted by 31494

the director of health to an applicant to authorize conducting a reviewable activity. 31495
31496

(D) "~~Health service~~ Service area" means a ~~geographic region~~ 31497
~~designated by the director of health under section 3702.58 of the~~ 31498
~~Revised Code~~ the current and projected primary and secondary 31499
service areas to which the long-term care facility is, or will be, 31500
providing long-term care services. 31501

(E) "~~Health Primary service~~ area" means a ~~clinically related~~ 31502
~~service, such as a diagnostic, treatment, rehabilitative, or~~ 31503
~~preventive service~~ the geographic region, usually comprised of the 31504
Ohio zip code in which the long-term care facility is located and 31505
contiguous zip codes, from which approximately seventy-five to 31506
eighty per cent of the facility's residents currently originate or 31507
are expected to originate. 31508

(F) "~~Health Secondary service agency~~ area" means ~~an agency~~ 31509
~~designated to serve a health service area in accordance with~~ 31510
~~section 3702.58 of the Revised Code~~ the geographic region, usually 31511
comprised of Ohio zip codes not included in the primary service 31512
area, excluding isolated exceptions, from which the facility's 31513
remaining residents currently originate or are expected to 31514
originate. 31515

(G) "~~Health care facility~~" means: 31516

(1) ~~A hospital registered under section 3701.07 of the~~ 31517
~~Revised Code;~~ 31518

(2) ~~A nursing home licensed under section 3721.02 of the~~ 31519
~~Revised Code, or by a political subdivision certified under~~ 31520
~~section 3721.09 of the Revised Code;~~ 31521

(3) ~~A county home or a county nursing home as defined in~~ 31522
~~section 5155.31 of the Revised Code that is certified under Title~~ 31523
~~XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 31524
~~U.S.C.A. 301, as amended;~~ 31525

- ~~(4) A freestanding dialysis center;~~ 31526
- ~~(5) A freestanding inpatient rehabilitation facility;~~ 31527
- ~~(6) An ambulatory surgical facility;~~ 31528
- ~~(7) A freestanding cardiac catheterization facility;~~ 31529
- ~~(8) A freestanding birthing center;~~ 31530
- ~~(9) A freestanding or mobile diagnostic imaging center;~~ 31531
- ~~(10) A freestanding radiation therapy center.~~ 31532

~~A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.~~ 31533
31534
31535
31536
31537
31538
31539
31540
31541
31542
31543
31544
31545

~~(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.~~ 31546
31547
31548

~~(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K)(I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.~~ 31549
31550
31551
31552
31553
31554
31555

~~(J)~~(H) "Government unit" means the state and any county, 31556
municipal corporation, township, or other political subdivision of 31557
the state, or any department, division, board, or other agency of 31558
the state or a political subdivision. 31559

~~(K)~~(I) "Health maintenance organization" means a public or 31560
private organization organized under the law of any state that is 31561
qualified under section 1310(d) of Title XIII of the "Public 31562
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 31563

~~(L)~~(J) "Existing health long-term care facility" means either 31564
of the following: 31565

(1) A ~~health~~ long-term care facility that is licensed or 31566
otherwise authorized to operate in this state in accordance with 31567
applicable law, including a county home or a county nursing home 31568
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 31569
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 31570
U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ 31571
long-term care services, and is actively providing ~~health~~ 31572
long-term care services; 31573

(2) A ~~health~~ long-term care facility that is licensed or 31574
otherwise authorized to operate in this state in accordance with 31575
applicable law, including a county home or a county nursing home 31576
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 31577
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 31578
U.S.C. 301, as amended, or that has beds registered under section 31579
3701.07 of the Revised Code as skilled nursing beds or long-term 31580
care beds and has provided long-term care services for at least 31581
three hundred sixty-five consecutive days within the twenty-four 31582
months immediately preceding the date a certificate of need 31583
application is filed with the director of health. 31584

~~(M)~~(K) "State" means the state of Ohio, including, but not 31585
limited to, the general assembly, the supreme court, the offices 31586

of all elected state officers, and all departments, boards, 31587
offices, commissions, agencies, institutions, and other 31588
instrumentalities of the state of Ohio. "State" does not include 31589
political subdivisions. 31590

~~(N)~~(L) "Political subdivision" means a municipal corporation, 31591
township, county, school district, and all other bodies corporate 31592
and politic responsible for governmental activities only in 31593
geographic areas smaller than that of the state to which the 31594
sovereign immunity of the state attaches. 31595

~~(O)~~(M) "Affected person" means: 31596

(1) An applicant for a certificate of need, including an 31597
applicant whose application was reviewed comparatively with the 31598
application in question; 31599

(2) The person that requested the reviewability ruling in 31600
question; 31601

(3) Any person that resides or regularly uses ~~health~~ 31602
long-term care facilities within the ~~geographic~~ service area 31603
served or to be served by the ~~health~~ long-term care services that 31604
would be provided under the certificate of need or reviewability 31605
ruling in question; 31606

(4) Any ~~health~~ long-term care facility that is located in the 31607
~~health~~ service area where the ~~health~~ long-term care services would 31608
be provided under the certificate of need or reviewability ruling 31609
in question; 31610

(5) Third-party payers that reimburse ~~health~~ long-term care 31611
facilities for services in the ~~health~~ service area where the 31612
~~health~~ long-term care services would be provided under the 31613
certificate of need or reviewability ruling in question~~+~~. 31614

~~(6) Any other person who testified at a public hearing held 31615
under division (B) of section 3702.52 of the Revised Code or 31616~~

~~submitted written comments in the course of review of the 31617
certificate of need application in question. 31618~~

~~(P) "Osteopathic hospital" means a hospital registered under 31619
section 3701.07 of the Revised Code that advocates osteopathic 31620
principles and the practice and perpetuation of osteopathic 31621
medicine by doing any of the following: 31622~~

~~(1) Maintaining a department or service of osteopathic 31623
medicine or a committee on the utilization of osteopathic 31624
principles and methods, under the supervision of an osteopathic 31625
physician; 31626~~

~~(2) Maintaining an active medical staff, the majority of 31627
which is comprised of osteopathic physicians; 31628~~

~~(3) Maintaining a medical staff executive committee that has 31629
osteopathic physicians as a majority of its members. 31630~~

~~(Q) "Ambulatory surgical facility" has the same meaning as in 31631
section 3702.30 of the Revised Code. 31632~~

~~(R) Except as provided in division (S) of this section, 31633
"reviewable activity" means any of the following activities: 31634~~

~~(1) The establishment, development, or construction of a new 31635
long term care facility; 31636~~

~~(2) The replacement of an existing long term care facility; 31637~~

~~(3) The renovation of a long term care facility that involves 31638
a capital expenditure of two million dollars or more, not 31639
including expenditures for equipment, staffing, or operational 31640
costs; 31641~~

~~(4) Either of the following changes in long term care bed 31642
capacity: 31643~~

~~(a) An increase in bed capacity; 31644~~

~~(b) A relocation of beds from one physical facility or site 31645~~

~~to another, excluding the relocation of beds within a long term
care facility or among buildings of a long term care facility at
the same site.~~ 31646
31647
31648

~~(5) Any change in the health services, bed capacity, or site,
or any other failure to conduct the reviewable activity in
substantial accordance with the approved application for which a
certificate of need concerning long term care beds was granted, if
the change is made within five years after the implementation of
the reviewable activity for which the certificate was granted;~~ 31649
31650
31651
31652
31653
31654

~~(6) The expenditure of more than one hundred ten per cent of
the maximum expenditure specified in a certificate of need
concerning long term care beds.~~ 31655
31656
31657

~~(S) "Reviewable activity" does not include any of the
following activities:~~ 31658
31659

~~(1) Acquisition of computer hardware or software;~~ 31660

~~(2) Acquisition of a telephone system;~~ 31661

~~(3) Construction or acquisition of parking facilities;~~ 31662

~~(4) Correction of cited deficiencies that are in violation of
federal, state, or local fire, building, or safety laws and rules
and that constitute an imminent threat to public health or safety;~~ 31663
31664
31665

~~(5) Acquisition of an existing health care facility that does
not involve a change in the number of the beds, by service, or in
the number or type of health services;~~ 31666
31667
31668

~~(6) Correction of cited deficiencies identified by
accreditation surveys of the joint commission on accreditation of
healthcare organizations or of the American osteopathic
association;~~ 31669
31670
31671
31672

~~(7) Acquisition of medical equipment to replace the same or
similar equipment for which a certificate of need has been issued
if the replaced equipment is removed from service;~~ 31673
31674
31675

| | |
|--|-------|
| (8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services; | 31676 |
| | 31677 |
| | 31678 |
| | 31679 |
| (9) Construction, repair, or renovation of bathroom facilities; | 31680 |
| | 31681 |
| (10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services; | 31682 |
| | 31683 |
| | 31684 |
| | 31685 |
| (11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (S)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity. | 31686 |
| | 31687 |
| | 31688 |
| | 31689 |
| | 31690 |
| | 31691 |
| | 31692 |
| | 31693 |
| | 31694 |
| (12) Removal of asbestos from a health care facility. | 31695 |
| Only that portion of a project that meets the requirements of this division is not a reviewable activity. | 31696 |
| | 31697 |
| (T) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year. | 31698 |
| | 31699 |
| | 31700 |
| | 31701 |
| (U) "Children's hospital" means any of the following: | 31702 |
| (1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy five per cent of annual | 31703 |
| | 31704 |
| | 31705 |

| | |
|---|-------|
| inpatient discharges for the preceding two calendar years were | 31706 |
| individuals less than eighteen years of age; | 31707 |
| (2) A distinct portion of a hospital registered under section | 31708 |
| 3701.07 of the Revised Code that provides general pediatric | 31709 |
| medical and surgical care, has a total of at least one hundred | 31710 |
| fifty registered pediatric special care and pediatric acute care | 31711 |
| beds, and in which at least seventy five per cent of annual | 31712 |
| inpatient discharges for the preceding two calendar years were | 31713 |
| individuals less than eighteen years of age; | 31714 |
| (3) A distinct portion of a hospital, if the hospital is | 31715 |
| registered under section 3701.07 of the Revised Code as a | 31716 |
| children's hospital and the children's hospital meets all the | 31717 |
| requirements of division (U)(1) of this section. | 31718 |
| (V)(N) "Long-term care facility" means any of the following: | 31719 |
| (1) A nursing home licensed under section 3721.02 of the | 31720 |
| Revised Code or by a political subdivision certified under section | 31721 |
| 3721.09 of the Revised Code; | 31722 |
| (2) The portion of any facility, including a county home or | 31723 |
| county nursing home, that is certified as a skilled nursing | 31724 |
| facility or a nursing facility under Title XVIII or XIX of the | 31725 |
| "Social Security Act"; | 31726 |
| (3) The portion of any hospital that contains beds registered | 31727 |
| under section 3701.07 of the Revised Code as skilled nursing beds | 31728 |
| or long-term care beds. | 31729 |
| (W)(O) "Long-term care bed" or "bed" means a bed in a | 31730 |
| long term care facility that is categorized as one of the | 31731 |
| following: | 31732 |
| (1) A bed that is located in a facility that is a nursing | 31733 |
| home licensed under section 3721.02 of the Revised Code or a | 31734 |
| facility licensed by a political subdivision certified under | 31735 |

| | |
|---|-------|
| <u>section 3721.09 of the Revised Code and is included in the</u> | 31736 |
| <u>authorized maximum licensed capacity of the facility;</u> | 31737 |
| <u>(2) A bed that is located in the portion of any facility,</u> | 31738 |
| <u>including a county home or county nursing home, that is certified</u> | 31739 |
| <u>as a skilled nursing facility under the medicare program or a</u> | 31740 |
| <u>nursing facility under the medicaid program and is included in the</u> | 31741 |
| <u>authorized maximum certified capacity of that portion of the</u> | 31742 |
| <u>facility;</u> | 31743 |
| <u>(3) A bed that is registered under section 3701.07 of the</u> | 31744 |
| <u>Revised Code as a skilled nursing bed, a long-term care bed, or a</u> | 31745 |
| <u>special skilled nursing bed;</u> | 31746 |
| <u>(4) A bed in a county home or county nursing home that has</u> | 31747 |
| <u>been certified under section 5155.38 of the Revised Code as having</u> | 31748 |
| <u>been in operation on July 1, 1993, and is eligible for licensure</u> | 31749 |
| <u>as a nursing home bed;</u> | 31750 |
| <u>(5) A bed held as an approved bed under a certificate of need</u> | 31751 |
| <u>approved by the director.</u> | 31752 |
| <u>A bed cannot simultaneously be both a bed described in</u> | 31753 |
| <u>division (O)(1), (2), (3), or (4) of this section and a bed</u> | 31754 |
| <u>described in division (O)(5) of this section.</u> | 31755 |
| (X) "Freestanding birthing center" means any facility in | 31756 |
| which deliveries routinely occur, regardless of whether the | 31757 |
| facility is located on the campus of another health care facility, | 31758 |
| and which is not licensed under Chapter 3711. of the Revised Code | 31759 |
| as a level one, two, or three maternity unit or a limited | 31760 |
| maternity unit. | 31761 |
| (Y)(1)(P) "Reviewability ruling" means a ruling issued by the | 31762 |
| director of health under division (A) of section 3702.52 of the | 31763 |
| Revised Code as to whether a particular proposed project is or is | 31764 |
| not a reviewable activity. | 31765 |

~~(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.~~ 31766
31767
31768

~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.~~ 31769
31770
31771
31772
31773

~~(2) "Rural area" means any area of this state not located within a metropolitan statistical area.~~ 31774
31775

~~(AA)(Q)~~ (Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code. 31776
31777

~~(BB)(R)~~ (R) "Principal participant" means both of the following: 31778

(1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility; 31779
31780
31781
31782
31783

(2) An officer, director, trustee, or general partner of an applicant, of a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility. 31784
31785
31786
31787

~~(CC)(S)~~ (S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy. 31788
31789
31790
31791
31792
31793

~~(DD)(T)~~ (T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of 31794
31795

deficiencies resulting in immediate jeopardy to resident health or 31796
safety or represents widespread deficiencies resulting in 31797
immediate jeopardy to resident health or safety. 31798

(U) "Existing bed" or "existing long-term care bed" means a 31799
bed from an existing long-term care facility, a bed described in 31800
division (O)(5) of this section, or a bed correctly reported as a 31801
long-term care bed pursuant to section 5155.38 of the Revised 31802
Code. 31803

Sec. 3702.511. (A) Except as provided in division (B) of this 31804
section, the following activities are reviewable under sections 31805
3702.51 to 3702.62 of the Revised Code: 31806

(1) Establishment, development, or construction of a new 31807
long-term care facility; 31808

(2) Replacement of an existing long-term care facility; 31809

(3) Renovation of or addition to a long-term care facility 31810
that involves a capital expenditure of two million dollars or 31811
more, not including expenditures for equipment, staffing, or 31812
operational costs; 31813

(4) Either of the following changes in long-term care bed 31814
capacity: 31815

(a) An increase in bed capacity; 31816

(b) A relocation of beds from one physical facility or site 31817
to another, excluding relocation of beds within a long-term care 31818
facility or among buildings of a long-term care facility at the 31819
same site. 31820

(5) Any change in the bed capacity or site, or any other 31821
failure to conduct a reviewable activity in substantial accordance 31822
with the approved application for which a certificate of need 31823
concerning long-term care beds was granted, if the change is made 31824
within five years after the implementation of the reviewable 31825

| | |
|---|-------|
| <u>activity for which the certificate was granted;</u> | 31826 |
| <u>(6) Expenditure of more than one hundred ten per cent of the</u> | 31827 |
| <u>maximum expenditure specified in a certificate of need concerning</u> | 31828 |
| <u>long-term care beds.</u> | 31829 |
| <u>(B) The following activities are not subject to review under</u> | 31830 |
| <u>sections 3702.51 to 3702.62 of the Revised Code:</u> | 31831 |
| <u>(1) Acquisition of computer hardware or software;</u> | 31832 |
| <u>(2) Acquisition of a telephone system;</u> | 31833 |
| <u>(3) Construction or acquisition of parking facilities;</u> | 31834 |
| <u>(4) Correction of cited deficiencies that constitute an</u> | 31835 |
| <u>imminent threat to public health or safety and are in violation of</u> | 31836 |
| <u>federal, state, or local fire, building, or safety statutes,</u> | 31837 |
| <u>ordinances, rules, or regulations;</u> | 31838 |
| <u>(5) Acquisition of an existing long-term care facility that</u> | 31839 |
| <u>does not involve a change in the number of the beds;</u> | 31840 |
| <u>(6) Mergers, consolidations, or other corporate</u> | 31841 |
| <u>reorganizations of long-term care facilities that do not involve a</u> | 31842 |
| <u>change in the number of beds;</u> | 31843 |
| <u>(7) Construction, repair, or renovation of bathroom</u> | 31844 |
| <u>facilities;</u> | 31845 |
| <u>(8) Construction of laundry facilities, waste disposal</u> | 31846 |
| <u>facilities, dietary department projects, heating and air</u> | 31847 |
| <u>conditioning projects, administrative offices, and portions of</u> | 31848 |
| <u>medical office buildings used exclusively for physician services;</u> | 31849 |
| <u>(9) Removal of asbestos from a health care facility.</u> | 31850 |
| <u>Only that portion of a project that is described in this</u> | 31851 |
| <u>division is not reviewable.</u> | 31852 |
| Sec. 3702.52. The director of health shall administer a state | 31853 |

certificate of need program in accordance with sections 3702.51 to 31854
3702.62 of the Revised Code and rules adopted under those 31855
sections. 31856

(A) The director shall issue rulings on whether a particular 31857
proposed project is a reviewable activity. The director shall 31858
issue a ruling not later than forty-five days after receiving a 31859
request for a ruling accompanied by the information needed to make 31860
the ruling. If the director does not issue a ruling in that time, 31861
the project shall be considered to have been ruled not a 31862
reviewable activity. 31863

(B)(1) Each application for a certificate of need shall be 31864
submitted to the director on forms and in the manner prescribed by 31865
the director. Each application shall include a plan for obligating 31866
the capital expenditures or implementing the proposed project on a 31867
timely basis in accordance with section ~~3702.525~~ 3702.524 of the 31868
Revised Code. Each application shall also include all other 31869
information required by rules adopted under division (B) of 31870
section 3702.57 of the Revised Code. 31871

(2) Each application shall be accompanied by the application 31872
fee established in rules adopted under division (G) of section 31873
3702.57 of the Revised Code. Application fees received by the 31874
director under this division shall be deposited into the state 31875
treasury to the credit of the certificate of need fund, which is 31876
hereby created. The director shall use the fund only to pay the 31877
costs of administering sections 3702.11 to 3702.20, 3702.30, and 31878
3702.51 to 3702.62 of the Revised Code and rules adopted under 31879
those sections. An application fee is nonrefundable unless the 31880
director determines that the application cannot be accepted. 31881

(3) The director shall review applications for certificates 31882
of need. As part of a review, the director shall determine whether 31883
an application is complete. The director shall not consider an 31884
application to be complete unless the application meets all 31885

criteria for a complete application specified in rules adopted 31886
under section 3702.57 of the Revised Code. The director shall mail 31887
to the applicant a written notice that the application is 31888
complete, or a written request for additional information, not 31889
later than thirty days after receiving an application or a 31890
response to an earlier request for information. Except as provided 31891
in section ~~3702.523~~ 3702.522 of the Revised Code, the director 31892
shall not make more than two requests for additional information. 31893
The director's determination that an application is not complete 31894
is final and not subject to appeal. 31895

~~The director may conduct a public informational hearing in 31896
the course of reviewing any application for a certificate of need, 31897
and shall conduct one if requested to do so by any affected person 31898
not later than fifteen days after the director mails the notice 31899
that the application is complete. The hearing shall be conducted 31900
in the community in which the activities authorized by the 31901
certificate of need would be carried out. Any affected person may 31902
testify at the hearing. The director may, with the health service 31903
agency's consent, designate a health service agency to conduct the 31904
hearing.~~ 31905

(4) ~~Except during a public hearing or as necessary to comply 31906
with a subpoena issued under division ~~(E)~~(F) of this section, 31907
after a notice of completeness has been received, no person shall 31908
make revisions to information that was submitted to the director 31909
before the director mailed the notice of completeness or knowingly 31910
discuss in person or by telephone the merits of the application 31911
with the director. A person may supplement an application after a 31912
notice of completeness has been received by submitting clarifying 31913
information to the director. ~~If one or more persons request a 31914
meeting in person or by telephone, the director shall make a 31915
reasonable effort to invite interested parties to the meeting or 31916
conference call.~~ 31917~~

(C) All of the following apply to the process of granting or 31918
denying a certificate of need: 31919

(1) If the project proposed in a certificate of need 31920
application meets all of the applicable certificate of need 31921
criteria for approval under sections 3702.51 to 3702.62 of the 31922
Revised Code and the rules adopted under those sections, the 31923
director shall grant a certificate of need for all or part of the 31924
project that is the subject of the application by the applicable 31925
deadline specified in division (C)(4) of this section or any 31926
extension of it under division (C)(5) of this section. 31927

(2) The director's grant of a certificate of need does not 31928
affect, and sets no precedent for, the director's decision to 31929
grant or deny other applications for similar reviewable activities 31930
~~proposed to be conducted in the same or different health service~~ 31931
~~areas.~~ 31932

(3) ~~If the director receives written objections to an~~ 31933
~~application from any~~ Any ~~affected person may submit written~~ 31934
comments regarding an application. The director shall consider all 31935
written comments received by the thirtieth day after mailing the 31936
notice of completeness, ~~the director shall notify the applicant~~ 31937
~~and assign a hearing examiner to conduct an adjudication hearing~~ 31938
~~concerning the application in accordance with Chapter 119. of the~~ 31939
~~Revised Code. In or, in~~ the case of applications under comparative 31940
review, ~~if the director receives written objections to any of the~~ 31941
~~applications from any affected person~~ by the thirtieth day after 31942
the director mails the last notice of completeness, ~~the director~~ 31943
~~shall notify all of the applicants and appoint a hearing examiner~~ 31944
~~to conduct a consolidated adjudication hearing concerning the~~ 31945
~~applications in accordance with Chapter 119. of the Revised Code.~~ 31946
~~The hearing examiner shall be employed by or under contract with~~ 31947
~~the department of health.~~ 31948

~~The adjudication hearings may be conducted in the health~~ 31949

~~service area in which the reviewable activity is proposed to be 31950
conducted. Consolidated adjudication hearings for applications in 31951
comparative review may be conducted in the geographic region in 31952
which all of the reviewable activities will be conducted. The 31953
applicant, the director, and the affected persons that filed 31954
objections to the application shall be parties to the hearing. If 31955
none of the affected persons that submitted written objections to 31956
the application appears or prosecutes the hearing, the hearing 31957
examiner shall dismiss the hearing and the director shall grant a 31958
certificate of need for all or part of the project that is the 31959
subject of the application if the proposed project meets all of 31960
the applicable certificate of need criteria for approval under 31961
sections 3702.51 to 3702.62 of the Revised Code and the rules 31962
adopted under those sections. The affected persons bear the burden 31963
of proving by a preponderance of evidence that the project is not 31964
needed or that granting the certificate would not be in accordance 31965
with sections 3702.51 to 3702.62 of the Revised Code or the rules 31966
adopted under those sections. 31967~~

(4) Except as provided in division (C)(5) of this section, 31968
the director shall grant or deny certificate of need applications 31969
~~for which an adjudication hearing is not conducted under division 31970
(C)(3) of this section not later than sixty days after mailing the 31971
notice of completeness or, in the case of an application proposing 31972
addition of long term care beds, not later than sixty days after 31973
such other time as is specified in rules adopted under section 31974
3702.57 of the Revised Code. Except as provided in division (C)(5) 31975
of this section, the director shall grant or deny certificate of 31976
need applications for which an adjudication hearing is conducted 31977
under division (C)(3) of this section not later than thirty days 31978
after the expiration of the time for filing objections to the 31979
report and recommendation of the hearing examiner under section 31980
119.09 of the Revised Code. The director shall base decisions 31981
concerning applications for which an adjudication hearing is 31982~~

~~conducted under division (C)(3) of this section on the report and
recommendations of the hearing examiner.~~ 31983
31984

(5) Except as otherwise provided in division (C)(6) of this 31985
section, the director or the applicant may extend the deadline 31986
prescribed in division (C)(4) of this section once, for no longer 31987
than thirty days, by written notice before the end of the deadline 31988
prescribed by division (C)(4) of this section. An extension by the 31989
director under division (C)(5) of this section shall apply to all 31990
applications that are in comparative review. 31991

(6) No applicant in a comparative review may extend the 31992
deadline specified in division (C)(4) of this section. 31993

(7) If the director does not grant or deny the certificate by 31994
the applicable deadline specified in division (C)(4) of this 31995
section or any extension of it under division (C)(5) of this 31996
section, the certificate shall be considered to have been granted. 31997

(8) In granting a certificate of need, the director shall 31998
specify as the maximum capital expenditure the certificate holder 31999
may obligate under the certificate a figure equal to one hundred 32000
ten per cent of the approved project cost. 32001

(9) In granting a certificate of need, the director may grant 32002
the certificate with conditions that must be met by the holder of 32003
the certificate. 32004

(D) When a certificate of need is granted for a project under 32005
which beds are to be relocated, upon completion of the project for 32006
which the certificate of need was granted a number of beds equal 32007
to the number of beds relocated shall cease to be operated in the 32008
long-term care facility from which they are relocated, except that 32009
the beds may continue to be operated for not more than fifteen 32010
days to allow relocation of residents to the facility to which the 32011
beds have been relocated. Notwithstanding section 3721.03 of the 32012
Revised Code, if the relocated beds are in a home licensed under 32013

Chapter 3721. of the Revised Code, the facility's license is 32014
automatically reduced by the number of beds relocated effective 32015
fifteen days after the beds are relocated. If the beds are in a 32016
facility that is certified as a skilled nursing facility or 32017
nursing facility under Title XVIII or XIX of the "Social Security 32018
Act," the certification for the beds shall be surrendered. If the 32019
beds are registered under section 3701.07 of the Revised Code as 32020
skilled nursing beds or long-term care beds, the director shall 32021
remove the beds from registration not later than fifteen days 32022
after the beds are relocated. 32023

(E) The director shall monitor the activities of persons 32024
granted certificates of need during the period beginning with the 32025
granting of the certificate of need and ending five years after 32026
implementation of the activity for which the certificate was 32027
granted. 32028

~~(E)~~(F) When reviewing applications for certificates of need, 32029
considering appeals under section 3702.60 of the Revised Code, or 32030
monitoring activities of persons granted certificates of need, the 32031
director may issue and enforce, in the manner provided in section 32032
119.09 of the Revised Code, subpoenas and subpoenas duces tecum to 32033
compel ~~the production of a person to testify and produce~~ documents 32034
relevant to review of the application, consideration of the 32035
appeal, or monitoring of the activities. In addition, the director 32036
or the director's designee, ~~which may include a health service~~ 32037
~~agency,~~ may visit the sites where the activities are or will be 32038
conducted. 32039

~~(F)~~(G) The director may withdraw certificates of need. 32040

~~(G)~~ The director shall conduct, on a regular basis, health 32041
system data collection and analysis activities and prepare 32042
reports. The director shall make recommendations based upon these 32043
activities to the public health council concerning the adoption of 32044
appropriate rules under section 3702.57 of the Revised Code. (H) 32045

All health long-term care facilities and ~~other health care~~ 32046
~~providers~~ shall submit to the director, upon request, any 32047
information prescribed by rules adopted under division (H) of 32048
section 3702.57 of the Revised Code that is necessary to conduct 32049
reviews of certificate of need applications and to develop 32050
~~recommendations for~~ criteria for reviews, ~~and that is prescribed~~ 32051
~~by rules adopted under division (H) of section 3702.57 of the~~ 32052
~~Revised Code.~~ 32053

~~(H)~~(I) Any decision to grant or deny a certificate of need 32054
shall consider the special needs and circumstances resulting from 32055
moral and ethical values and the free exercise of religious rights 32056
of health long-term care facilities administered by religious 32057
organizations, and the special needs and circumstances of inner 32058
city and rural communities. 32059

Sec. ~~3702.522~~ 3702.521. (A) Reviews of applications for 32060
certificates of need to recategorize hospital beds to skilled 32061
nursing beds shall be conducted in accordance with this division 32062
and rules adopted by the ~~public~~ director of health council. 32063

(1) No hospital recategorizing beds shall apply for a 32064
certificate of need for more than twenty skilled nursing beds. 32065

(2) No beds for which a certificate of need is requested 32066
under this division shall be reviewed under or counted in any 32067
formula developed under ~~public health council~~ rules adopted by the 32068
director for the purpose of determining the number of long-term 32069
care beds that may be needed within the state. 32070

(3) No beds shall be approved under this division unless the 32071
hospital certifies and demonstrates in the application that the 32072
beds will be dedicated to patients with a length of stay of no 32073
more than thirty days. 32074

(4) No beds shall be approved under this division unless the 32075

hospital can satisfactorily demonstrate in the application that it 32076
is routinely unable to place the patients planned for the beds in 32077
accessible skilled nursing facilities. 32078

(5) In developing rules to implement this division, the 32079
~~public health council~~ director shall give special attention to the 32080
required documentation of the need for such beds, including the 32081
efforts made by the hospital to place patients in suitable skilled 32082
nursing facilities, and special attention to the appropriate size 32083
of units with such beds given the historical pattern of the 32084
applicant hospital's documented difficulty in placing skilled 32085
nursing patients. 32086

(B) ~~To assist the director of health~~ For assistance in 32087
monitoring the use of hospital beds recategorized as skilled 32088
nursing beds after August 5, 1989, the ~~public health council~~ 32089
director shall adopt rules specifying appropriate quarterly 32090
procedures for reporting to the department of health. 32091

(C) A patient may stay in a hospital bed that, after August 32092
5, 1989, has been recategorized as a skilled nursing bed for more 32093
than thirty days if the hospital is able to demonstrate that it 32094
made a good faith effort to place the patient in an accessible 32095
skilled nursing facility acceptable to the patient within the 32096
thirty-day period, but was unable to do so. 32097

(D) No hospital bed recategorized after August 5, 1989, as a 32098
skilled nursing bed shall be covered by a provider agreement under 32099
the medical assistance program established under Chapter 5111. of 32100
the Revised Code. 32101

(E) Nothing in this section requires a hospital to place a 32102
patient in any nursing home if the patient does not wish to be 32103
placed in the nursing home. Nothing in this section limits the 32104
ability of a hospital to file a certificate of need application 32105
for the addition of long-term care beds that meet the definition 32106

of "home" in section 3721.01 of the Revised Code. Nothing in this 32107
section limits the ability of the director to grant certificates 32108
of need necessary for hospitals to engage in demonstration 32109
projects authorized by the federal government for the purpose of 32110
enhancing long-term quality of care and cost containment. Nothing 32111
in this section limits the ability of hospitals to develop swing 32112
bed programs in accordance with federal regulations. 32113

No hospital that is granted a certificate of need after 32114
August 5, 1989, to recategorize hospital beds as skilled nursing 32115
beds is subject to sections 3721.01 to 3721.09 of the Revised 32116
Code. If the portion of the hospital in which the recategorized 32117
beds are located is certified as a skilled nursing facility under 32118
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 32119
U.S.C.A. 301, as amended, that portion of the hospital is subject 32120
to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 32121
the Revised Code. If the beds are registered pursuant to section 32122
3701.07 of the Revised Code as long-term care beds, the beds are 32123
subject to sections 3721.50 to 3721.58 of the Revised Code. 32124

~~(F) The public health council shall adopt rules authorizing 32125
the creation of one or more nursing home placement clearinghouses. 32126
Any public or private agency or facility may apply to the 32127
department of health to serve as a nursing home placement 32128
clearinghouse, and the rules shall provide the procedure for 32129
application and process for designation of clearinghouses. 32130~~

~~The department may approve one or more clearinghouses, but in 32131
no event shall there be more than one nursing home placement 32132
clearinghouse in each county. Any nursing home may list with a 32133
nursing home placement clearinghouse the services it provides and 32134
the types of patients it is approved for and equipped to serve. 32135
The clearinghouse shall make reasonable efforts to update its 32136
information at least every six months. 32137~~

~~If an appropriate clearinghouse has been designated, each 32138~~

~~hospital granted a certificate of need after August 5, 1989, to 32139
recategorize hospital beds as skilled nursing beds shall, and any 32140
other hospital may, utilize the nursing home placement 32141
clearinghouse prior to admitting a patient to a skilled nursing 32142
bed within the hospital and prior to keeping a patient in a 32143
skilled nursing bed within a hospital in excess of thirty days. 32144~~

~~The department shall provide at least annually to all 32145
hospitals a list of the designated nursing home placement 32146
clearinghouses. 32147~~

Sec. ~~3702.523~~ 3702.522. A person who has an application for a 32148
certificate of need pending with the director of health may revise 32149
the application to change the site of the proposed project unless 32150
either of the following applies: 32151

(A) The director, under section 3702.52 of the Revised Code, 32152
has mailed the applicant a written notice that the application is 32153
complete. 32154

(B) The application is subject to a comparative review under 32155
section 3702.593 of the Revised Code. 32156

The only revision that may be made in the revised application 32157
is the site of the proposed project. The revised site of the 32158
proposed project must be located in the same county as the site of 32159
the proposed project specified in the original application. The 32160
director may not accept a revised application if it includes 32161
revisions other than the site of the proposed project or if the 32162
revised site is located in a different county than the county in 32163
which the site specified in the original application is located. 32164

A revised application shall be accompanied by an additional, 32165
~~non-refundable~~ nonrefundable fee equal to twenty-five per cent of 32166
the fee charged under section 3702.52 of the Revised Code for the 32167
original application. The additional fee shall be deposited into 32168

the certificate of need fund created under section 3702.52 of the Revised Code. 32169
32170

On acceptance of a revised application, the director shall 32171
continue to review the application as revised in accordance with 32172
section 3702.52 of the Revised Code to determine whether it is 32173
complete and, if necessary and regardless of whether the director 32174
previously made two requests for additional information, may make 32175
a final written request to the applicant for additional 32176
information not later than thirty days after the date the director 32177
accepts the revised application. 32178

Sec. ~~3702.524~~ 3702.523. (A) Except as provided in division 32179
(B) of this section, a certificate of need ~~granted on or after~~ 32180
~~April 20, 1995,~~ is not transferable prior to the completion of the 32181
reviewable activity for which it was granted. If any person 32182
holding a certificate of need ~~issued on or after that date~~ 32183
transfers the certificate of need to another person before the 32184
reviewable activity is completed, or enters into an agreement that 32185
contemplates the transfer of the certificate of need on the 32186
completion of the reviewable activity, the certificate of need is 32187
void. If the controlling interest in an entity that holds a 32188
certificate of need ~~issued on or after that date~~ is transferred 32189
prior to the completion of the reviewable activity, the 32190
certificate of need is void. 32191

(B) Division (A) of this section does not prohibit the 32192
transfer of a certificate of need ~~issued on or after April 20,~~ 32193
~~1995,~~ between affiliated or related persons, as defined in rules 32194
adopted under section 3702.57 of the Revised Code, if the transfer 32195
does not result in a change in the person that holds the ultimate 32196
controlling interest, as defined in the rules, in the certificate 32197
of need. 32198

The transfer of a ~~health~~ long-term care facility after the 32199

completion of a reviewable activity for which a certificate of 32200
need was issued ~~on or after April 20, 1995,~~ is not a transfer of 32201
the certificate of need, unless the facility is transferred 32202
pursuant to an agreement entered into prior to the completion of 32203
the reviewable activity. 32204

Sec. ~~3702.525~~ 3702.524. (A) Not later than twenty-four months 32205
after the date the director of health mails the notice that the 32206
certificate of need has been granted or, if the grant or denial of 32207
the certificate of need is appealed under section 3702.60 of the 32208
Revised Code, not later than twenty-four months after issuance of 32209
an order granting the certificate that is not subject to further 32210
appeal, each person holding a certificate of need granted ~~on or~~ 32211
~~after April 20, 1995,~~ shall: 32212

(1) If the project for which the certificate of need was 32213
granted primarily involves construction and is to be financed 32214
primarily through external borrowing of funds, secure financial 32215
commitment for the stated purpose of developing the project and 32216
commence construction that continues uninterrupted except for 32217
interruptions or delays that are unavoidable due to reasons beyond 32218
the person's control, including labor strikes, natural disasters, 32219
material shortages, or comparable events; 32220

(2) If the project for which the certificate of need was 32221
granted primarily involves construction and is to be financed 32222
primarily internally, receive formal approval from the holder's 32223
board of directors or trustees or other governing authority to 32224
commit specified funds for implementation of the project and 32225
commence construction that continues uninterrupted except for 32226
interruptions or delays that are unavoidable due to reasons beyond 32227
the person's control, including labor strikes, natural disasters, 32228
material shortages, or comparable events; 32229

~~(3) If the project for which the certificate of need was~~ 32230

~~granted primarily involves acquisition of medical equipment, enter 32231
into a contract to purchase or lease the equipment and to accept 32232
the equipment at the site for which the certificate was granted;~~ 32233

(4) If the project for which the certificate of need was 32234
granted involves no capital expenditure or only minor renovations 32235
to existing structures, provide the ~~health~~ long-term care service 32236
~~or activity~~ by the means specified in the approved application for 32237
the certificate; 32238

~~(5)~~(4) If the project for which the certificate of need was 32239
granted primarily involves leasing a building or space that 32240
requires only minor renovations to the existing space, execute a 32241
lease and provide the ~~health~~ long-term care service ~~or activity~~ by 32242
the means specified in the approved application for the 32243
certificate; 32244

~~(6)~~(5) If the project for which the certificate of need was 32245
granted primarily involves leasing a building or space that has 32246
not been constructed or requires substantial renovations to 32247
existing space, commence construction for the purpose of 32248
implementing the reviewable activity that continues uninterrupted 32249
except for interruptions or delays that are unavoidable due to 32250
reasons beyond the person's control, including labor strikes, 32251
natural disasters, material shortages, or comparable events. 32252

(B) The twenty-four-month period specified in division (A) of 32253
this section shall not be extended by any means, including the 32254
granting of a subsequent or replacement certificate of need. Each 32255
person holding a certificate of need ~~granted on or after April 20,~~ 32256
~~1995,~~ shall provide the director of health documentation of 32257
compliance with that division not later than the earlier of thirty 32258
days after complying with that division or five days after the 32259
twenty-four-month period expires. Not later than the earlier of 32260
fifteen days after receiving the documentation or fifteen days 32261
after the twenty-four-month period expires, the director shall 32262

send by certified mail a notice to the holder of the certificate 32263
of need specifying whether the holder has complied with division 32264
(A) of this section. 32265

(C) ~~Notwithstanding division (B) of this section, the~~ 32266
~~twenty four month period specified in division (A) of this section~~ 32267
~~shall be extended for an additional twenty four months for any~~ 32268
~~certificate of need granted for the purchase and relocation of~~ 32269
~~licensed nursing home beds on February 26, 1999.~~ 32270

~~(D) A certificate of need granted on or after April 20, 1995,~~ 32271
expires, regardless of whether the director sends a notice under 32272
division (B) of this section, if the holder fails to comply with 32273
division (A) ~~or (C)~~ of this section or to provide information 32274
under division (B) of this section as necessary for the director 32275
to determine compliance. The determination by the director that a 32276
certificate of need has expired is final and not appealable under 32277
Chapter 119. of the Revised Code. 32278

Sec. ~~3702.526~~ 3702.525. Every six months after complying with 32279
section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the 32280
certificate of need shall demonstrate to the director of health, 32281
in the form and manner required by rules adopted under section 32282
3702.57 of the Revised Code, that reasonable progress is being 32283
made toward the completion of the reviewable activity. If the 32284
director determines, in accordance with standards specified in the 32285
rules, that reasonable progress is not being made, ~~he~~ the director 32286
shall withdraw the certificate of need. 32287

Sec. 3702.526. (A) Except as provided in division (B) of this 32288
section, the director of health shall accept an application for a 32289
replacement certificate of need for an activity described in 32290
division (A)(5) of section 3702.511 of the Revised Code to replace 32291
an approved certificate of need for that activity if all of the 32292

| | |
|--|---|
| <u>following conditions are met:</u> | 32293 |
| <u>(1) The applicant is the same as the applicant for the approved certificate of need or an affiliated or related person as described in division (B) of section 3702.523 of the Revised Code.</u> | 32294 32295 32296 |
| <u>(2) The source of any long-term care beds to be relocated is the same as in the approved certificate of need.</u> | 32297 32298 |
| <u>(3) The application for the approved certificate of need was not subject to comparative review under section 3702.593 of the Revised Code.</u> | 32299 32300 32301 |
| <u>(B) The director shall not accept an application for a replacement certificate that proposes to increase the number of long-term care beds to be relocated specified in the application for the approved certificate of need.</u> | 32302 32303 32304 32305 |
| <u>(C) For the purpose of determining whether long-term care beds are from an existing long-term care facility, the director shall consider the date of filing of the application for a replacement certificate to be the same as the date of filing of the original application for the approved certificate of need.</u> | 32306 32307 32308 32309 32310 |
| <u>(D) Any long-term care beds that were approved in the approved certificate of need remain approved in the application for a replacement certificate.</u> | 32311 32312 32313 |
| <u>(E) The applicant shall submit with the application for a replacement certificate a nonrefundable fee equal to the application fee for the approved certificate of need.</u> | 32314 32315 32316 |
| <u>(F) Upon approval of the application for a replacement certificate, the original certificate of need is automatically voided.</u> | 32317 32318 32319 |
| <u>Sec. 3702.527. A bed described in division (O)(5) of section 3702.51 of the Revised Code may be converted to a bed described in</u> | 32320 32321 |

division (0)(1), (2), (3), or (4) of that section only as provided 32322
in the certificate of need under which the beds were approved or 32323
its replacement certificate of need. 32324

Sec. 3702.53. (A) No person shall carry out any reviewable 32325
activity unless a certificate of need for such activity has been 32326
granted under sections 3702.51 to 3702.62 of the Revised Code or 32327
the person is exempted by division ~~(S)~~(B) of section ~~3702.51~~ 32328
3702.511 or section ~~3702.5210~~ ~~or~~ 3702.62 of the Revised Code from 32329
the requirement that a certificate of need be obtained. No person 32330
shall carry out any reviewable activity if a certificate of need 32331
authorizing that activity has been withdrawn by the director of 32332
health under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised 32333
Code. No person shall carry out a reviewable activity if the 32334
certificate of need authorizing that activity is void pursuant to 32335
section ~~3702.524~~ 3702.523 of the Revised Code or has expired 32336
pursuant to section ~~3702.525~~ 3702.524 of the Revised Code. 32337

(B) No person shall separate portions of any proposal for any 32338
reviewable activity to evade the requirements of sections 3702.51 32339
to 3702.62 of the Revised Code. 32340

(C) No person granted a certificate of need shall carry out 32341
the reviewable activity authorized by the certificate of need 32342
other than in substantial accordance with the approved application 32343
for the certificate of need. 32344

Sec. 3702.531. The director of health shall evaluate and may 32345
investigate evidence that appears to demonstrate that any person 32346
has violated section 3702.53 of the Revised Code. If the director 32347
elects to conduct an investigation, ~~he~~ the director shall mail to 32348
the alleged violator by certified mail, return receipt requested, 32349
a notice that an investigation is underway. 32350

When conducting an investigation under this section, the 32351

director may request any relevant information pertaining to the 32352
alleged violation, including the total operating cost of the 32353
activity in question during the period of the alleged violation 32354
and the total capital cost associated with implementation of the 32355
activity. A person shall provide information requested by the 32356
director not later than forty-five days after receiving the 32357
director's request. The director also may issue and enforce, in 32358
the manner provided in Chapter 119. of the Revised Code, subpoenas 32359
duces tecum to compel the production of documents relevant to the 32360
alleged violation. The subpoenas may be served in any manner 32361
authorized by the rules of civil procedure. 32362

The director or ~~his~~ the director's designee, ~~which may~~ 32363
~~include a health service agency,~~ may conduct a site visit to 32364
investigate an alleged violation of section 3702.53 of the Revised 32365
Code. 32366

Each investigation under this section shall be conducted in a 32367
manner that protects patient confidentiality. Names or other 32368
identifying information about any patient shall not be made public 32369
without the written consent of the patient or ~~his~~ the patient's 32370
guardian, or, if the patient is a minor, ~~his~~ the patient's parent 32371
or guardian. 32372

Sec. 3702.54. Except as provided in section 3702.541 of the 32373
Revised Code, divisions (A) and (B) of this section apply when the 32374
director of health determines that a person has violated section 32375
3702.53 of the Revised Code. 32376

(A) The director shall impose a civil penalty on the person 32377
in an amount equal to the greatest of the following: 32378

(1) Three thousand dollars; 32379

(2) Five per cent of the operating cost of the activity that 32380
constitutes the violation during the period of time it was 32381

conducted in violation of section 3702.53 of the Revised Code; 32382

(3) If a certificate of need was granted, two per cent of the 32383
total approved capital cost associated with implementation of the 32384
activity for which the certificate of need was granted. 32385

In no event, however, shall the penalty exceed two hundred 32386
fifty thousand dollars. 32387

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 32388
the director shall refuse to accept for review any application for 32389
a certificate of need filed by or on behalf of the person, or any 32390
successor to the person or entity related to the person, for a 32391
period of not less than one year and not more than three years 32392
after the director mails the notice of the director's 32393
determination under section 3702.532 of the Revised Code or, if 32394
the determination is appealed under section 3702.60 of the Revised 32395
Code, the issuance of the order upholding the determination that 32396
is not subject to further appeal. In determining the length of 32397
time during which applications will not be accepted, the director 32398
may consider any of the following: 32399

(a) The nature and magnitude of the violation; 32400

(b) The ability of the person to have averted the violation; 32401

(c) Whether the person disclosed the violation to the 32402
director before the director commenced his investigation; 32403

(d) The person's history of compliance with sections 3702.51 32404
to 3702.62 and the rules adopted under section 3702.57 of the 32405
Revised Code; 32406

(e) Any community hardship that may result from refusing to 32407
accept future applications from the person. 32408

(2) Notwithstanding the one-year minimum imposed by division 32409
(B)(1) of this section, the director may establish a period of 32410
less than one year during which the director will refuse to accept 32411

certificate of need applications if, after reviewing all 32412
information available to the director, the director determines and 32413
expressly indicates in the notice mailed under section 3702.532 of 32414
the Revised Code that refusing to accept applications for a longer 32415
period would result in hardship to the community in which the 32416
person provides ~~health~~ long-term care services. The director's 32417
finding of community hardship shall not affect the granting or 32418
denial of any future certificate of need application filed by the 32419
person. 32420

Sec. 3702.55. A person that the director of health determines 32421
has violated section 3702.53 of the Revised Code shall cease 32422
conducting the activity that constitutes the violation or 32423
utilizing the ~~equipment~~ ~~or~~ facility resulting from the violation 32424
not later than thirty days after the person receives the notice 32425
mailed under section 3702.532 of the Revised Code or, if the 32426
person appeals the director's determination under section 3702.60 32427
of the Revised Code, thirty days after the person receives an 32428
order upholding the director's determination that is not subject 32429
to further appeal. 32430

If any person determined to have violated section 3702.53 of 32431
the Revised Code fails to cease conducting an activity or using 32432
~~equipment~~ ~~or~~ a facility as required by this section or if the 32433
person continues to seek payment or reimbursement for services 32434
rendered or costs incurred in conducting the activity as 32435
prohibited by section 3702.56 of the Revised Code, in addition to 32436
the penalties imposed under section 3702.54 or 3702.541 of the 32437
Revised Code: 32438

(A) The director of health may refuse to include any beds 32439
involved in the activity in the bed capacity of a hospital for 32440
purposes of registration under section 3701.07 of the Revised 32441
Code; 32442

(B) The director of health may refuse to license, or may 32443
revoke a license or reduce bed capacity previously granted to, a 32444
hospice care program under section 3712.04 of the Revised Code; a 32445
nursing home, ~~rest home~~ residential care facility, or home for the 32446
aging under section 3721.02 of the Revised Code; or any beds 32447
within any of those facilities that are involved in the activity; 32448

(C) A political subdivision certified under section 3721.09 32449
of the Revised Code may refuse to license, or may revoke a license 32450
or reduce bed capacity previously granted to, a nursing home, ~~rest~~ 32451
~~home~~ residential care facility, or home for the aging, or any beds 32452
within any of those facilities that are involved in the activity; 32453

(D) The director of mental health may refuse to license under 32454
section 5119.20 of the Revised Code, or may revoke a license or 32455
reduce bed capacity previously granted to, a hospital receiving 32456
mentally ill persons or beds within such a hospital that are 32457
involved in the activity; 32458

(E) The department of job and family services may refuse to 32459
enter into a provider agreement that includes a facility, beds, or 32460
services that result from the activity. 32461

Sec. 3702.56. No third-party payer or other person ~~or~~ 32462
~~government entity~~ is required to pay, and no person shall seek or 32463
accept payment or reimbursement for, any service rendered or costs 32464
incurred in conducting an activity during the period of time in 32465
which the activity was conducted in violation of section 3702.53 32466
of the Revised Code. Each person that accepts any amount in 32467
violation of this division shall refund that amount on request of 32468
the person ~~or government entity~~ that paid it. 32469

Sec. 3702.57. (A) The ~~public~~ director of health ~~council~~ shall 32470
adopt rules establishing procedures and criteria for reviews of 32471
applications for certificates of need and issuance, denial, or 32472

withdrawal of certificates. 32473

(1) In adopting rules that establish criteria for reviews of 32474
applications of certificates of need, the ~~council~~ director shall 32475
consider the availability of and need for long-term care beds to 32476
provide care and treatment to persons diagnosed as having 32477
traumatic brain injuries and shall prescribe criteria for 32478
reviewing applications that propose to add long-term care beds to 32479
provide care and treatment to persons diagnosed as having 32480
traumatic brain injuries. 32481

(2) The criteria for reviews of applications for certificates 32482
of need shall relate to the need for the reviewable activity and 32483
shall pertain to all of the following matters: 32484

(a) The impact of the reviewable activity on the cost and 32485
quality of ~~health~~ long-term care services in the relevant 32486
~~geographic~~ service area, including, but not limited, to the 32487
historical and projected utilization of the services to which the 32488
application pertains and the effect of the reviewable activity on 32489
utilization of other providers of similar services; 32490

(b) The quality of the services to be provided as the result 32491
of the activity, as evidenced by the historical performance of the 32492
persons that will be involved in providing the services and by the 32493
provisions that are proposed in the application to ensure quality, 32494
including but not limited to adequate available personnel, 32495
available ancillary and support services, available equipment, 32496
size and configuration of physical plant, and relations with other 32497
providers; 32498

(c) The impact of the reviewable activity on the availability 32499
and accessibility of the type of services proposed in the 32500
application to the population of the relevant ~~geographic~~ service 32501
area, and the level of access to the services proposed in the 32502
application that will be provided to medically underserved 32503

individuals such as recipients of public assistance and 32504
individuals who have no health insurance or whose health insurance 32505
is insufficient; 32506

(d) The activity's short- and long-term financial feasibility 32507
and cost-effectiveness, the impact of the activity on the 32508
applicant's costs and charges, and a comparison of the applicant's 32509
costs and charges with those of providers of similar services in 32510
the applicant's proposed service area; 32511

(e) The advantages, disadvantages, and costs of alternatives 32512
to the reviewable activity; 32513

(f) The impact of the activity on all other providers of 32514
similar services in the ~~health service area or other~~ relevant 32515
~~geographic~~ service area, including the impact on their 32516
utilization, market share, and financial status; 32517

(g) The historical performance of the applicant and related 32518
or affiliated parties in complying with previously granted 32519
certificates of need and any applicable certification, 32520
accreditation, or licensure requirements; 32521

(h) ~~The relationship of the activity to the current edition~~ 32522
~~of the state health resources plan issued under section 3702.521~~ 32523
~~of the Revised Code;~~ 32524

~~(i)~~ The historical performance of the applicant and related 32525
or affiliated parties in providing cost-effective health long-term 32526
care services; 32527

~~(j)~~(i) The special needs and circumstances of the applicant 32528
or population proposed to be served by the proposed project, 32529
including research activities, prevalence of particular diseases, 32530
unusual demographic characteristics, cost-effective contractual 32531
affiliations, and other special circumstances; 32532

~~(k)~~(j) The appropriateness of the zoning status of the 32533

proposed site of the activity; 32534

~~(l)~~(k) The participation by the applicant in research 32535
conducted by the United States food and drug administration or 32536
clinical trials sponsored by the national institutes of health. 32537

(3) The criteria for reviews of applications shall include a 32538
formula for determining each county's long-term care bed need for 32539
purposes of section 3702.593 of the Revised Code and may include 32540
other formulas for determining need for beds. 32541

Any rules prescribing criteria that establish ratios of beds 32542
to population shall specify the bases for establishing the ratios 32543
or mitigating factors or exceptions to the ratios. 32544

(B) The ~~council~~ director shall adopt rules specifying all of 32545
the following: 32546

(1) Information that must be provided in applications for 32547
certificates of need; 32548

(2) Procedures for reviewing applications for completeness of 32549
information; 32550

(3) Criteria for determining that the application is 32551
complete. 32552

(C) The ~~council~~ director shall adopt rules specifying 32553
requirements that holders of certificates of need must meet in 32554
order for the certificates to remain valid and establishing 32555
definitions and requirements for obligation of capital 32556
expenditures and implementation of projects authorized by 32557
certificates of need. 32558

(D) The ~~council~~ director shall adopt rules establishing 32559
criteria and procedures under which the director of health may 32560
withdraw a certificate of need if the holder fails to meet 32561
requirements for continued validity of the certificate. 32562

(E) The ~~council~~ director shall adopt rules establishing 32563

procedures under which the department of health shall monitor 32564
project implementation activities of holders of certificates of 32565
need. The rules adopted under this division also may establish 32566
procedures for monitoring implementation activities of persons 32567
that have received nonreviewability rulings. 32568

(F) The ~~council~~ director shall adopt rules establishing 32569
procedures under which the director of health shall review 32570
certificates of need whose holders exceed or appear likely to 32571
exceed an expenditure maximum specified in a certificate. 32572

(G) The ~~council~~ director shall adopt rules establishing 32573
certificate of need application fees sufficient to pay the costs 32574
incurred by the department for administering sections 3702.51 to 32575
3702.62 of the Revised Code ~~and to pay health service agencies for~~ 32576
~~the functions they perform under division (D)(5) of section~~ 32577
~~3702.58 of the Revised Code.~~ Unless rules are adopted under this 32578
division establishing different application fees, the application 32579
fee for a project not involving a capital expenditure shall be 32580
three thousand dollars and the application fee for a project 32581
involving a capital expenditure shall be nine-tenths of one per 32582
cent of the capital expenditure proposed subject to a minimum of 32583
three thousand dollars and a maximum of twenty thousand dollars. 32584

(H) The ~~council~~ director shall adopt rules specifying 32585
information that is necessary to conduct reviews of certificate of 32586
need applications and to develop ~~recommendations for~~ criteria for 32587
reviews that ~~health~~ long-term care facilities ~~and other health~~ 32588
~~care providers~~ are to submit to the director under division ~~(G)~~(H) 32589
of section 3702.52 of the Revised Code. 32590

(I) The ~~council~~ director shall adopt rules defining 32591
"affiliated person," "related person," and "ultimate controlling 32592
interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised 32593
Code. 32594

(J) The ~~council~~ director shall adopt rules prescribing 32595
requirements for holders of certificates of need to demonstrate to 32596
the director under section ~~3702.526~~ 3702.525 of the Revised Code 32597
that reasonable progress is being made toward completion of the 32598
reviewable activity and establishing standards by which the 32599
director shall determine whether reasonable progress is being 32600
made. 32601

(K) The ~~public health council~~ director shall adopt all rules 32602
under divisions (A) to (J) of this section in accordance with 32603
Chapter 119. of the Revised Code. The ~~council~~ director may adopt 32604
other rules as necessary to carry out the purposes of sections 32605
3702.51 to 3702.62 of the Revised Code. 32606

Sec. 3702.59. (A) The director of health shall accept for 32607
review certificate of need applications as provided in sections 32608
3702.592, 3702.593, and 3702.594 of the Revised Code. 32609

(B)(1) The director shall not approve an application for a 32610
certificate of need for the addition of long-term care beds to an 32611
existing ~~health~~ long-term care facility or for the development of 32612
a new ~~health~~ long-term care facility if any of the following 32613
apply: 32614

(a) The existing ~~health~~ long-term care facility in which the 32615
beds are being placed has one or more waivers for life safety code 32616
deficiencies, one or more state fire code violations, or one or 32617
more state building code violations, and the project identified in 32618
the application does not propose to correct all life safety code 32619
deficiencies for which a waiver has been granted, all state fire 32620
code violations, and all state building code violations at the 32621
existing ~~health~~ long-term care facility in which the beds are 32622
being placed; 32623

(b) During the sixty-month period preceding the filing of the 32624
application, a notice of proposed license revocation was issued 32625

under section 3721.03 of the Revised Code for the existing ~~health~~ 32626
long-term care facility in which the beds are being placed or a 32627
nursing home owned or operated by the applicant or a principal 32628
participant. 32629

(c) During the period that precedes the filing of the 32630
application and is encompassed by the three most recent standard 32631
surveys of the existing ~~health~~ long-term care facility in which 32632
the beds are being placed, any of the following occurred: 32633

(i) The facility was cited on three or more separate 32634
occasions for final, nonappealable actual harm but not immediate 32635
jeopardy deficiencies. 32636

(ii) The facility was cited on two or more separate occasions 32637
for final, nonappealable immediate jeopardy deficiencies. 32638

(iii) The facility was cited on two separate occasions for 32639
final, nonappealable actual harm but not immediate jeopardy 32640
deficiencies and on one occasion for a final, nonappealable 32641
immediate jeopardy deficiency. 32642

(d) More than two nursing homes owned or operated in this 32643
state by the applicant or a principal participant or, if the 32644
applicant or a principal participant owns or operates more than 32645
twenty nursing homes in this state, more than ten per cent of 32646
those nursing homes, were each cited during the period that 32647
precedes the filing of the application for the certificate of need 32648
and is encompassed by the three most recent standard surveys of 32649
the nursing homes that were so cited in any of the following 32650
manners: 32651

(i) On three or more separate occasions for final, 32652
nonappealable actual harm but not immediate jeopardy deficiencies; 32653

(ii) On two or more separate occasions for final, 32654
nonappealable immediate jeopardy deficiencies; 32655

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the ~~health~~ health long-term care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the ~~health~~ health long-term care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new ~~health~~ health long-term care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing ~~health~~ health long-term care facility from which the beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

(1) Is operated exclusively by a religious order;

(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the

following family members of the individuals described in division 32687
(C)(2) of this section: mothers, fathers, brothers, sisters, 32688
brothers-in-law, sisters-in-law, or children. 32689

The long-term care beds in a facility that have been granted 32690
a certificate of need under division (C) of this section may not 32691
be relocated pursuant to sections 3702.592 to 3702.594 of the 32692
Revised Code. 32693

Sec. 3702.592. (A) The director of health shall accept, for 32694
review under section 3702.52 of the Revised Code, certificate of 32695
need applications for any of the following purposes if the 32696
proposed increase in beds is attributable ~~solely~~ to a replacement 32697
or relocation of existing beds from an existing health long-term 32698
care facility within the same county: 32699

(1) Approval of beds in a new health long-term care facility 32700
or an increase of beds in an existing health long-term care 32701
facility if the beds are proposed to be licensed as nursing home 32702
beds under Chapter 3721. of the Revised Code; 32703

(2) Approval of beds in a new county home or new county 32704
nursing home, or an increase of beds in an existing county home or 32705
existing county nursing home if the beds are proposed to be 32706
certified as skilled nursing facility beds under the medicare 32707
program, Title XVIII of the "Social Security Act," 49 Stat. 286 32708
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 32709
the medicaid program, Title XIX of the "Social Security Act," 49 32710
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 32711

(3) An increase of hospital beds registered pursuant to 32712
section 3701.07 of the Revised Code as long-term care beds; 32713

(4) An increase of hospital beds registered pursuant to 32714
section 3701.07 of the Revised Code as special skilled nursing 32715
beds that were originally authorized by and are operated in 32716

accordance with section ~~3702.522~~ 3702.521 of the Revised Code. 32717

(B) The director shall accept applications described in 32718
division (A) of this section at any time. 32719

Sec. 3702.593. (A) At the times specified in this section, 32720
the director of health shall accept, for review under section 32721
3702.52 of the Revised Code, certificate of need applications for 32722
any of the following purposes if the proposed increase in beds is 32723
attributable solely to relocation of existing beds from an 32724
existing ~~health~~ long-term care facility in a county with excess 32725
beds to a ~~health~~ long-term care facility in a county in which 32726
there are fewer long-term care beds than the county's bed need: 32727

(1) Approval of beds in a new ~~health~~ long-term care facility 32728
or an increase of beds in an existing ~~health~~ long-term care 32729
facility if the beds are proposed to be licensed as nursing home 32730
beds under Chapter 3721. of the Revised Code; 32731

(2) Approval of beds in a new county home or new county 32732
nursing home, or an increase of beds in an existing county home or 32733
existing county nursing home if the beds are proposed to be 32734
certified as skilled nursing facility beds under the medicare 32735
program, Title XVIII of the "Social Security Act," 49 Stat. 286 32736
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 32737
the medicaid program, Title XIX of the "Social Security Act," 49 32738
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 32739

(3) An increase of hospital beds registered pursuant to 32740
section 3701.07 of the Revised Code as long-term care beds. 32741

(B) For the purpose of implementing this section, the 32742
director shall do all of the following: 32743

(1) ~~Determine~~ Not later than April 1, 2012, and every four 32744
years thereafter, determine the long-term care bed supply for each 32745
county, which shall consist of all of the following: 32746

| | |
|--|--|
| (a) Nursing home beds licensed under Chapter 3721. of the Revised Code; | 32747 32748 |
| (b) Beds certified as skilled nursing facility beds under the medicare program or nursing facility beds under the medicaid program; | 32749 32750 32751 |
| (c) <u>Beds in any portion of a hospital that are properly registered under section 3701.07 of the Revised Code as skilled nursing beds, long-term care beds, or special skilled nursing beds;</u> | 32752 32753 32754 32755 |
| (d) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and are eligible for licensure as nursing home beds; | 32756 32757 32758 32759 |
| (d)(e) Beds held as approved long term care beds under a certificate of need approved by the director described in division (O)(5) of section 3702.51 of the Revised Code. | 32760 32761 32762 |
| (2) Determine the long-term care bed occupancy rate for the state at the time the determination is made; | 32763 32764 |
| (3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent. | 32765 32766 32767 32768 32769 |
| In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. The director's first determination after the effective date of this section shall be made not later than April 1, 2010. The second determination shall be made not later than April 1, 2012. Thereafter, a A determination shall be made every four years. After each determination is made, the director shall publish the county's bed need on the web site maintained by the | 32770 32771 32772 32773 32774 32775 32776 32777 |

department of health. 32778

(C) The director's consideration of a certificate of need 32779
that would increase the number of beds in a county shall be 32780
consistent with the county's bed need determined under division 32781
(B) of this section except as follows: 32782

(1) If a county's occupancy rate is less than eighty-five per 32783
cent, the county shall be considered to have no need for 32784
additional beds. 32785

(2) Even if a county is determined not to need any additional 32786
long-term care beds, the director may approve an increase in beds 32787
equal to up to ten per cent of the county's bed supply if the 32788
county's occupancy rate is greater than ninety per cent. 32789

(D)(1) ~~Applications made under this section shall be subject~~ 32790
~~to comparative review.~~ The review period for the first comparative 32791
review process ~~after the effective date of this section~~ shall 32792
begin July 1, 2010, and end June 30, 2012. The next review period 32793
shall begin July 1, 2012, and end June 30, 2016. Thereafter, the 32794
review period for each comparative review process shall begin on 32795
the first day of July following the end of the previous review 32796
period and shall be four years. 32797

(2) Certificate of need applications shall be accepted during 32798
the first month of the review period and reviewed ~~from the first~~ 32799
~~day of the review period~~ through the thirtieth day of April of the 32800
following year. 32801

(3) Except for the first review period after ~~the effective~~ 32802
~~date of this section~~ October 16, 2009, each review period may 32803
consist of two phases. The first phase of the review period shall 32804
be the period during which the director accepts and reviews 32805
certificate of need applications as provided in division (D)(2) of 32806
this section. If the director determines that there will be 32807
acceptance and review of additional certificate of need 32808

applications, the second phase of the review period shall begin on 32809
the first day of July of the third year of the review period. The 32810
second phase shall be limited to acceptance and review of 32811
applications for redistribution of beds made available pursuant to 32812
division ~~(G)~~(2)(I) of this section. During the period between the 32813
first and second phases of the review period, the director shall 32814
act in accordance with division ~~(H)~~(I) of this section. 32815

(E) The director shall consider certificate of need 32816
applications in accordance with all of the following: 32817

(1) The number of beds approved for a county shall include 32818
only beds available for relocation from another county and shall 32819
not exceed the bed need of the receiving county; 32820

(2) The director shall consider the existence of community 32821
resources serving persons who are age sixty-five or older or 32822
disabled that are demonstrably effective in providing alternatives 32823
to long-term care facility placement. 32824

(3) The director shall approve relocation of beds from a 32825
county only if, after the relocation, the number of beds remaining 32826
in the county will exceed the county's bed need by at least one 32827
hundred beds; 32828

(4) The director shall approve relocation of beds from a 32829
~~health~~ long-term care facility only if, after the relocation, the 32830
number of beds in the facility's service area is at least equal to 32831
the state bed need rate. For purposes of this division, a 32832
facility's service area shall be either of the following: 32833

(a) The census tract in which the facility is located, if the 32834
facility is located in an area designated by the United States 32835
secretary of health and human services as a health professional 32836
shortage area under the "Public Health Service Act," 88 Stat. 682 32837
(1944), 42 U.S.C. 254(e), as amended; 32838

(b) The area that is within a fifteen_mile radius of the 32839

facility's location, if the facility is not located in a health professional shortage area. 32840
32841

(F) Applications made under this section are subject to comparative review if two or more applications are submitted during the same review period and any of the following applies: 32842
32843
32844

(1) The applications propose to relocate beds from the same county and the number of beds for which certificates of need are being requested totals more than the number of beds available in the county from which the beds are to be relocated. 32845
32846
32847
32848

(2) The applications propose to relocate beds to the same county and the number of beds for which certificates of need are being requested totals more than the number of beds needed in the county to which the beds are to be relocated. 32849
32850
32851
32852

(3) The applications propose to relocate beds from the same service area and the number of beds left in the service area from which the beds are being relocated would be less than the state bed need rate determined by the director. 32853
32854
32855
32856

(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities: 32857
32858
32859

(1) Whether the beds will be part of a continuing care retirement community; 32860
32861

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups; 32862
32863
32864

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services; 32865
32866
32867
32868
32869

| | |
|---|--|
| (4) Whether the health <u>long-term</u> care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care; | 32870 32871 32872 |
| (5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds; | 32873 32874 32875 32876 |
| (6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys; | 32877 32878 |
| (7) Whether the facility in which the beds will be placed has fewer than fifty long-term care beds; | 32879 32880 |
| (8) Whether the health <u>long-term</u> care facility in which the beds will be placed is located within the service area of a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay; | 32881 32882 32883 32884 |
| (9) Whether the health <u>long-term</u> care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site; | 32885 32886 32887 |
| (10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the health <u>long-term</u> care facility in which the beds will be placed. | 32888 32889 32890 |
| (G)(1) When a certificate of need application is approved during the initial phase of a four year review period, on completion of the project under which the beds are relocated, that number of beds shall cease to be operated in the health care facility from which they were relocated and, if the licensure or certification of those beds cannot be or is not transferred to the facility to which the beds are relocated, the licensure or certification shall be surrendered. | 32891 32892 32893 32894 32895 32896 32897 32898 |
| (2) In (H) A person who has submitted an application under | 32899 |

this section that is not subject to comparative review may revise 32900
the site of the proposed project pursuant to section 3702.522 of 32901
the Revised Code. 32902

(I) When a certificate of need application is approved during 32903
the initial phase of a four-year review period, in addition to the 32904
actions required by division ~~(G)(1)(D)~~ of this section 3702.52 of 32905
the Revised Code, the ~~health~~ long-term care facility from which 32906
the beds were relocated shall reduce the number of beds operated 32907
in the facility by a number of beds equal to at least ten per cent 32908
of the number of beds relocated and shall surrender the licensure 32909
or certification of those beds. If these beds are in a home 32910
licensed under Chapter 3721. of the Revised Code, the long-term 32911
care facility shall have the beds removed from the license. If the 32912
beds are in a facility that is certified as a skilled nursing 32913
facility or nursing facility under Title XVIII or XIX of the 32914
"Social Security Act," the facility shall surrender the 32915
certification of these beds. If the beds are registered as skilled 32916
nursing beds or long-term care beds under section 3701.07 of the 32917
Revised Code, the long-term care facility shall surrender the 32918
registration for these beds. This reduction shall be made not 32919
later than the completion date of the project for which the beds 32920
were relocated. 32921

~~(H)~~(J)(1) Once approval of certificate of need applications 32922
in the first phase of a four-year review period is complete, the 32923
director shall make a new determination of the bed need for each 32924
county by reducing the county's bed need by the number of beds 32925
approved for relocation to the county. The new bed-need 32926
determination shall be made not later than the first day of April 32927
of the third year of the review period. 32928

(2) The director may publish on the department's web site the 32929
remaining bed need for counties that will be considered for 32930
redistribution of beds that, in accordance with division ~~(G)(2)~~(I) 32931

of this section, have ceased or will cease to be operated. The 32932
director shall base the determination of whether to include a 32933
county on all of the following: 32934

(a) The statewide number of beds that, in accordance with 32935
division ~~(G)~~~~(2)~~(I) of this section, have ceased or will cease to 32936
be operated; 32937

(b) The county's remaining bed need; 32938

(c) The county's bed occupancy rate. 32939

~~(I)~~(K) If the director publishes the remaining bed need for a 32940
county under division ~~(H)~~(J)(2) of this section, the director may, 32941
beginning on the first day of the second phase of the review 32942
period, accept certificate of need applications for redistribution 32943
to ~~health~~ long-term care facilities in that county of beds that 32944
have ceased or will cease operation in accordance with division 32945
~~(G)~~~~(2)~~(I) of this section. The total number of beds approved for 32946
redistribution in the second phase of a review period shall not 32947
exceed the number that have ceased or will cease operation in 32948
accordance with division ~~(G)~~~~(2)~~(I) of this section. Beds that are 32949
not approved for redistribution during the second phase of a 32950
review period shall not be available for redistribution at any 32951
future time. 32952

Sec. 3702.594. (A) The director of health shall accept, for 32953
review under section 3702.52 of the Revised Code, certificate of 32954
need applications for an increase in beds in an existing nursing 32955
home if all of the following conditions are met: 32956

(1) The proposed increase is attributable solely to a 32957
relocation of licensed nursing home beds from an existing nursing 32958
home to another existing nursing home located in a county that is 32959
contiguous to the county from which the beds are to be relocated; 32960

(2) Not more than a total of thirty nursing home beds are 32961

proposed for relocation to the same existing nursing home 32962
regardless of the number of applications filed. Once the 32963
cumulative total of beds relocated under this section to a nursing 32964
home reaches thirty, no further applications under this section 32965
will be accepted until the period of monitoring specified in 32966
division (E) of section 3702.52 of the Revised Code of the most 32967
recent reviewable activity implemented under this section has 32968
expired; 32969

(3) After the proposed relocation, there will be existing 32970
nursing home beds remaining in the county from which the beds are 32971
relocated; 32972

(4) The beds are proposed to be licensed as nursing home beds 32973
under Chapter 3721. of the Revised Code. 32974

(B) The director shall accept applications described in 32975
division (A) of this section at any time. 32976

Sec. 3702.60. (A) Any affected person may appeal a 32977
reviewability ruling ~~issued on or after April 20, 1995,~~ to the 32978
director of health in accordance with Chapter 119. of the Revised 32979
Code, and the director shall provide an adjudication hearing in 32980
accordance with that chapter. An affected person may appeal the 32981
director's ruling in the adjudication hearing to the tenth 32982
district court of appeals. 32983

(B) The certificate of need applicant or another affected 32984
person may appeal to the director in accordance with Chapter 119. 32985
of the Revised Code a decision issued by the director ~~on or after~~ 32986
~~April 20, 1995,~~ to grant or deny a certificate of need application 32987
~~for which an adjudication hearing was not conducted under section~~ 32988
~~3702.52 of the Revised Code,~~ and the director shall provide an 32989
adjudication hearing in accordance with that chapter. The 32990
certificate of need applicant or other affected person that 32991
appeals the director's decision to grant or deny a certificate of 32992

need application must prove by a preponderance of the evidence 32993
that the director's decision is not in accordance with sections 32994
3702.52 to 3702.62 of the Revised Code or rules adopted under 32995
those sections. The certificate of need applicant or an affected 32996
person that was a party to and participated in an adjudication 32997
hearing conducted under this division ~~or section 3702.52 of the~~ 32998
~~Revised Code~~ may appeal to the tenth district court of appeals the 32999
decision issued by the director following the adjudication 33000
hearing. ~~No person may appeal to the director or a court the~~ 33001
~~director's granting of a certificate of need prior to June 30,~~ 33002
~~1995, under the version of section 3702.52 of the Revised Code in~~ 33003
~~effect immediately prior to that date due to failure to submit~~ 33004
~~timely written objections, no person may appeal to the director or~~ 33005
~~a court the director's granting of a certificate of need under~~ 33006
~~division (C)(1) of section 3702.52 of the Revised Code.~~ 33007

(C) The certificate of need holder may appeal to the director 33008
in accordance with Chapter 119. of the Revised Code a decision 33009
issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 33010
of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a 33011
certificate of need, and the director shall provide an 33012
adjudication hearing in accordance with that chapter. The person 33013
may appeal the director's ruling in the adjudication hearing to 33014
the tenth district court of appeals. 33015

(D) Any person determined by the director to have violated 33016
section 3702.53 of the Revised Code may appeal that determination, 33017
or the penalties imposed under section 3702.54 or 3702.541 of the 33018
Revised Code, to the director in accordance with Chapter 119. of 33019
the Revised Code, and the director shall provide an adjudication 33020
hearing in accordance with that chapter. The person may appeal the 33021
director's ruling in the adjudication hearing to the tenth 33022
district court of appeals. 33023

(E) Each person appealing under this section to the director 33024

shall file with the director, not later than thirty days after the 33025
decision, ruling, or determination of the director was mailed, a 33026
notice of appeal designating the decision, ruling, or 33027
determination appealed from. 33028

(F) Each person appealing under this section to the tenth 33029
district court of appeals shall file with the court, not later 33030
than thirty days after the date the director's adjudication order 33031
was mailed, a notice of appeal designating the order appealed 33032
from. The appellant also shall file notice with the director not 33033
later than thirty days after the date the order was mailed. 33034

(1) Not later than thirty days after receipt of the notice of 33035
appeal, the director shall prepare and certify to the court the 33036
complete record of the proceedings out of which the appeal arises. 33037
The expense of preparing and transcribing the record shall be 33038
taxed as part of the costs of the appeal. In the event that the 33039
record or a part thereof is not certified within the time 33040
prescribed by this division, the appellant may apply to the court 33041
for an order that the record be certified. 33042

(2) In hearing the appeal, the court shall consider only the 33043
evidence contained in the record certified to it by the director. 33044
The court may remand the matter to the director for the admission 33045
of additional evidence on a finding that the additional evidence 33046
is material, newly discovered, and could not with reasonable 33047
diligence have been ascertained before the hearing before the 33048
director. Except as otherwise provided by statute, the court shall 33049
give the hearing on the appeal preference over all other civil 33050
matters, irrespective of the position of the proceedings on the 33051
calendar of the court. 33052

(3) The court shall affirm the director's order if it finds, 33053
upon consideration of the entire record and any additional 33054
evidence admitted under division (F)(2) of this section, that the 33055
order is supported by reliable, probative, and substantial 33056

evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.62. ~~(A) Any action pursuant to section 140.03, 140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised Code shall be taken in accordance with sections 3702.51 to 3702.61 of the Revised Code.~~

~~(B) A nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is required to apply for licensure as a residential facility under section 5123.19 of the Revised Code is not, with respect to the portion of the home certified as an intermediate care facility for the mentally retarded, subject to sections Sections 3702.51 to 3702.61 of the Revised Code do not apply to any part of long-term care facility's campus that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 343 (1965), 42 U.S.C. 1396 et seq., as~~

amended. 33088

Sec. 3703.01. (A) Except as otherwise provided in this 33089
section, the division of ~~labor~~ industrial compliance in the 33090
department of commerce shall do all of the following: 33091

(1) Inspect all nonresidential buildings within the meaning 33092
of section 3781.06 of the Revised Code; 33093

(2) Condemn all unsanitary or defective plumbing that is 33094
found in connection with those places; 33095

(3) Order changes in plumbing necessary to insure the safety 33096
of the public health. 33097

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards 33098
of health of city and general health districts, and county 33099
building departments shall not inspect plumbing or collect fees 33100
for inspecting plumbing in particular types of buildings in any 33101
municipal corporation that is certified by the board of building 33102
standards under section 3781.10 of the Revised Code to exercise 33103
enforcement authority for plumbing in those types of buildings. 33104

(b) The division shall not inspect plumbing or collect fees 33105
for inspecting plumbing in particular types of buildings in any 33106
health district that employs one or more plumbing inspectors 33107
certified pursuant to division (D) of this section to enforce 33108
Chapters 3781. and 3791. of the Revised Code and the rules adopted 33109
pursuant to those chapters relating to plumbing in those types of 33110
buildings. 33111

(c) The division shall not inspect plumbing or collect fees 33112
for inspecting plumbing in particular types of buildings in any 33113
health district where the county building department is authorized 33114
to inspect those types of buildings pursuant to a contract 33115
described in division (C)(1) of this section. 33116

(d) The division shall not inspect plumbing or collect fees 33117

for inspecting plumbing in particular types of buildings in any 33118
health district where the board of health has entered into a 33119
contract with the board of health of another district to conduct 33120
inspections pursuant to division (C)(2) of this section. 33121

(2) No county building department shall inspect plumbing or 33122
collect fees for inspecting plumbing in any type of building in a 33123
health district unless the department is authorized to inspect 33124
that type of building pursuant to a contract described in division 33125
(C)(1) of this section. 33126

(3) No municipal corporation shall inspect plumbing or 33127
collect fees for inspecting plumbing in types of buildings for 33128
which it is not certified by the board of building standards under 33129
section 3781.10 of the Revised Code to exercise enforcement 33130
authority. 33131

(4) No board of health of a health district shall inspect 33132
plumbing or collect fees for inspecting plumbing in types of 33133
buildings for which it does not have a plumbing inspector 33134
certified pursuant to division (D) of this section. 33135

(C)(1) The board of health of a health district may enter 33136
into a contract with a board of county commissioners to authorize 33137
the county building department to inspect plumbing in buildings 33138
within the health district. The contract may designate that the 33139
department inspect either residential or nonresidential buildings, 33140
as those terms are defined in section 3781.06 of the Revised Code, 33141
or both types of buildings, so long as the department employs or 33142
contracts with a plumbing inspector certified pursuant to division 33143
(D) of this section to inspect the types of buildings the contract 33144
designates. The board of health may enter into a contract 33145
regardless of whether the health district employs any certified 33146
plumbing inspectors to enforce Chapters 3781. and 3791. of the 33147
Revised Code. 33148

(2) The board of health of a health district, regardless of whether it employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code, may enter into a contract with the board of health of another health district to authorize that board to inspect plumbing in buildings within the contracting board's district. The contract may designate the inspection of either residential or nonresidential buildings as defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the board that performs the inspections employs a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates.

(D) The superintendent of ~~labor~~ industrial compliance shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, that the superintendent shall use in certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and county building departments that are authorized to perform inspections pursuant to a contract under division (C)(1) of this section, and for continuing education of plumbing inspectors. Those minimum qualifications shall be related to the types of buildings for which a person seeks certification.

(E) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (D) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to

| | |
|--|--|
| persons certified under this chapter. | 33181 |
| (F) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors: | 33182 33183 33184 |
| (1) Prepare, administer, score, and maintain the confidentiality of the examination; | 33185 33186 |
| (2) Maintain responsibility for all expenses required to comply with division (F)(1) of this section; | 33187 33188 |
| (3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes; | 33189 33190 |
| (4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing. | 33191 33192 33193 |
| (G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters. | 33194 33195 33196 33197 |
| (H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health. | 33198 33199 33200 33201 |
| Sec. 3703.03. In the administration of sections 3703.01 to 3703.08 of the Revised Code, the division of labor <u>industrial compliance</u> shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business. | 33202 33203 33204 33205 33206 33207 |
| Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is | 33208 33209 33210 |

let. 33211

Sec. 3703.04. The superintendent of ~~labor~~ industrial 33212
compliance shall appoint such number of plumbing inspectors as is 33213
required. The inspectors shall be practical plumbers with at least 33214
seven years' experience, and skilled and well-trained in matters 33215
pertaining to sanitary regulations concerning plumbing work. 33216

Sec. 3703.05. Plumbing inspectors employed by the division of 33217
~~labor~~ industrial compliance assigned to the enforcement of 33218
sections 3703.01 to 3703.08 of the Revised Code may, between 33219
sunrise and sunset, enter any building where there is good and 33220
sufficient reason to believe that the sanitary condition of the 33221
premises endangers the public health, for the purpose of making an 33222
inspection to ascertain the condition of the premises. 33223

Sec. 3703.06. When any building is found to be in a sanitary 33224
condition or when changes which are ordered, under authority of 33225
this chapter, in the plumbing, drainage, or ventilation have been 33226
made, and after a thorough inspection and approval by the 33227
superintendent of ~~labor~~ industrial compliance, the superintendent 33228
shall issue a certificate, which shall be posted in a conspicuous 33229
place for the benefit of the public at large. Upon notification by 33230
the superintendent, the certificate shall be revoked for any 33231
violation of those sections. 33232

Sec. 3703.07. No plumbing work shall be done in any building 33233
or place coming within the jurisdiction of the division of ~~labor~~ 33234
industrial compliance, except in cases of repairs or leaks in 33235
existing plumbing, until a permit has been issued by the division. 33236

Before granting such permit, an application shall be made by 33237
the owner of the property or by the person, firm, or corporation 33238
which is to do the work. The application shall be made on a form 33239

prepared by the division for the purpose, and each application 33240
shall be accompanied by a fee of twenty-seven dollars, and an 33241
additional fee of seven dollars for each trap, vented fixture, 33242
appliance, or device. Each application also shall be accompanied 33243
by a plan approval fee of eighteen dollars for work containing one 33244
through twenty fixtures; thirty-six dollars for work containing 33245
twenty-one through forty fixtures; and fifty-four dollars for work 33246
containing forty-one or more fixtures. 33247

Whenever a reinspection is made necessary by the failure of 33248
the applicant or plumbing contractor to have the work ready for 33249
inspection when so reported, or by reason of faulty or improper 33250
installation, the person shall pay a fee of forty-five dollars for 33251
each reinspection. 33252

All fees collected pursuant to this section shall be paid 33253
into the state treasury to the credit of the ~~labor~~ industrial 33254
compliance operating fund created in section 121.084 of the 33255
Revised Code. 33256

The superintendent of ~~labor~~ industrial compliance, by rule 33257
adopted in accordance with Chapter 119. of the Revised Code, may 33258
increase the fees required by this section and may establish fees 33259
to pay the costs of the division to fulfill its duties established 33260
by this chapter, including, but not limited to, fees for 33261
administering a program for continuing education for, and 33262
certifying and recertifying plumbing inspectors. The fees shall 33263
bear some reasonable relationship to the cost of administering and 33264
enforcing the provisions of this chapter. 33265

Sec. 3703.08. Any owner, agent, or manager of a building in 33266
which an inspection is made by the division of ~~labor~~ industrial 33267
compliance, a board of health of a health district, or a certified 33268
department of building inspection of a municipal corporation or a 33269
county shall have the entire system of drainage and ventilation 33270

repaired, as the division, board of health, or department of 33271
building inspection directs by its order. After due notice to 33272
repair that work is given, the owner, agent, or manager shall 33273
notify the public authority that issued the order when the work is 33274
ready for its inspection. No person shall fail to have the work 33275
ready for inspection at the time specified in the notice. 33276

Sec. 3703.10. All prosecutions and proceedings by the 33277
division of ~~labor~~ industrial compliance for the violation of 33278
sections 3703.01 to 3703.08 of the Revised Code, or for the 33279
violation of any of the orders or rules of the division under 33280
those sections, shall be instituted by the superintendent of ~~labor~~ 33281
industrial compliance. All fines or judgments collected by the 33282
division shall be paid into the state treasury to the credit of 33283
the ~~labor~~ industrial compliance operating fund created by section 33284
121.084 of the Revised Code. 33285

The superintendent, the board of health of a general or city 33286
health district, or any person charged with enforcing the rules of 33287
the division adopted under sections 3703.01 to 3703.08 of the 33288
Revised Code may petition the court of common pleas for injunctive 33289
or other appropriate relief requiring any person violating a rule 33290
adopted or order issued by the superintendent under those sections 33291
to comply with the rule or order. The court of common pleas of the 33292
county in which the offense is alleged to be occurring may grant 33293
injunctive or other appropriate relief. 33294

The superintendent may do all of the following: 33295

(A) Deny an applicant certification as a plumbing inspector; 33296

(B) Suspend or revoke the certification of a plumbing 33297
inspector; 33298

(C) Examine any certified plumbing inspector under oath; 33299

(D) Examine the records and books of any certified plumbing 33300

inspector if the superintendent finds the material to be examined 33301
relevant to a determination described in division (A), (B), or (C) 33302
of this section. 33303

Sec. 3703.21. (A) Within ninety days after September 16, 33304
2004, the superintendent of ~~labor~~ industrial compliance shall 33305
appoint a backflow advisory board consisting of not more than ten 33306
members, who shall serve at the pleasure of the superintendent. 33307
The superintendent shall appoint a representative from the 33308
plumbing section of the division of ~~labor~~ industrial compliance, 33309
three representatives recommended by the plumbing administrator of 33310
the division of ~~labor~~ industrial compliance, a representative of 33311
the drinking water program of the Ohio environmental protection 33312
agency, three representatives recommended by the director of 33313
environmental protection, and not more than two members who are 33314
not employed by the plumbing or water industry. 33315

The board shall advise the superintendent on matters 33316
pertaining to the training and certification of backflow 33317
technicians. 33318

(B) The superintendent shall adopt rules in accordance with 33319
Chapter 119. of the Revised Code to provide for the certification 33320
of backflow technicians. The rules shall establish all of the 33321
following requirements, specifications, and procedures: 33322

(1) Requirements and procedures for the initial certification 33323
of backflow technicians, including eligibility criteria and 33324
application requirements and fees; 33325

(2) Specifications concerning and procedures for taking 33326
examinations required for certification as a backflow technician, 33327
including eligibility criteria to take the examination and 33328
application requirements and fees for taking the examination; 33329

(3) Specifications concerning and procedures for renewing a 33330

certification as a backflow technician, including eligibility 33331
criteria, application requirements, and fees for renewal; 33332

(4) Specifications concerning and procedures for both of the 33333
following: 33334

(a) Approval of training agencies authorized to teach 33335
required courses to candidates for certification as backflow 33336
technicians or continuing education courses to certified backflow 33337
technicians; 33338

(b) Renewal of the approval described in division (B)(4)(a) 33339
of this section. 33340

(5) Education requirements that candidates for initial 33341
certification as backflow technicians must satisfy and continuing 33342
education requirements that certified backflow technicians must 33343
satisfy; 33344

(6) Grounds and procedures for denying, suspending, or 33345
revoking certification, or denying the renewal of certification, 33346
as a backflow technician; 33347

(7) Procedures for issuing administrative orders for the 33348
remedy of any violation of this section or any rule adopted 33349
pursuant to division (B) of this section, including, but not 33350
limited to, procedures for assessing a civil penalty authorized 33351
under division (D) of this section; 33352

(8) Any provision the superintendent determines is necessary 33353
to administer or enforce this section. 33354

(C) No individual shall engage in the installation, testing, 33355
or repair of any isolation backflow prevention device unless that 33356
individual possesses a valid certification as a backflow 33357
technician. This division does not apply with respect to the 33358
installation, testing, or repair of any containment backflow 33359
prevention device. 33360

(D) Whoever violates division (C) of this section or any rule adopted pursuant to division (B) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil penalty in the court of common pleas of the county in which the violation occurred or where the violator resides.

(E) Any action taken under a rule adopted pursuant to division (B)(6) of this section is subject to the appeal process of Chapter 119. of the Revised Code. An administrative order issued pursuant to rules adopted under division (B)(7) of this section and an appeal to that type of administrative order shall be executed in accordance with Chapter 119. of the Revised Code.

(F) As used in this section:

(1) "Isolation backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is regulated by the building code adopted pursuant to section 3781.10 of the Revised Code and rules adopted pursuant to this section.

(2) "Containment backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is installed by the supplier of, or as a requirement of, any public water system as defined in division (A) of section 6109.01 of the Revised Code.

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.08 of the Revised Code, or any rule the division of ~~labor~~ industrial compliance is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the

first offense, and the prosecution always shall be as for a first 33392
offense unless the affidavit upon which the prosecution is 33393
instituted contains the allegation that the offense is a second or 33394
repeated offense. 33395

Sec. 3704.035. ~~(A)~~ There is hereby created in the state 33396
treasury the Title V clean air fund. Except as otherwise provided 33397
in division (K) of section 3745.11 of the Revised Code, all moneys 33398
collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~ 33399
division (B) of that section ~~and under section 3745.111 of the~~ 33400
~~Revised Code~~, and any gifts, grants, or contributions received by 33401
the director of environmental protection for the purposes of the 33402
fund, shall be credited to the fund. ~~The director shall expend~~ 33403
~~moneys from the fund exclusively to pay the cost of administering~~ 33404
~~and enforcing the laws of this state pertaining to the prevention,~~ 33405
~~control, and abatement of air pollution and rules adopted and~~ 33406
~~terms and conditions of permits, variances, and orders issued~~ 33407
~~under those laws, except that the director shall not expend moneys~~ 33408
~~credited to the fund for the administration and enforcement of~~ 33409
~~motor vehicle inspection and maintenance programs and requirements~~ 33410
~~under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162~~ 33411
~~of the Revised Code.~~ 33412

~~Specifically, the~~ The director shall expend all moneys 33413
credited to the fund ~~from fees assessed under section 3745.11 of~~ 33414
~~the Revised Code pursuant to the Title V permit program~~ 33415
~~established under section 3704.036 of the Revised Code, and from~~ 33416
~~any gifts, grants, or contributions received for the purposes of~~ 33417
~~that program,~~ solely to administer and enforce ~~that~~ the Title V 33418
program pursuant to the federal Clean Air Act, this chapter, and 33419
rules adopted under it, except as costs relating to enforcement 33420
are limited by the federal Clean Air Act. The director shall 33421
establish separate and distinct accounting for all such moneys. 33422

(B) There is hereby created in the state treasury the non-Title V clean air fund. All money collected under divisions (D), (F), (G), (H), (I), and (J) of section 3745.11 of the Revised Code shall be credited to the fund. In addition, any gifts, grants, or contributions received by the director for the purposes of the fund shall be credited to the fund.

The director shall expend money in the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution, rules adopted under those laws, and terms and conditions of permits, variances, and orders issued under those laws. However, the director shall not expend money credited to the fund for the administration and enforcement of the Title V permit program established under this chapter and rules adopted under it or motor vehicle inspection and maintenance programs established under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.

(C) The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the ~~fund~~ funds under this section and the amounts expended from ~~it~~ them for each of the various air pollution control programs.

Sec. 3705.24. (A)(1) The ~~public director of health council~~ shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of

| | |
|--|--|
| whether a copy of a record is provided; | 33453 |
| (iii) A copy of a record provided pursuant to a request. | 33454 |
| (b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order; | 33455 33456 33457 |
| (c) Filing of a delayed registration of a vital record; | 33458 |
| (d) Amendment of a vital record that is requested later than one year after the filing date of the vital record; | 33459 33460 |
| (e) Any other documents or services for which the public health council <u>director</u> considers the charging of a fee appropriate. | 33461 33462 33463 |
| (2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars. | 33464 33465 |
| (3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code. | 33466 33467 33468 |
| (4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code. | 33469 33470 33471 33472 |
| (B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in | 33473 33474 33475 33476 33477 33478 33479 33480 33481 33482 |

this state. A board of health or a local registrar shall forward 33483
all fees collected under this division to the department of health 33484
not later than thirty days after the end of each calendar quarter. 33485

(C) Except as otherwise provided in division (H) of this 33486
section, and except as provided in section 3705.241 of the Revised 33487
Code, fees collected by the director of health under sections 33488
3705.01 to 3705.29 of the Revised Code shall be paid into the 33489
state treasury to the credit of the general operations fund 33490
created by section 3701.83 of the Revised Code. Except as provided 33491
in division (B) or (I) of this section, money generated by the 33492
fees shall be used only for administration and enforcement of this 33493
chapter and the rules adopted under it. Amounts submitted to the 33494
department of health for copies of vital records or services in 33495
excess of the fees imposed by this section shall be dealt with as 33496
follows: 33497

(1) An overpayment of two dollars or less shall be retained 33498
by the department and deposited in the state treasury to the 33499
credit of the general operations fund created by section 3701.83 33500
of the Revised Code. 33501

(2) An overpayment in excess of two dollars shall be returned 33502
to the person who made the overpayment. 33503

(D) If a local registrar is a salaried employee of a city or 33504
a general health district, any fees the local registrar receives 33505
pursuant to section 3705.23 of the Revised Code shall be paid into 33506
the general fund of the city or the health fund of the general 33507
health district. 33508

Each local registrar of vital statistics, or each health 33509
district where the local registrar is a salaried employee of the 33510
district, shall be entitled to a fee for each birth, fetal death, 33511
death, or military service certificate properly and completely 33512
made out and registered with the local registrar or district and 33513

correctly copied and forwarded to the office of vital statistics 33514
in accordance with the population of the primary registration 33515
district at the last federal census. The fee for each birth, fetal 33516
death, death, or military service certificate shall be: 33517

(1) In primary registration districts of over two hundred 33518
fifty thousand, twenty cents; 33519

(2) In primary registration districts of over one hundred 33520
twenty-five thousand and less than two hundred fifty thousand, 33521
sixty cents; 33522

(3) In primary registration districts of over fifty thousand 33523
and less than one hundred twenty-five thousand, eighty cents; 33524

(4) In primary registration districts of less than fifty 33525
thousand, one dollar. 33526

(E) The director of health shall annually certify to the 33527
county treasurers of the several counties the number of birth, 33528
fetal death, death, and military service certificates registered 33529
from their respective counties with the names of the local 33530
registrars and the amounts due each registrar and health district 33531
at the rates fixed in this section. Such amounts shall be paid by 33532
the treasurer of the county in which the registration districts 33533
are located. No fees shall be charged or collected by registrars 33534
except as provided by this chapter and section 3109.14 of the 33535
Revised Code. 33536

(F) A probate judge shall be paid a fee of fifteen cents for 33537
each certified abstract of marriage prepared and forwarded by the 33538
probate judge to the department of health pursuant to section 33539
3705.21 of the Revised Code. The fee shall be in addition to the 33540
fee paid for a marriage license and shall be paid by the 33541
applicants for the license. 33542

(G) The clerk of a court of common pleas shall be paid a fee 33543
of one dollar for each certificate of divorce, dissolution, and 33544

annulment of marriage prepared and forwarded by the clerk to the 33545
department pursuant to section 3705.21 of the Revised Code. The 33546
fee for the certified abstract of divorce, dissolution, or 33547
annulment of marriage shall be added to the court costs allowed in 33548
these cases. 33549

(H) The fee for an heirloom certification of birth issued 33550
pursuant to division (B)(2) of section 3705.23 of the Revised Code 33551
shall be an amount prescribed by rule by the director of health 33552
plus any fee required by section 3109.14 of the Revised Code. In 33553
setting the amount of the fee, the director shall establish a 33554
surcharge in addition to an amount necessary to offset the expense 33555
of processing heirloom certifications of birth. The fee prescribed 33556
by the director of health pursuant to this division shall be 33557
deposited into the state treasury to the credit of the heirloom 33558
certification of birth fund which is hereby created. Money 33559
credited to the fund shall be used by the office of vital 33560
statistics to offset the expense of processing heirloom 33561
certifications of birth. However, the money collected for the 33562
surcharge, subject to the approval of the controlling board, shall 33563
be used for the purposes specified by the family and children 33564
first council pursuant to section 121.37 of the Revised Code. 33565

(I)(1) Four dollars of each fee collected by the board of 33566
health of a city or general health district for a certified copy 33567
of a vital record or a certification of birth shall be transferred 33568
to the office of vital statistics not later than thirty days after 33569
the end of each calendar quarter. The amount collected shall be 33570
used to support public health systems. Of each four dollars 33571
collected, one dollar shall be used by the director of health to 33572
pay subsidies to boards of health. The subsidies shall be 33573
distributed in accordance with the same formula established under 33574
section 3701.342 of the Revised Code for the distribution of state 33575
health district subsidy funds to boards of health and local health 33576

departments. 33577

(2) Four dollars of each fee collected by a local registrar 33578
of vital statistics who is not a salaried employee of a city or 33579
general health district, for a certified copy of a vital record or 33580
certification of birth, shall be transferred to the office of 33581
vital statistics not later than thirty days after the end of each 33582
calendar quarter. The amount collected shall be used to support 33583
public health systems. 33584

Sec. 3705.242. (A)(1) The director of health, a person 33585
authorized by the director, a local commissioner of health, or a 33586
local registrar of vital statistics shall charge and collect a fee 33587
of one dollar and fifty cents for each certified copy of a birth 33588
record, each certification of birth, and each copy of a death 33589
record. The fee is in addition to the fee imposed by section 33590
3705.24 or any other section of the Revised Code. A local 33591
commissioner of health or local registrar of vital statistics may 33592
retain an amount of each additional fee collected, not to exceed 33593
three per cent of the amount of the additional fee, to be used for 33594
costs directly related to the collection of the fee and the 33595
forwarding of the fee to the ~~treasurer of state~~ department of 33596
health. ~~The~~ 33597

The additional fees collected by the director of health or a 33598
person authorized by the director and the additional fees 33599
collected, but not retained, under division (A)(1) of this section 33600
by a local commissioner of health or a local registrar of vital 33601
statistics shall be forwarded to the ~~treasurer of state~~ department 33602
of health not later than thirty days following the end of each 33603
quarter. Not later than two days after the fees are forwarded to 33604
the department each quarter, the department shall pay the 33605
collected fees to the treasurer of state in accordance with rules 33606
adopted by the treasurer of state under section 113.08 of the 33607

Revised Code. 33608

(2) On the filing of a divorce decree under section 3105.10 33609
or a decree of dissolution under section 3105.65 of the Revised 33610
Code, a court of common pleas shall charge and collect a fee of 33611
five dollars and fifty cents. The fee is in addition to any other 33612
court costs or fees. The county clerk of courts may retain an 33613
amount of each additional fee collected, not to exceed three per 33614
cent of the amount of the additional fee, to be used for costs 33615
directly related to the collection of the fee and the forwarding 33616
of the fee to the treasurer of state. The additional fees 33617
collected, but not retained, under division (A)(2) of this section 33618
shall be forwarded to the treasurer of state not later than twenty 33619
days following the end of each month. 33620

(B) The treasurer of state shall deposit the fees paid or 33621
forwarded under this section in the state treasury to the credit 33622
of the family violence prevention fund, which is hereby created. A 33623
person or government entity that fails to pay or forward the fees 33624
in a timely manner, as determined by the treasurer of state, shall 33625
~~forward~~ send to the treasurer of state, in addition to the fees, a 33626
penalty equal to ten per cent of the fees. 33627

The treasurer of state shall invest the moneys in the fund. 33628
All earnings resulting from investment of the fund shall be 33629
credited to the fund, except that actual administration costs 33630
incurred by the treasurer of state in administering the fund may 33631
be deducted from the earnings resulting from investments. The 33632
amount that may be deducted shall not exceed three per cent of the 33633
total amount of fees credited to the fund in each fiscal year. The 33634
balance of the investment earnings shall be credited to the fund. 33635

(C) The director of public safety shall use money credited to 33636
the fund to provide grants to family violence shelters in Ohio and 33637
to operate the division of criminal justice services. 33638

Sec. 3705.30. (A) As used in this section: 33639

(1) "Freestanding birthing center" has the same meaning as in 33640
section ~~3702.51~~ 3702.141 of the Revised Code. 33641

(2) "Hospital" means a hospital classified under section 33642
3701.07 of the Revised Code as a general hospital or children's 33643
hospital. 33644

(3) "Physician" means an individual authorized under Chapter 33645
4731. of the Revised Code to practice medicine and surgery or 33646
osteopathic medicine and surgery. 33647

(B) The director of health shall establish and, if funds for 33648
this purpose are available, implement a statewide birth defects 33649
information system for the collection of information concerning 33650
congenital anomalies, stillbirths, and abnormal conditions of 33651
newborns. 33652

(C) If the system is implemented under division (B) of this 33653
section, all of the following apply: 33654

(1) The director may require each physician, hospital, and 33655
freestanding birthing center to report to the system information 33656
concerning all patients under five years of age with a primary 33657
diagnosis of a congenital anomaly or abnormal condition. The 33658
director shall not require a hospital, freestanding birthing 33659
center, or physician to report to the system any information that 33660
is reported to the director or department of health under another 33661
provision of the Revised Code or Administrative Code. 33662

(2) On request, each physician, hospital, and freestanding 33663
birthing center shall give the director or authorized employees of 33664
the department of health access to the medical records of any 33665
patient described in division (C)(1) of this section. The 33666
department shall pay the costs of copying any medical records 33667
pursuant to this division. 33668

(3) The director may review vital statistics records and 33669
shall consider expanding the list of congenital anomalies and 33670
abnormal conditions of newborns reported on birth certificates 33671
pursuant to section 3705.08 of the Revised Code. 33672

(D) A physician, hospital, or freestanding birthing center 33673
that provides information to the system under division (C) of this 33674
section shall not be subject to criminal or civil liability for 33675
providing the information. 33676

Sec. 3706.19. (A) There is hereby created in the Ohio air 33677
quality development authority the office of ~~ombudsman~~ ombudsperson 33678
for the small business stationary source technical and 33679
environmental compliance assistance program created under section 33680
3704.18 of the Revised Code. The office shall exercise its duties 33681
independently of any other state agency. 33682

(B) ~~Not later than one year after the effective date of this~~ 33683
~~section, the~~ The governor, with the advice and consent of the 33684
senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The 33685
~~ombudsman~~ ombudsperson shall serve for a term of four years. The 33686
person who is appointed to serve as the ~~ombudsman~~ ombudsperson 33687
shall be experienced in management and in working with private 33688
enterprise and government entities, knowledgeable in the areas of 33689
arbitration and negotiation, experienced in interpreting statutory 33690
and regulatory law, and knowledgeable in investigation techniques 33691
and procedures, recordkeeping, and report writing. The ~~ombudsman~~ 33692
ombudsperson may be the highest ranking managerial employee of the 33693
authority. 33694

(C) The ~~ombudsman~~ ombudsperson shall do all of the following: 33695

- (1) Ensure that the goals of the program are being met; 33696
- (2) Conduct independent evaluations of all aspects of the 33697
program; 33698

- (3) Review the development and implementation of air pollution control requirements that have an impact on small businesses in the state and provide comments and recommendations, as appropriate, to the environmental protection agency and the United States environmental protection agency; 33699
33700
33701
33702
33703
- (4) Facilitate and promote the participation of small businesses in the development of rules to be adopted under Chapter 3704. of the Revised Code that affect small businesses; 33704
33705
33706
- (5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons; 33707
33708
33709
- (6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses; 33710
33711
- (7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses; 33712
33713
- (8) Refer small businesses to the appropriate specialist in the program from whom they may obtain information and assistance on affordable alternative technologies, process changes, and products and operational methods to help reduce air pollution and accidental releases; 33714
33715
33716
33717
33718
- (9) Work with trade associations and small businesses to effect voluntary compliance with the federal Clean Air Act, Chapter 3704. of the Revised Code, and rules adopted under it; 33719
33720
33721
- (10) Work with other states to establish a network for sharing information on small businesses and their efforts to comply with the federal Clean Air Act and state and local air pollution control laws; 33722
33723
33724
33725
- (11) Seek public and private funding sources that can financially assist small businesses that are in need of moneys to comply with air pollution control laws; 33726
33727
33728

(12) Conduct studies to evaluate the impacts of the federal
Clean Air Act on the state's economy, local economies, and small
businesses. 33729
33730
33731

(D) There is hereby created in the state treasury the small
business ~~ombudsman~~ ombudsperson fund, which shall consist of
moneys transferred to it from the Title V clean air fund created
in section 3704.035 of the Revised Code. Moneys in the fund shall
be used exclusively for the purposes of this section. 33732
33733
33734
33735
33736

The director of environmental protection and the executive
director of the authority annually shall determine the amount of
moneys necessary for the operation of the office of the ~~ombudsman~~
ombudsperson. Thereafter, the director shall request the director
of budget and management to, and that director shall, transfer
that amount of moneys from the Title V clean air fund to the small
business ~~ombudsman~~ ombudsperson fund. 33737
33738
33739
33740
33741
33742
33743

(E) There is hereby created in the state treasury the small
business assistance fund, which shall consist of moneys credited
to it under division (K) of section 3745.11 of the Revised Code.
The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to
provide financial assistance to small businesses that have one
hundred or fewer employees and that are having financial
difficulty complying with the "Clean Air Act Amendments of 1990,"
104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under
it. 33744
33745
33746
33747
33748
33749
33750
33751
33752

In accordance with Chapter 119. of the Revised Code, the
~~ombudsman~~ ombudsperson shall adopt rules establishing procedures
and requirements governing grants awarded under this division. 33753
33754
33755

Sec. 3709.03. (A) There is hereby created in each general
health district a district advisory council. A council shall
consist of the president of the board of county commissioners, the
chief executive of each municipal corporation not constituting a 33756
33757
33758
33759

city health district, and the president of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive, or the president of the board of township trustees is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on any matter on which the member is authorized to vote.

The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.

The council shall meet annually in March at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

(1) The director of health;

(2) The board of health;

(3) The lesser of five or a majority of district advisory council members.

The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint four members 33791
of the board of health, and the remaining member shall be 33792
appointed by the health district licensing council established 33793
under section 3709.41 of the Revised Code. At least one member of 33794
the board of health shall be a physician. Appointments shall be 33795
made with due regard to equal representation of all parts of the 33796
district. 33797

(C) If at an annual or special meeting at which a member of 33798
the board of health is to be appointed fewer than a majority of 33799
the members of the district council are present, the council, by 33800
the majority vote of council members present, may organize an 33801
executive committee to make the appointment. An executive 33802
committee shall consist of five council members, including the 33803
president of the board of county commissioners, the council chair, 33804
the council secretary, and two additional council members selected 33805
by majority affirmative vote of the council members present at the 33806
meeting. The additional members selected shall include one 33807
representative of municipal corporations in the district that are 33808
not city health districts and one representative of townships in 33809
the district. If an individual is eligible for more than one 33810
position on the executive committee due to holding a particular 33811
office, the individual shall fill one position on the committee 33812
and the other position shall be filled by a member selected by a 33813
majority affirmative vote of the council members present at the 33814
meeting. A council member's alternate for annual meetings may 33815
serve as the member's alternate at meetings of the executive 33816
committee. 33817

Not later than thirty days after an executive committee is 33818
organized, the committee shall meet and the council chair shall 33819
present to the committee the matter of appointing a member of the 33820
board of health. The committee shall appoint the board member by 33821
majority affirmative vote. In the case of a combined health 33822

district, the executive committee shall appoint only members of 33823
the board of health that are to be appointed by the district 33824
advisory council, unless the contract for administration of health 33825
affairs in the combined district provides otherwise. If a majority 33826
affirmative vote is not reached within thirty days after the 33827
executive committee is organized, the director of health shall 33828
appoint the member of the board of health under the authority 33829
conferred by section 3709.03 of the Revised Code. 33830

If the council fails to meet or appoint a member of the board 33831
of health as required by this section or section 3709.02 of the 33832
Revised Code, the director of health, ~~with the consent of the~~ 33833
~~public health council,~~ may appoint the member. 33834

Sec. 3709.04. If in any general health district the district 33835
advisory council fails to meet or to select a board of health, the 33836
director of health may, ~~with the consent of the public health~~ 33837
~~council,~~ appoint a board of health for such district which shall 33838
have and exercise all powers conferred on a board of health of a 33839
general health district. 33840

Sec. 3709.06. If any city fails to establish a board of 33841
health under section 3709.05 of the Revised Code, the director of 33842
health, ~~with the approval of the public health council,~~ may 33843
appoint a health commissioner for such city, and fix ~~his~~ the 33844
commissioner's salary and term of office. Such commissioner shall 33845
have the same powers and perform the duties granted to or imposed 33846
upon a board of health of a city health district, except that 33847
rules, regulations, or orders of a general nature, made by ~~him~~ the 33848
commissioner and required to be published, shall be approved by 33849
the director. The salary of such commissioner and all necessary 33850
expenses incurred by ~~him~~ the commissioner in performing the duties 33851
of the board shall be paid by and be a valid claim against such 33852
city. 33853

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and abatement of air pollution.

(B)(1) As used in division (B)(2) of this section:

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F)(7) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter 6111. of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from semipublic disposal systems. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system for inspections conducted by the board pursuant to a contract entered into under

division (B)(2) of this section, except that the board shall not 33885
charge a fee for those inspections conducted at any recreational 33886
vehicle park, recreation camp, or combined park-camp that is 33887
licensed under section 3729.05 of the Revised Code or at any 33888
manufactured home park that is licensed under section ~~3733.03~~ 33889
4781.27 of the Revised Code. 33890

Sec. 3709.09. (A) The board of health of a city or general 33891
health district may, by rule, establish a uniform system of fees 33892
to pay the costs of any services provided by the board. 33893

The fee for issuance of a certified copy of a vital record or 33894
a certification of birth shall not be less than the fee prescribed 33895
for the same service under division (A)(1) of section 3705.24 of 33896
the Revised Code and shall include the fees required by division 33897
(B) of section 3705.24 and section 3109.14 of the Revised Code. 33898

Fees for services provided by the board for purposes 33899
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 33900
3730.03, and 3749.04 of the Revised Code shall be established in 33901
accordance with rules adopted under division (B) of this section. 33902
The district advisory council, in the case of a general health 33903
district, and the legislative authority of the city, in the case 33904
of a city health district, may disapprove any fee established by 33905
the board of health under this division, and any such fee, as 33906
disapproved, shall not be charged by the board of health. 33907

(B) The ~~public director of health council~~ shall adopt rules 33908
under section 111.15 of the Revised Code that establish fee 33909
categories and a uniform methodology for use in calculating the 33910
costs of services provided for purposes specified in sections 33911
3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the 33912
Revised Code. In adopting the rules, the ~~public health council~~ 33913
director shall consider recommendations it receives from advisory 33914
boards established either by statute or the director ~~of health~~ for 33915

entities subject to the fees. 33916

(C) Except when a board of health establishes a fee by 33917
adopting a rule as an emergency measure, the board of health shall 33918
hold a public hearing regarding each proposed fee for a service 33919
provided by the board for a purpose specified in section 3701.344, 33920
3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised 33921
Code. If a public hearing is held, at least twenty days prior to 33922
the public hearing the board shall give written notice of the 33923
hearing to each entity affected by the proposed fee. The notice 33924
shall be mailed to the last known address of each entity and shall 33925
specify the date, time, and place of the hearing and the amount of 33926
the proposed fee. 33927

(D) If payment of a fee established under this section is not 33928
received by the day on which payment is due, the board of health 33929
shall assess a penalty. The amount of the penalty shall be equal 33930
to twenty-five per cent of the applicable fee. 33931

(E) All rules adopted by a board of health under this section 33932
shall be adopted, recorded, and certified as are ordinances of 33933
municipal corporations and the record thereof shall be given in 33934
all courts the same effect as is given such ordinances, but the 33935
advertisements of such rules shall be by publication in one 33936
newspaper of general circulation within the health district. 33937
Publication shall be made once a week for two consecutive weeks or 33938
as provided in section 7.16 of the Revised Code, and such rules 33939
shall take effect and be in force ten days from the date of the 33940
first publication. 33941

Sec. 3709.092. (A) A board of health of a city or general 33942
health district shall transmit to the director of health all fees 33943
or additional amounts that the ~~public health council~~ director 33944
requires to be collected under sections 3701.344, 3718.06, 33945
3729.07, and 3749.04 of the Revised Code. The fees and amounts 33946

shall be transmitted according to the following schedule: 33947

(1) For fees and amounts received by the board on or after 33948
the first day of January but not later than the thirty-first day 33949
of March, transmit the fees and amounts not later than the 33950
fifteenth day of May; 33951

(2) For fees and amounts received by the board on or after 33952
the first day of April but not later than the thirtieth day of 33953
June, transmit the fees and amounts not later than the fifteenth 33954
day of August; 33955

(3) For fees and amounts received by the board on or after 33956
the first day of July but not later than the thirtieth day of 33957
September, transmit the fees and amounts not later than the 33958
fifteenth day of November; 33959

(4) For fees and amounts received by the board on or after 33960
the first day of October but not later than the thirty-first day 33961
of December, transmit the fees and amounts not later than the 33962
fifteenth day of February of the following year. 33963

(B) The director shall deposit the fees and amounts received 33964
under this section into the state treasury to the credit of the 33965
general operations fund created in section 3701.83 of the Revised 33966
Code. Each amount shall be used solely for the purpose for which 33967
it was collected. 33968

Sec. 3709.32. The president of each board of health providing 33969
health services in one or more health districts and the chief 33970
executive officer of each health department providing health 33971
services in one or more health districts shall, on or before the 33972
first day of March of each year, certify the amounts expended 33973
during the preceding calendar year which qualify for state health 33974
district subsidy funds under section 3701.342 of the Revised Code 33975
and rules ~~of~~ adopted by the public director of health council. The 33976

director of health shall certify the amount payable under the 33977
state health district subsidy funds distribution formula adopted 33978
by the ~~public~~ director of health council under section 3701.342 of 33979
the Revised Code to the director of budget and management for 33980
payment. Payment shall not be made unless: 33981

(A) The board or department has provided such information 33982
concerning services and costs as is requested by the director of 33983
health; 33984

(B) The certificate of the board of health or health 33985
department has been endorsed by the director of health; 33986

(C) The board or department has complied with section 33987
3701.342 of the Revised Code and ~~public health council~~ rules 33988
adopted by the director of health; 33989

(D) The municipal corporations and townships composing the 33990
health district have provided adequate local funding for public 33991
health services. The ~~public~~ director of health council shall 33992
determine what constitutes adequate local funding, and may grant 33993
an exception to this requirement to a municipal corporation or 33994
township if unusually severe economic conditions prevent it from 33995
receiving adequate tax revenues to help support minimally 33996
acceptable public health services. 33997

No state health district subsidy funds shall be granted to 33998
any board or department that decreases its appropriation for 33999
public health services in anticipation of using state funds to 34000
provide public health services normally supported by local 34001
revenues. 34002

Sec. 3709.35. If the director of health ~~finds~~ charges that 34003
the health commissioner or a member of the board of health of a 34004
health district is guilty of misfeasance, malfeasance, or 34005
nonfeasance or has failed to perform any or all of the duties 34006

required by sections 3701.10, 3701.29, 3701.81, 3707.08, 3707.14, 34007
3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the 34008
director ~~shall prefer a charge against the commissioner or board~~ 34009
~~member before the public health council and~~ shall notify the 34010
commissioner or board member as to the time and place at which 34011
such charges will be heard. If the ~~council~~ director, after 34012
hearing, finds the commissioner or board member guilty of the 34013
charge, it may remove such commissioner or member from office. 34014

If the lesser of three or one-fifth of the members of a 34015
district advisory council have reason to believe a member of the 34016
board of health of a general health district is guilty of 34017
misfeasance, malfeasance, or nonfeasance or has failed to perform 34018
any or all of the duties required by sections 3701.10, 3701.29, 34019
3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the 34020
Revised Code, the district advisory council members shall prefer a 34021
charge against the board member before the district advisory 34022
council and shall notify the board member as to the time and place 34023
at which such charges will be heard. If a majority of the council, 34024
after hearing, finds the board member guilty of the charge, it may 34025
remove the member from office. 34026

When any member of the board of health of a general or city 34027
health district is removed from office, the district advisory 34028
council or the chief executive of the city, upon notice of such 34029
removal, shall within thirty days after receipt of such notice 34030
fill the vacancy in accordance with section 3709.03 or 3709.05 of 34031
the Revised Code. 34032

Sec. 3710.01. As used in this chapter: 34033

(A) "Asbestos" means the asbestiform varieties of chrysotile 34034
or serpentine, amosite or cummingtonitegrunerite, crocidolite or 34035
riebeckite, actinolite, tremolite, and anthophyllite. 34036

(B) "Asbestos hazard abatement activity" means any activity 34037

involving the removal, renovation, enclosure, repair, or 34038
encapsulation of reasonably related friable asbestos-containing 34039
materials in an amount greater than fifty linear feet or fifty 34040
square feet. "Asbestos hazard abatement activity" also includes 34041
any such activity involving such asbestos-containing materials in 34042
an amount of fifty linear or fifty square feet or less if, when 34043
combined with any other reasonably related activity in terms of 34044
time and location of the activity, the total amount is in an 34045
amount greater than fifty linear or fifty square feet. 34046

(C) "Asbestos hazard abatement contractor" means a business 34047
entity or public entity that engages in or intends to engage in 34048
asbestos hazard abatement activities and that employs or 34049
supervises one or more asbestos hazard abatement specialists for 34050
asbestos hazard abatement activities. "Asbestos hazard abatement 34051
contractor" does not mean an employee of an asbestos hazard 34052
abatement contractor, a general contractor who subcontracts to an 34053
asbestos hazard abatement contractor an asbestos hazard abatement 34054
activity, or any individual who engages in asbestos hazard 34055
abatement activity in ~~his~~ the individual's own home. 34056

(D) "Asbestos hazard abatement project" means one or more 34057
asbestos hazard abatement activities that are conducted by one 34058
asbestos hazard abatement contractor and that are reasonably 34059
related to each other. 34060

(E) "Asbestos hazard abatement specialist" means a person 34061
with responsibility for the oversight or supervision of asbestos 34062
hazard abatement activities, including asbestos hazard abatement 34063
project managers, hazard abatement project supervisors and 34064
foremen, and employees of school districts or other governmental 34065
or public entities who coordinate or directly supervise or oversee 34066
asbestos hazard abatement activities performed by school district, 34067
governmental, or other public employees in school district, 34068
governmental, or other public buildings. 34069

(F) "Asbestos hazard evaluation specialist" means a person 34070
responsible for the identification, detection, and assessment of 34071
asbestos-containing materials, the determination of appropriate 34072
response actions, or the preparation of asbestos management plans 34073
for the purpose of protecting the public health from the hazards 34074
associated with exposure to asbestos, including the performance of 34075
air and bulk sampling. This category of specialists includes 34076
management planners, health professionals, industrial hygienists, 34077
private consultants, or other individuals involved in asbestos 34078
risk identification or assessment or regulatory activities. 34079

(G) "Business entity" means a partnership, firm, association, 34080
corporation, sole proprietorship, or other business concern. 34081

(H) "Public entity" means the state or any of its political 34082
subdivisions or any agency or instrumentality of either. 34083

(I) "License" means a document issued by the department of 34084
health to a business entity or public entity affirming that the 34085
entity has met the requirements set forth in this chapter to 34086
engage in asbestos hazard abatement activities as an asbestos 34087
hazard abatement contractor. 34088

(J) "Certificate" means: 34089

(1) A document issued by the department to an individual 34090
affirming that the individual has successfully completed the 34091
training and other requirements set forth in this chapter to 34092
qualify as an asbestos hazard abatement specialist, an asbestos 34093
hazard evaluation specialist, an asbestos hazard abatement worker, 34094
an asbestos hazard abatement project designer, an asbestos hazard 34095
abatement air-monitoring technician, an approved asbestos hazard 34096
training provider, or other category of asbestos hazard specialist 34097
that the ~~public health council~~ director establishes by rule; or 34098

(2) A document issued by a training institution in accordance 34099
with rules adopted by the ~~public health council~~ director affirming 34100

that an individual has successfully completed the instruction 34101
required in all categories as provided in sections 3710.07 and 34102
3710.10 of the Revised Code. 34103

(K) "Person" means any individual, business entity, 34104
governmental body, or other public or private entity. 34105

(L) "Encapsulate" means to coat, bind, or resurface walls, 34106
ceilings, pipes, or other structures to prevent friable asbestos 34107
from becoming airborne. 34108

(M) "Friable asbestos-containing material" means any material 34109
that contains more than one per cent asbestos by weight and that 34110
can be crumbled, pulverized, or reduced to powder, when dry, by 34111
hand pressure. 34112

(N) "Enclosure" means the permanent confinement of friable 34113
asbestos-containing materials with an airtight barrier in an area 34114
not used as an air plenum. 34115

(O) "Renovation" means the removal or stripping of friable 34116
asbestos-containing materials used on any pipe, duct, boiler, 34117
tank, reactor, turbine, furnace, or load supporting member. 34118

(P) "Asbestos hazard abatement worker" means the person 34119
responsible in a nonsupervisory capacity for the performance of an 34120
asbestos hazard abatement activity. 34121

(Q) "Asbestos hazard abatement project designer" means the 34122
person responsible for the determination of the workscope, work 34123
sequence, or performance standards for an asbestos hazard 34124
abatement activity, including preparation of specifications, 34125
plans, and contract documents. 34126

(R) "Director" means the director of health or ~~his~~ the 34127
director's authorized representative. 34128

(S) "Clearance air sampling" means an air sampling performed 34129
after the completion of any asbestos hazard abatement activity and 34130

prior to the reoccupation of the contained work area by the public 34131
and conducted for the purpose of protecting the public from the 34132
health hazards associated with exposure to friable 34133
asbestos-containing material. 34134

(T) "Asbestos hazard abatement air-monitoring technician" 34135
means the person who is responsible for environmental monitoring 34136
or work area clearance air sampling, including air monitoring 34137
performed to determine completion of response actions under the 34138
rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United 34139
States environmental protection agency pursuant to the "Asbestos 34140
Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 34141
2970. "Asbestos hazard abatement air-monitoring technician" does 34142
not mean an industrial hygienist or industrial hygienist in 34143
training, certified by the American board of industrial hygiene. 34144

Sec. 3710.02. (A) ~~Subject to~~ In accordance with Chapter 119. 34145
of the Revised Code, the ~~public~~ director of health council shall, 34146
as ~~it~~ the director determines necessary, adopt rules to carry out 34147
this chapter. The rules shall include all of the following: 34148

(1) Criteria and procedures for the certification of asbestos 34149
hazard abatement specialists, asbestos hazard evaluation 34150
specialists, asbestos hazard abatement workers, asbestos hazard 34151
abatement project designers, and asbestos hazard abatement 34152
air-monitoring technicians by the director of health; 34153

(2) Criteria and procedures for the director to examine the 34154
records of licensees, certificate holders, and asbestos hazard 34155
abatement training schools; 34156

(3) Procedures and criteria in addition to those provided in 34157
this chapter for the approval of courses for asbestos hazard 34158
training; 34159

(4) Fees for licenses, certifications, and course approvals 34160

| | |
|--|-------|
| in excess of the levels set in section 3710.05 of the Revised Code | 34161 |
| and fees for the certification of asbestos hazard abatement | 34162 |
| air-monitoring technicians; | 34163 |
| (5) Levels of asbestos exposure or other circumstances | 34164 |
| constituting a public health emergency that authorize the director | 34165 |
| to issue an emergency order under division (B) of section 3710.13 | 34166 |
| of the Revised Code; | 34167 |
| (6) Employee training standards, work practices that reduce | 34168 |
| the risk of contamination and recontamination of the environment, | 34169 |
| record-keeping requirements, action levels, project clearance | 34170 |
| levels, and other requirements that asbestos hazard abatement | 34171 |
| contractors, asbestos hazard abatement specialists, asbestos | 34172 |
| hazard evaluation specialists, asbestos hazard abatement project | 34173 |
| designers, asbestos hazard abatement air-monitoring technicians, | 34174 |
| asbestos hazard abatement workers, and other persons involved with | 34175 |
| asbestos hazard abatement activities must follow for the | 34176 |
| prevention of hazard to the public; | 34177 |
| (7) Worker protection equipment and practices and other | 34178 |
| health and safety standards for employees and agents of public | 34179 |
| entities coming in contact with asbestos through asbestos hazard | 34180 |
| abatement activity; | 34181 |
| (8) Standards of acceptable conduct for licensees and | 34182 |
| certificate holders engaged in asbestos hazard abatement or | 34183 |
| evaluation activities and acts and omissions that constitute | 34184 |
| grounds for the suspension or revocation of a license or | 34185 |
| certificate, or the denial of an application or renewal of a | 34186 |
| license or certificate in addition to those otherwise provided in | 34187 |
| this chapter; | 34188 |
| (9) Training requirements for asbestos hazard abatement | 34189 |
| project designers and asbestos hazard abatement air-monitoring | 34190 |
| technicians; | 34191 |

(10)(a) Subject to the condition specified in division 34192
(A)(10)(b) of this section, a standard requiring that the amount 34193
of asbestos contained in the air in areas accessible to the public 34194
in buildings that are owned, operated, or leased by a public 34195
entity be not more than ten thousand asbestos fibers longer than 34196
five microns per cubic meter of air calculated as an eight-hour 34197
time-weighted average, which is measured during periods of normal 34198
building occupancy, and a requirement that measurement of airborne 34199
asbestos be made by either or both of the following methods, 34200
provided that results derived by use of the method described in 34201
division (A)(10)(a)(i) of this section supersede results derived 34202
by use of the method described in division (A)(10)(a)(ii) of this 34203
section if both methods are used and the methods yield conflicting 34204
results concerning the presence of fibers in the tested air that 34205
may not be asbestos: 34206

(i) Transmission electron microscopy in the manner described 34207
in the measurement protocol established by the United States 34208
environmental protection agency as set forth in 40 C.F.R. 763; 34209

(ii) Optical phase contrast microscopy in the manner 34210
described in the measurement protocol established by the United 34211
States occupational safety and health administration as set forth 34212
in 29 C.F.R. 1910. 34213

(b) The ~~public health council~~ director periodically shall 34214
review the standard required by division (A)(10)(a) of this 34215
section and determine whether and how it should be amended and how 34216
it shall be used in conjunction with visual and physical 34217
assessment of asbestos-containing materials located in buildings 34218
that are owned, operated, or leased by a public entity to 34219
determine appropriate and cost-effective response actions to such 34220
asbestos-containing materials and shall amend the standard if it 34221
determines that such action is necessary. 34222

(11) Other rules that the ~~public health council~~ director 34223

determines necessary for the implementation of this chapter and to 34224
protect the public health from the hazards associated with 34225
exposure to asbestos. 34226

(B) The director shall do all of the following: 34227

(1) Administer and enforce this chapter and the rules ~~of the~~ 34228
~~public health council~~ adopted pursuant thereto; 34229

(2) Develop comprehensive programs and policies for the 34230
control and prevention of nonoccupational exposure of the public 34231
to friable asbestos-containing materials; 34232

(3) Ensure that persons are trained and licensed or 34233
certified, where appropriate, in accordance with this chapter and 34234
the rules ~~of the public health council~~ adopted pursuant thereto; 34235

(4) Examine those records of licensed asbestos hazard 34236
abatement contractors, certified asbestos hazard abatement 34237
specialists, asbestos hazard evaluation specialists, asbestos 34238
hazard abatement project designers, asbestos hazard abatement 34239
air-monitoring technicians, and asbestos hazard training courses 34240
in accordance with rules adopted by the ~~public health council~~ 34241
director as ~~he~~ the director determines necessary to determine 34242
compliance with this chapter and the rules ~~of the public health~~ 34243
~~council~~ adopted pursuant thereto; 34244

(5) Prohibit and prevent improper asbestos hazard abatement 34245
procedures and require the modification or alteration of asbestos 34246
abatement procedures as they relate to this chapter and the rules 34247
~~of the public health council~~ adopted pursuant thereto; 34248

(6) Collect and disseminate health education information 34249
relating to safe management of asbestos hazards; 34250

(7) Accept and administer grants from the federal government 34251
and other sources, both public and private, for carrying out any 34252
of ~~his~~ the director's functions; 34253

(8) As ~~he~~ the director determines appropriate, conduct 34254
on-site inspections at any location where an asbestos hazard 34255
abatement activity is planned, in progress, or has been completed, 34256
at any location where a public health emergency may occur, is 34257
occurring, or has occurred, or to evaluate the performance or 34258
compliance of any person subject to this chapter; 34259

(9) Conduct an on-site audit of each asbestos hazard training 34260
provider approved pursuant to this chapter, at least once 34261
biennially, during an actual course conducted by the provider 34262
within the state; 34263

(10) Cooperate and assist in investigations, as such relate 34264
to this chapter, conducted by local law enforcement agencies, the 34265
Ohio environmental protection agency, the United States 34266
occupational safety and health administration, and other local, 34267
state, and federal agencies. 34268

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement 34269
contractor's license, a business entity or public entity shall 34270
meet the requirements of this section. 34271

(B) Each employee or agent of the business entity or public 34272
entity applying for a license who will come in contact with 34273
asbestos or will be responsible for an asbestos hazard abatement 34274
project shall: 34275

(1) Be familiar with all applicable state and federal 34276
standards for asbestos hazard abatement projects; 34277

(2) Have successfully completed the course of instruction on 34278
asbestos hazard abatement activities, for their particular 34279
certification, approved by the department of health pursuant to 34280
section 3710.10 of the Revised Code, have passed an examination 34281
approved by the department, and demonstrate to the department that 34282
~~he~~ the employee or agent is capable of complying with all 34283

applicable standards of this state, the United States 34284
environmental protection agency, and the United States 34285
occupational safety and health administration. 34286

(C) A business entity or public entity applying for an 34287
asbestos hazard abatement contractor's license shall, in addition 34288
to the other requirements of this section, provide at least one 34289
asbestos hazard abatement specialist, certified pursuant to this 34290
chapter and the rules ~~of the public health council~~ adopted 34291
~~pursuant thereto~~ under it, for each asbestos hazard abatement 34292
project, and demonstrate to the satisfaction of the department 34293
that ~~he~~ the applicant: 34294

(1) Has access to at least one asbestos disposal site 34295
approved by the Ohio environmental protection agency that is 34296
sufficient for the deposit of all asbestos waste that ~~he~~ the 34297
applicant will generate during the term of the license; 34298

(2) Is sufficiently qualified to safely remove asbestos, 34299
demonstrated by reliability as an asbestos hazard abatement 34300
contractor, possesses a work program that prevents the 34301
contamination or recontamination of the environment and protects 34302
the public health from the hazards of exposure to asbestos, 34303
possesses evidence of certification of each individual employee or 34304
agent who will be responsible for others who may come in contact 34305
with friable asbestos-containing materials, possesses evidence of 34306
training of workers required by section 3710.07 of the Revised 34307
Code, and has prior successful experience in asbestos hazard 34308
abatement projects or equivalent qualifications as determined ~~by~~ 34309
rule in accordance with rules adopted by the public director of 34310
health ~~council~~; 34311

(3) Possesses a worker protection program consistent with 34312
requirements established by the ~~public health council~~ director if 34313
the contractor is a public entity, and a worker protection program 34314
consistent with the requirements of the United States occupational 34315

safety and health administration if the contractor is a business 34316
entity; 34317

(4) Is registered as a business entity with the secretary of 34318
state. 34319

(D) No applicant for licensure as an asbestos hazard 34320
abatement contractor, in order to meet the requirements of this 34321
chapter, shall list an employee of another contractor. 34322

(E) The business entity or public entity shall meet any other 34323
standards that the ~~public health council~~ director, by rule, sets. 34324

(F) Nothing in this chapter or the rules adopted pursuant 34325
thereto relating to asbestos hazard abatement project designers 34326
shall be interpreted as authorizing or permitting an individual 34327
who is certified as an asbestos hazard abatement project designer 34328
to perform the services of a registered architect or professional 34329
engineer unless that person is registered under Chapter 4703. or 34330
4733. of the Revised Code to perform such services. 34331

Sec. 3710.05. (A) Except as otherwise provided in this 34332
chapter, no person shall engage in any asbestos hazard abatement 34333
activities in this state unless licensed or certified pursuant to 34334
this chapter. 34335

(B) To apply for licensure as an asbestos abatement 34336
contractor or certification as an asbestos hazard abatement 34337
specialist, an asbestos hazard evaluation specialist, an asbestos 34338
hazard abatement project designer, or an asbestos hazard abatement 34339
air-monitoring technician, a person shall do all of the following: 34340

(1) Submit a completed application to the department of 34341
health, on a form provided by the department; 34342

(2) Pay the requisite fee as provided in division (D) of this 34343
section; 34344

(3) Submit any other information the ~~public~~ director of 34345

health ~~council~~ by rule requires. 34346

(C) The application form for a business entity or public 34347
entity applying for an asbestos hazard abatement contractor's 34348
license shall include all of the following: 34349

(1) A description of the protective clothing and respirators 34350
that the public entity will use to comply with rules adopted by 34351
the ~~public health council~~ director and that the business entity 34352
will use to comply with requirements of the United States 34353
occupational safety and health administration; 34354

(2) A description of procedures the business entity or public 34355
entity will use for the selection, utilization, handling, removal, 34356
and disposal of clothing to prevent contamination or 34357
recontamination of the environment and to protect the public 34358
health from the hazards associated with exposure to asbestos; 34359

(3) The name and address of each asbestos disposal site that 34360
the business entity or public entity might use during the year; 34361

(4) A description of the site decontamination procedures that 34362
the business entity or public entity will use; 34363

(5) A description of the asbestos hazard abatement procedures 34364
that the business entity or public entity will use; 34365

(6) A description of the procedures that the business entity 34366
or public entity will use for handling waste containing asbestos; 34367

(7) A description of the air-monitoring procedures that the 34368
business entity or public entity will use to prevent contamination 34369
or recontamination of the environment and to protect the public 34370
health from the hazards of exposure to asbestos; 34371

(8) A description of the final clean-up procedures that the 34372
business entity or public entity will use; 34373

(9) A list of all partners, owners, and officers of the 34374
business entity along with their social security numbers; 34375

| | |
|---|---|
| (10) The federal tax identification number of the business entity or the public entity. | 34376 34377 |
| (D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are: | 34378 34379 34380 34381 34382 |
| (1) Seven hundred fifty dollars for asbestos hazard abatement contractors; | 34383 34384 |
| (2) Two hundred dollars for asbestos hazard abatement project designers; | 34385 34386 |
| (3) Fifty dollars for asbestos hazard abatement workers; | 34387 |
| (4) Two hundred dollars for asbestos hazard abatement specialists; | 34388 34389 |
| (5) Two hundred dollars for asbestos hazard evaluation specialists; and | 34390 34391 |
| (6) Nine hundred dollars for approval or renewal of asbestos hazard training providers. | 34392 34393 |
| (E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter. | 34394 34395 34396 34397 34398 34399 34400 34401 34402 |
| Sec. 3710.051. No person shall enter into an agreement to perform any aspect of an asbestos hazard abatement project unless the agreement is written and contains at least all of the | 34403 34404 34405 |

| | |
|--|--|
| following: | 34406 |
| (A) A requirement that all persons working on the project are licensed or certified by the department of health as required by this chapter; | 34407 34408 34409 |
| (B) A requirement that all project clearance levels and sampling be in accordance with the public health council <u>rules adopted by the director of health</u> ; | 34410 34411 34412 |
| (C) A requirement that all clearance air-monitoring be conducted by asbestos hazard abatement air-monitoring technicians or asbestos hazard evaluation specialists certified by the department. | 34413 34414 34415 34416 |
| Sec. 3710.06. (A) Within fifteen business days after receiving an application, the department of health shall acknowledge receipt of the application and notify the applicant of any deficiency in the application. Within sixty calendar days after receiving a completed application, including all additional information requested by the department, the department shall issue a license or certificate or deny the application. The department shall issue only one license or certificate that is in effect at one time to a business entity and its principal officers and a public entity and its principal officers. | 34417 34418 34419 34420 34421 34422 34423 34424 34425 34426 |
| (B)(1) The department shall deny an application if it determines that the applicant has not demonstrated the ability to comply fully with all applicable federal and state requirements and all requirements, procedures, and standards established by the public <u>director of health council</u> in this chapter. | 34427 34428 34429 34430 34431 |
| (2) The department shall deny any application for an asbestos hazard abatement contractor's license if the applicant or an officer or employee of the applicant has been convicted of a felony under any state or federal law designed to protect the | 34432 34433 34434 34435 |

environment. 34436

(3) The department shall send all denials of an application 34437
by certified mail to the applicant. If the department receives a 34438
timely request for a hearing from the applicant, as provided in 34439
division (D) of section 3710.13 of the Revised Code, the 34440
department shall hold a hearing in accordance with Chapter 119. of 34441
the Revised Code. 34442

(C) In an emergency that results from a sudden, unexpected 34443
event that is not a planned asbestos hazard abatement project, the 34444
department may waive the requirements for a license or 34445
certificate. For the purposes of this division, "emergency" 34446
includes operations necessitated by nonroutine failures of 34447
equipment or by actions of fire and emergency medical personnel 34448
pursuant to duties within their official capacities. Any person 34449
who performs an asbestos hazard abatement activity under emergency 34450
conditions shall notify the director within three days after 34451
performance thereof. 34452

(D) Each license or certificate issued under this chapter 34453
expires one year after the date of issue, but each licensee or 34454
certificate holder may apply to the department for the extension 34455
of ~~his~~ the holder's license or certificate under the standard 34456
renewal procedures of Chapter 4745. of the Revised Code. 34457

To qualify for renewal of a license or certificate issued 34458
under this chapter, each licensee or certificate holder shall send 34459
the appropriate renewal fee set forth in division (D) of section 34460
3710.05 of the Revised Code or as adopted by rule by the ~~public~~ 34461
~~health council~~ director pursuant to division (A)(4) of section 34462
3710.02 of the Revised Code. 34463

Certificate holders also shall successfully complete an 34464
annual renewal course approved by the department pursuant to 34465
section 3710.10 of the Revised Code. 34466

(E) The department may charge a fee in addition to those 34467
specified in division (D) of section 3710.05 of the Revised Code 34468
or in ~~rule of~~ rules adopted by the public health council director 34469
pursuant to division (A)(4) of section 3710.02 of the Revised Code 34470
if the licensee or certificate holder applies for renewal after 34471
the expiration thereof or requests a reissuance of any license or 34472
certificate, provided that no such fee shall exceed the original 34473
fees by more than fifty per cent. 34474

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 34475
abatement project, an asbestos hazard abatement contractor shall 34476
do all of the following: 34477

(1) Prepare a written respiratory protection program as 34478
defined by the ~~public~~ director of health council pursuant to rule, 34479
and make the program available to the department of health, and 34480
workers at the job site if the contractor is a public entity or 34481
prepare a written respiratory protection program, consistent with 34482
29 C.F.R. 1910.134 and make the program available to the 34483
department, and workers at the job site if the contractor is a 34484
business entity; 34485

(2) Ensure that each worker who will be involved in any 34486
asbestos hazard abatement project has been examined within the 34487
preceding year and has been declared by a physician to be 34488
physically capable of working while wearing a respirator; 34489

(3) Ensure that each of the contractor's employees or agents 34490
who will come in contact with asbestos-containing materials or 34491
will be responsible for an asbestos hazard abatement project 34492
receives the appropriate certification or licensure required by 34493
this chapter and the following training: 34494

(a) An initial course approved by the department pursuant to 34495
section 3710.10 of the Revised Code, completed before engaging in 34496
any asbestos hazard abatement project; and 34497

(b) An annual review course approved by the department 34498
pursuant to section 3710.10 of the Revised Code. 34499

(B) After obtaining or renewing a license, an asbestos hazard 34500
abatement contractor shall notify the department, on a form 34501
approved by the director of health, at least ten days before 34502
beginning each asbestos hazard abatement project conducted during 34503
the term of the contractor's license. 34504

(C) In addition to any other fee imposed under this chapter, 34505
an asbestos hazard abatement contractor shall pay, at the time of 34506
providing notice under division (B) of this section, the 34507
department a fee of sixty-five dollars for each asbestos hazard 34508
abatement project conducted. 34509

Sec. 3710.08. (A) An asbestos hazard abatement contractor 34510
engaging in any asbestos hazard abatement project shall, during 34511
the course of the project: 34512

(1) Conduct each project in a manner that is in compliance 34513
with the requirements the director of environmental protection 34514
adopts pursuant to section 3704.03 of the Revised Code and the 34515
asbestos requirements of the United States occupational safety and 34516
health administration set forth in 29 C.F.R. 1926.58; 34517

(2) Comply with all applicable rules adopted by the ~~public~~ 34518
director of health council pursuant to section 3710.02 of the 34519
Revised Code. 34520

(B) An asbestos hazard abatement contractor that is a public 34521
entity shall: 34522

(1) Provide workers with protective clothing and equipment 34523
and ensure that the workers involved in any asbestos hazard 34524
abatement project use the items properly. Protective clothing and 34525
equipment shall include: 34526

(a) Respirators approved by the national institute of 34527

occupational safety and health. These respirators shall be fit 34528
tested in accordance with requirements of the United States 34529
occupational safety and health administration set forth in 29 34530
C.F.R. 1926.58(h). At the request of an employee, the asbestos 34531
hazard abatement contractor shall provide the employee with a 34532
powered air purifying respirator, in which case, the testing 34533
requirements of division (B)(1)(a) of this section do not apply. 34534

(b) Items required by the ~~public director of health council~~ 34535
by rule as provided in division (A)(7) of section 3710.02 of the 34536
Revised Code. 34537

(2) Comply with all applicable standards of conduct and 34538
requirements adopted by ~~the public health council and the director~~ 34539
of health pursuant to section 3710.02 of the Revised Code. 34540

(C) An asbestos hazard abatement specialist engaging in any 34541
asbestos hazard abatement project shall, during the course of the 34542
project: 34543

(1) Conduct each project in a manner that will meet 34544
decontamination procedures, project containment procedures, and 34545
asbestos fiber dispersal methods as provided in division (A)(6) of 34546
section 3710.02 of the Revised Code; 34547

(2) Ensure that workers utilize, handle, remove, and dispose 34548
of the disposable clothing provided by abatement contractors in a 34549
manner that will prevent contamination or recontamination of the 34550
environment and protect the public health from the hazards of 34551
exposure to asbestos; 34552

(3) Ensure that workers utilize protective clothing and 34553
equipment and comply with the applicable health and safety 34554
standards set forth in division (A) of section 3710.08 of the 34555
Revised Code; 34556

(4) Ensure that there is no smoking, eating, or drinking in 34557
the work area; 34558

(5) Comply with all applicable standards of conduct and requirements adopted by the ~~public health council~~ and director of health pursuant to section 3710.02 of the Revised Code.

(D) An asbestos hazard evaluation specialist engaged in the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or other activities associated with an abatement project or the preparation of management plans, shall comply with the applicable standards of conduct and requirements adopted by the ~~public health council~~ and the director of health pursuant to section 3710.02 of the Revised Code.

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the ~~public council~~ director of health pursuant to section 3710.02 of the Revised Code.

(F) The department may, on a case-by-case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.

Sec. 3710.09. (A) As a means of protecting the public, each asbestos hazard abatement contractor licensed under this chapter shall maintain records of all asbestos hazard abatement projects which ~~he~~ the contractor performs and make these records available to the department of health upon request. The licensee shall maintain the records for at least thirty years.

(B) The records required by this section shall include all of the following:

| | |
|--|---|
| (1) The name, social security number, and address of the person who supervised the asbestos hazard abatement project; | 34589 34590 |
| (2) The names and social security numbers of all workers at the job site; | 34591 34592 |
| (3) The location and description of the asbestos hazard abatement project and the amount of asbestos-containing material that was removed; | 34593 34594 34595 |
| (4) The starting and completion dates of each asbestos hazard abatement project; | 34596 34597 |
| (5) A summary of the procedures that were used to comply with all applicable federal, state, and local standards; | 34598 34599 |
| (6) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; | 34600 34601 |
| (7) Any other information that the public <u>director of health council</u> , by rule, requires. | 34602 34603 |
| Sec. 3710.10. (A) No person other than the department of health shall conduct or offer to conduct any initial or review training course or examination required by this chapter unless that person is approved to sponsor the courses and examinations under this section. In conducting any such course or examination, the department and the approved person shall administer the courses and examinations according to the United States environmental protection agency "Model Accreditation Plan," 40 C.F.R. 763, Subpart E, Appendix C, and the rules of the public <u>director of health council</u> adopted pursuant to division (A)(3) of section 3710.02 of the Revised Code. A person may apply for approval or renewal of a course on the health and safety aspects of asbestos hazard abatement activities which meets the requirements of division (A)(3) of section 3710.07 of the Revised Code by submitting a written application on forms provided by the | 34604 34605 34606 34607 34608 34609 34610 34611 34612 34613 34614 34615 34616 34617 34618 |

department. 34619

(B) In order to obtain or renew department approval, a person 34620
sponsoring a course shall substantially satisfy all of the 34621
following criteria: 34622

(1) Provide courses of instruction and examinations that meet 34623
the requirements of division (A) of this section; 34624

(2) Ensure that instruction is given or supervised by 34625
personnel with sufficient education and experience as determined, 34626
~~by rule,~~ in rules adopted by the ~~public health council~~ director; 34627

(3) Maintain lists of students trained and the dates on which 34628
training occurred for at least twenty years, and make this 34629
information available to the department upon request. 34630

(C) In order to obtain or renew department approval, a person 34631
sponsoring an initial course or a review course annually shall 34632
apply to the department for approval. In applying, the person 34633
shall submit the fee set forth in division (D) of section 3710.05 34634
of the Revised Code along with any increase in fee adopted 34635
pursuant to division (A)(4) of section 3710.02 of the Revised 34636
Code. 34637

(D)(1) The department shall act or acknowledge receipt of an 34638
application within ten working days after receiving the 34639
application. 34640

(2) The department shall act on the application within ninety 34641
days after it is complete. 34642

(3) The department shall grant contingent approval of an 34643
application if the department determines the course substantially 34644
satisfies or will substantially satisfy the criteria in this 34645
chapter and the rules adopted by the ~~public health council~~ 34646
director. 34647

(4) The department may deny or revoke approval of a course if 34648

the department determines the course does not or will not 34649
substantially satisfy the criteria in this chapter or the rules 34650
adopted by the ~~public health council~~ director. 34651

(5) The department shall grant final approval of a course 34652
only after an on-site audit by the department which reveals that 34653
the course substantially satisfies the criteria in this chapter 34654
and the rules adopted by the ~~public health council~~ director. 34655
Course approvals expire one year from the date of final approval 34656
under division (D)(5) of this section. 34657

(E) Each course approval issued under this section expires 34658
one year after the date of issue, but a person who received 34659
approval may apply to the department for renewal under the 34660
standard renewal procedures of Chapter 4745. of the Revised Code. 34661
The fee prescribed in section 3710.05 of the Revised Code must 34662
accompany the application. 34663

Sec. 3710.12. Subject to the hearing provisions of this 34664
chapter, the department of health may deny, suspend, or revoke any 34665
license or certificate, or renewal thereof, if the licensee or 34666
certificate holder: 34667

(A) Fraudulently or deceptively obtains or attempts to obtain 34668
a license or certificate; 34669

(B) Fails at any time to meet the qualifications for a 34670
license or certificate; 34671

(C) Is violating or threatening to violate any provisions of 34672
any of the following: 34673

(1) This chapter or the rules of the ~~public health council~~ or 34674
director of health adopted pursuant thereto; 34675

(2) The "National Emission Standard for Hazardous Air 34676
Pollutants" regulations of the United States environmental 34677
protection agency as the regulations pertain to asbestos; ~~or~~ 34678

(3) The regulations of the United States occupational safety and health administration as the regulations pertain to asbestos.

Sec. 3710.13. (A) Except as otherwise provided in Chapter 119. of the Revised Code or this section, before the department of health takes any action under section 3710.12 of the Revised Code, it shall give the licensee or certificate holder against whom action is contemplated an opportunity for a hearing.

Except as otherwise provided in this section, the department shall give notice and hold the hearing in accordance with Chapter 119. of the Revised Code.

(B) The department, without notice or hearing and in accordance with ~~the rules of~~ adopted by the public director of health council, may issue an order requiring any action necessary to meet a public health emergency involving asbestos. Any person to whom an order is directed shall immediately comply with the order. Upon application to the director of health, the person shall be afforded a hearing as soon as possible, but no more than twenty days after receipt of the application by the director.

(C) If the director determines, pursuant to division (B) of this section, that a public health emergency exists, ~~he~~ the director may order, without a hearing, the denial, suspension, or revocation of any license or certificate issued under this chapter of the parties involved, provided that an opportunity for a hearing is provided to the affected party as soon as reasonably possible.

(D) All proceedings under this chapter are subject to Chapter 119. of the Revised Code, except that:

(1) Upon the request of a licensee or certificate holder, the location of an adjudicatory hearing is the county seat of the county in which the licensee or certificate holder conducts

business. 34709

(2) The director shall notify, by certified mail or personal 34710
delivery, a licensee or certificate holder that ~~he~~ the licensee or 34711
certificate holder is entitled to a hearing if ~~he~~ the licensee or 34712
certificate holder requests it, in writing, within ten days of the 34713
time that ~~he~~ the licensee or certificate holder receives the 34714
notice. If the licensee or certificate holder requests such a 34715
hearing, the director shall set the hearing date no later than ten 34716
days after the director receives the request. 34717

(3) The director shall not apply for or receive a 34718
postponement or continuation of an adjudication hearing. If a 34719
licensee or certificate holder requests a postponement or 34720
continuation of an adjudication hearing, the director only shall 34721
grant the request if the licensee or certificate holder 34722
demonstrates extreme hardship in complying with the hearing date. 34723
If the director grants a postponement or continuation on the 34724
grounds of extreme hardship, the director shall include in the 34725
record of the case, the nature and cause of the extreme hardship. 34726

(4) In lieu of an adjudicatory hearing required by this 34727
chapter, a licensee or certificate holder, by no later than the 34728
date set for a hearing pursuant to division (A)(3) of this 34729
section, may by written request to the director, request that the 34730
matter be resolved by the licensee or certificate holder 34731
submitting documents, papers, and other written evidence to the 34732
director to support ~~his~~ the licensee's or certificate holder's 34733
claim. 34734

(5) If the director appoints a referee or an examiner to 34735
conduct a hearing, all of the following apply: 34736

(a) The examiner or referee shall serve, by certified mail 34737
and within three business days of the conclusion of the hearing, a 34738
copy of the written adjudication report and ~~his~~ the referee's or 34739

examiner's recommendations, on the director and the affected 34740
licensee or certificate holder or the licensee's or certificate 34741
holder's attorney or other representative of record. 34742

(b) The licensee or certificate holder, within three business 34743
days of receipt of the report under division (D)(5)(a) of this 34744
section, may file with the director written objections to the 34745
report and recommendations. 34746

(c) The director shall consider any objections received under 34747
division (D)(5)(b) of this section prior to approving, modifying, 34748
or disapproving the report and recommendations. Within six 34749
business days of receiving the report under division (D)(5)(a) of 34750
this section, the director shall serve ~~his~~ the director's order, 34751
by certified mail, on the affected licensee or certificate holder 34752
or the licensee's or certificate holder's attorney or other 34753
representative of record. 34754

(6) If the director conducts an adjudicatory hearing under 34755
this chapter, ~~he~~ the director shall serve ~~his~~ the director's 34756
decision, by certified mail and within three business days of the 34757
conclusion of the hearing, on the affected licensee or certificate 34758
holder or the licensee's or certificate holder's attorney or other 34759
representative of record. 34760

(7) If no hearing is held, the director shall issue an order, 34761
by certified mail and within three business days of the last date 34762
possible for a hearing, based upon the record available to ~~him~~ the 34763
director, to the affected licensee or certificate holder or the 34764
licensee's or certificate holder's attorney or other 34765
representative of record. 34766

(8) A licensee or certificate holder shall file a notice of 34767
appeal to an adverse adjudication decision within fifteen days 34768
after receipt of the director's order. 34769

Sec. 3710.17. (A) Where any person is certified or licensed 34770
by the department of health to engage in asbestos hazard abatement 34771
or evaluation activity pursuant to this chapter, the liability of 34772
that person when performing such activity in accordance with 34773
procedures established pursuant to state or federal law for an 34774
injury to any individual or property caused or related to this 34775
activity shall be limited to acts or omissions of the person 34776
during the course of performing the activity which can be shown, 34777
based on a preponderance of the evidence, to have been negligent. 34778
For the purposes of this section, the demonstration that acts or 34779
omissions of a person performing asbestos hazard abatement or 34780
evaluation activities were in accordance with generally accepted 34781
practice and with procedures established by state or federal law 34782
at the time the abatement or evaluation activity was performed 34783
creates a rebuttable presumption that the acts or omissions were 34784
not negligent. 34785

(B) Where any person contracts with a certified asbestos 34786
hazard abatement specialist, asbestos hazard evaluation 34787
specialist, or other category of asbestos hazard specialist 34788
established by the public director of health council, or a 34789
licensed asbestos hazard abatement contractor, the liability of 34790
that person for asbestos-related injuries caused by his the 34791
person's contractee in the performance of asbestos hazard 34792
abatement or evaluation activities shall be limited to those 34793
asbestos-related injuries arising from acts which the person knew 34794
or could reasonably have been expected to know were not in 34795
accordance with generally accepted practice or with procedures 34796
established by state or federal law at the time the abatement 34797
activity took place. 34798

(C) Notwithstanding any other provisions of the Revised Code 34799
or rules of a court to the contrary, this section governs all 34800
claims for asbestos-related injuries arising from asbestos hazard 34801

abatement or evaluation activities. 34802

Sec. 3711.04. Each person seeking to operate a maternity 34803
unit, newborn care nursery, or maternity home shall apply to the 34804
director of health for a license under this chapter. The 34805
application shall be submitted in the form and manner prescribed 34806
by the ~~public health council~~ director in rules adopted under 34807
section 3711.12 of the Revised Code. 34808

A single application and license is required if an applicant 34809
will operate both a maternity unit and newborn care nursery. 34810

Sec. 3711.06. The director of health shall inspect each 34811
maternity unit, newborn care nursery, or maternity home for which 34812
a person has applied for an initial license under section 3711.04 34813
of the Revised Code prior to issuing the license. Inspections 34814
shall be conducted in accordance with inspection criteria, 34815
procedures, and guidelines adopted by the ~~public health council~~ 34816
director under section 3711.12 of the Revised Code. 34817

Sec. 3711.08. A license issued under this chapter is valid 34818
for three years, unless earlier revoked or suspended under section 34819
3711.14 of the Revised Code. The license may be renewed in the 34820
manner prescribed by the ~~public~~ director of health ~~council~~ in 34821
rules adopted under section 3711.12 of the Revised Code. The 34822
license renewal fee specified in the rules shall be paid not later 34823
than sixty days after the director of health mails an invoice for 34824
the fee to the license holder. A penalty of ten per cent of the 34825
amount of the renewal fee shall be assessed for each month the fee 34826
is overdue. 34827

Sec. 3711.12. (A) The ~~public~~ director of health ~~council~~ shall 34828
adopt rules in accordance with Chapter 119. of the Revised Code as 34829
the ~~council~~ director considers necessary to implement the 34830

| | |
|--|-------|
| requirements of this chapter for licensure and operation of | 34831 |
| maternity units, newborn care nurseries, and maternity homes. The | 34832 |
| rules shall include provisions for the following: | 34833 |
| (1) Licensure application forms and procedures; | 34834 |
| (2) Renewal procedures, including procedures that address the | 34835 |
| right of the director of health, at the director's sole | 34836 |
| discretion, to conduct an inspection prior to renewal of a | 34837 |
| license; | 34838 |
| (3) Initial license fees and license renewal fees; | 34839 |
| (4) Fees for inspections conducted by the director under | 34840 |
| section 3711.10 of the Revised Code; | 34841 |
| (5) Safety standards, quality-of-care standards, and | 34842 |
| quality-of-care data reporting requirements; | 34843 |
| (6) Reporting and auditing requirements; | 34844 |
| (7) Inspection criteria, procedures, and guidelines; | 34845 |
| (8) Any other rules necessary to implement this chapter. | 34846 |
| (B) When adopting rules under this section, the public health | 34847 |
| council <u>director</u> shall give consideration to recommendations | 34848 |
| regarding obstetric and newborn care issued by the American | 34849 |
| college of obstetricians and gynecologists; American academy of | 34850 |
| pediatrics; American academy of family physicians; American | 34851 |
| society of anesthesiologists; American college of nurse_midwives; | 34852 |
| United States centers for disease control and prevention; | 34853 |
| association of women's health, obstetric and neonatal nurses; and | 34854 |
| association of perioperative registered nurses, or their successor | 34855 |
| organizations. The council <u>director</u> shall also consider the | 34856 |
| recommendations of the maternity and newborn advisory council | 34857 |
| established in section 3711.20 of the Revised Code. | 34858 |
| | |
| Sec. 3711.21. The maternity and newborn advisory council | 34859 |

shall do all of the following: 34860

(A) Advise and consult with the director of health in the 34861
development of rules to be ~~presented to the public health council~~ 34862
~~for proposed adoption~~ adopted under this chapter; 34863

(B) Advise and consult with the director concerning the 34864
implementation and enforcement of this chapter; 34865

(C) Advise and consult with the director in the development 34866
of inspection criteria, procedures, and guidelines to be used in 34867
enforcement of this chapter; 34868

(D) Advise and consult with the director regarding 34869
recommendations ~~to be presented to the public health council~~ 34870
regarding improving maternity and newborn care in this state; 34871

(E) Prepare and submit to the director an annual report 34872
evaluating the department's enforcement of this chapter. 34873

Sec. 3712.03. (A) In accordance with Chapter 119. of the 34874
Revised Code, the ~~public director of health council~~ shall adopt, 34875
and may amend and rescind, rules: 34876

(1) Providing for the licensing of persons or public agencies 34877
providing hospice care programs within this state by the 34878
department of health and for the suspension and revocation of 34879
licenses; 34880

(2) Establishing a license fee and license renewal fee, 34881
neither of which shall, except as provided in division (B) of this 34882
section, exceed six hundred dollars. The fees shall cover the 34883
three-year period during which an existing license is valid as 34884
provided in division (B) of section 3712.04 of the Revised Code. 34885

(3) Establishing an inspection fee not to exceed, except as 34886
provided in division (B) of this section, one thousand seven 34887
hundred fifty dollars; 34888

| | |
|--|-------|
| (4) Establishing requirements for hospice care program | 34889 |
| facilities and services; | 34890 |
| (5) Providing for a waiver of the requirement for the | 34891 |
| provision of physical, occupational, or speech or language therapy | 34892 |
| contained in division (A)(2) of section 3712.01 of the Revised | 34893 |
| Code when the requirement would create a hardship because such | 34894 |
| therapy is not readily available in the geographic area served by | 34895 |
| the provider of a hospice care program; | 34896 |
| (6) Providing for the granting of licenses to provide hospice | 34897 |
| care programs to persons and public agencies that are accredited | 34898 |
| or certified to provide such programs by an entity whose standards | 34899 |
| for accreditation or certification equal or exceed those provided | 34900 |
| for licensure under this chapter and rules adopted under it; | 34901 |
| (7) Establishing interpretive guidelines for each rule. | 34902 |
| (B) Subject to the approval of the controlling board, the | 34903 |
| public health council <u>director</u> may establish fees in excess of the | 34904 |
| maximum amounts specified in this section, provided that the fees | 34905 |
| do not exceed those amounts by greater than fifty per cent. | 34906 |
| (C) The department of health shall: | 34907 |
| (1) Grant, suspend, and revoke licenses for hospice care | 34908 |
| programs in accordance with this chapter and rules adopted under | 34909 |
| it; | 34910 |
| (2) Make such inspections as are necessary to determine | 34911 |
| whether hospice care program facilities and services meet the | 34912 |
| requirements of this chapter and rules adopted under it; and | 34913 |
| (3) Implement and enforce this chapter and rules adopted | 34914 |
| under it. | 34915 |
| Sec. 3712.04. (A) Every person or public agency that proposes | 34916 |
| to provide a hospice care program shall apply to the department of | 34917 |
| health for a license. Application shall be made on forms | 34918 |

prescribed and provided by the department, shall include such 34919
information as the department requires, and shall be accompanied 34920
by the license fee established by rules of the ~~public~~ director of 34921
health ~~council~~ adopted under division (A) of section 3712.03 of 34922
the Revised Code. 34923

The department shall grant a license to the applicant if the 34924
applicant is in compliance with this chapter and rules adopted 34925
under it. 34926

(B) A license granted under this section shall be valid for 34927
three years. Application for renewal of a license shall be made at 34928
least ninety days before the expiration of the license in the same 34929
manner as for an initial license. The department shall renew the 34930
license if the applicant meets the requirements of this chapter 34931
and rules adopted under it. 34932

(C) Subject to Chapter 119. of the Revised Code, the 34933
department may suspend or revoke a license if the licensee made 34934
any material misrepresentation in the application for the license 34935
or no longer meets the requirements of this chapter or rules 34936
adopted under it. 34937

(D) A hospital, nursing home, home for the aged, county 34938
medical care facility, or other health facility or agency that 34939
provides a hospice care program shall be licensed to provide a 34940
hospice care program under this section. 34941

(E) A nursing home licensed under Chapter 3721. of the 34942
Revised Code that does not hold itself out to be a hospice, does 34943
not hold itself out as providing a hospice care program, does not 34944
use the term hospice to describe or refer to its activities or 34945
facilities, and that does not provide all of the services 34946
enumerated in division (A) of section 3712.01 of the Revised Code 34947
is not subject to the licensing provisions of this chapter. 34948

Sec. 3712.09. (A) As used in this section: 34949

(1) "Applicant" means a person who is under final 34950
consideration for employment with a hospice care program in a 34951
full-time, part-time, or temporary position that involves 34952
providing direct care to an older adult. "Applicant" does not 34953
include a person who provides direct care as a volunteer without 34954
receiving or expecting to receive any form of remuneration other 34955
than reimbursement for actual expenses. 34956

(2) "Criminal records check" ~~and "older adult"~~ have has the 34957
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 34958

(3) "Older adult" means a person age sixty or older. 34959

(B)(1) Except as provided in division (I) of this section, 34960
the chief administrator of a hospice care program shall request 34961
that the superintendent of the bureau of criminal identification 34962
and investigation conduct a criminal records check ~~with respect to~~ 34963
of each applicant. If an applicant for whom a criminal records 34964
check request is required under this division does not present 34965
proof of having been a resident of this state for the five-year 34966
period immediately prior to the date the criminal records check is 34967
requested or provide evidence that within that five-year period 34968
the superintendent has requested information about the applicant 34969
from the federal bureau of investigation in a criminal records 34970
check, the chief administrator shall request that the 34971
superintendent obtain information from the federal bureau of 34972
investigation as part of the criminal records check of the 34973
applicant. Even if an applicant for whom a criminal records check 34974
request is required under this division presents proof of having 34975
been a resident of this state for the five-year period, the chief 34976
administrator may request that the superintendent include 34977
information from the federal bureau of investigation in the 34978
criminal records check. 34979

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public~~ director of health council in accordance with division (F) of this section and subject to division (C)(2) of this section, no hospice care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, 35011
any other state, or the United States that is substantially 35012
equivalent to any of the offenses listed in division (C)(1)(a) of 35013
this section. 35014

(2)(a) A hospice care program may employ conditionally an 35015
applicant for whom a criminal records check request is required 35016
under division (B) of this section prior to obtaining the results 35017
of a criminal records check regarding the individual, provided 35018
that the program shall request a criminal records check regarding 35019
the individual in accordance with division (B)(1) of this section 35020
not later than five business days after the individual begins 35021
conditional employment. In the circumstances described in division 35022
(I)(2) of this section, a hospice care program may employ 35023
conditionally an applicant who has been referred to the hospice 35024
care program by an employment service that supplies full-time, 35025
part-time, or temporary staff for positions involving the direct 35026
care of older adults and for whom, pursuant to that division, a 35027
criminal records check is not required under division (B) of this 35028
section. 35029

(b) A hospice care program that employs an individual 35030
conditionally under authority of division (C)(2)(a) of this 35031
section shall terminate the individual's employment if the results 35032
of the criminal records check requested under division (B) of this 35033
section or described in division (I)(2) of this section, other 35034
than the results of any request for information from the federal 35035
bureau of investigation, are not obtained within the period ending 35036
thirty days after the date the request is made. Regardless of when 35037
the results of the criminal records check are obtained, if the 35038
results indicate that the individual has been convicted of or 35039
pleaded guilty to any of the offenses listed or described in 35040
division (C)(1) of this section, the program shall terminate the 35041
individual's employment unless the program chooses to employ the 35042

individual pursuant to division (F) of this section. Termination 35043
of employment under this division shall be considered just cause 35044
for discharge for purposes of division (D)(2) of section 4141.29 35045
of the Revised Code if the individual makes any attempt to deceive 35046
the program about the individual's criminal record. 35047

(D)(1) Each hospice care program shall pay to the bureau of 35048
criminal identification and investigation the fee prescribed 35049
pursuant to division (C)(3) of section 109.572 of the Revised Code 35050
for each criminal records check conducted pursuant to a request 35051
made under division (B) of this section. 35052

(2) A hospice care program may charge an applicant a fee not 35053
exceeding the amount the program pays under division (D)(1) of 35054
this section. A program may collect a fee only if both of the 35055
following apply: 35056

(a) The program notifies the person at the time of initial 35057
application for employment of the amount of the fee and that, 35058
unless the fee is paid, the person will not be considered for 35059
employment; 35060

(b) The medical assistance program established under Chapter 35061
5111. of the Revised Code does not reimburse the program the fee 35062
it pays under division (D)(1) of this section. 35063

(E) The report of a criminal records check conducted pursuant 35064
to a request made under this section is not a public record for 35065
the purposes of section 149.43 of the Revised Code and shall not 35066
be made available to any person other than the following: 35067

(1) The individual who is the subject of the criminal records 35068
check or the individual's representative; 35069

(2) The chief administrator of the program requesting the 35070
criminal records check or the administrator's representative; 35071

(3) The administrator of any other facility, agency, or 35072

program that provides direct care to older adults that is owned or 35073
operated by the same entity that owns or operates the hospice care 35074
program; 35075

(4) A court, hearing officer, or other necessary individual 35076
involved in a case dealing with a denial of employment of the 35077
applicant or dealing with employment or unemployment benefits of 35078
the applicant; 35079

(5) Any person to whom the report is provided pursuant to, 35080
and in accordance with, division (I)(1) or (2) of this section. 35081

(F) The ~~public director of health council~~ shall adopt rules 35082
in accordance with Chapter 119. of the Revised Code to implement 35083
this section. The rules shall specify circumstances under which a 35084
hospice care program may employ a person who has been convicted of 35085
or pleaded guilty to an offense listed or described in division 35086
(C)(1) of this section but meets personal character standards set 35087
by the ~~council~~ director. 35088

(G) The chief administrator of a hospice care program shall 35089
inform each individual, at the time of initial application for a 35090
position that involves providing direct care to an older adult, 35091
that the individual is required to provide a set of fingerprint 35092
impressions and that a criminal records check is required to be 35093
conducted if the individual comes under final consideration for 35094
employment. 35095

(H) In a tort or other civil action for damages that is 35096
brought as the result of an injury, death, or loss to person or 35097
property caused by an individual who a hospice care program 35098
employs in a position that involves providing direct care to older 35099
adults, all of the following shall apply: 35100

(1) If the program employed the individual in good faith and 35101
reasonable reliance on the report of a criminal records check 35102
requested under this section, the program shall not be found 35103

negligent solely because of its reliance on the report, even if 35104
the information in the report is determined later to have been 35105
incomplete or inaccurate; 35106

(2) If the program employed the individual in good faith on a 35107
conditional basis pursuant to division (C)(2) of this section, the 35108
program shall not be found negligent solely because it employed 35109
the individual prior to receiving the report of a criminal records 35110
check requested under this section; 35111

(3) If the program in good faith employed the individual 35112
according to the personal character standards established in rules 35113
adopted under division (F) of this section, the program shall not 35114
be found negligent solely because the individual prior to being 35115
employed had been convicted of or pleaded guilty to an offense 35116
listed or described in division (C)(1) of this section. 35117

(I)(1) The chief administrator of a hospice care program is 35118
not required to request that the superintendent of the bureau of 35119
criminal identification and investigation conduct a criminal 35120
records check of an applicant if the applicant has been referred 35121
to the program by an employment service that supplies full-time, 35122
part-time, or temporary staff for positions involving the direct 35123
care of older adults and both of the following apply: 35124

(a) The chief administrator receives from the employment 35125
service or the applicant a report of the results of a criminal 35126
records check regarding the applicant that has been conducted by 35127
the superintendent within the one-year period immediately 35128
preceding the applicant's referral; 35129

(b) The report of the criminal records check demonstrates 35130
that the person has not been convicted of or pleaded guilty to an 35131
offense listed or described in division (C)(1) of this section, or 35132
the report demonstrates that the person has been convicted of or 35133
pleaded guilty to one or more of those offenses, but the hospice 35134

care program chooses to employ the individual pursuant to division 35135
(F) of this section. 35136

(2) The chief administrator of a hospice care program is not 35137
required to request that the superintendent of the bureau of 35138
criminal identification and investigation conduct a criminal 35139
records check of an applicant and may employ the applicant 35140
conditionally as described in this division, if the applicant has 35141
been referred to the program by an employment service that 35142
supplies full-time, part-time, or temporary staff for positions 35143
involving the direct care of older adults and if the chief 35144
administrator receives from the employment service or the 35145
applicant a letter from the employment service that is on the 35146
letterhead of the employment service, dated, and signed by a 35147
supervisor or another designated official of the employment 35148
service and that states that the employment service has requested 35149
the superintendent to conduct a criminal records check regarding 35150
the applicant, that the requested criminal records check will 35151
include a determination of whether the applicant has been 35152
convicted of or pleaded guilty to any offense listed or described 35153
in division (C)(1) of this section, that, as of the date set forth 35154
on the letter, the employment service had not received the results 35155
of the criminal records check, and that, when the employment 35156
service receives the results of the criminal records check, it 35157
promptly will send a copy of the results to the hospice care 35158
program. If a hospice care program employs an applicant 35159
conditionally in accordance with this division, the employment 35160
service, upon its receipt of the results of the criminal records 35161
check, promptly shall send a copy of the results to the hospice 35162
care program, and division (C)(2)(b) of this section applies 35163
regarding the conditional employment. 35164

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the 35165
Revised Code: 35166

(A) "Person" has the same meaning as used in division (C) of 35167
section 1.59 of the Revised Code and also means any limited 35168
company, limited liability partnership, joint stock company, or 35169
other association. 35170

(B) "Bedding" means any upholstered furniture, any mattress, 35171
upholstered spring, comforter, bolster, pad, cushion, pillow, 35172
mattress protector, quilt, and any other upholstered article, to 35173
be used for sleeping, resting, or reclining purposes, and any 35174
glider, hammock, or other substantially similar article that is 35175
wholly or partly upholstered. 35176

(C) "Secondhand" means any article, or material, or portion 35177
thereof of which prior use has been made in any manner whatsoever. 35178

(D) "Remade, repaired, or renovated articles not for sale" 35179
means any article that is remade, repaired, or renovated for and 35180
is returned to the owner for the owner's own use. 35181

(E) "Sale," "sell," or "sold" shall, in the corresponding 35182
tense, mean sell, offer to sell, or deliver or consign in sale, or 35183
possess with intent to sell, or deliver in sale. 35184

(F) "Upholstered furniture" means any article of furniture 35185
wholly or partly stuffed or filled with material and that is used 35186
or intended for use for sitting, resting, or reclining purposes. 35187

(G) "Stuffed toy" means any article intended for use as a 35188
plaything or for an educational or recreational purpose that is 35189
wholly or partially stuffed with material. 35190

(H) "Tag" or "label" means any material prescribed by the 35191
superintendent of ~~labor~~ industrial compliance to be attached to an 35192
article that contains information required under this chapter. 35193

Sec. 3713.02. (A) Except as provided in section 3713.05 of 35194
the Revised Code, no person shall import, manufacture, renovate, 35195
wholesale, or reupholster stuffed toys or articles of bedding in 35196

this state without first registering to do so with the 35197
superintendent of ~~labor~~ industrial compliance in accordance with 35198
section 3713.05 of the Revised Code. 35199

(B) No person shall manufacture, offer for sale, sell, 35200
deliver, or possess for the purpose of manufacturing, selling, or 35201
delivering, an article of bedding or a stuffed toy that is not 35202
labeled in accordance with section 3713.08 of the Revised Code. 35203

(C) No person shall manufacture, offer for sale, sell, 35204
deliver, or possess for the purpose of manufacturing, selling, or 35205
delivering, an article of bedding or a stuffed toy that is falsely 35206
labeled. 35207

(D) No person shall sell or offer for sale any secondhand 35208
article of bedding or any secondhand stuffed toy that has not been 35209
sanitized in accordance with section 3713.08 of the Revised Code. 35210

(E) The possession of any article of bedding or stuffed toy 35211
in the course of business by a person required to obtain 35212
registration under this chapter, or by that person's agent or 35213
servant shall be prima-facie evidence of the person's intent to 35214
sell the article of bedding or stuffed toy. 35215

Sec. 3713.03. The superintendent of ~~labor~~ industrial 35216
compliance in the department of commerce shall administer and 35217
enforce this chapter. 35218

Sec. 3713.04. (A) In accordance with Chapter 119. of the 35219
Revised Code, the superintendent of ~~labor~~ industrial compliance 35220
shall: 35221

(1) Adopt rules pertaining to the definition, name, and 35222
description of materials necessary to carry out this chapter; 35223

(2) Determine the testing standards, fees, and charges to be 35224
paid for making any test or analysis required pursuant to section 35225

| | |
|--|--|
| 3713.08 of the Revised Code. | 35226 |
| (B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following: | 35227 35228 |
| (1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code; | 35229 35230 35231 |
| (2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter; | 35232 35233 35234 35235 35236 35237 |
| (3) Any other rules necessary to administer and carry out this chapter. | 35238 35239 |
| (C) The superintendent may do any of the following: | 35240 |
| (1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter. | 35241 35242 35243 35244 35245 |
| (2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section. | 35246 35247 35248 35249 35250 35251 35252 35253 |
| (3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter. | 35254 35255 |

Sec. 3713.05. (A) Applications to register to import, 35256
manufacture, renovate, wholesale, make, or reupholster stuffed 35257
toys or bedding in this state shall be made in writing on forms 35258
provided by the superintendent of ~~labor~~ industrial compliance. The 35259
application shall be accompanied by a registration fee of fifty 35260
dollars per person unless the applicant engages only in 35261
renovation, in which case the registration fee shall be 35262
thirty-five dollars. 35263

(B) Upon receipt of the application and the appropriate fee, 35264
the superintendent shall register the applicant and assign a 35265
registration number to the registrant. 35266

(C) Notwithstanding section 3713.02 of the Revised Code and 35267
division (A) of this section, the following are exempt from 35268
registration: 35269

(1) An organization described in section 501(c)(3) of the 35270
"Internal Revenue Code of 1986," and exempt from income tax under 35271
section 501(a) of that code and that is operated exclusively to 35272
provide recreation or social services; 35273

(2) A person who is not regularly engaged in the business of 35274
manufacturing, making, wholesaling, or importing stuffed toys but 35275
who manufactures or makes stuffed toys as a leisure pursuit and 35276
who sells one hundred or fewer stuffed toys within one calendar 35277
year; 35278

(3) A person who is not regularly engaged in the business of 35279
manufacturing, making, wholesaling, or importing quilts, 35280
comforters, pillows, or cushions, but who manufactures or makes 35281
these items as a leisure pursuit and who sells five or fewer 35282
quilts, ten or fewer comforters, or twenty or fewer pillows or 35283
cushions within one calendar year. 35284

(D) Notwithstanding division (C)(2) or (3) of this section, a 35285

| | |
|---|-------|
| person exempt under that division must attach a label to each | 35286 |
| stuffed toy that contains all of the following information: | 35287 |
| (1) The person's name and address; | 35288 |
| (2) A statement that the person is not registered by the | 35289 |
| state of Ohio; | 35290 |
| (3) A statement that the contents of the product have not | 35291 |
| been inspected. | 35292 |
| | |
| Sec. 3713.06. (A) Any person required to register under | 35293 |
| division (A) of section 3713.02 of the Revised Code who imports | 35294 |
| bedding or stuffed toys into this state for retail sale or use in | 35295 |
| this state and any person required to register under division (A) | 35296 |
| of section 3713.02 of the Revised Code who manufactures bedding or | 35297 |
| stuffed toys in this state for retail sale or use in this state | 35298 |
| shall submit a report to the superintendent of labor <u>industrial</u> | 35299 |
| <u>compliance</u> , in a form and manner prescribed by the superintendent. | 35300 |
| The form shall be submitted once every six months and shall show | 35301 |
| the total number of items of bedding or stuffed toys imported into | 35302 |
| this state or manufactured in this state. Each report shall be | 35303 |
| accompanied by a fee of four cents for each item of bedding or | 35304 |
| stuffed toy imported into this state or manufactured in this | 35305 |
| state. | 35306 |
| | |
| (B) Every importer, manufacturer, or wholesaler of stuffed | 35307 |
| toys or articles of bedding, and every mobile home and | 35308 |
| recreational vehicle dealer, conversion van dealer, secondhand | 35309 |
| dealer, and auction house shall retain records, designated by the | 35310 |
| superintendent in rule, for the time period established in rule. | 35311 |
| | |
| (C) Every importer, manufacturer, or wholesaler of stuffed | 35312 |
| toys or articles of bedding, and every mobile home and | 35313 |
| recreational vehicle dealer, conversion van dealer, secondhand | 35314 |
| dealer, and auction house shall make sufficient investigation of | 35315 |

its records to ensure that the information reported to the 35316
superintendent under division (A) of this section is accurate. 35317

Sec. 3713.07. (A) Registration obtained under this chapter 35318
expires annually on the last day of the month in the month that 35319
the registration was obtained. The superintendent of ~~labor~~ 35320
industrial compliance shall renew the registration in accordance 35321
with Chapter 4745. of the Revised Code. 35322

(B) Failure on the part of any registrant to renew 35323
registration prior to its expiration, when notified as required in 35324
this section, shall not deprive the person of the right to renewal 35325
within the ninety days that follow expiration, but the fee to be 35326
paid for renewal after its expiration shall be one hundred dollars 35327
plus the standard registration fee for the registrant. 35328

(C) If a registrant fails to renew registration within ninety 35329
days of the date that it expired, the former registrant shall 35330
comply with the registration requirements under section 3713.05 of 35331
the Revised Code to obtain valid registration. 35332

Sec. 3713.08. (A) All persons required to register under 35333
division (A) of section 3713.02 of the Revised Code manufacturing, 35334
making, or wholesaling bedding or stuffed toys, or both, that are 35335
sold or offered for sale shall have the material content of their 35336
products tested and analyzed at an established laboratory 35337
designated by the superintendent of ~~labor~~ industrial compliance 35338
before the bedding or stuffed toys are sold or offered for sale. 35339

(B) Every stuffed toy or item of bedding sold or offered for 35340
sale shall have a label affixed to it that reports the contents of 35341
the stuffed toy or bedding material in conformity with 35342
requirements established by the superintendent, a registration 35343
number, and any other identifying information as required by the 35344
superintendent. 35345

(C) The seller of any secondhand articles of bedding or 35346
stuffed toys shall sanitize all items in accordance with rules 35347
established by the superintendent prior to the sale of or the 35348
offering for sale of any secondhand articles. 35349

(D) This section does not apply to any of the following: 35350

(1) Persons who meet the qualifications of division (C)(2) or 35351
(3) of section 3713.05 of the Revised Code; 35352

(2) The sale of furniture more than fifty years old; 35353

(3) The sale of furniture from the home of the owner directly 35354
to the purchaser. 35355

Sec. 3713.09. (A) The superintendent of ~~labor~~ industrial 35356
compliance may appoint inspectors and periodically inspect and 35357
investigate any establishment where bedding or stuffed toys are 35358
manufactured, made, remade, renovated, repaired, sanitized, sold, 35359
or offered for sale, or where previously used material is 35360
processed for use in the manufacture of bedding or stuffed toys. 35361

(1) Each inspector shall make a written report to the 35362
superintendent of each examination and inspection complete with 35363
the inspector's findings and recommendations. Inspectors may place 35364
"off sale" any article of bedding or stuffed toy offered for sale, 35365
or found in the possession of any person with the intent to sell, 35366
in violation of section 3713.02 of the Revised Code. Inspectors 35367
shall perform other duties related to inspection and examination 35368
as prescribed by the superintendent. 35369

(2) When articles are placed "off sale" under division (A)(1) 35370
of this section, they shall be tagged, and the tag shall not be 35371
removed except by an authorized representative of the division of 35372
~~labor~~ industrial compliance after the violator demonstrates to the 35373
satisfaction of the superintendent proof of compliance with the 35374
requirements of section 3713.08 of the Revised Code. 35375

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer,

conversion van dealer, secondhand dealer, or auction house to 35408
determine compliance with this chapter. The superintendent may 35409
enter into contracts, pursuant to procedures prescribed by the 35410
superintendent, with persons to examine these records to determine 35411
compliance with this chapter. These persons may collect and remit 35412
to the superintendent any amounts due under this chapter. 35413

(D) Records audited pursuant to division (C) of this section 35414
are confidential and shall not be disclosed except as required by 35415
section 149.43 of the Revised Code, or as the superintendent finds 35416
necessary for the proper administration of this chapter. 35417

(E) In the case of any investigation or examination, or both, 35418
that requires investigation or examination outside of this state 35419
of any importer, manufacturer, or wholesaler of stuffed toys or 35420
articles of bedding, or of any mobile home or recreational vehicle 35421
dealer, conversion van dealer, secondhand dealer, or auction 35422
house, the superintendent may require the investigated or examined 35423
person to pay the actual expense of the investigation or 35424
examination. The superintendent shall provide an itemized 35425
statement of actual expenses to the investigated or examined 35426
person. 35427

(F) Whenever the superintendent has reason to believe, from 35428
the superintendent's own information, upon complaint, or 35429
otherwise, that any person has engaged in, is engaging in, or is 35430
about to engage in any practice prohibited by this chapter, or 35431
when the superintendent has reason to believe that it is necessary 35432
for public health and safety, the superintendent may do any of the 35433
following: 35434

(1) Investigate violations of this chapter, and for that 35435
purpose, may subpoena witnesses in connection with the 35436
investigation. The superintendent may make application to the 35437
appropriate court of common pleas for an order enjoining the 35438
violation of this chapter, and upon a showing by the 35439

superintendent that any registrant or person acting in a manner 35440
that requires registration has violated or is about to violate 35441
this chapter, an injunction, restraining order, or other order as 35442
may be appropriate shall be granted by the court. 35443

(2) Compel by subpoena the attendance of witnesses to testify 35444
in relation to any matter over which the superintendent has 35445
jurisdiction and that is the subject of inquiry and investigation 35446
by the superintendent, and require the production of any book, 35447
paper, or document pertaining to the matter. In case any person 35448
fails to file any statement or report, obey any subpoena, give 35449
testimony, or produce any books, records, or papers as required by 35450
a subpoena, the court of common pleas of any county in the state, 35451
upon application made to it by the superintendent, shall compel 35452
obedience by attachment proceedings for contempt. 35453

(3) Suspend or revoke the registration of any importer, 35454
manufacturer, or wholesaler of stuffed toys or articles of 35455
bedding, mobile home or recreational vehicle dealer, conversion 35456
van dealer, secondhand dealer, or auction house; 35457

(4) Submit evidence of the violation or violations to any 35458
city prosecutor, city director of law, or prosecuting attorney 35459
with authority to prosecute. If the city prosecutor, city director 35460
of law, or prosecuting attorney with authority to prosecute fails 35461
to prosecute, the superintendent shall submit the evidence to the 35462
attorney general who may proceed with the prosecution. 35463

Sec. 3713.10. All money collected under this chapter shall be 35464
deposited into the state treasury to the credit of the ~~labor~~ 35465
industrial compliance operating fund created under section 121.084 35466
of the Revised Code. 35467

Sec. 3714.073. (A) In addition to the fee levied under 35468
division (A)(1) of section 3714.07 of the Revised Code, beginning 35469

July 1, 2005, there is hereby levied on the disposal of 35470
construction and demolition debris at a construction and 35471
demolition debris facility that is licensed under this chapter or 35472
at a solid waste facility that is licensed under Chapter 3734. of 35473
the Revised Code the following fees: 35474

(1) A fee of twelve and one-half cents per cubic yard or 35475
twenty-five cents per ton, as applicable, the proceeds of which 35476
shall be deposited in the state treasury to the credit of the soil 35477
and water conservation district assistance fund created in section 35478
1515.14 of the Revised Code; 35479

(2) A fee of thirty-seven and one-half cents per cubic yard 35480
or seventy-five cents per ton, as applicable, the proceeds of 35481
which shall be deposited in the state treasury to the credit of 35482
the recycling and litter prevention fund created in section 35483
~~1502.02~~ 3736.03 of the Revised Code. 35484

(B) The owner or operator of a construction and demolition 35485
debris facility or a solid waste facility, as a trustee of the 35486
state, shall collect the fees levied under this section and remit 35487
the money from the fees in the manner that is established in 35488
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 35489
for the fee that is levied under division (A)(1) of that section 35490
and may enter into an agreement for the quarterly payment of the 35491
fees in the manner established in division (B) of that section for 35492
the quarterly payment of the fee that is levied under division 35493
(A)(1) of that section. 35494

(C) The money that is collected from a construction and 35495
demolition debris facility or a solid waste facility and remitted 35496
to a board of health or the director of environmental protection, 35497
as applicable, pursuant to this section shall be transmitted by 35498
the board or director to the treasurer of state not later than 35499
forty-five days after the receipt of the money to be credited to 35500

the soil and water conservation district assistance fund or the 35501
recycling and litter prevention fund, as applicable. 35502

(D) This section does not apply to the disposal of 35503
construction and demolition debris at a solid waste facility that 35504
is licensed under Chapter 3734. of the Revised Code if the owner 35505
or operator of the facility chooses to collect fees on the 35506
disposal of the construction and demolition debris that are 35507
identical to the fees that are collected under Chapters 343. and 35508
3734. of the Revised Code on the disposal of solid wastes at that 35509
facility. 35510

(E) This section does not apply to the disposal of source 35511
separated materials that are exclusively composed of reinforced or 35512
nonreinforced concrete, asphalt, clay tile, building or paving 35513
brick, or building or paving stone at a construction and 35514
demolition debris facility that is licensed under this chapter 35515
when either of the following applies: 35516

(1) The materials are placed within the limits of 35517
construction and demolition debris placement at the facility as 35518
specified in the license issued to the facility under section 35519
3714.06 of the Revised Code, are not placed within the unloading 35520
zone of the facility, and are used as a fire prevention measure in 35521
accordance with rules adopted by the director under section 35522
3714.02 of the Revised Code. 35523

(2) The materials are not placed within the unloading zone of 35524
the facility or within the limits of construction and demolition 35525
debris placement at the facility as specified in the license 35526
issued to the facility under section 3714.06 of the Revised Code, 35527
but are used as fill material, either alone or in conjunction with 35528
clean soil, sand, gravel, or other clean aggregates, in legitimate 35529
fill operations for construction purposes at the facility or to 35530
bring the facility up to a consistent grade. 35531

| | |
|--|---|
| Sec. 3715.01. (A) As used in this chapter: | 35532 |
| (1) "Public health council" means the public health council established by section 3701.33 of the Revised Code. | 35533 35534 |
| (2) "Person" means an individual, partnership, corporation, or association. | 35535 35536 |
| (3) <u>(2)</u> "Food" means: | 35537 |
| (a) Articles used for food or drink for humans or animals; | 35538 |
| (b) Chewing gum; | 35539 |
| (c) Articles used for components of any such articles. | 35540 |
| (4) <u>(3)</u> "Drug" means: | 35541 |
| (a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them; | 35542 35543 |
| (b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; | 35544 35545 35546 |
| (c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; | 35547 35548 |
| (d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories. | 35549 35550 35551 |
| (5) <u>(4)</u> "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following: | 35552 35553 35554 35555 35556 35557 35558 |
| (a) Recognized in the United States pharmacopoeia and | 35559 |

national formulary, or any supplement to them; 35560

(b) Intended for use in the diagnosis of disease or other 35561
conditions, or in the cure, mitigation, treatment, or prevention 35562
of disease in humans or animals; 35563

(c) Intended to affect the structure or any function of the 35564
body of humans or animals, and that does not achieve any of its 35565
principal intended purposes through chemical action within or on 35566
the body of humans or animals and is not dependent upon being 35567
metabolized for the achievement of any of its principal intended 35568
purposes. 35569

~~(6)~~(5) "Cosmetic" means: 35570

(a) Articles intended to be rubbed, poured, sprinkled, or 35571
sprayed on, introduced into, or otherwise applied to the human 35572
body or any part thereof for cleansing, beautifying, promoting 35573
attractiveness, or altering the appearance; 35574

(b) Articles intended for use as a component of any such 35575
article, except that "cosmetic" does not include soap. 35576

~~(7)~~(6) "Label" means a display of written, printed, or 35577
graphic matter upon the immediate container, exclusive of package 35578
liners, of any article. 35579

Any word, statement, or other information required by this 35580
chapter to appear on the label must appear on the outside 35581
container or wrapper, if any, of the retail package of the 35582
article, or the label must be easily legible through the outside 35583
container or wrapper. 35584

~~(8)~~(7) "Labeling" means all labels and other written, 35585
printed, or graphic matter: 35586

(a) Upon an article or any of its containers or wrappers; 35587

(b) Accompanying such article. 35588

~~(9)~~(8) "Advertisement" means all representations disseminated 35589

in any manner or by any means, other than by labeling, for the 35590
purpose of inducing, or that are likely to induce, directly or 35591
indirectly, the purchase of food, drugs, devices, or cosmetics. 35592

~~(10)~~(9) "New drug" means: 35593

(a) Any drug the composition of which is such that the drug 35594
is not generally recognized among experts qualified by scientific 35595
training and experience to evaluate the safety of drugs, as safe 35596
for use under the conditions prescribed, recommended, or suggested 35597
in the labeling thereof; 35598

(b) Any drug the composition of which is such that the drug, 35599
as a result of investigation to determine its safety for use under 35600
such conditions, has become so recognized, but that has not, other 35601
than in an investigation, been used to a material extent or for a 35602
material time under such conditions. 35603

~~(11)~~(10) "Contaminated with filth" applies to any food, drug, 35604
device, or cosmetic that has not been protected as far as may be 35605
necessary by all reasonable means from dust, dirt, and all foreign 35606
or injurious substances. 35607

~~(12)~~(11) "Honey" means the nectar and saccharine exudation of 35608
plants that has been gathered, modified, and stored in a honeycomb 35609
by honeybees. 35610

~~(13)~~(12) "Finished dosage form" means the form of a drug that 35611
is, or is intended to be, dispensed or administered to humans or 35612
animals and requires no further manufacturing or processing other 35613
than packaging, reconstituting, or labeling. 35614

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, 35615
harvesting, processing, making, preparing, or otherwise engaging 35616
in any part of the production of a drug by propagating, 35617
compounding, converting, or processing, either directly or 35618
indirectly by extracting from substances of natural origin, or 35619
independently by means of chemical synthesis, or by a combination 35620

of extraction and chemical synthesis, and includes the following: 35621

(i) Any packaging or repackaging of the drug or labeling or 35622
relabeling of its container, the promotion and marketing of the 35623
drug, and other activities incident to production; 35624

(ii) The preparation and promotion of commercially available 35625
products from bulk compounds for resale by pharmacies, licensed 35626
health professionals authorized to prescribe drugs, or other 35627
persons. 35628

(b) "Manufacture" does not include the preparation, 35629
compounding, packaging, or labeling of a drug by a pharmacist as 35630
an incident to either of the following: 35631

(i) Dispensing a drug in the usual course of professional 35632
practice; 35633

(ii) Providing a licensed health professional authorized to 35634
prescribe drugs with a drug for the purpose of administering to 35635
patients or for using the drug in treating patients in the 35636
professional's office. 35637

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 35638
4729.01 of the Revised Code. 35639

~~(16)~~(15) "Generically equivalent drug" means a drug that 35640
contains identical amounts of the identical active ingredients, 35641
but not necessarily containing the same inactive ingredients, that 35642
meets the identical compendial or other applicable standard of 35643
identity, strength, quality, and purity, including potency, and 35644
where applicable, content uniformity, disintegration times, or 35645
dissolution rates, as the prescribed brand name drug and the 35646
manufacturer or distributor holds, if applicable, either an 35647
approved new drug application or an approved abbreviated new drug 35648
application unless other approval by law or from the federal food 35649
and drug administration is required. 35650

No drug shall be considered a generically equivalent drug for 35651
the purposes of this chapter if it has been listed by the federal 35652
food and drug administration as having proven bioequivalence 35653
problems. 35654

~~(17)~~(16) "Licensed health professional authorized to 35655
prescribe drugs" and "prescriber" have the same meanings as in 35656
section 4729.01 of the Revised Code. 35657

~~(18)~~(17) "Home" means the primary residence occupied by the 35658
residence's owner, on the condition that the residence contains 35659
only one stove or oven used for cooking, which may be a double 35660
oven, designed for common residence usage and not for commercial 35661
usage, and that the stove or oven be operated in an ordinary 35662
kitchen within the residence. 35663

~~(19)~~(18) "Potentially hazardous food" means a food that is 35664
natural or synthetic, to which any of the following apply: 35665

(a) It has a pH level greater than 4.6 when measured at 35666
seventy-five degrees fahrenheit or twenty-four degrees celsius. 35667

(b) It has a water activity value greater than 0.85. 35668

(c) It requires temperature control because it is in a form 35669
capable of supporting the rapid and progressive growth of 35670
infectious or toxigenic microorganisms, the growth and toxin 35671
production of clostridium botulinum, or in the case of raw shell 35672
eggs, the growth of salmonella enteritidis. 35673

~~(20)~~(19) "Cottage food production operation" means a person 35674
who, in the person's home, produces food items that are not 35675
potentially hazardous foods, including bakery products, jams, 35676
jellies, candy, fruit butter, and similar products specified in 35677
rules adopted pursuant to section 3715.025 of the Revised Code. 35678

(B) For the purposes of sections 3715.52 to 3715.72 of the 35679
Revised Code: 35680

(1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequence which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(2) The provisions regarding the selling of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment. The provisions do not prohibit a licensed health professional authorized to prescribe drugs from administering or personally furnishing a drug or device to a patient.

(3) The representation of a drug, in its labeling or advertisement, as an antiseptic is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use that involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the director of agriculture or the state board of pharmacy, the jurisdiction of the board shall be limited to the sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the

wholesale and retail levels or to the consumer and shall be 35713
exclusive in the case of such sale, offering for sale, giving 35714
away, delivery, or dispensing in any manner of drugs at the 35715
wholesale and retail levels or to the consumer in any place where 35716
prescriptions are dispensed or compounded. 35717

(5) To assist in effectuating the provisions of those 35718
sections, the director of agriculture or state board of pharmacy 35719
may request assistance or data from any government or private 35720
agency or individual. 35721

Sec. 3715.025. (A) A cottage food production operation shall 35722
not process acidified foods, low acid canned foods, or potentially 35723
hazardous foods. 35724

(B) The director of agriculture shall adopt rules in 35725
accordance with Chapter 119. of the Revised Code specifying the 35726
food items a cottage food production operation may produce that 35727
are in addition to the food items identified by name in division 35728
(A)~~(20)~~(19) of section 3715.01 of the Revised Code. The director 35729
shall not adopt rules that permit a cottage food production 35730
operation to produce any food that is a potentially hazardous 35731
food. 35732

Sec. 3715.60. Food is misbranded within the meaning of 35733
sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the 35734
Revised Code, if: 35735

(A) Its labeling is false or misleading in any particular. 35736

(B) It is offered for sale under the name of another food. 35737

(C) Its container is so made, formed, or filled as to be 35738
misleading. 35739

(D) It is an imitation of another food, unless its label 35740
bears in type of uniform size and prominence, the word 35741

"imitation," and immediately thereafter the name of the food 35742
imitated. 35743

(E) When it is in package form, it does not bear a label 35744
containing: 35745

(1) The name and place of business of the manufacturer, 35746
packer, or distributor; 35747

(2) An accurate statement of the quantity of the contents in 35748
terms of weight, measure, or numerical count; provided, that 35749
reasonable variations shall be permitted, and exemptions as to 35750
small packages shall be established by rules adopted by the 35751
director of agriculture; 35752

(3) In the case of food subject to section 3715.023 of the 35753
Revised Code, the information specified in that section. 35754

(F) Any word, statement, or other information required by or 35755
under authority of sections 3715.01, 3715.02, and 3715.52 to 35756
3715.72 of the Revised Code, to appear on the label or labeling is 35757
not prominently placed thereon with such conspicuousness as 35758
compared with other words, statements, designs, or devices, in the 35759
labeling, and in such terms as to render it likely to be read and 35760
understood by the ordinary individual under customary conditions 35761
of purchase and use. 35762

(G) It purports to be, or is represented as, a food for which 35763
a definition and standard of identity have been prescribed by 35764
statute, or by any rule adopted under an existing statute, or by 35765
rule as provided by section 3715.02 of the Revised Code, unless: 35766

(1) It conforms to such definition and standard. 35767

(2) Its label bears the name of the food specified in the 35768
definition and standard, and, insofar as may be required by such 35769
statute or rules, the common names of optional ingredients, other 35770
than spices, flavoring, and coloring, present in such food. 35771

| | |
|---|--|
| (H) It purports to be or is represented as: | 35772 |
| (1) A food for which a standard of quality has been prescribed by rule as provided by section 3715.02 of the Revised Code and its quality falls below the standard unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard; | 35773 35774 35775 35776 35777 |
| (2) A food for which a standard or standards of fill of container have been prescribed by rule as provided by section 3715.02 of the Revised Code, and it falls below the standard of fill of container applicable thereto, unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard. | 35778 35779 35780 35781 35782 35783 |
| (I) It is not subject to the provisions of division (G) of this section, unless it bears labeling clearly giving: | 35784 35785 |
| (1) The common or usual name of the food, if any; | 35786 |
| (2) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of division (I)(2) of this section is impractical or results in deception or unfair competition, exemptions shall be established by rules adopted by the director; and provided that these requirements shall not apply to any carbonated beverage of which a full and correct statement of the ingredients, to the extent prescribed by division (I)(2) of this section, has been filed under oath with the director. | 35787 35788 35789 35790 35791 35792 35793 35794 35795 35796 35797 35798 |
| (J) It purports to be or is represented to be for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as is provided by rules proposed <u>adopted</u> by the director and adopted by the | 35799 35800 35801 35802 |

~~public health council~~, as necessary, in order to fully inform 35803
purchasers as to its value for such uses. 35804

(K) It bears or contains any artificial flavoring, artificial 35805
coloring, or chemical preservative, unless it bears labeling 35806
stating that fact; provided, that to the extent that compliance 35807
with the requirements of this division is impracticable, 35808
exemptions shall be established by rules ~~proposed~~ adopted by the 35809
director ~~and adopted by the public health council~~. 35810

Sec. 3715.61. (A) Whenever the director of agriculture finds 35811
after investigation that the distribution in this state of any 35812
class of food may, by reason of contamination with microorganisms 35813
during manufacture, processing, or packing thereof in any 35814
locality, be injurious to health, and that such injurious nature 35815
cannot be adequately determined after such articles have entered 35816
commerce, and in such case only, ~~he the director~~ shall ~~propose~~ 35817
~~regulations for adoption by the public health council~~ adopt rules 35818
providing for the issuance, to manufacturers, processor, or 35819
packers of such class of food in such locality, of permits to 35820
which shall be attached such conditions governing the manufacture, 35821
processing, or packing of such class food, for such temporary 35822
period of time, as may be necessary to protect the public health; 35823
and after the effective date of such regulations, and during such 35824
temporary period, no person shall introduce or deliver for 35825
introduction into commerce any such food manufactured, processed, 35826
or packed by any such manufacturer, processor, or packer unless 35827
such manufacturer, processor, or packer holds a permit issued by 35828
the director as provided by such ~~regulations~~ rules. 35829

(B) The director is authorized to suspend immediately upon 35830
notice any permit issued under authority of this section if it is 35831
found that any of the conditions of the permit have been violated. 35832
The holder of a permit so suspended shall be privileged at any 35833

time to apply for the reinstatement of such permit, and the 35834
director shall, immediately after prompt hearing and on inspection 35835
of the establishment, reinstate such permit if it is found that 35836
adequate measures have been taken to comply with and maintain the 35837
conditions of the permit, as originally issued, or as amended. 35838

(C) The director shall have access to any factory or 35839
establishment, the operator of which holds a permit from the 35840
director for the purpose of ascertaining whether or not the 35841
conditions of the permit are being complied with, and denial of 35842
access for such inspection shall be ground for suspension of the 35843
permit until such access is freely given by the operator. 35844

Sec. 3715.62. Any poisonous or deleterious substance added to 35845
any food, except where such substance is required in the 35846
production thereof or cannot be avoided by good manufacturing 35847
practice, shall be unsafe for purposes of the application of 35848
division (B) of section 3715.59 of the Revised Code, but when such 35849
substance is so required or cannot be so avoided, the director of 35850
agriculture shall ~~propose regulations for adoption by the public~~ 35851
~~health council~~ adopt rules limiting the quantity therein or 35852
thereon to such extent as the director finds necessary for the 35853
protection of public health, and any quantity exceeding the limits 35854
so fixed shall also be deemed to be unsafe for purposes of the 35855
application of division (B) of section 3715.59 of the Revised 35856
Code. While such a regulation is in effect limiting the quantity 35857
of any such substance in the case of any food, such food shall 35858
not, by reason of bearing or containing any added amount of such 35859
substance, be considered to be adulterated within the meaning of 35860
division (A) of section 3715.59 of the Revised Code. In 35861
determining the quantity of such added substance to be tolerated 35862
in or on different articles of food, the director shall take into 35863
account the extent to which the use of such substance is required 35864
or cannot be avoided in the production of each such article and 35865

the other ways in which the consumer may be affected by the same 35866
or other poisonous or deleterious substances. 35867

Sec. 3715.68. (A) An advertisement of food, drug, device, or 35868
cosmetic is false if it is false or misleading in any particular. 35869

(B) For the purpose of sections 3715.01 and 3715.52 to 35870
3715.72 of the Revised Code, the advertisement of a drug or device 35871
representing it to have any effect in albuminuria, appendicitis, 35872
arteriosclerosis, blood poison, bone disease, Bright's disease, 35873
cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, 35874
erysipelas, gallstones, heart and vascular diseases, high blood 35875
pressure, mastoiditis, measles, meningitis, mumps, nephritis, 35876
otitis media, paralysis, pneumonia, poliomyelitis (infantile 35877
paralysis), prostate gland disorders, pyelitis, scarlet fever, 35878
sexual impotence, sinus infection, tuberculosis, tumors, typhoid, 35879
uremia, venereal disease, is also false, except that no 35880
advertisement not in violation of division (A) of this section is 35881
false under this division if it is disseminated only to members of 35882
the medical, dental, pharmaceutical, or veterinary profession, or 35883
appears only in the scientific periodicals of these professions; 35884
provided, that whenever the director of agriculture determines 35885
that an advance in medical science has made any type of 35886
self-medication safe as to any of the diseases named above, the 35887
director shall ~~propose regulations for adoption by the public~~ 35888
~~health council~~ adopt rules authorizing the advertisement of drugs 35889
having curative or therapeutic effect for such disease, subject to 35890
such conditions and restrictions as the director may deem 35891
necessary in the interests of public health; provided, that this 35892
division shall not be construed as indicating that self-medication 35893
for diseases other than those named in this section is safe or 35894
efficacious. 35895

Sec. 3715.87. (A) As used in this section and in sections 35896

| | |
|--|---|
| 3715.871, 3715.872, and 3715.873 of the Revised Code: | 35897 |
| (1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. | 35898 35899 |
| (2) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code. | 35900 35901 |
| (3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. | 35902 35903 |
| (4) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit. | 35904 35905 35906 35907 35908 35909 35910 35911 35912 |
| (5) "Prescription drug" means any drug to which the following applies: | 35913 35914 |
| (a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription. | 35915 35916 35917 35918 35919 35920 35921 |
| (b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription. | 35922 35923 |
| (B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals | 35924 35925 35926 |

who are residents of this state and meet eligibility standards 35927
established in rules adopted by the board under section 3715.873 35928
of the Revised Code. Except as provided in division (C) of this 35929
section, all of the following conditions shall apply to the 35930
program: 35931

(1) Only drugs in their original sealed and tamper-evident 35932
unit dose packaging may be accepted and dispensed; 35933

(2) The packaging must be unopened, except that drugs 35934
packaged in single unit doses may be accepted and dispensed when 35935
the outside packaging is opened if the single unit dose packaging 35936
is undisturbed; 35937

~~(3) Drugs donated by individuals bearing an expiration date 35938
that is less than six months from the date the drug is donated 35939
shall not be accepted or dispensed; 35940~~

~~(4) A drug shall not be accepted or dispensed if there is 35941
reason to believe that it is adulterated as described in section 35942
3715.63 of the Revised Code. 35943~~

(C) Orally administered cancer drugs that are not controlled 35944
substances and that do not require refrigeration, freezing, or 35945
storage at a special temperature may be accepted and dispensed 35946
even if not in original sealed and tamper-evident unit dose 35947
packaging, subject to rules adopted by the board pursuant to 35948
section 3715.873 of the Revised Code. 35949

(D) Subject to the limitations specified in divisions (B) and 35950
(C) of this section, unused drugs dispensed for purposes of the 35951
medicaid program may be accepted and dispensed under the drug 35952
repository program. 35953

Sec. 3716.01. As used in sections 3716.01 to 3716.07, 35954
inclusive, of the Revised Code: 35955

(A) "Department" means the department of health. 35956

- (B) "Director" means the director of health. 35957
- (C) "Person" includes an individual, partnership, 35958
corporation, or association. 35959
- (D) "Hazardous substance" means any substance or mixture of 35960
substances which is toxic, corrosive, an irritant, strong 35961
sensitizer, flammable, or which generates pressure through 35962
decomposition, heat, or other means, if such substance or mixture 35963
of substances may cause substantial personal injury or illness 35964
during any customary or reasonably anticipated handling or use. 35965
- (E) "Toxic" applies to any substance which has the inherent 35966
capacity to produce bodily injury to man through ingestion, 35967
inhalation, or absorption through any body surface. 35968
- (F)(1) "Highly toxic" means any substance which falls within 35969
any of the following categories: 35970
- (a) Produces death within fourteen days in half or more than 35971
half of a group of ten or more laboratory white rats each weighing 35972
between two hundred and three hundred grams, at a single dose of 35973
fifty milligrams or less per kilogram of body weight, when orally 35974
administered; 35975
- (b) Produces death within fourteen days in half or more than 35976
half of a group of ten or more laboratory white rats each weighing 35977
between two hundred and three hundred grams, when inhaled 35978
continuously for a period of one hour or less at an atmospheric 35979
concentration of two hundred parts per million by volume or less 35980
of gas, vapor, mist, or dust provided such concentration is likely 35981
to be encountered by ~~man~~ a human being when the substance is used 35982
in any reasonably foreseeable manner; 35983
- (c) Produces death within fourteen days in half or more than 35984
half of a group of ten or more rabbits tested in a dosage of two 35985
hundred milligrams or less per kilogram of body weight, when 35986
administered by continuous contact with the bare skin for 35987

twenty-four hours or less. 35988

(2) If the director finds that available data on human 35989
experience with any substance indicates results different from 35990
those obtained on animals in the above named dosages or 35991
concentrations, the human data shall take precedence. 35992

(G) "Corrosive" means any substance which in contact with 35993
living tissue will cause destruction of tissue by chemical action; 35994
but shall not refer to action on inanimate surfaces. 35995

(H) "Irritant" means any substance not corrosive within the 35996
meaning of division (G) of this section which on immediate, 35997
prolonged, or repeated contact with normal living tissue will 35998
induce a local inflammatory reaction. 35999

(I) "Strong sensitizer" means any substance which will cause 36000
on normal living tissue, through an allergic or photodynamic 36001
process, a hypersensitivity which becomes evident on reapplication 36002
of the same substance and which is designated as such by the 36003
director. Before designating any substance as a strong sensitizer, 36004
the director shall, after public hearing following due notice, 36005
find that the frequency of occurrence and severity of the reaction 36006
indicate a significant potential for causing hypersensitivity. 36007

(J) "Extremely flammable" applies to any substance which has 36008
a flash point at or below twenty degrees Fahrenheit as determined 36009
by the tagliabue open cut tester. 36010

(K) "Flammable" applies to any substance which has a flash 36011
point of above twenty degrees to and including eighty degrees 36012
Fahrenheit, as determined by the tagliabue open cut tester; except 36013
that the flammability of the contents of self-pressurized 36014
containers shall be determined by methods generally applicable to 36015
such containers and established by regulation of the ~~public health~~ 36016
~~council~~ director. 36017

(L) "Label" means a display of written, printed, or graphic 36018

matter upon or attached to the immediate package or container of 36019
any substance. Any word, statement, or other information required 36020
by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to 36021
appear on the label must also appear (1) on the outside container 36022
or wrapper, if any, unless it is easily legible through the 36023
outside container or wrapper, and (2) on all accompanying 36024
literature where there are directions for use, written or 36025
otherwise. 36026

(M) "Immediate container" does not include package liners. 36027

(N) "Misbranded package" means any container of a hazardous 36028
substance intended or suitable for household use which fails to 36029
bear a label: 36030

(1) Which states conspicuously: 36031

(a) The name and place of business of the manufacturer, 36032
packer, or distributor; 36033

(b) The common or usual name, or the chemical name or the 36034
recognized generic name (not trade name only) of the hazardous 36035
substance or of each component which contributes substantially to 36036
its hazard; 36037

(c) The signal word "DANGER" on substances which are 36038
extremely flammable, corrosive, or which: 36039

(i) Produce death within fourteen days in half or more than 36040
half of a group of ten or more laboratory white rats each weighing 36041
between two hundred and three hundred grams, at a single dose of 36042
one gram or less per kilogram of body weight, when orally 36043
administered; 36044

(ii) Produce death within fourteen days in half or more than 36045
half of a group of ten or more laboratory white rats each weighing 36046
between two hundred and three hundred grams, when inhaled 36047
continuously for a period of one hour or less at an atmospheric 36048

concentration of two thousand parts per million by volume of gas, 36049
vapor, mist, or dust, provided such concentration is likely to be 36050
encountered by ~~man~~ a human being when the substances are used in 36051
any reasonably foreseeable manner; 36052

(iii) Produce death within fourteen days in half or more than 36053
half of a group of ten or more rabbits tested in a dosage of one 36054
gram or less per kilogram of body weight, when administered by 36055
continuous contact with the bare skin for twenty-four hours or 36056
less; 36057

(iv) If the director finds that available data on human 36058
experience with any substance indicates results different from 36059
those obtained on animals in the above named dosages or 36060
concentrations, ~~he~~ the director may require the use of the signal 36061
word "DANGER" on such substance or permit use of the signal word 36062
"WARNING" or "CAUTION" on such substance. 36063

(d) The signal word "WARNING" or "CAUTION" on all other 36064
hazardous substances; 36065

(e) An affirmative statement of the principal hazard or 36066
hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," 36067
"Absorbed Through Skin," or similar wording descriptive of the 36068
hazard; 36069

(f) Precautionary measures describing the action to be 36070
followed or avoided; 36071

(g) Instructions, when necessary, for the first-aid treatment 36072
in case of contact or exposure, if the substance is hazardous 36073
through contact or exposure; 36074

(h) The word "poison" for any hazardous substance which is 36075
defined as "highly toxic" by division (F) of this section; 36076

(i) Instructions for handling and storage of packages which 36077
require special care in handling or storage; 36078

(j) The statement "Keep out of the reach of children," or its practical equivalent. 36079
36080

(2) On which any statements required under division (N) (1) of this section are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label. 36081
36082
36083
36084

The ~~public health council~~ director shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this section. The director may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" does not apply to packages of economic poisons subject to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, nor to packages of foods, drugs, and cosmetics subject to the "Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 3715.72, inclusive, of the Revised Code. 36085
36086
36087
36088
36089
36090
36091
36092
36093
36094
36095
36096

Sec. 3716.03. The director of health shall: 36097

(A) ~~Propose and submit regulations for adoption by the public health council, subject to sections 119.01 to 119.13, inclusive,~~ Adopt rules in accordance with Chapter 119. of the Revised Code, for the efficient enforcement of section 3716.02 of the Revised Code; 36098
36099
36100
36101
36102

(B) Conduct examinations, inspections, and investigations for the purpose of establishing such regulations, through such officers of the department of health or the boards of health, as ~~he~~ the director delegates; 36103
36104
36105
36106

(C) Designate officers and employees to enter at reasonable times any factory, warehouse, or establishment in which hazardous 36107
36108

| | |
|--|-------|
| substances are held, or to enter any vehicle being used to | 36109 |
| transport or hold such hazardous substance: | 36110 |
| (1) For the purpose of determining the nature of such | 36111 |
| substances; | 36112 |
| (2) To inspect or copy all records showing the movement of | 36113 |
| any such hazardous substance, or the holding thereof during or | 36114 |
| after such movement, and the quantity, shipper, and consignee | 36115 |
| thereof; provided, evidence obtained under this subdivision shall | 36116 |
| not be used in a criminal prosecution of the person from whom | 36117 |
| obtained; | 36118 |
| (D) Inspect and sample, upon tender of reasonable price for | 36119 |
| such sample, at reasonable times and within reasonable limits and | 36120 |
| in a reasonable manner, finished hazardous substances in retail | 36121 |
| packages and labeling thereon in such factory, warehouse, | 36122 |
| establishment, or vehicle. | 36123 |
| | |
| Sec. 3717.01. As used in this chapter: | 36124 |
| (A) "Ohio uniform food safety code" means the food safety and | 36125 |
| related standards adopted under section 3717.05 of the Revised | 36126 |
| Code. | 36127 |
| (B) "Food" means any raw, cooked, or processed edible | 36128 |
| substance used or intended for use in whole or in part for human | 36129 |
| consumption. "Food" includes ice, water or any other beverage, | 36130 |
| food ingredients, and chewing gum. | 36131 |
| (C) "Retail food establishment" means a premises or part of a | 36132 |
| premises where food is stored, processed, prepared, manufactured, | 36133 |
| or otherwise held or handled for retail sale. Except when | 36134 |
| expressly provided otherwise, "retail food establishment" includes | 36135 |
| a mobile retail food establishment, seasonal retail food | 36136 |
| establishment, and temporary retail food establishment. | 36137 |
| | |
| As used in this division: | 36138 |

(1) "Retail" means the sale of food to a person who is the ultimate consumer.

(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than forty consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than forty consecutive days and serves, in a manner consistent with division (F) of this section, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section 911.01 of the Revised Code; or any combination of those items.

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.43 of the Revised Code.

(L) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location. As used in this division, "vending machine" means a self-service device that

automatically dispenses on the insertion of currency, tokens, or 36202
similar means a predetermined unit serving of food, either in bulk 36203
or in package, without having to be replenished after each use. 36204

(M) "Board of health" means a board of health of a city or 36205
general health district or the authority having the duties of a 36206
board of health under section 3709.05 of the Revised Code. 36207

(N) "Government entity" means this state, a political 36208
subdivision of this state, another state, or a political 36209
subdivision or other local government body of another state. 36210

(O) "Licensor" means one of the following: 36211

(1) A board of health approved under section 3717.11 of the 36212
Revised Code; 36213

(2) The director of agriculture acting pursuant to section 36214
3717.11 of the Revised Code with respect to the licensing of 36215
retail food establishments; 36216

(3) The director of health acting pursuant to section 3717.11 36217
of the Revised Code with respect to the licensing of food service 36218
operations. 36219

(P) "Licensing period" means the first day of March to the 36220
last day of February of the next succeeding year. 36221

(Q) "Mobile retail food establishment" means a retail food 36222
establishment that is operated from a movable vehicle or other 36223
portable structure, and that routinely changes location, except 36224
that if the establishment operates from any one location for more 36225
than forty consecutive days, the establishment is no longer a 36226
mobile retail food establishment. 36227

(R) "Unprocessed," when used with respect to fruits and 36228
vegetables, means that the fruits and vegetables are not processed 36229
beyond merely rough trimming and rinsing. 36230

(S) "Cottage food production operation" has the same meaning 36231

as in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code. 36232

Sec. 3717.04. The director of agriculture,~~the public health~~ 36233
~~council~~, and the director of health have the exclusive power in 36234
this state to adopt rules regarding retail food establishments and 36235
food service operations. The rules adopted under this chapter 36236
shall be applied uniformly throughout this state. 36237

All rules adopted under this chapter shall be adopted in 36238
accordance with Chapter 119. of the Revised Code. Subject to the 36239
approval of the joint committee on agency rule review, portions of 36240
the rules may be adopted by referencing all or any part of any 36241
federal regulations pertaining to food safety. 36242

Sec. 3717.05. (A) The director of agriculture and the ~~public~~ 36243
director of health council shall adopt rules establishing 36244
standards for safe food handling and sanitation in retail food 36245
establishments and food service operations. The rules shall be 36246
compiled as the Ohio uniform food safety code, which shall be used 36247
by the licensors of retail food establishments and food service 36248
operations in ensuring the safe handling of food in this state. 36249
All scientific provisions of the Ohio uniform food safety code 36250
that are relevant to both retail food establishments and food 36251
service operations shall be adopted by the director of agriculture 36252
and the ~~public~~ director of health council with each other's 36253
concurrence. 36254

The Ohio uniform food safety code shall include the 36255
following: 36256

(1) Criteria for sanitation in retail food establishments and 36257
food service operations; 36258

(2) Criteria for equipment in retail food establishments and 36259
food service operations; 36260

(3) Criteria for reviewing the facility layout and equipment 36261

specifications of retail food establishments and food service operations; 36262
36263

(4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations; 36264
36265
36266

(5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity should be licensed as a retail food establishment or food service operation. 36267
36268
36269
36270

(B)(1) Except as provided in division (B)(2) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and ~~public~~ director of health council shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code. 36271
36272
36273
36274
36275
36276
36277
36278
36279
36280
36281

(2) The Ohio uniform food safety code may contain or omit provisions that do not correspond to the food and drug administration's model food code if the director of agriculture or the ~~public~~ director of health council, with each other's concurrence, determines either of the following: 36282
36283
36284
36285
36286

(a) That rules can be adopted under this chapter that provide protection at least as effective as that which would be provided by basing the rules on the model food code; 36287
36288
36289

(b) That local conditions warrant the adoption of standards that are different from the model food code. 36290
36291

Sec. 3717.07. (A) For purposes of establishing a licensing fee under sections 3717.25 and 3717.45 of the Revised Code, the director of agriculture and the ~~public~~ director of health council shall adopt rules establishing uniform methodologies for use in calculating the costs of licensing retail food establishments in the categories specified by the director of agriculture and the costs of licensing food service operations in the categories specified by the ~~council~~ director of health. In adopting the rules, the director of agriculture and the ~~public~~ director of health council shall consider any recommendations received from advisory boards or other entities representing the interests of retail food establishments and food service operations.

(B) The rules shall include provisions that do all of the following:

(1) Provide for calculations to be made according to fiscal years rather than licensing periods;

(2) Limit the direct costs that may be attributed to the use of sanitarians by establishing appropriate statewide averages that may not be exceeded;

(3) Limit the indirect costs that may be included in the calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;

(4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation of licensing fees and the total amount of the anticipated costs was not incurred;

(5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should

have been charged; 36322

(6) Provide for a twenty per cent reduction in the fees to be 36323
charged when the reduction is imposed as a penalty under division 36324
(C) of section 3717.071 of the Revised Code; 36325

(7) With regard to any fees charged for licensing vending 36326
machine locations, the rules shall prohibit a licensor from 36327
increasing fees by a percentage of increase over the previous 36328
year's fee that exceeds the percentage of increase in the consumer 36329
price index for all urban consumers (United States city average, 36330
all items), prepared by the United States department of labor, 36331
bureau of labor statistics, for the immediately preceding calendar 36332
year. 36333

Sec. 3717.45. (A) A licensor may charge fees for issuing and 36334
renewing food service operation licenses. Any licensing fee 36335
charged shall be used solely for the administration and 36336
enforcement of the provisions of this chapter and the rules 36337
adopted under it applicable to food service operations. 36338

Any licensing fee charged under this section shall be based 36339
on the licensor's costs of regulating food service operations, as 36340
determined according to the uniform methodologies established 36341
under section 3717.07 of the Revised Code. If the licensor is a 36342
board of health, a fee may be disapproved by the district advisory 36343
council in the case of a general health district or the 36344
legislative authority of the city in the case of a city health 36345
district. A disapproved fee shall not be charged by the board of 36346
health. 36347

Except when a licensing fee is established as an emergency 36348
measure, the licensor shall hold a public hearing regarding the 36349
proposed fee. At least twenty days prior to holding a public 36350
hearing, the licensor shall give written notice of the hearing to 36351
each person or government entity holding a food service operation 36352

license that may be affected by the proposed fee. The notice shall 36353
be mailed to the last known address of the licensee and shall 36354
specify the date, time, and place of the hearing and the amount of 36355
the proposed fee. On request, the licensor shall provide the 36356
completed uniform methodology used in the calculation of the 36357
licensor's costs and the proposed fee. 36358

(B) In addition to licensing fees, a licensor may charge fees 36359
for the following: 36360

(1) Review of facility layout and equipment specifications 36361
pertaining to food service operations, other than mobile and 36362
temporary food service operations, or similar reviews conducted 36363
for vending machine locations; 36364

(2) Any necessary collection and bacteriological examination 36365
of samples from food service operations, or similar services 36366
specified in rules adopted under this chapter by the ~~public~~ 36367
director of health council; 36368

(3) Attendance at a course of study offered by the licensor 36369
in food protection as it pertains to food service operations, if 36370
the course is approved under section 3717.09 of the Revised Code. 36371

(C)(1) The ~~public health council~~ director may determine by 36372
rule an amount to be collected from applicants for food service 36373
operation licenses for use ~~by the director of health~~ in 36374
administering and enforcing the provisions of this chapter and the 36375
rules adopted under it applicable to food service operations. 36376
Licensors shall collect the amount prior to issuing an applicant's 36377
new or renewed license. If a licensing fee is charged under this 36378
section, the licensor shall collect the amount at the same time 36379
the fee is collected. Licensors are not required to provide notice 36380
or hold public hearings regarding amounts to be collected. 36381

(2) A licensor shall certify the amount collected under 36382
division (C)(1) of this section and transmit the amount to the 36383

treasurer of state according to the following schedule: 36384

(a) For amounts received by the licensor on or after the 36385
first day of January but not later than the thirty-first day of 36386
March, transmit the amounts not later than the fifteenth day of 36387
May; 36388

(b) For amounts received by the licensor on or after the 36389
first day of April but not later than the thirtieth day of June, 36390
transmit the amounts not later than the fifteenth day of August; 36391

(c) For amounts received by the licensor on or after the 36392
first day of July but not later than the thirtieth day of 36393
September, transmit the amounts not later than the fifteenth day 36394
of November; 36395

(d) For amounts received by the licensor on or after the 36396
first day of October but not later than the thirty-first day of 36397
December, transmit the amounts not later than the fifteenth day of 36398
February of the following year. 36399

(3) All amounts received under division (C)(2) of this 36400
section shall be deposited into the general operations fund 36401
created in section 3701.83 of the Revised Code. The director shall 36402
use the amounts solely for the administration and enforcement of 36403
the provisions of this chapter and the rules adopted under it 36404
applicable to food service operations. 36405

~~(4) The director may submit recommendations to the public 36406
health council regarding the amounts collected under division 36407
(C)(1) of this section. When making recommendations, the director 36408
shall submit a report stating the current and projected expenses 36409
of administering and enforcing the provisions of this chapter and 36410
the rules adopted under it applicable to food service operations 36411
and the total of all amounts that have been deposited in the 36412
general operations fund pursuant to division (C)(3) of this 36413
section. The director may include in the report any 36414~~

~~recommendations for modifying the department's administration and 36415
enforcement of the provisions of this chapter and the rules 36416
adopted under it applicable to food service operations. 36417~~

Sec. 3717.51. Pursuant to section 3717.04 of the Revised 36419
Code, the ~~public~~ director of health council shall adopt rules 36420
regarding food service operations, as follows: 36421

(A) Licensing categories for food service operations and 36422
licensing requirements for each category; 36423

(B) Standards and procedures, including a schedule of 36424
frequency, for conducting inspections of food service operations; 36425

(C) Standards and procedures for conducting investigations of 36426
complaints pertaining to food service operations; 36427

(D) Procedures to be used by the director of health in 36428
approving courses of study for persons seeking certification in 36429
food protection, standards that must be met to receive and 36430
maintain the director's approval, and procedures for withdrawing 36431
the director's approval of a course if the standards for approval 36432
are no longer being met; 36433

(E) Standards for the provision of assistance to choking 36434
victims; 36435

(F) Any other matter the ~~council~~ director considers relevant 36436
to the administration and enforcement of the provisions of this 36437
chapter applicable to food service operations. 36438

Sec. 3718.02. (A) The ~~public~~ director of health council, in 36439
accordance with Chapter 119. of the Revised Code, shall adopt, and 36440
subsequently may amend and rescind, rules of general application 36441
throughout the state to administer this chapter. Rules adopted 36442
under division (A) of this section shall do at least all of the 36443
following: 36444

- (1) Require that the appropriate board of health approve or disapprove the installation, operation, and alteration of a sewage treatment system if it is not connected to a sanitary sewerage system; 36445
36446
36447
36448
- (2) Require a board of health, or other person as established by rule, to conduct a site evaluation for any proposed installation of a sewage treatment system; 36449
36450
36451
- (3) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of sewage treatment systems that may be used in this state and for the progressive or incremental alteration or repair of an existing sewage treatment system or the progressive or incremental installation of a new system to replace an existing sewage treatment system. The rules shall be adopted so as to establish a preference for the repair of an existing sewage treatment system, when technically and economically feasible, rather than its replacement with a new system. The standards shall include at a minimum all of the following: 36452
36453
36454
36455
36456
36457
36458
36459
36460
36461
36462
- (a) Soil absorption specifications and vertical separation distances. 36463
36464
- (i) Soil absorption specifications established in rules shall include standards regarding the sizing of sewage treatment systems in use in the state. 36465
36466
36467
- (ii) In establishing soil absorption specifications and vertical separation distances, the rules shall identify those soil conditions that present a low or moderate risk of inadequate treatment or dispersal of sewage from sewage treatment systems. For low and moderate risk conditions, the required vertical separation distance shall not exceed eighteen inches except as authorized pursuant to rules adopted under divisions (A)(3)(a)(iii) and (iv) of this section. 36468
36469
36470
36471
36472
36473
36474
36475

In addition, the rules shall identify those soil conditions 36476
that present a high risk of inadequate treatment or dispersal of 36477
sewage. For such high risk conditions, the vertical separation 36478
distance shall be set at a depth from twenty-four to thirty-six 36479
inches and shall not be lowered unless a reduction of vertical 36480
separation is granted in accordance with rules adopted under 36481
division (A)(3)(a)(iii) of this section. 36482

(iii) The rules shall establish options to be utilized by a 36483
board of health when approving the reductions of or compliance 36484
with vertical separation distances that are established in rules 36485
adopted under division (A)(3)(a)(ii) of this section. The options 36486
for a board of health in providing such approval shall include, 36487
but not be limited to: the use where deemed appropriate for a 36488
particular site of subsurface interceptor drains, perimeter 36489
drains, or engineered drainage; pretreatment of sewage; or soil 36490
elevation. 36491

(iv) The rules shall provide that a board of health may 36492
petition the director to increase the vertical separation 36493
distances required for sewage treatment systems in the applicable 36494
health district or a portion of the district when conditions 36495
present a high risk of inadequate treatment or dispersal of 36496
sewage. The rules also shall provide that the director may approve 36497
such a request upon a demonstration by the board of health that 36498
unusual or unique local conditions relating to terrain, bedrock, 36499
water table, soil fragments, or soil textures require the 36500
establishment of greater vertical separation distances within the 36501
jurisdiction of the board of health or a portion thereof. If, 36502
under the rules, the director of health approves a greater 36503
vertical separation distance, a board of health still may approve 36504
a reduction of that vertical separation distance for an individual 36505
sewage treatment system pursuant to rules adopted under division 36506
(A)(3)(a)(iii) of this section. Further, if, under the rules, the 36507

director approves a greater vertical separation distance, a person 36508
who is denied permission by a board of health to install or 36509
replace a sewage treatment system as a result of the director's 36510
approval may request a hearing in accordance with section 3718.11 36511
of the Revised Code. 36512

(b) Specifications for the quality of treated sewage effluent 36513
from household sewage treatment systems that is applied to soil on 36514
the property where a household sewage treatment system is located. 36515
The specifications established in the rules for the quality of 36516
effluent from discharging systems shall comply with discharge 36517
requirements imposed by the national pollutant discharge 36518
elimination system permit program established under section 36519
6111.03 of the Revised Code and rules adopted under it. 36520

(c) Requirements for the reasonable maintenance of a system 36521
according to maintenance requirements approved by the director of 36522
health as recommended by the sewage treatment system technical 36523
advisory committee or according to accepted standards and 36524
practices established in rules, as applicable. The requirements 36525
may include standards for service contracts or other arrangements 36526
that assure regular maintenance and upkeep of the system. In 36527
determining the reasonableness of a maintenance requirement, the 36528
director shall consider a manufacturer's maintenance requirements 36529
as well as all other maintenance alternatives. 36530

(4) Prescribe procedures for notification to boards of health 36531
of the approval of a sewage treatment system or components of a 36532
system by the director of health under section 3718.04 of the 36533
Revised Code; 36534

(5) Prescribe criteria and procedures under which boards of 36535
health shall issue installation permits, operation permits, and 36536
alteration permits for sewage treatment systems. The rules shall 36537
require as a condition of an installation permit that the 36538
installer of a system must warrant that the system was installed 36539

in accordance with all applicable rules and design requirements. 36540
In addition, the rules shall require a board of health, not later 36541
than sixty days after the issuance of an installation, operation, 36542
or alteration permit, to notify the director that the permit was 36543
issued. The rules shall require the notification to be in a format 36544
prescribed by the director and to include information related to 36545
the issuance of the permit. With the assistance of the department 36546
of health, a board of health, to the extent practicable, shall 36547
computerize the process of the issuance of permits for sewage 36548
treatment systems. 36549

(6) Require a board of health to inspect a sewage treatment 36550
system not later than twelve months after its installation to 36551
ensure that the system is operating properly. The rules shall 36552
require a board of health, not later than sixty days after the 36553
inspection, to certify to the director on a form provided by the 36554
director that the inspection was performed. 36555

(7) Require each board of health to develop a program for the 36556
administration of maintenance requirements established in rules 36557
adopted under division (A)(3)(c) of this section. The rules shall 36558
include requirements and procedures under which a person may 36559
demonstrate the required maintenance of a system in lieu of having 36560
an inspection conducted when an inspection otherwise is required. 36561
The rules shall require a board of health to provide written 36562
notice to a person that is demonstrating maintenance of a system 36563
in lieu of an inspection that if proof of the required maintenance 36564
of the system is not provided as required by rules, the system is 36565
subject to inspection by the board and the reasonable cost of the 36566
inspection must be paid by the person. The rules shall authorize a 36567
board of health to inspect any sewage treatment system if there is 36568
a good-faith complaint regarding the system, there is probable 36569
cause for the inspection, or proof of the required maintenance of 36570
the system has not been provided as required by rules. In 36571

addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall require that the reasonable costs for sewage effluent testing or evaluation be paid by the owner of a sewage treatment system that is being investigated. Further, the rules shall establish a methodology for determining the reasonable costs of an inspection in accordance with section 3709.09 of the Revised Code. The rules shall allow, but shall not require, a board of health to continue an inspection program that was established by the board prior to the effective date of the rules, provided that the program authorizes a person to demonstrate the required maintenance of a system in lieu of an inspection.

(8) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part of the registration. The rules shall establish uniform statewide bonding requirements or other financial security requirements for installers, service providers, and septage haulers as a condition of registration within any health district. The rules shall establish a methodology by which the required amount of a bond or other security may be calculated for each installer, service provider, and septage hauler. The methodology, at a minimum, shall consider the number of systems installed or serviced and the type of system installed or serviced by an installer, service provider, or septage hauler on an annual basis. The rules shall provide that no board of health shall require an additional or different bond or security requirement as a condition of registration beyond the bonding and security requirements established in the rules adopted under division (A)(8) of this section.

The rules shall establish a cost methodology for determining 36604
the fee for the registration of an installer, service provider, or 36605
septage hauler in any health district. 36606

(9) Prescribe requirements for the collection, 36607
transportation, disposal, and land application of domestic septage 36608
in this state from a sewage treatment system; 36609

(10) Require boards of health to maintain records that are 36610
determined necessary to ascertain compliance with this chapter and 36611
the rules adopted under it; 36612

(11) Require the manufacturer of a sewage treatment system 36613
that is authorized for use in this state in rules adopted under 36614
this section or that is approved for use in this state under 36615
section 3718.04 of the Revised Code to provide instructions for 36616
the operation and maintenance of the system. The rules shall 36617
provide that a board of health may require a copy of a 36618
manufacturer's instructions for the operation and maintenance of a 36619
system to be filed with the board prior to the installation and 36620
use of the system in the health district in which the board has 36621
jurisdiction. In addition, the rules shall require a board of 36622
health and a manufacturer to provide a copy of the operation and 36623
maintenance instructions, if available, when a board of health or 36624
a manufacturer receives a written request for instructions. 36625

(12) Prescribe criteria for the provision of written evidence 36626
of compliance with rules pertaining to sewage treatment for 36627
purposes of sections 711.05 and 711.10 of the Revised Code; 36628

(13) Pursuant to divisions (A)(1) and (3) of this section, 36629
prescribe standards for the siting, design, installation, 36630
operation, monitoring, maintenance, and abandonment of small flow 36631
on-site sewage treatment systems that may be used in this state; 36632

(14) Prescribe minimum criteria and procedures under which 36633
boards of health may establish household sewage treatment district 36634

management programs for the purpose of providing a responsive 36635
approach toward preventing or solving sewage treatment problems 36636
resulting from household sewage treatment systems within the 36637
districts established under the program. For purposes of division 36638
(A)(14) of this section, a board of health may enter into a 36639
contract with any entity to administer a household sewage 36640
treatment district management program. 36641

(15) Prescribe standards for the use of subsurface 36642
interceptor drains, perimeter drains, and engineered drainage to 36643
remove or divert any subsurface water from an area to be used for 36644
soil absorption of sewage in the soil of a sewage treatment 36645
system; 36646

(16) Prescribe standards for the inspection of septage 36647
hauling truck tanks by boards of health, including, but not 36648
limited to, tank seal safety specifications; 36649

(17) Establish standards and testing methods to ensure that 36650
all septic tanks, other disposal component tanks, dosing tanks, 36651
pump vaults, household sewage treatment disposal system holding 36652
tanks and privy vaults, or other applicable sewage disposal system 36653
components manufactured after ~~the effective date of this section~~ 36654
September 17, 2010, and used in this state are watertight and 36655
structurally sound; 36656

(18) Require a board of health to give notice and an 36657
opportunity for a hearing, pursuant to section 3718.11 of the 36658
Revised Code, to an affected property owner regarding any of the 36659
following: 36660

(a) The denial of an installation, operation, or alteration 36661
permit for a sewage treatment system; 36662

(b) The imposition of a condition on the installation of a 36663
sewage treatment system; 36664

(c) The required replacement of a sewage treatment system; 36665

(d) Any other final order or decision of a board of health 36666
that is made under this chapter concerning which a property owner 36667
is claiming to be aggrieved or adversely affected. 36668

The rules also shall establish procedures for giving such 36669
notice and for conducting the hearing required in rules adopted 36670
under division (A)(18) of this section. 36671

(19) Prescribe standards for the regulation of gray water 36672
recycling systems; 36673

(20) Prohibit a sewage treatment system from causing a public 36674
health nuisance; 36675

(21) Define economic impact for purposes of division (B) of 36676
this section and section 3718.022 of the Revised Code. 36677

The ~~council~~ director may adopt other rules under division (A) 36678
of this section that ~~it~~ the director determines are necessary to 36679
implement this chapter and to protect the public health and 36680
welfare. 36681

At least sixty days prior to adopting a rule under division 36682
(A) of this section, the ~~council~~ director shall provide boards of 36683
health and any other interested parties an opportunity to comment 36684
on the rule. 36685

(B)(1) In accordance with section 3709.20 or 3709.21 of the 36686
Revised Code, as applicable, and subject to review by and approval 36687
of the director under division (C) of section 3718.05 of the 36688
Revised Code, a board of health may adopt rules necessary for the 36689
public health providing for more stringent standards than those 36690
established in rules ~~of the public health council~~ adopted by the 36691
director under division (A) of this section. In proposing or 36692
adopting the rules, a board of health shall consider and document 36693
the economic impact of the rules on property owners within the 36694
applicable health district. 36695

(2) A board that intends to adopt rules shall notify the department of health of the proposed rules and submit a copy of the proposed rules and the documentation of the economic impact of the rules at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving a copy of the proposed rule from the board of health.

(3) In reviewing a proposed rule, the director shall approve the rule if all of the following apply:

(a) The proposed rule is not in conflict with this chapter or rules adopted under it.

(b) The proposed rule is authorized by division (B) of this section.

(c) The proposed rule is no less stringent than rules adopted by the ~~public health council~~ director.

(d) Unless otherwise authorized by this chapter or rules adopted under it, the proposed rule does not require design changes to a sewage treatment system, or component thereof, that differ from a design authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with operation or maintenance procedures authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered

the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable.

Sec. 3718.021. (A) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems in accordance with rules adopted by the ~~public~~ director of health council under division (A)(13) of section 3718.02 of the Revised Code. If a board of health chooses to regulate small flow on-site sewage treatment systems, the board first shall send written notification to the director of health and the director of environmental protection.

(B) If a board of health chooses to regulate small flow on-site sewage treatment systems under division (A) of this section and later determines that it no longer wants to regulate those systems, the board shall notify the director of health and the director of environmental protection. Upon the receipt of the notification by the director of environmental protection, the board of health shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section 3718.07 of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

Sec. 3718.022. Notwithstanding any provision in this chapter

to the contrary, in adopting rules under division (A) of section 36757
3718.02 of the Revised Code, the ~~public~~ director of health council 36758
shall consider the economic impact of the rules on property 36759
owners, the state of available technology, and the nature and 36760
economics of the available ~~alteratives~~ alternatives. 36761

Sec. 3718.05. The director of health shall do all of the 36762
following: 36763

(A) Administer and enforce this chapter and the rules ~~of the~~ 36764
~~public health council~~ adopted under it; 36765

(B) Examine records of boards of health, in accordance with 36766
rules adopted by the ~~council~~ director, that are determined 36767
necessary to ascertain compliance with this chapter and rules 36768
adopted under it; 36769

(C) Review and approve or disapprove rules proposed by boards 36770
of health under division (B) of section 3718.02 of the Revised 36771
Code. The director shall not disapprove a proposed rule unless the 36772
director determines that the proposed rule conflicts with this 36773
chapter or rules adopted under division (A) of section 3718.02 of 36774
the Revised Code ~~by the public health council~~ or fails to promote 36775
public health or environmental protection. If the director 36776
disapproves a proposed rule, the director shall provide a written 36777
explanation of the director's disapproval to the board of health 36778
that proposed the rule. 36779

(D) Survey boards of health as required by section 3718.07 of 36780
the Revised Code; 36781

(E) Develop with the sewage treatment system technical 36782
advisory committee standards, guidelines, and protocols for use by 36783
the director in approving or disapproving a sewage treatment 36784
system under section 3718.04 of the Revised Code and an 36785
application form for use by applicants for that approval, 36786

including identification of the information that must be included 36787
with the form; 36788

(F) Provide instructions on the operation and maintenance of 36789
a sewage treatment system. The director shall provide the 36790
operation and maintenance instructions on the department of 36791
health's web site. In addition, the director shall provide a copy 36792
of the operation and maintenance instructions when the director 36793
receives a written request for the instructions. 36794

(G) Develop educational programs, in conjunction with boards 36795
of health, to educate owners of sewage treatment systems regarding 36796
the proper operation and maintenance of those systems. 36797

Sec. 3718.06. (A)~~(1)~~ A board of health shall establish fees 36798
in accordance with section 3709.09 of the Revised Code for the 36799
purpose of carrying out its duties under this chapter and rules 36800
adopted under it, including fees for installation permits, 36801
operation permits, and alteration permits issued by the board. All 36802
fees so established and collected by the board shall be deposited 36803
in a special fund of the district to be used exclusively by the 36804
board in carrying out those duties. 36805

~~(2)~~(B) In accordance with Chapter 119. of the Revised Code, 36806
the ~~public director of health council~~ may establish by rule a fee 36807
to be collected from applicants for installation permits and 36808
alteration permits issued under rules adopted under this chapter. 36809
The director of health shall use not more than seventy-five per 36810
cent of the proceeds from that fee for administering and enforcing 36811
this chapter and the rules adopted under it by the ~~council~~ 36812
director. The director shall use not less than twenty-five per 36813
cent of the proceeds from that fee to establish a program in 36814
cooperation with boards of health to fund installation and 36815
evaluation of sewage treatment system new technology pilot 36816
projects through grants or other agreements. In the selection of 36817

pilot projects, the director shall consult with the sewage 36818
treatment system technical advisory committee. A board of health 36819
shall collect and transmit the fee to the director pursuant to 36820
section 3709.092 of the Revised Code. 36821

~~(B) The director may submit recommendations to the public 36822
health council regarding the amount of the fee collected under 36823
division (A)(2) of this section for installation and alteration 36824
permits. When making the recommendations, the director shall 36825
submit a report stating the current and projected expenses of 36826
administering and enforcing this chapter and the rules adopted 36827
under it and of the sewage treatment system new technology pilot 36828
projects program established under this section and the total of 36829
all money that has been deposited to the credit of the general 36830
operations fund under division (A)(2) of this section. The 36831
director may include in the report any recommendations for 36832
modifying the requirements established under this chapter and the 36833
rules adopted under it by the council. 36834~~

Sec. 3718.07. The director of health shall survey each city 36836
and general health district at least once every three years to 36837
determine whether there is substantial compliance with the 36838
requirements of this chapter pertaining to health districts and 36839
the applicable rules adopted by the ~~public health council~~ director 36840
under this chapter. Upon determining that there is substantial 36841
compliance, the director shall place the district on an approved 36842
list. The director may resurvey an approved district if it is 36843
determined by the director to be necessary and may remove from the 36844
list a district that is found not to be substantially complying 36845
with the requirements of this chapter pertaining to health 36846
districts and the applicable rules. 36847

If the director determines that a district is not eligible to 36848
be placed on the approved list or to continue on the list after a 36849

resurvey, the director shall certify that determination to the 36850
board of health, and the director shall carry out the duties of 36851
the unapproved health district under this chapter and the 36852
applicable rules adopted under it within the district or shall 36853
contract with an approved health district to conduct those duties 36854
until the unapproved district is placed on or returned to the 36855
approved list. The director or the contracting district shall have 36856
within the unapproved district the authority to exercise powers 36857
and perform duties granted to or imposed on the board under this 36858
chapter and the applicable rules adopted under it. 36859

Until the unapproved district is placed on or returned to the 36860
approved list, the director or the contracting district shall 36861
collect all fees payable to the board of health under this chapter 36862
and all such fees previously paid to the unapproved district that 36863
have not been expended or encumbered. The director shall deposit 36864
those fees in the state treasury to the credit of a special fund, 36865
which is hereby created, to be used by the director for the 36866
purpose of carrying out the duties of the unapproved health 36867
district under this chapter and the applicable rules adopted under 36868
it. A contracting district shall deposit those fees to the credit 36869
of its fund created under section 3718.06 of the Revised Code to 36870
be used by the district for the purpose of carrying out the duties 36871
of the unapproved district under this chapter and the applicable 36872
rules adopted under it. The director or contracting district shall 36873
repay to the unapproved district any balance remaining in the 36874
applicable fund from all sources when the unapproved district is 36875
placed on or returned to the approved list by the director. 36876

If a health district is removed from the approved list under 36877
this section and the board of health of the district is regulating 36878
small flow on-site sewage treatment systems in the district under 36879
section 3718.021 of the Revised Code, the director of 36880
environmental protection shall regulate those systems in that 36881

district in accordance with division (C) of that section. 36882

Sec. 3718.09. (A) A board of health may issue, modify, 36883
suspend, or revoke enforcement orders to a registration or permit 36884
holder or other person directing the holder or person to abate a 36885
violation of this chapter, any rule adopted or order issued under 36886
it, or a condition of a registration or permit issued under it 36887
within a specified, reasonable time. If an order issued under this 36888
division is neglected or disregarded, the applicable board of 36889
health may proceed in accordance with section 3707.02 of the 36890
Revised Code. 36891

(B) The health commissioner or the commissioner's designated 36892
representative, without prior notice or hearing and in accordance 36893
with ~~the rules of~~ adopted by the public director of health 36894
~~council~~, may issue an emergency order requiring any action 36895
necessary to meet a public health emergency or to prevent or abate 36896
an imminent and substantial threat to surface water or ground 36897
water regarding domestic septage management or regarding a sewage 36898
treatment system that is being operated in a manner that does not 36899
comply with this chapter or rules adopted under it. A person to 36900
whom such an emergency order is issued immediately shall comply 36901
with the order. A person so ordered may apply to the issuer of the 36902
order for a hearing, which shall be held as soon as possible, but 36903
not later than twenty days after the issuer's receipt of the 36904
application for a hearing. 36905

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 36906
3721.99 of the Revised Code: 36907

(1)(a) "Home" means an institution, residence, or facility 36908
that provides, for a period of more than twenty-four hours, 36909
whether for a consideration or not, accommodations to three or 36910
more unrelated individuals who are dependent upon the services of 36911

others, including a nursing home, residential care facility, home 36912
for the aging, and a veterans' home operated under Chapter 5907. 36913
of the Revised Code. 36914

(b) "Home" also means both of the following: 36915

(i) Any facility that a person, as defined in section 3702.51 36916
of the Revised Code, proposes for certification as a skilled 36917
nursing facility or nursing facility under Title XVIII or XIX of 36918
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 36919
as amended, and for which a certificate of need, other than a 36920
certificate to recategorize hospital beds as described in section 36921
~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the 36922
version of section 3702.51 of the Revised Code in effect 36923
immediately prior to April 20, 1995, has been granted to the 36924
person under sections 3702.51 to 3702.62 of the Revised Code after 36925
August 5, 1989; 36926

(ii) A county home or district home that is or has been 36927
licensed as a residential care facility. 36928

(c) "Home" does not mean any of the following: 36929

(i) Except as provided in division (A)(1)(b) of this section, 36930
a public hospital or hospital as defined in section 3701.01 or 36931
5122.01 of the Revised Code; 36932

(ii) A residential facility ~~for mentally ill persons~~ as 36933
defined ~~under~~ in section 5119.22 of the Revised Code; 36934

(iii) A residential facility as defined in section 5123.19 of 36935
the Revised Code; 36936

(iv) ~~An adult care facility as defined in section 5119.70 of~~ 36937
~~the Revised Code;~~ 36938

~~(v)~~ An alcohol or drug addiction program as defined in 36939
section 3793.01 of the Revised Code; 36940

~~(vi)~~ (v) A facility licensed to provide methadone treatment 36941

under section 3793.11 of the Revised Code; 36942

~~(vii)~~(vi) A facility providing services under contract with 36943
the department of developmental disabilities under section 5123.18 36944
of the Revised Code ~~unless section 5123.192 of the Revised Code~~ 36945
~~makes the facility subject to the requirements of this chapter;~~ 36946

~~(viii)~~(vii) A facility operated by a hospice care program 36947
licensed under section 3712.04 of the Revised Code that is used 36948
exclusively for care of hospice patients; 36949

~~(ix)~~(viii) A facility, infirmary, or other entity that is 36950
operated by a religious order, provides care exclusively to 36951
members of religious orders who take vows of celibacy and live by 36952
virtue of their vows within the orders as if related, and does not 36953
participate in the medicare program established under Title XVIII 36954
of the "Social Security Act" or the medical assistance program 36955
established under Chapter 5111. of the Revised Code and Title XIX 36956
of the "Social Security Act," if on January 1, 1994, the facility, 36957
infirmary, or entity was providing care exclusively to members of 36958
the religious order; 36959

~~(x)~~(ix) A county home or district home that has never been 36960
licensed as a residential care facility. 36961

(2) "Unrelated individual" means one who is not related to 36962
the owner or operator of a home or to the spouse of the owner or 36963
operator as a parent, grandparent, child, grandchild, brother, 36964
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 36965
uncle. 36966

(3) "Mental impairment" does not mean mental illness as 36967
defined in section 5122.01 of the Revised Code or mental 36968
retardation as defined in section 5123.01 of the Revised Code. 36969

(4) "Skilled nursing care" means procedures that require 36970
technical skills and knowledge beyond those the untrained person 36971
possesses and that are commonly employed in providing for the 36972

physical, mental, and emotional needs of the ill or otherwise 36973
incapacitated. "Skilled nursing care" includes, but is not limited 36974
to, the following: 36975

(a) Irrigations, catheterizations, application of dressings, 36976
and supervision of special diets; 36977

(b) Objective observation of changes in the patient's 36978
condition as a means of analyzing and determining the nursing care 36979
required and the need for further medical diagnosis and treatment; 36980

(c) Special procedures contributing to rehabilitation; 36981

(d) Administration of medication by any method ordered by a 36982
physician, such as hypodermically, rectally, or orally, including 36983
observation of the patient after receipt of the medication; 36984

(e) Carrying out other treatments prescribed by the physician 36985
that involve a similar level of complexity and skill in 36986
administration. 36987

(5)(a) "Personal care services" means services including, but 36988
not limited to, the following: 36989

(i) Assisting residents with activities of daily living; 36990

(ii) Assisting residents with self-administration of 36991
medication, in accordance with rules adopted under section 3721.04 36992
of the Revised Code; 36993

(iii) Preparing special diets, other than complex therapeutic 36994
diets, for residents pursuant to the instructions of a physician 36995
or a licensed dietitian, in accordance with rules adopted under 36996
section 3721.04 of the Revised Code. 36997

(b) "Personal care services" does not include "skilled 36998
nursing care" as defined in division (A)(4) of this section. A 36999
facility need not provide more than one of the services listed in 37000
division (A)(5)(a) of this section to be considered to be 37001
providing personal care services. 37002

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ may further

classify homes. For the purposes of this chapter, any residence, 37034
institution, hotel, congregate housing project, or similar 37035
facility that meets the definition of a home under this section is 37036
such a home regardless of how the facility holds itself out to the 37037
public. 37038

(C) For purposes of this chapter, personal care services or 37039
skilled nursing care shall be considered to be provided by a 37040
facility if they are provided by a person employed by or 37041
associated with the facility or by another person pursuant to an 37042
agreement to which neither the resident who receives the services 37043
nor the resident's sponsor is a party. 37044

(D) Nothing in division (A)(4) of this section shall be 37045
construed to permit skilled nursing care to be imposed on an 37046
individual who does not require skilled nursing care. 37047

Nothing in division (A)(5) of this section shall be construed 37048
to permit personal care services to be imposed on an individual 37049
who is capable of performing the activity in question without 37050
assistance. 37051

(E) Division (A)(1)(c)~~(ix)~~(viii) of this section does not 37052
prohibit a facility, infirmary, or other entity described in that 37053
division from seeking licensure under sections 3721.01 to 3721.09 37054
of the Revised Code or certification under Title XVIII or XIX of 37055
the "Social Security Act." However, such a facility, infirmary, or 37056
entity that applies for licensure or certification must meet the 37057
requirements of those sections or titles and the rules adopted 37058
under them and obtain a certificate of need from the director of 37059
health under section 3702.52 of the Revised Code. 37060

(F) Nothing in this chapter, or rules adopted pursuant to it, 37061
shall be construed as authorizing the supervision, regulation, or 37062
control of the spiritual care or treatment of residents or 37063
patients in any home who rely upon treatment by prayer or 37064

spiritual means in accordance with the creed or tenets of any 37065
recognized church or religious denomination. 37066

Sec. 3721.011. (A) In addition to providing accommodations, 37067
supervision, and personal care services to its residents, a 37068
residential care facility may do the following: 37069

(1) Provide the following skilled nursing care to its 37070
residents: 37071

(a) Supervision of special diets; 37072

(b) Application of dressings, in accordance with rules 37073
adopted under section 3721.04 of the Revised Code; 37074

(c) Subject to division (B)(1) of this section, 37075
administration of medication. 37076

(2) Subject to division (C) of this section, provide other 37077
skilled nursing care on a part-time, intermittent basis for not 37078
more than a total of one hundred twenty days in a twelve-month 37079
period; 37080

(3) Provide skilled nursing care for more than one hundred 37081
twenty days in a twelve-month period to a resident when the 37082
requirements of division (D) of this section are met. 37083

A residential care facility may not admit or retain an 37084
individual requiring skilled nursing care that is not authorized 37085
by this section. A residential care facility may not provide 37086
skilled nursing care beyond the limits established by this 37087
section. 37088

(B)(1) A residential care facility may admit or retain an 37089
individual requiring medication, including biologicals, only if 37090
the individual's personal physician has determined in writing that 37091
the individual is capable of self-administering the medication or 37092
the facility provides for the medication to be administered to the 37093
individual by a home health agency certified under Title XVIII of 37094

the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as 37095
amended; a hospice care program licensed under Chapter 3712. of 37096
the Revised Code; or a member of the staff of the residential care 37097
facility who is qualified to perform medication administration. 37098
Medication may be administered in a residential care facility only 37099
by the following persons authorized by law to administer 37100
medication: 37101

(a) A registered nurse licensed under Chapter 4723. of the 37102
Revised Code; 37103

(b) A licensed practical nurse licensed under Chapter 4723. 37104
of the Revised Code who holds proof of successful completion of a 37105
course in medication administration approved by the board of 37106
nursing and who administers the medication only at the direction 37107
of a registered nurse or a physician authorized under Chapter 37108
4731. of the Revised Code to practice medicine and surgery or 37109
osteopathic medicine and surgery; 37110

(c) A medication aide certified under Chapter 4723. of the 37111
Revised Code; 37112

(d) A physician authorized under Chapter 4731. of the Revised 37113
Code to practice medicine and surgery or osteopathic medicine and 37114
surgery. 37115

(2) In assisting a resident with self-administration of 37116
medication, any member of the staff of a residential care facility 37117
may do the following: 37118

(a) Remind a resident when to take medication and watch to 37119
ensure that the resident follows the directions on the container; 37120

(b) Assist a resident by taking the medication from the 37121
locked area where it is stored, in accordance with rules adopted 37122
pursuant to section 3721.04 of the Revised Code, and handing it to 37123
the resident. If the resident is physically unable to open the 37124
container, a staff member may open the container for the resident. 37125

(c) Assist a physically impaired but mentally alert resident, 37126
such as a resident with arthritis, cerebral palsy, or Parkinson's 37127
disease, in removing oral or topical medication from containers 37128
and in consuming or applying the medication, upon request by or 37129
with the consent of the resident. If a resident is physically 37130
unable to place a dose of medicine to the resident's mouth without 37131
spilling it, a staff member may place the dose in a container and 37132
place the container to the mouth of the resident. 37133

(C) Except as provided in division (D) of this section, a 37134
residential care facility may admit or retain individuals who 37135
require skilled nursing care beyond the supervision of special 37136
diets, application of dressings, or administration of medication, 37137
only if the care will be provided on a part-time, intermittent 37138
basis for not more than a total of one hundred twenty days in any 37139
twelve-month period. In accordance with Chapter 119. of the 37140
Revised Code, the ~~public director of health council~~ shall adopt 37141
rules specifying what constitutes the need for skilled nursing 37142
care on a part-time, intermittent basis. The ~~council~~ director 37143
shall adopt rules that are consistent with rules pertaining to 37144
home health care adopted by the director of job and family 37145
services for the medicaid program established under Chapter 5111. 37146
of the Revised Code. Skilled nursing care provided pursuant to 37147
this division may be provided by a home health agency certified 37148
under Title XVIII of the "Social Security Act," a hospice care 37149
program licensed under Chapter 3712. of the Revised Code, or a 37150
member of the staff of a residential care facility who is 37151
qualified to perform skilled nursing care. 37152

A residential care facility that provides skilled nursing 37153
care pursuant to this division shall do both of the following: 37154

(1) Evaluate each resident receiving the skilled nursing care 37155
at least once every seven days to determine whether the resident 37156
should be transferred to a nursing home; 37157

| | |
|---|---|
| (2) Meet the skilled nursing care needs of each resident receiving the care. | 37158 37159 |
| (D)(1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following: | 37160 37161 37162 37163 37164 |
| (a) The individual or individual's sponsor; | 37165 |
| (b) The individual's personal physician; | 37166 |
| (c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care; | 37167 37168 |
| (d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code. | 37169 37170 37171 |
| (2) The agreement required by division (D)(1) of this section shall include all of the following provisions: | 37172 37173 |
| (a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility; | 37174 37175 37176 |
| (b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility; | 37177 37178 37179 |
| (c) That the redeterminations will be made according to a schedule specified in the agreement; | 37180 37181 |
| (d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs; | 37182 37183 37184 |
| (e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine. | 37185 37186 37187 |

(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

~~(B)~~(C) A single facility may be licensed both as a nursing 37220
home pursuant to this chapter and as ~~an adult care~~ a residential 37221
facility pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised 37222
Code if the director determines that the part or unit to be 37223
licensed as a nursing home can be maintained separate and discrete 37224
from the part or unit to be licensed as ~~an adult care~~ a 37225
residential facility. 37226

~~(C)~~(D) In determining the number of residents in a home for 37227
the purpose of licensing, the director shall consider all the 37228
individuals for whom the home provides accommodations as one group 37229
unless one of the following is the case: 37230

(1) The home is a home for the aging, in which case all the 37231
individuals in the part or unit licensed as a nursing home shall 37232
be considered as one group, and all the individuals in the part or 37233
unit licensed as a rest home shall be considered as another group. 37234

(2) The home is both a nursing home and ~~an adult care~~ a 37235
residential facility. In that case, all the individuals in the 37236
part or unit licensed as a nursing home shall be considered as one 37237
group, and all the individuals in the part or unit licensed as an 37238
adult care facility shall be considered as another group. 37239

(3) The home maintains, in addition to a nursing home or 37240
residential care facility, a separate and discrete part or unit 37241
that provides accommodations to individuals who do not require or 37242
receive skilled nursing care and do not receive personal care 37243
services from the home, in which case the individuals in the 37244
separate and discrete part or unit shall not be considered in 37245
determining the number of residents in the home if the separate 37246
and discrete part or unit is in compliance with the Ohio basic 37247
building code established by the board of building standards under 37248
Chapters 3781. and 3791. of the Revised Code and the home permits 37249
the director, on request, to inspect the separate and discrete 37250
part or unit and speak with the individuals residing there, if 37251

they consent, to determine whether the separate and discrete part 37252
or unit meets the requirements of this division. 37253

~~(D)~~(E)(1) The director of health shall charge the following 37254
application fee and annual renewal licensing and inspection fee 37255
for each fifty persons or part thereof of a home's licensed 37256
capacity: 37257

(a) For state fiscal year 2010, two hundred twenty dollars; 37258

(b) For state fiscal year 2011, two hundred seventy dollars; 37259

(c) For each state fiscal year thereafter, three hundred 37260
twenty dollars. 37261

(2) All fees collected by the director for the issuance or 37262
renewal of licenses shall be deposited into the state treasury to 37263
the credit of the general operations fund created in section 37264
3701.83 of the Revised Code for use only in administering and 37265
enforcing this chapter and rules adopted under it. 37266

~~(E)~~(F)(1) Except as otherwise provided in this section, the 37267
results of an inspection or investigation of a home that is 37268
conducted under this section, including any statement of 37269
deficiencies and all findings and deficiencies cited in the 37270
statement on the basis of the inspection or investigation, shall 37271
be used solely to determine the home's compliance with this 37272
chapter or another chapter of the Revised Code in any action or 37273
proceeding other than an action commenced under division (I) of 37274
section 3721.17 of the Revised Code. Those results of an 37275
inspection or investigation, that statement of deficiencies, and 37276
the findings and deficiencies cited in that statement shall not be 37277
used in any court or in any action or proceeding that is pending 37278
in any court and are not admissible in evidence in any action or 37279
proceeding unless that action or proceeding is an appeal of an 37280
action by the department of health under this chapter or is an 37281
action by any department or agency of the state to enforce this 37282

chapter or another chapter of the Revised Code. 37283

(2) Nothing in division (E)(1) of this section prohibits the 37284
results of an inspection or investigation conducted under this 37285
section from being used in a criminal investigation or 37286
prosecution. 37287

Sec. 3721.03. (A) As used in this section, "person" has the 37288
same meaning as in section 1.59 of the Revised Code. 37289

(B) The director of health shall enforce the provisions of 37290
sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and 37291
may issue orders to secure compliance with the provisions of these 37292
sections and the rules adopted under them. The director may hold 37293
hearings, issue subpoenas, compel testimony, and make 37294
adjudications. 37295

The director may issue an order revoking a license in the 37296
event the director finds, upon hearing or opportunity afforded 37297
pursuant to Chapter 119. of the Revised Code, that any of the 37298
following apply to a person, county home, or district home 37299
licensed under section 3721.07 of the Revised Code: 37300

(1) Has violated any of the provisions of Chapter 3721. of 37301
the Revised Code or rules adopted by the ~~public health council~~ 37302
director under it; 37303

(2) Has violated any order issued by the director; 37304

(3) Is not, or any of its principals are not suitable, 37305
morally or financially to operate such an institution; 37306

(4) Is not furnishing humane, kind, and adequate treatment 37307
and care; 37308

(5) Has had a long-standing pattern of violations of this 37309
chapter or the rules adopted under it that has caused physical, 37310
emotional, mental, or psychosocial harm to one or more residents. 37311

Upon the issuance of any order of revocation, the person 37312
whose license is revoked, or the county home or district home that 37313
has its license revoked, may appeal in accordance with Chapter 37314
119. of the Revised Code. 37315

(C) Once the director notifies a person, county home, or 37316
district home licensed to operate a home that the license may be 37317
revoked or issues any order under this section, the person, county 37318
home, or district home shall not assign or transfer to another 37319
person or entity the right to operate the home. This prohibition 37320
shall remain in effect until proceedings under Chapter 119. of the 37321
Revised Code concerning the order or license revocation have been 37322
concluded or the director notifies the person, county home, or 37323
district home that the prohibition has been lifted. 37324

If a license is revoked under this section, the former 37325
license holder shall not assign or transfer or consent to 37326
assignment or transfer of the right to operate the home. Any 37327
attempted assignment or transfer to another person or entity is 37328
void. 37329

On revocation of a license, the former licensee shall take 37330
all necessary steps to cease operation of the home. 37331

The director of health shall not accept a certificate of need 37332
application under section 3702.52 of the Revised Code regarding a 37333
home if the license to operate the home has been revoked under 37334
this section. 37335

Sec. 3721.032. The state fire marshal shall enforce all 37336
statutes and rules pertaining to fire safety in homes and shall 37337
adopt rules pertaining to fire safety in homes as the marshal 37338
determines necessary. The rules adopted by the marshal shall be in 37339
addition to those fire safety rules that the board of building 37340
standards and the ~~public~~ director of health ~~council~~ are empowered 37341
to adopt. In the event of a dispute between the marshal and 37342

another officer having responsibilities under sections 3721.01 to 37343
3721.09 of the Revised Code with respect to the interpretation or 37344
application of a specific fire safety statute or rule, the 37345
interpretation of the marshal shall prevail. 37346

Sec. 3721.04. (A) The ~~public~~ director of health ~~council~~ shall 37347
adopt and publish rules governing the operation of homes, which 37348
shall have uniform application throughout the state, and shall 37349
prescribe standards for homes with respect to, but not limited to, 37350
the following matters: 37351

(1) The minimum space requirements for occupants and 37352
equipping of the buildings in which homes are housed so as to 37353
ensure healthful, safe, sanitary, and comfortable conditions for 37354
all residents, so long as they are not inconsistent with Chapters 37355
3781. and 3791. of the Revised Code or with any rules adopted by 37356
the board of building standards and by the state fire marshal; 37357

(2) The number and qualifications of personnel, including 37358
management and nursing staff, for each class of home, and the 37359
qualifications of nurse aides, as defined in section 3721.21 of 37360
the Revised Code, used by long-term care facilities, as defined in 37361
that section; 37362

(3) The medical, rehabilitative, and recreational services to 37363
be provided by each class of home; 37364

(4) Dietetic services, including but not limited to 37365
sanitation, nutritional adequacy, and palatability of food; 37366

(5) The personal and social services to be provided by each 37367
class of home; 37368

(6) The business and accounting practices to be followed and 37369
the type of patient and business records to be kept by such homes; 37370

(7) The operation of adult day-care programs provided by and 37371

on the same site as homes licensed under this chapter; 37372

(8) The standards and procedures to be followed by 37373
residential care facilities in admitting and retaining a resident 37374
who requires the application of dressings, including requirements 37375
for charting and evaluating on a weekly basis; 37376

(9) The requirements for conducting weekly evaluations of 37377
residents receiving skilled nursing care in residential care 37378
facilities. 37379

(B) The ~~public health council~~ director may adopt whatever 37380
additional rules are necessary to carry out or enforce the 37381
provisions of sections 3721.01 to 3721.09 and 3721.99 of the 37382
Revised Code. 37383

(C) The following apply to the ~~public health council~~ director 37384
when adopting rules under division (A)(1) of this section 37385
regarding the equipping of the buildings in which homes are 37386
housed: 37387

(1) The rules shall not require that each resident sleeping 37388
room, or a percentage of the resident sleeping rooms, have a 37389
bathtub or shower that is directly accessible from or exclusively 37390
for the room. 37391

(2) The rules shall require that the privacy and dignity of 37392
residents be protected when the residents are transported to and 37393
from bathing facilities, prepare for bathing, and bathe. 37394

(D) The following apply to the ~~public health council~~ director 37395
when adopting rules under division (A)(2) of this section 37396
regarding the number and qualifications of personnel in homes: 37397

(1) When adopting rules applicable to residential care 37398
facilities, the ~~public health council~~ director shall take into 37399
consideration the effect that the following may have on the number 37400
of personnel needed: 37401

| | |
|---|---|
| (a) Provision of personal care services; | 37402 |
| (b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code; | 37403 37404 |
| (c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code. | 37405 37406 |
| (2) When adopting rules applicable to nursing homes, the public health council <u>director</u> shall require each nursing home to do both of the following: | 37407 37408 37409 |
| (a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner; | 37410 37411 |
| (b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident: | 37412 37413 |
| (i) Registered nurses, including registered nurses who perform administrative and supervisory duties; | 37414 37415 |
| (ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties; | 37416 37417 |
| (iii) Nurse aides. | 37418 |
| (3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections <u>section</u> 1819 and 1919 of the "Social Security Act," 49 <u>101</u> Stat. 620 <u>1330-160</u> (1935 <u>1987</u>), 42 U.S.C. 301 <u>1395i-3</u> , as amended, <u>and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.</u> | 37419 37420 37421 37422 37423 37424 37425 37426 37427 |
| <u>(E) The following apply to the director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in nursing homes or rules under division (A)(5) of this section regarding social services to be</u> | 37428 37429 37430 37431 |

provided by nursing homes: 37432

(1) The rules shall not prescribe the number of individuals 37433
licensed as social workers under Chapter 4757. of the Revised Code 37434
that a nursing home with one hundred twenty or fewer beds must 37435
employ. 37436

(2) The rules shall require each nursing home with more than 37437
one hundred twenty beds to employ on a full-time basis one 37438
individual licensed as a social worker under Chapter 4757. of the 37439
Revised Code. 37440

(3) The rules shall require each nursing home to offer its 37441
residents medically related social services that assist the 37442
residents in attaining or maintaining their highest practicable 37443
physical, mental, and psychosocial well-being. 37444

Sec. 3721.07. Every person desiring to operate a home and the 37445
superintendent or administrator of each county home or district 37446
home for which a license as a residential care facility is sought 37447
shall apply for a license to the director of health. The director 37448
shall issue a license for the home, if after investigation of the 37449
applicant and, if required by section 3721.02 of the Revised Code, 37450
inspection of the home, the following requirements or conditions 37451
are satisfied or complied with: 37452

(A) The applicant has not been convicted of a felony or a 37453
crime involving moral turpitude; 37454

(B) The applicant is not violating any of the rules ~~made~~ 37455
adopted by the ~~public~~ director of health ~~council~~ or any order 37456
issued by the director ~~of health~~; 37457

(C) The applicant has not had a license to operate the home 37458
revoked pursuant to section 3721.03 of the Revised Code because of 37459
any act or omission that jeopardized a resident's health, welfare, 37460
or safety nor has the applicant had a long-standing pattern of 37461

violations of this chapter or rules adopted under it that caused 37462
physical, emotional, mental, or psychosocial harm to one or more 37463
residents. 37464

(D) The buildings in which the home is housed have been 37465
approved by the state fire marshal or a township, municipal, or 37466
other legally constituted fire department approved by the marshal. 37467
In the approval of a home such agencies shall apply standards 37468
prescribed by the board of building standards, and by the state 37469
fire marshal, and by section 3721.071 of the Revised Code. 37470

(E) The applicant, if it is an individual, or the principal 37471
participants, if it is an association or a corporation, is or are 37472
suitable financially and morally to operate a home; 37473

(F) The applicant is equipped to furnish humane, kind, and 37474
adequate treatment and care; 37475

(G) The home does not maintain or contain: 37476

(1) Facilities for the performance of major surgical 37477
procedures; 37478

(2) Facilities for providing therapeutic radiation; 37479

(3) An emergency ward; 37480

(4) A clinical laboratory unless it is under the supervision 37481
of a clinical pathologist who is a licensed physician in this 37482
state; 37483

(5) Facilities for radiological examinations unless such 37484
examinations are performed only by a person licensed to practice 37485
medicine, surgery, or dentistry in this state. 37486

(H) The home does not accept or treat outpatients, except 37487
upon the written orders of a physician licensed in this state, 37488
maternity cases, boarding children, and does not house transient 37489
guests, other than participants in an adult day-care program, for 37490
twenty-four hours or less; 37491

(I) The home is in compliance with sections 3721.28 and 37492
3721.29 of the Revised Code. 37493

When the director issues a license, the license shall remain 37494
in effect until revoked by the director or voided at the request 37495
of the applicant; provided, there shall be an annual renewal fee 37496
payable during the month of January of each calendar year. Any 37497
licensed home that does not pay its renewal fee in January shall 37498
pay, beginning the first day of February, a late fee of one 37499
hundred dollars for each week or part thereof that the renewal fee 37500
is not paid. If either the renewal fee or the late fee is not paid 37501
by the fifteenth day of February, the director may, in accordance 37502
with Chapter 119. of the Revised Code, revoke the home's license. 37503

If, under division (B)(5) of section 3721.03 of the Revised 37504
Code, the license of a person has been revoked or the license of a 37505
county home or district home to operate as a residential care 37506
facility has been revoked, the director of health shall not issue 37507
a license to the person or home at any time. A person whose 37508
license is revoked, and a county home or district home that has 37509
its license as a residential care facility revoked other than 37510
under division (B)(5) of section 3721.03 of the Revised Code, for 37511
any reason other than nonpayment of the license renewal fee or 37512
late fees shall not be issued a new license under this chapter 37513
until a period of one year following the date of revocation has 37514
elapsed. 37515

Any applicant who is denied a license may appeal in 37516
accordance with Chapter 119. of the Revised Code. 37517

Sec. 3721.071. The buildings in which a home is housed shall 37518
be equipped with both an automatic fire extinguishing system and 37519
fire alarm system. Such systems shall conform to standards set 37520
forth in the regulations of the board of building standards and 37521
the state fire marshal. 37522

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of ~~labor~~ industrial compliance in the department of commerce, and the

department of health. 37554

It is the express intent of the general assembly that the 37555
department of job and family services shall terminate payments 37556
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 37557
42 U.S.C. 301, as amended, to those homes which do not comply with 37558
the requirements of this section for the submission of a written 37559
fire safety plan and the deadline for entering into contracts for 37560
the installation of systems. 37561

Sec. 3721.121. (A) As used in this section: 37562

(1) "Adult day-care program" means a program operated 37563
pursuant to rules adopted by the ~~public director of health council~~ 37564
under section 3721.04 of the Revised Code and provided by and on 37565
the same site as homes licensed under this chapter. 37566

(2) "Applicant" means a person who is under final 37567
consideration for employment with a home or adult day-care program 37568
in a full-time, part-time, or temporary position that involves 37569
providing direct care to an older adult. "Applicant" does not 37570
include a person who provides direct care as a volunteer without 37571
receiving or expecting to receive any form of remuneration other 37572
than reimbursement for actual expenses. 37573

(3) "Criminal records check" ~~and "older adult" have~~ has the 37574
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 37575

(4) "Home" means a home as defined in section 3721.10 of the 37576
Revised Code. 37577

(5) "Older adult" means a person age sixty or older. 37578

(B)(1) Except as provided in division (I) of this section, 37579
the chief administrator of a home or adult day-care program shall 37580
request that the superintendent of the bureau of criminal 37581
identification and investigation conduct a criminal records check 37582
~~with respect to~~ of each applicant. If an applicant for whom a 37583

criminal records check request is required under this division 37584
does not present proof of having been a resident of this state for 37585
the five-year period immediately prior to the date the criminal 37586
records check is requested or provide evidence that within that 37587
five-year period the superintendent has requested information 37588
about the applicant from the federal bureau of investigation in a 37589
criminal records check, the chief administrator shall request that 37590
the superintendent obtain information from the federal bureau of 37591
investigation as part of the criminal records check of the 37592
applicant. Even if an applicant for whom a criminal records check 37593
request is required under this division presents proof of having 37594
been a resident of this state for the five-year period, the chief 37595
administrator may request that the superintendent include 37596
information from the federal bureau of investigation in the 37597
criminal records check. 37598

(2) A person required by division (B)(1) of this section to 37599
request a criminal records check shall do both of the following: 37600

(a) Provide to each applicant for whom a criminal records 37601
check request is required under that division a copy of the form 37602
prescribed pursuant to division (C)(1) of section 109.572 of the 37603
Revised Code and a standard fingerprint impression sheet 37604
prescribed pursuant to division (C)(2) of that section, and obtain 37605
the completed form and impression sheet from the applicant; 37606

(b) Forward the completed form and impression sheet to the 37607
superintendent of the bureau of criminal identification and 37608
investigation. 37609

(3) An applicant provided the form and fingerprint impression 37610
sheet under division (B)(2)(a) of this section who fails to 37611
complete the form or provide fingerprint impressions shall not be 37612
employed in any position for which a criminal records check is 37613
required by this section. 37614

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older

adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section. 37647
37648

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record. 37649
37650
37651
37652
37653
37654
37655
37656
37657
37658
37659
37660
37661
37662
37663
37664
37665
37666

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section. 37668
37669
37670
37671
37672

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply: 37673
37674
37675
37676

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and 37677
37678

that, unless the fee is paid, the person will not be considered 37679
for employment; 37680

(b) The medical assistance program established under Chapter 37681
5111. of the Revised Code does not reimburse the home or program 37682
the fee it pays under division (D)(1) of this section. 37683

(E) The report of any criminal records check conducted 37684
pursuant to a request made under this section is not a public 37685
record for the purposes of section 149.43 of the Revised Code and 37686
shall not be made available to any person other than the 37687
following: 37688

(1) The individual who is the subject of the criminal records 37689
check or the individual's representative; 37690

(2) The chief administrator of the home or program requesting 37691
the criminal records check or the administrator's representative; 37692

(3) The administrator of any other facility, agency, or 37693
program that provides direct care to older adults that is owned or 37694
operated by the same entity that owns or operates the home or 37695
program; 37696

(4) A court, hearing officer, or other necessary individual 37697
involved in a case dealing with a denial of employment of the 37698
applicant or dealing with employment or unemployment benefits of 37699
the applicant; 37700

(5) Any person to whom the report is provided pursuant to, 37701
and in accordance with, division (I)(1) or (2) of this section; 37702

(6) The board of nursing for purposes of accepting and 37703
processing an application for a medication aide certificate issued 37704
under Chapter 4723. of the Revised Code. 37705

(F) In accordance with section 3721.11 of the Revised Code, 37706
the director of health shall adopt rules to implement this 37707
section. The rules shall specify circumstances under which a home 37708

or adult day-care program may employ a person who has been 37709
convicted of or pleaded guilty to an offense listed or described 37710
in division (C)(1) of this section but meets personal character 37711
standards set by the director. 37712

(G) The chief administrator of a home or adult day-care 37713
program shall inform each individual, at the time of initial 37714
application for a position that involves providing direct care to 37715
an older adult, that the individual is required to provide a set 37716
of fingerprint impressions and that a criminal records check is 37717
required to be conducted if the individual comes under final 37718
consideration for employment. 37719

(H) In a tort or other civil action for damages that is 37720
brought as the result of an injury, death, or loss to person or 37721
property caused by an individual who a home or adult day-care 37722
program employs in a position that involves providing direct care 37723
to older adults, all of the following shall apply: 37724

(1) If the home or program employed the individual in good 37725
faith and reasonable reliance on the report of a criminal records 37726
check requested under this section, the home or program shall not 37727
be found negligent solely because of its reliance on the report, 37728
even if the information in the report is determined later to have 37729
been incomplete or inaccurate; 37730

(2) If the home or program employed the individual in good 37731
faith on a conditional basis pursuant to division (C)(2) of this 37732
section, the home or program shall not be found negligent solely 37733
because it employed the individual prior to receiving the report 37734
of a criminal records check requested under this section; 37735

(3) If the home or program in good faith employed the 37736
individual according to the personal character standards 37737
established in rules adopted under division (F) of this section, 37738
the home or program shall not be found negligent solely because 37739

the individual prior to being employed had been convicted of or 37740
pleaded guilty to an offense listed or described in division 37741
(C)(1) of this section. 37742

(I)(1) The chief administrator of a home or adult day-care 37743
program is not required to request that the superintendent of the 37744
bureau of criminal identification and investigation conduct a 37745
criminal records check of an applicant if the applicant has been 37746
referred to the home or program by an employment service that 37747
supplies full-time, part-time, or temporary staff for positions 37748
involving the direct care of older adults and both of the 37749
following apply: 37750

(a) The chief administrator receives from the employment 37751
service or the applicant a report of the results of a criminal 37752
records check regarding the applicant that has been conducted by 37753
the superintendent within the one-year period immediately 37754
preceding the applicant's referral; 37755

(b) The report of the criminal records check demonstrates 37756
that the person has not been convicted of or pleaded guilty to an 37757
offense listed or described in division (C)(1) of this section, or 37758
the report demonstrates that the person has been convicted of or 37759
pleaded guilty to one or more of those offenses, but the home or 37760
adult day-care program chooses to employ the individual pursuant 37761
to division (F) of this section. 37762

(2) The chief administrator of a home or adult day-care 37763
program is not required to request that the superintendent of the 37764
bureau of criminal identification and investigation conduct a 37765
criminal records check of an applicant and may employ the 37766
applicant conditionally as described in this division, if the 37767
applicant has been referred to the home or program by an 37768
employment service that supplies full-time, part-time, or 37769
temporary staff for positions involving the direct care of older 37770
adults and if the chief administrator receives from the employment 37771

service or the applicant a letter from the employment service that 37772
is on the letterhead of the employment service, dated, and signed 37773
by a supervisor or another designated official of the employment 37774
service and that states that the employment service has requested 37775
the superintendent to conduct a criminal records check regarding 37776
the applicant, that the requested criminal records check will 37777
include a determination of whether the applicant has been 37778
convicted of or pleaded guilty to any offense listed or described 37779
in division (C)(1) of this section, that, as of the date set forth 37780
on the letter, the employment service had not received the results 37781
of the criminal records check, and that, when the employment 37782
service receives the results of the criminal records check, it 37783
promptly will send a copy of the results to the home or adult 37784
day-care program. If a home or adult day-care program employs an 37785
applicant conditionally in accordance with this division, the 37786
employment service, upon its receipt of the results of the 37787
criminal records check, promptly shall send a copy of the results 37788
to the home or adult day-care program, and division (C)(2)(b) of 37789
this section applies regarding the conditional employment. 37790

Sec. 3721.13. (A) The rights of residents of a home shall 37791
include, but are not limited to, the following: 37792

(1) The right to a safe and clean living environment pursuant 37793
to the medicare and medicaid programs and applicable state laws 37794
and ~~regulations prescribed~~ rules adopted by the ~~public~~ director of 37795
health ~~council~~; 37796

(2) The right to be free from physical, verbal, mental, and 37797
emotional abuse and to be treated at all times with courtesy, 37798
respect, and full recognition of dignity and individuality; 37799

(3) Upon admission and thereafter, the right to adequate and 37800
appropriate medical treatment and nursing care and to other 37801
ancillary services that comprise necessary and appropriate care 37802

consistent with the program for which the resident contracted. 37803
This care shall be provided without regard to considerations such 37804
as race, color, religion, national origin, age, or source of 37805
payment for care. 37806

(4) The right to have all reasonable requests and inquiries 37807
responded to promptly; 37808

(5) The right to have clothes and bed sheets changed as the 37809
need arises, to ensure the resident's comfort or sanitation; 37810

(6) The right to obtain from the home, upon request, the name 37811
and any specialty of any physician or other person responsible for 37812
the resident's care or for the coordination of care; 37813

(7) The right, upon request, to be assigned, within the 37814
capacity of the home to make the assignment, to the staff 37815
physician of the resident's choice, and the right, in accordance 37816
with the rules and written policies and procedures of the home, to 37817
select as the attending physician a physician who is not on the 37818
staff of the home. If the cost of a physician's services is to be 37819
met under a federally supported program, the physician shall meet 37820
the federal laws and regulations governing such services. 37821

(8) The right to participate in decisions that affect the 37822
resident's life, including the right to communicate with the 37823
physician and employees of the home in planning the resident's 37824
treatment or care and to obtain from the attending physician 37825
complete and current information concerning medical condition, 37826
prognosis, and treatment plan, in terms the resident can 37827
reasonably be expected to understand; the right of access to all 37828
information in the resident's medical record; and the right to 37829
give or withhold informed consent for treatment after the 37830
consequences of that choice have been carefully explained. When 37831
the attending physician finds that it is not medically advisable 37832
to give the information to the resident, the information shall be 37833

made available to the resident's sponsor on the resident's behalf, 37834
if the sponsor has a legal interest or is authorized by the 37835
resident to receive the information. The home is not liable for a 37836
violation of this division if the violation is found to be the 37837
result of an act or omission on the part of a physician selected 37838
by the resident who is not otherwise affiliated with the home. 37839

(9) The right to withhold payment for physician visitation if 37840
the physician did not visit the resident; 37841

(10) The right to confidential treatment of personal and 37842
medical records, and the right to approve or refuse the release of 37843
these records to any individual outside the home, except in case 37844
of transfer to another home, hospital, or health care system, as 37845
required by law or rule, or as required by a third-party payment 37846
contract; 37847

(11) The right to privacy during medical examination or 37848
treatment and in the care of personal or bodily needs; 37849

(12) The right to refuse, without jeopardizing access to 37850
appropriate medical care, to serve as a medical research subject; 37851

(13) The right to be free from physical or chemical 37852
restraints or prolonged isolation except to the minimum extent 37853
necessary to protect the resident from injury to self, others, or 37854
to property and except as authorized in writing by the attending 37855
physician for a specified and limited period of time and 37856
documented in the resident's medical record. Prior to authorizing 37857
the use of a physical or chemical restraint on any resident, the 37858
attending physician shall make a personal examination of the 37859
resident and an individualized determination of the need to use 37860
the restraint on that resident. 37861

Physical or chemical restraints or isolation may be used in 37862
an emergency situation without authorization of the attending 37863
physician only to protect the resident from injury to self or 37864

others. Use of the physical or chemical restraints or isolation 37865
shall not be continued for more than twelve hours after the onset 37866
of the emergency without personal examination and authorization by 37867
the attending physician. The attending physician or a staff 37868
physician may authorize continued use of physical or chemical 37869
restraints for a period not to exceed thirty days, and at the end 37870
of this period and any subsequent period may extend the 37871
authorization for an additional period of not more than thirty 37872
days. The use of physical or chemical restraints shall not be 37873
continued without a personal examination of the resident and the 37874
written authorization of the attending physician stating the 37875
reasons for continuing the restraint. 37876

If physical or chemical restraints are used under this 37877
division, the home shall ensure that the restrained resident 37878
receives a proper diet. In no event shall physical or chemical 37879
restraints or isolation be used for punishment, incentive, or 37880
convenience. 37881

(14) The right to the pharmacist of the resident's choice and 37882
the right to receive pharmaceutical supplies and services at 37883
reasonable prices not exceeding applicable and normally accepted 37884
prices for comparably packaged pharmaceutical supplies and 37885
services within the community; 37886

(15) The right to exercise all civil rights, unless the 37887
resident has been adjudicated incompetent pursuant to Chapter 37888
2111. of the Revised Code and has not been restored to legal 37889
capacity, as well as the right to the cooperation of the home's 37890
administrator in making arrangements for the exercise of the right 37891
to vote; 37892

(16) The right of access to opportunities that enable the 37893
resident, at the resident's own expense or at the expense of a 37894
third-party payer, to achieve the resident's fullest potential, 37895
including educational, vocational, social, recreational, and 37896

| | |
|--|--|
| habilitation programs; | 37897 |
| (17) The right to consume a reasonable amount of alcoholic beverages at the resident's own expense, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies; | 37898 37899 37900 37901 37902 |
| (18) The right to use tobacco at the resident's own expense under the home's safety rules and under applicable laws and rules of the state, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies; | 37903 37904 37905 37906 37907 |
| (19) The right to retire and rise in accordance with the resident's reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician; | 37908 37909 37910 37911 37912 |
| (20) The right to observe religious obligations and participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative; | 37913 37914 37915 37916 37917 |
| (21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to: | 37918 37919 37920 37921 37922 37923 37924 37925 |
| (a) Receive, send, and mail sealed, unopened correspondence; | 37926 |
| (b) Reasonable access to a telephone for private | 37927 |

| | |
|--|--|
| communications; | 37928 |
| (c) Private visits at any reasonable hour. | 37929 |
| (22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician; | 37930 37931 37932 37933 37934 |
| (23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician; | 37935 37936 37937 37938 37939 |
| (24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician; | 37940 37941 37942 37943 37944 |
| (25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor. | 37945 37946 37947 37948 37949 37950 37951 37952 |
| (26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates; | 37953 37954 37955 37956 |
| (27)(a) The right to be free from financial exploitation; | 37957 |

(b) The right to manage the resident's own personal financial 37958
affairs, or, if the resident has delegated this responsibility in 37959
writing to the home, to receive upon written request at least a 37960
quarterly accounting statement of financial transactions made on 37961
the resident's behalf. The statement shall include: 37962

(i) A complete record of all funds, personal property, or 37963
possessions of a resident from any source whatsoever, that have 37964
been deposited for safekeeping with the home for use by the 37965
resident or the resident's sponsor; 37966

(ii) A listing of all deposits and withdrawals transacted, 37967
which shall be substantiated by receipts which shall be available 37968
for inspection and copying by the resident or sponsor. 37969

(28) The right of the resident to be allowed unrestricted 37970
access to the resident's property on deposit at reasonable hours, 37971
unless requests for access to property on deposit are so 37972
persistent, continuous, and unreasonable that they constitute a 37973
nuisance; 37974

(29) The right to receive reasonable notice before the 37975
resident's room or roommate is changed, including an explanation 37976
of the reason for either change. 37977

(30) The right not to be transferred or discharged from the 37978
home unless the transfer is necessary because of one of the 37979
following: 37980

(a) The welfare and needs of the resident cannot be met in 37981
the home. 37982

(b) The resident's health has improved sufficiently so that 37983
the resident no longer needs the services provided by the home. 37984

(c) The safety of individuals in the home is endangered. 37985

(d) The health of individuals in the home would otherwise be 37986
endangered. 37987

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied by the county department of job and family services.

(ii) If the resident appealed the denial pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial.

(f) The home's license has been revoked, the home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code, or the home otherwise ceases to operate.

(g) The resident is a recipient of medicaid, and the home's participation in the medicaid program is involuntarily terminated or denied.

(h) The resident is a beneficiary under the medicare program, and the home's participation in the medicare program is involuntarily terminated or denied.

(31) The right to voice grievances and recommend changes in policies and services to the home's staff, to employees of the department of health, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to a residents' rights advocate, and the right to be a member of, to be active in, and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged

in assisting residents. 38019

(32) The right to have any significant change in the 38020
resident's health status reported to the resident's sponsor. As 38021
soon as such a change is known to the home's staff, the home shall 38022
make a reasonable effort to notify the sponsor within twelve 38023
hours. 38024

(B) A sponsor may act on a resident's behalf to assure that 38025
the home does not deny the residents' rights under sections 38026
3721.10 to 3721.17 of the Revised Code. 38027

(C) Any attempted waiver of the rights listed in division (A) 38028
of this section is void. 38029

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 38030
Revised Code: 38031

(A) "Long-term care facility" means either of the following: 38032

(1) A nursing home as defined in section 3721.01 of the 38033
Revised Code, ~~other than a nursing home or part of a nursing home~~ 38034
~~certified as an intermediate care facility for the mentally~~ 38035
~~retarded under Title XIX of the "Social Security Act," 49 Stat.~~ 38036
~~620 (1935), 42 U.S.C.A. 301, as amended;~~ 38037

(2) A facility or part of a facility that is certified as a 38038
skilled nursing facility or a nursing facility under Title XVIII 38039
or XIX of the "Social Security Act." 38040

(B) "Residential care facility" has the same meaning as in 38041
section 3721.01 of the Revised Code. 38042

(C) "Abuse" means knowingly causing physical harm or 38043
recklessly causing serious physical harm to a resident by physical 38044
contact with the resident or by use of physical or chemical 38045
restraint, medication, or isolation as punishment, for staff 38046
convenience, excessively, as a substitute for treatment, or in 38047
amounts that preclude habilitation and treatment. 38048

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the ~~public~~ director of health council shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

| | |
|--|--|
| (2) "Nurse aide" does not include either of the following: | 38080 |
| (a) A licensed health professional practicing within the scope of the professional's license; | 38081 38082 |
| (b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution. | 38083 38084 38085 38086 38087 38088 |
| (L) "Licensed health professional" means all of the following: | 38089 38090 |
| (1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code; | 38091 38092 |
| (2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code; | 38093 38094 |
| (3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry; | 38095 38096 38097 |
| (4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant; | 38098 38099 |
| (5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code; | 38100 38101 |
| (6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter; | 38102 38103 38104 |
| (7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code; | 38105 38106 |
| (8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code; | 38107 38108 |

| | |
|--|--|
| (9) An optometrist licensed under Chapter 4725. of the Revised Code; | 38109 38110 |
| (10) A pharmacist licensed under Chapter 4729. of the Revised Code; | 38111 38112 |
| (11) A psychologist licensed under Chapter 4732. of the Revised Code; | 38113 38114 |
| (12) A chiropractor licensed under Chapter 4734. of the Revised Code; | 38115 38116 |
| (13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code; | 38117 38118 |
| (14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code. | 38119 38120 |
| (M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended. | 38121 38122 38123 38124 38125 38126 38127 38128 |
| (N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. | 38129 38130 38131 |
| (O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services. | 38132 38133 38134 |
| Sec. 3721.28. (A)(1) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on July 1, 1989, shall be provided by the facility a competency evaluation program approved by the director of health under | 38135 38136 38137 38138 |

division (A) of section 3721.31 of the Revised Code or conducted 38139
by ~~him~~ the director under division (C) of that section. Each 38140
long-term care facility using a nurse aide on July 1, 1989, shall 38141
provide the nurse aide the preparation necessary to complete the 38142
competency evaluation program by January 1, 1990. 38143

(2) Each nurse aide used by a long-term care facility on a 38144
full-time, temporary, per diem, or other basis on January 1, 1990, 38145
who either was not used by the facility on July 1, 1989, or was 38146
used by the facility on July 1, 1989, but had not successfully 38147
completed a competency evaluation program by January 1, 1990, 38148
shall be provided by the facility a competency evaluation program 38149
approved by the director under division (A) of section 3721.31 of 38150
the Revised Code or conducted by ~~him~~ the director under division 38151
(C) of that section. Each long-term care facility using a nurse 38152
aide described in division (A)(2) of this section shall provide 38153
the nurse aide the preparation necessary to complete the 38154
competency evaluation program by October 1, 1990, and shall assist 38155
the nurse aide in registering for the program. 38156

(B) Effective June 1, 1990, no long-term care facility shall 38157
use an individual as a nurse aide for more than four months unless 38158
the individual is competent to provide the services ~~he~~ the 38159
individual is to provide, the facility has received from the nurse 38160
aide registry established under section 3721.32 of the Revised 38161
Code the information concerning the individual provided through 38162
the registry, and one of the following is the case: 38163

(1) The individual was used by a facility as a nurse aide on 38164
a full-time, temporary, per diem, or other basis at any time 38165
during the period commencing July 1, 1989, and ending January 1, 38166
1990, and successfully completed, not later than October 1, 1990, 38167
a competency evaluation program approved by the director under 38168
division (A) of section 3721.31 of the Revised Code or conducted 38169
by ~~him~~ the director under division (C) of that section. 38170

(2) The individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section or has met the conditions specified in division (F) of this section and, in addition, if the training and competency evaluation program or the training, instruction, or education the individual completed in meeting the conditions specified in division (F) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, the individual has successfully completed a competency evaluation program conducted by the director.

(3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation programs approved by ~~him~~ the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section, and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of that section.

(4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the "Social Security Act" and regulations adopted thereunder.

(5) Prior to July 1, 1989, the individual was found competent

to serve as a nurse aide after the completion of a course of nurse 38203
aide training of at least one hundred hours' duration. 38204

(6) The individual is enrolled in a prelicensure program of 38205
nursing education approved by the board of nursing or by an agency 38206
of another state that regulates nursing education, has provided 38207
the long-term care facility with a certificate from the program 38208
indicating that the individual has successfully completed the 38209
courses that teach basic nursing skills including infection 38210
control, safety and emergency procedures, and personal care, and 38211
has successfully completed a competency evaluation program 38212
conducted by the director under division (C) of section 3721.31 of 38213
the Revised Code. 38214

(7) The individual has the equivalent of twelve months or 38215
more of full-time employment in the preceding five years as a 38216
hospital aide or orderly and has successfully completed a 38217
competency evaluation program conducted by the director under 38218
division (C) of section 3721.31 of the Revised Code. 38219

(C) Effective June 1, 1990, no long-term care facility shall 38220
continue for longer than four months to use as a nurse aide an 38221
individual who previously met the requirements of division (B) of 38222
this section but since most recently doing so has not performed 38223
nursing and nursing-related services for monetary compensation for 38224
twenty-four consecutive months, unless the individual successfully 38225
completes additional training and competency evaluation by 38226
complying with divisions (C)(1) and (2) of this section: 38227

(1) Doing one of the following: 38228

(a) Successfully completing a training and competency 38229
evaluation program approved by the director under division (A) of 38230
section 3721.31 of the Revised Code or conducted by ~~him~~ the 38231
director under division (C) of that section; 38232

(b) Successfully completing a training and competency 38233

evaluation program described in division (B)(4) of this section; 38234

(c) Meeting the requirements specified in division (B)(6) or 38235
(7) of this section. 38236

(2) If the training and competency evaluation program 38237
completed under division (C)(1)(a) of this section was conducted 38238
by or in a long-term care facility, or if the director pursuant to 38239
division (E) of section 3721.31 of the Revised Code so requires, 38240
successfully completing a competency evaluation program conducted 38241
by the director. 38242

(D)(1) The four-month periods provided for in divisions (B) 38243
and (C) of this section include any time, on or after June 1, 38244
1990, that an individual is used as a nurse aide on a full-time, 38245
temporary, per diem, or any other basis by the facility or any 38246
other long-term care facility. 38247

(2) During the four-month period provided for in division (B) 38248
of this section, during which a long-term care facility may, 38249
subject to division (E) of this section, use as a nurse aide an 38250
individual who does not have the qualifications specified in 38251
divisions (B)(1) to (7) of this section, a facility shall require 38252
the individual to comply with divisions (D)(2)(a) and (b) of this 38253
section: 38254

(a) Participate in one of the following: 38255

(i) If the individual has successfully completed a training 38256
and competency evaluation program approved by the director under 38257
division (A) of section 3721.31 of the Revised Code, and the 38258
program was conducted by or in a long-term care facility, or the 38259
director pursuant to division (E) of section 3721.31 of the 38260
Revised Code so requires, a competency evaluation program 38261
conducted by the director; 38262

(ii) If the individual is enrolled in a prelicensure program 38263
of nursing education described in division (B)(6) of this section 38264

and has completed or is working toward completion of the courses 38265
described in that division, or the individual has the experience 38266
described in division (B)(7) of this section, a competency 38267
evaluation program conducted by the director; 38268

(iii) A training and competency evaluation program approved 38269
by the director under division (A) of section 3721.31 of the 38270
Revised Code or conducted by ~~him~~ the director under division (C) 38271
of that section. 38272

(b) If the individual participates in or has successfully 38273
completed a training and competency evaluation program under 38274
division (D)(2)(a)(iii) of this section that is conducted by or in 38275
a long-term care facility, or the director pursuant to division 38276
(E) of section 3721.31 of the Revised Code so requires, ~~participate~~ 38277
participate in a competency evaluation program conducted by the 38278
director. 38279

(3) During the four-month period provided for in division (C) 38280
of this section, during which a long-term care facility may, 38281
subject to division (E) of this section, use as a nurse aide an 38282
individual who does not have the qualifications specified in 38283
divisions (C)(1) and (2) of this section, a facility shall require 38284
the individual to comply with divisions (D)(3)(a) and (b) of this 38285
section: 38286

(a) Participate in one of the following: 38287

(i) If the individual has successfully completed a training 38288
and competency evaluation program approved by the director, and 38289
the program was conducted by or in a long-term care facility, or 38290
the director pursuant to division (E) of section 3721.31 of the 38291
Revised Code so requires, a competency evaluation program 38292
conducted by the director; 38293

(ii) If the individual is enrolled in a prelicensure program 38294
of nursing education described in division (B)(6) of this section 38295

and has completed or is working toward completion of the courses 38296
described in that division, or the individual has the experience 38297
described in division (B)(7) of this section, a competency 38298
evaluation program conducted by the director; 38299

(iii) A training and competency evaluation program approved 38300
or conducted by the director. 38301

(b) If the individual participates in or has successfully 38302
completed a training and competency evaluation program under 38303
division (D)(3)(a)(iii) of this section that is conducted by or in 38304
a long-term care facility, or the director pursuant to division 38305
(E) of section 3721.31 of the Revised Code so requires, 38306
participate in a competency evaluation program conducted by the 38307
director. 38308

(E) A long-term care facility shall not permit an individual 38309
used by the facility as a nurse aide while participating in a 38310
training and competency evaluation program to provide nursing and 38311
nursing-related services unless both of the following are the 38312
case: 38313

(1) The individual has completed the number of hours of 38314
training that ~~he must complete~~ be completed prior to providing 38315
services to residents as prescribed by rules that shall be adopted 38316
by the director in accordance with Chapter 119. of the Revised 38317
Code; 38318

(2) The individual is under the personal supervision of a 38319
registered or licensed practical nurse licensed under Chapter 38320
4723. of the Revised Code. 38321

(F) An individual shall be considered to have satisfied the 38322
requirement, under division (B)(2) of this section, of having 38323
successfully completed a training and competency evaluation 38324
program conducted or approved by the director, if the individual 38325
meets both of the following conditions: 38326

(1) The individual, as of July 1, 1989, completed at least 38327
sixty hours divided between skills training and classroom 38328
instruction in the topic areas described in divisions (B)(1) to 38329
(8) of section 3721.30 of the Revised Code; 38330

(2) The individual received, as of that date, at least the 38331
difference between seventy-five hours and the number of hours 38332
actually spent in training and competency evaluation in supervised 38333
practical nurse aide training or regular in-service nurse aide 38334
education. 38335

(G) The ~~public health council~~ director shall adopt rules in 38336
accordance with Chapter 119. of the Revised Code specifying 38337
persons, in addition to the director, who may establish competence 38338
of nurse aides under division (B)(5) of this section, and 38339
establishing criteria for determining whether an individual meets 38340
the conditions specified in division (F) of this section. 38341

(H) The rules adopted pursuant to divisions (E)(1) and (G) of 38342
this section shall be no less stringent than the requirements, 38343
guidelines, and procedures established by the United States 38344
secretary of health and human services under sections 1819 and 38345
1919 of the "Social Security Act." 38346

Sec. 3721.29. In addition to competency evaluation programs 38347
and training and competency evaluation programs required by this 38348
chapter, each long-term care facility shall provide both of the 38349
following to each nurse aide it uses: 38350

(A) An orientation program that includes at least an 38351
explanation of the organizational structure of the facility, its 38352
policies and procedures, its philosophy of care, a description of 38353
its resident population, and an enumeration of its employee rules; 38354

(B) Regular performance review and in-service education to 38355
assure that individuals working in the facility as nurse aides are 38356

competent to perform the nursing and nursing-related services they 38357
perform. In-service education shall include training for nurse 38358
aides providing nursing and nursing-related services to residents 38359
and patients with cognitive impairments. 38360

The ~~public~~ director of health council shall adopt rules to 38361
implement the purposes of this section. The rules shall be no less 38362
stringent than the requirements, guidelines, and procedures 38363
established by the United States secretary of health and human 38364
services under sections 1819 and 1919 of the "Social Security 38365
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 38366

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 38367
Revised Code: 38368

(A) "Bed surrender" means the following: 38369

(1) In the case of a nursing home, the removal of a bed from 38370
a nursing home's licensed capacity in a manner that reduces the 38371
total licensed capacity of all nursing homes; 38372

(2) In the case of a hospital, the removal of a hospital bed 38373
from registration under section 3701.07 of the Revised Code as a 38374
skilled nursing facility bed or long-term care bed in a manner 38375
that reduces the total number of hospital beds registered under 38376
that section as skilled nursing facility beds or long-term care 38377
beds. 38378

(B) "Change of operator" means an entering operator becoming 38379
the operator of a nursing home or hospital in the place of the 38380
exiting operator. 38381

(1) Actions that constitute a change of operator include the 38382
following: 38383

(a) A change in an exiting operator's form of legal 38384
organization, including the formation of a partnership or 38385
corporation from a sole proprietorship; 38386

| | |
|--|---|
| (b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred; | 38387 38388 38389 38390 38391 |
| (c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease; | 38392 38393 38394 |
| (d) If the exiting operator is a partnership, dissolution of the partnership; | 38395 38396 |
| (e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: | 38397 38398 |
| (i) The change in composition does not cause the partnership's dissolution under state law. | 38399 38400 |
| (ii) The partners agree that the change in composition does not constitute a change in operator. | 38401 38402 |
| (f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. | 38403 38404 38405 38406 |
| (2) The following, alone, do not constitute a change of operator: | 38407 38408 |
| (a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions; | 38409 38410 38411 |
| (b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator; | 38412 38413 38414 38415 |
| (c) If the operator is a corporation, a change of one or more | 38416 |

members of the corporation's governing body or transfer of 38417
ownership of one or more shares of the corporation's stock, if the 38418
same corporation continues to be the operator. 38419

(C) "Effective date of a change of operator" means the day an 38420
entering operator becomes the operator of a nursing home or 38421
hospital. 38422

(D) "Entering operator" means the person or government entity 38423
that will become the operator of a nursing home or hospital on the 38424
effective date of a change of operator. 38425

(E) "Exiting operator" means an operator that will cease to 38426
be the operator of a nursing home or hospital on the effective 38427
date of a change of operator. 38428

(F) "Franchise permit fee rate" means the following: 38429

(1) For fiscal year 2012, eleven dollars and forty-seven 38430
cents; 38431

(2) For fiscal year 2013 and each fiscal year thereafter, 38432
eleven dollars and sixty-seven cents. 38433

(G) "Hospital" has the same meaning as in section 3727.01 of 38434
the Revised Code. 38435

(H) "Hospital long-term care unit" means any distinct part of 38436
a hospital in which any of the following beds are located: 38437

(1) Beds registered pursuant to section 3701.07 of the 38438
Revised Code as skilled nursing facility beds or long-term care 38439
beds; 38440

(2) Beds licensed as nursing home beds under section 3721.02 38441
or 3721.09 of the Revised Code. 38442

(I) "Indirect guarantee percentage" means the percentage 38443
specified in section 1903(w)(4)(C)(ii) of the "Social Security 38444
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is 38445
to be used in determining whether a class of providers is 38446

indirectly held harmless for any portion of the costs of a 38447
broad-based health-care-related tax. If the indirect guarantee 38448
percentage changes during a fiscal year, the indirect guarantee 38449
percentage is the following: 38450

(1) For the part of the fiscal year before the change takes 38451
effect, the percentage in effect before the change; 38452

(2) For the part of the fiscal year beginning with the date 38453
the indirect guarantee percentage changes, the new percentage. 38454

~~(J) "Inpatient days" means all days during which a resident 38455
of a nursing facility, regardless of payment source, occupies a 38456
bed in the nursing facility that is included in the facility's 38457
certified capacity under Title XIX. Therapeutic or hospital leave 38458
days for which payment is made under section 5111.26 of the 38459
Revised Code are considered inpatient days proportionate to the 38460
percentage of the facility's per resident per day rate paid for 38461
those days. 38462~~

~~(K) "Medicaid" has the same meaning as in section 5111.01 of 38463
the Revised Code. 38464~~

~~(L) "Medicaid day" means all days during which a resident who 38465
is a medicaid recipient occupies a bed in a nursing facility that 38466
is included in the facility's certified capacity under Title XIX. 38467
Therapeutic or hospital leave days for which payment is made under 38468
section 5111.26 of the Revised Code are considered medicaid days 38469
proportionate to the percentage of the nursing facility's per 38470
resident per day rate for those days. 38471~~

~~(M)(K) "Medicare" means the program established by Title 38472
XVIII. 38473~~

~~(N)(L) "Nursing facility" has the same meaning as in section 38474
5111.20 of the Revised Code. 38475~~

~~(O)(M)(1) "Nursing home" means all of the following: 38476~~

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home; 38477
38478
38479

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII; 38480
38481

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility. 38482
38483

(2) "Nursing home" does not include ~~any~~ either of the following: 38484
38485

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code; 38486
38487

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code; 38488
38489

~~(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.~~ 38490
38491
38492
38493

~~(P)~~(N) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital. 38494
38495
38496

~~(Q)~~(O) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 38497
38498

~~(R)~~(P) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 38499
38500

Sec. 3721.51. The department of job and family services shall do all of the following: 38501
38502

(A) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, 38503
38504
38505

determine an annual franchise permit fee on each nursing home in 38506
an amount equal to the franchise permit fee rate multiplied by the 38507
product of the following: 38508

(1) The number of beds licensed as nursing home beds, plus 38509
any other beds certified as skilled nursing facility beds under 38510
Title XVIII or nursing facility beds under Title XIX on the first 38511
day of May of the calendar year in which the fee is determined 38512
pursuant to division (A) of section 3721.53 of the Revised Code; 38513

(2) The number of days in the fiscal year beginning on the 38514
first day of July of the calendar year in which the fee is 38515
determined pursuant to division (A) of section 3721.53 of the 38516
Revised Code. 38517

(B) Subject to sections 3721.512, 3721.513, and 3721.531 of 38518
the Revised Code and divisions (C) and (D) of this section and for 38519
the purposes specified in section 3721.56 of the Revised Code, 38520
determine an annual franchise permit fee on each hospital in an 38521
amount equal to the franchise permit fee rate multiplied by the 38522
product of the following: 38523

(1) The number of beds registered pursuant to section 3701.07 38524
of the Revised Code as skilled nursing facility beds or long-term 38525
care beds, plus any other beds licensed as nursing home beds under 38526
section 3721.02 or 3721.09 of the Revised Code, on the first day 38527
of May of the calendar year in which the fee is determined 38528
pursuant to division (A) of section 3721.53 of the Revised Code; 38529

(2) The number of days in the fiscal year beginning on the 38530
first day of July of the calendar year in which the fee is 38531
determined pursuant to division (A) of section 3721.53 of the 38532
Revised Code. 38533

(C) If the total amount of the franchise permit fee assessed 38534
under divisions (A) and (B) of this section for a fiscal year 38535
exceeds the indirect guarantee percentage of the actual net 38536

patient revenue for all nursing homes and hospital long-term care units for that fiscal year and seventy-five per cent or more of the combined total number of nursing homes and hospital long-term care units receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3723.06. (A) The director of health shall license radon testers, mitigation specialists, and mitigation contractors. Each applicant for a license shall submit a completed application to the director on a form the director shall prescribe and furnish.

(B) In accordance with rules adopted ~~by the public health council~~ under section 3723.09 of the Revised Code, the director shall issue the appropriate license to each applicant that pays

the license fee prescribed by the ~~council~~ director, meets the 38568
licensing criteria established by the ~~council~~ director, and 38569
complies with any other licensing and training requirements 38570
established by the ~~council~~ director. An individual, business 38571
entity, or government entity may hold more than one license issued 38572
under this section, but a separate application is required for 38573
each license. 38574

(C) Notwithstanding division (B) of this section, the 38575
director shall issue a radon mitigation contractor license on 38576
request to the holder of a radon mitigation specialist license if 38577
the license holder is the owner or chief stockholder of a business 38578
entity for which ~~he~~ the license holder is the only individual who 38579
will work as a radon mitigation specialist. The licensing criteria 38580
and any other licensing and training requirements the individual 38581
was required to meet to qualify for the radon mitigation 38582
specialist license are hereby deemed to satisfy any and all 38583
criteria and requirements for a radon mitigation contractor 38584
license. A license issued under this division shall expire at the 38585
same time as the individual's radon mitigation specialist license. 38586
No license fee shall be imposed for a license issued under this 38587
division. 38588

(D) A license issued under this section expires biennially 38589
and may be renewed by the director in accordance with criteria and 38590
procedures established ~~by the public health council~~ in rules 38591
adopted under section 3723.09 of the Revised Code and on payment 38592
of the license renewal fee prescribed ~~by the council~~ in those 38593
rules. 38594

(E) In accordance with Chapter 119. of the Revised Code, the 38595
director may do either of the following: 38596

(1) Refuse to issue a license to an individual, business 38597
entity, or government entity that does not meet the requirements 38598
of this chapter or the rules adopted under it or has been in 38599

violation of those requirements; 38600

(2) Suspend, revoke, or refuse to renew the license of an 38601
individual, business entity, or government entity that is or has 38602
been in violation of the requirements of this chapter or the rules 38603
adopted under it. 38604

Sec. 3723.07. The director of health shall approve all of the 38605
following: 38606

(A) Licensure training courses for radon testers and 38607
mitigation specialists; 38608

(B) Training courses for employees of mitigation contractors; 38609

(C) Radon laboratories. 38610

Each applicant for approval shall submit a completed 38611
application to the director on a form the director shall prescribe 38612
and furnish. 38613

In accordance with rules adopted ~~by the public health council~~ 38614
under section 3723.09 of the Revised Code, the director shall 38615
issue the appropriate approval to each applicant that pays the 38616
approval fee prescribed by the ~~council~~ director and meets the 38617
criteria for approval established by the ~~council~~ director. 38618

In accordance with Chapter 119. of the Revised Code, the 38619
director may refuse to issue an approval and may revoke or suspend 38620
an approval issued under this section if the operator of the 38621
course or laboratory fails to meet the criteria established by the 38622
~~public health council~~ director. 38623

Sec. 3723.09. (A) To protect the health of individuals 38624
inhabiting, occupying, or frequenting buildings, the ~~public~~ 38625
director of health ~~council~~ shall adopt rules to implement the 38626
requirements of this chapter. All rules adopted under this section 38627
shall be adopted in accordance with Chapter 119. of the Revised 38628

Code. 38629

(B) The ~~public health council~~ director shall adopt rules 38630
establishing criteria and procedures ~~to be followed by the~~ 38631
~~director of health in~~ for issuing and renewing licenses under 38632
section 3723.06 of the Revised Code to radon testers, mitigation 38633
specialists, and mitigation contractors. The rules may require 38634
that all applicants for licensure as a radon tester or mitigation 38635
specialist pass an examination. If an examination is required, the 38636
rules may require applicants to pass an examination conducted by 38637
the department or an appropriate examination conducted by the 38638
United States environmental protection agency. 38639

(C) The ~~public health council~~ director shall adopt rules 38640
establishing criteria and procedures ~~to be followed by the~~ 38641
~~director of health in~~ for approving training courses under section 38642
3723.07 of the Revised Code. The rules may require that 38643
participants in training courses pass an examination conducted by 38644
the operator of the course and may require that the examinations 38645
be approved by the director ~~of health~~. 38646

(D) The ~~public health council~~ director shall adopt rules 38647
establishing criteria and procedures ~~to be followed by the~~ 38648
~~director of health in~~ for approving radon laboratories under 38649
section 3723.07 of the Revised Code. 38650

(E) The ~~public health council~~ director shall adopt rules 38651
establishing reasonable fees for licenses, license renewals, radon 38652
laboratory approvals, and training course approvals. 38653

(F) The ~~public health council~~ director shall adopt rules 38654
establishing standards to be followed by licensed radon testers, 38655
mitigation specialists, and mitigation contractors for the 38656
prevention of hazards to the public health, including standards 38657
for worker protection, record keeping, and training of employees 38658
of licensed radon mitigation contractors. 38659

(G) The ~~public health council~~ director shall adopt rules 38660
establishing procedures to be followed by any individual, business 38661
entity, or government entity licensed by another state to practice 38662
as a radon tester, mitigation specialist, or mitigation contractor 38663
in providing notice to the director of health prior to commencing 38664
practice in this state pursuant to section 3723.03 of the Revised 38665
Code. 38666

(H) The ~~public health council~~ director may adopt rules that 38667
require licensed radon testers and mitigation specialists to 38668
report to the director ~~of health~~, by street address, radon test 38669
results that indicate the presence of radon at a level considered 38670
to be dangerous as determined by the ~~council~~ director. The rules 38671
may require the reporting of screening measurements, follow-up 38672
measurements, post-mitigation measurements, and, if it is known 38673
that radon mitigation has been performed, the methods of 38674
mitigation that were used. Any information required to be reported 38675
to the director under these rules is not a public record under 38676
section 149.43 of the Revised Code, and shall not be released 38677
except in aggregate statistical form. 38678

Sec. 3725.02. (A) No person other than a hospital shall 38679
collect plasma, regardless of the use for which the plasma is 38680
intended, except at a plasmapheresis center holding a current, 38681
valid certificate of approval issued by the director of health. 38682

Whoever violates this division is guilty of a misdemeanor of 38683
the fourth degree. 38684

(B) The ~~public health council~~ director shall adopt such rules 38685
as are necessary to carry out this chapter. 38686

Sec. 3727.01. (A) As used in this section, "health 38687
maintenance organization" means a public or private organization 38688
organized under the law of any state that is qualified under 38689

section 1310(d) of Title XIII of the "Public Health Service Act," 38690
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 38691
following: 38692

(1) Provides or otherwise makes available to enrolled 38693
participants health care services including at least the following 38694
basic health care services: usual physician services, 38695
hospitalization, laboratory, x-ray, emergency and preventive 38696
service, and out-of-area coverage; 38697

(2) Is compensated, except for copayments, for the provision 38698
of basic health care services to enrolled participants by a 38699
payment that is paid on a periodic basis without regard to the 38700
date the health care services are provided and that is fixed 38701
without regard to the frequency, extent, or kind of health service 38702
actually provided; 38703

(3) Provides physician services primarily in either of the 38704
following ways: 38705

(a) Directly through physicians who are either employees or 38706
partners of the organization; 38707

(b) Through arrangements with individual physicians or one or 38708
more groups of physicians organized on a group-practice or 38709
individual-practice basis. 38710

(B) As used in this chapter: 38711

(1) "~~Children's hospital~~" ~~has the same meaning as in section~~ 38712
~~3702.51 of the Revised Code means any of the following:~~ 38713

(a) A hospital registered under section 3701.07 of the 38714
Revised Code that provides general pediatric medical and surgical 38715
care, and in which at least seventy-five per cent of annual 38716
inpatient discharges for the preceding two calendar years were 38717
individuals less than eighteen years of age; 38718

(b) A distinct portion of a hospital registered under section 38719

3701.07 of the Revised Code that provides general pediatric 38720
medical and surgical care, has a total of at least one hundred 38721
fifty registered pediatric special care and pediatric acute care 38722
beds, and in which at least seventy-five per cent of annual 38723
inpatient discharges for the preceding two calendar years were 38724
individuals less than eighteen years of age; 38725

(c) A distinct portion of a hospital, if the hospital is 38726
registered under section 3701.07 of the Revised Code as a 38727
children's hospital and the children's hospital meets all the 38728
requirements of division (B)(1)(a) of this section. 38729

(2) "Hospital" means an institution classified as a hospital 38730
under section 3701.07 of the Revised Code in which are provided to 38731
inpatients diagnostic, medical, surgical, obstetrical, 38732
psychiatric, or rehabilitation care for a continuous period longer 38733
than twenty-four hours or a hospital operated by a health 38734
maintenance organization. "Hospital" does not include a facility 38735
licensed under Chapter 3721. of the Revised Code, a health care 38736
facility operated by the department of mental health or the 38737
department of developmental disabilities, a health maintenance 38738
organization that does not operate a hospital, the office of any 38739
private licensed health care professional, whether organized for 38740
individual or group practice, or a clinic that provides ambulatory 38741
patient services and where patients are not regularly admitted as 38742
inpatients. "Hospital" also does not include an institution for 38743
the sick that is operated exclusively for patients who use 38744
spiritual means for healing and for whom the acceptance of medical 38745
care is inconsistent with their religious beliefs, accredited by a 38746
national accrediting organization, exempt from federal income 38747
taxation under section 501 of the Internal Revenue Code of 1986, 38748
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 38749
twenty-four hour nursing care pursuant to the exemption in 38750
division (E) of section 4723.32 of the Revised Code from the 38751

licensing requirements of Chapter 4723. of the Revised Code. 38752

(3) "Joint commission" means the commission formerly known as 38753
the joint commission on accreditation of healthcare organizations 38754
or the joint commission on accreditation of hospitals. 38755

Sec. 3727.42. (A) Every hospital shall compile and make 38756
available for inspection by the public a price information list 38757
containing the information specified in division (B) of this 38758
section and shall periodically update the list to maintain current 38759
information. The price information list shall be compiled and made 38760
available in a format that complies with the electronic 38761
transaction standards and code sets adopted by the United States 38762
secretary of health and human services under 42 U.S.C. 1320d-2. 38763

(B) Each price information list required by division (A) of 38764
this section shall contain all of the following information: 38765

(1) The usual and customary room and board charges for each 38766
level of care within the hospital, including but not limited to 38767
private rooms, semiprivate rooms, other multiple patient rooms, 38768
and intensive care and other specialty units; 38769

(2) Rates charged for nursing care, if the hospital charges 38770
separately for nursing care; 38771

(3) The usual and customary charges, stated separately for 38772
inpatients and outpatients if different charges are imposed, for 38773
any of the following services provided by the hospital: 38774

(a) The thirty most common x-ray and radiological procedures; 38775

(b) The thirty most common laboratory procedures; 38776

(c) Emergency room services; 38777

(d) Operating room services; 38778

(e) Delivery room services; 38779

(f) Physical, occupational, and pulmonary therapy services; 38780

(g) Any other services designated as high volume services by 38781
a rule which shall be adopted by the ~~public~~ director of health 38782
~~council~~. 38783

(4) The hospital's billing policies, including whether the 38784
hospital charges interest on an amount not paid in full by any 38785
person or government entity and the interest rate charged; 38786

(5) Whether or not the charges listed include fees for the 38787
services of hospital-based anesthesiologists, radiologists, 38788
pathologists, and emergency room physicians and, if a charge does 38789
not include such fees, how such fee information can be obtained. 38790

(C) Every hospital shall do all of the following with the 38791
price information list required by this section: 38792

(1) At the time of admission, or as soon as practical 38793
thereafter, inform each patient of the availability of the list 38794
and on request provide the patient with a free copy of the list; 38795

(2) On request, provide a paper copy of the list to any 38796
person or governmental agency, subject to payment of a reasonable 38797
fee for copying and processing; 38798

(3) Make the list available free of charge on the hospital's 38799
internet web site. 38800

Sec. 3729.01. As used in this chapter: 38801

(A) "Camp operator" means the operator of a recreational 38802
vehicle park, recreation camp, combined park-camp, or temporary 38803
park-camp. 38804

(B) "Campsite user" means a person who enters into a campsite 38805
use agreement with a camp operator for the use of a campsite at a 38806
recreational vehicle park, recreation camp, combined park-camp, or 38807
temporary park-camp. 38808

(C) "Combined park-camp" means any tract of land upon which a 38809

combination of five or more self-contained recreational vehicles 38810
or portable camping units are placed and includes any roadway, 38811
building, structure, vehicle, or enclosure used or intended for 38812
use as part of the park facilities. A tract of land that is 38813
subdivided for lease or other contract of the individual lots is a 38814
combined park-camp if a combination of five or more recreational 38815
vehicles or portable camping units are placed on it for 38816
recreation, vacation, or business purposes. 38817

"Combined park-camp" does not include any tract of land used 38818
solely as a temporary park-camp or solely as a manufactured home 38819
park. 38820

(D) "Dependent recreational vehicle" means a recreational 38821
vehicle other than a self-contained recreational vehicle. 38822
"Dependent recreational vehicle" includes a park model. 38823

(E) "Development" means any artificial change to improved or 38824
unimproved real estate, including, without limitation, buildings 38825
or structures, dredging, filling, grading, paving, excavation or 38826
drilling operations, or storage of equipment or materials, and the 38827
construction, expansion, or substantial alteration of a 38828
recreational vehicle park, recreation camp, or combined park-camp, 38829
for which plan review is required under division (A) of section 38830
3729.03 of the Revised Code. "Development" does not include the 38831
building, construction, erection, or manufacture of any building 38832
to which section 3781.06 of the Revised Code is applicable. 38833

(F) "Director of health" means the director of health or the 38834
director's authorized representative. 38835

(G) "Flood" or "flooding" means either of the following: 38836

(1) A general and temporary condition of partial or complete 38837
inundation of normally dry land areas from any of the following: 38838

(a) The overflow of inland or tidal waters; 38839

| | |
|--|---|
| (b) The unusual and rapid accumulation or runoff of surface waters from any source; | 38840 38841 |
| (c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. | 38842 38843 38844 38845 38846 |
| (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section. | 38847 38848 38849 38850 38851 38852 38853 38854 38855 |
| (H) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water. | 38856 38857 38858 |
| (I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or the director of health, when required under division (B) of section 3729.06 of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director. | 38859 38860 38861 38862 38863 38864 38865 |
| (J) "Manufactured home park" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code. | 38866 38867 |
| (K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. | 38868 38869 |
| (L) "One-hundred-year flood plain" means that portion of a | 38870 |

flood plain inundated by a one-hundred-year flood. 38871

(M) "Operator" means the person who has responsible charge of 38872
a recreational vehicle park, recreation camp, combined park-camp, 38873
or temporary park-camp and who is licensed under this chapter. 38874

(N) "Park model" means a recreational vehicle that meets the 38875
American national standard institute standard A119.5(1988) for 38876
park trailers, is built on a single chassis, has a gross trailer 38877
area of not more than four hundred square feet when set up, is 38878
designed for seasonal or temporary living quarters, and may be 38879
connected to utilities necessary for operation of installed 38880
features and appliances. 38881

(O) "Person" has the same meaning as in section 1.59 of the 38882
Revised Code and also includes this state, any political 38883
subdivision of this state, and any other state or local body of 38884
this state. 38885

(P) "Portable camping units" means dependent recreational 38886
vehicles, tents, portable sleeping equipment, and similar camping 38887
equipment used for travel, recreation, vacation, or business 38888
purposes. 38889

(Q) "Recreation camp" means any tract of land upon which five 38890
or more portable camping units are placed and includes any 38891
roadway, building, structure, vehicle, or enclosure used or 38892
intended for use as a part of the facilities of the camp. A tract 38893
of land that is subdivided for lease or other contract of the 38894
individual lots is a recreation camp if five or more portable 38895
camping units are placed on it for recreation, vacation, or 38896
business purposes. 38897

"Recreation camp" does not include any tract of land used 38898
solely for the storage or display for sale of dependent 38899
recreational vehicles, solely as a temporary park-camp, or solely 38900
as a manufactured home park. 38901

(R) "Recreational vehicle" has the same meaning as in section 38902
4501.01 of the Revised Code. 38903

(S) "Recreational vehicle park" means any tract of land used 38904
for parking five or more self-contained recreational vehicles and 38905
includes any roadway, building, structure, vehicle, or enclosure 38906
used or intended for use as part of the park facilities and any 38907
tract of land that is subdivided for lease or other contract of 38908
the individual lots for the express or implied purpose of placing 38909
self-contained recreational vehicles for recreation, vacation, or 38910
business purposes. 38911

"Recreational vehicle park" does not include any tract of 38912
land used solely for the storage or display for sale of 38913
self-contained recreational vehicles, solely as a temporary 38914
park-camp, or solely as a manufactured home park. 38915

(T) "Self-contained recreational vehicle" means a 38916
recreational vehicle that can operate independent of connections 38917
to sewer and water and has plumbing fixtures or appliances all of 38918
which are connected to sewage holding tanks located within the 38919
vehicle. "Self-contained recreational vehicle" includes a park 38920
model. 38921

(U) "Substantially alter" means a change in the layout or 38922
design of a recreational vehicle park, recreation camp, combined 38923
park-camp, or temporary park-camp, including, without limitation, 38924
the movement of utilities or changes in established streets, lots, 38925
or sites or in other facilities. 38926

(V) "Temporary park-camp" means any tract of land used for a 38927
period not to exceed a total of twenty-one days per calendar year 38928
for the purpose of parking five or more recreational vehicles, 38929
dependent recreational vehicles, or portable camping units, or any 38930
combination thereof, for one or more periods of time that do not 38931
exceed seven consecutive days or parts thereof. 38932

(W) "Tract" means a contiguous area of land that consists of 38933
one or more parcels, lots, or sites that have been separately 38934
surveyed regardless of whether the individual parcels, lots, or 38935
sites have been recorded and regardless of whether the one or more 38936
parcels, lots, or sites are under common or different ownership. 38937

Sec. 3729.02. (A) The ~~public~~ director of health council, 38938
subject to Chapter 119. of the Revised Code, shall adopt rules of 38939
uniform application throughout the state governing the review of 38940
plans and issuance of licenses for and the location, layout, 38941
construction, drainage, sanitation, safety, and operation of 38942
recreational vehicle parks, recreation camps, and combined 38943
park-camps. The rules shall not apply to the construction, 38944
erection, or manufacture of any building to which section 3781.06 38945
of the Revised Code is applicable. 38946

(B) The ~~public health council~~ director, subject to Chapter 38947
119. of the Revised Code, shall adopt rules of uniform application 38948
throughout the state governing the review of plans and issuance of 38949
licenses for and the layout, sanitation, safety, and operation of 38950
temporary park-camps. The rules shall not apply to the 38951
construction, erection, or manufacture of any building to which 38952
section 3781.06 of the Revised Code is applicable. 38953

Sec. 3729.03. (A) No person shall cause development to occur 38954
within any portion of a recreational vehicle park, recreation 38955
camp, or combined park-camp until the plans for the development 38956
have been submitted to and reviewed and approved by the director 38957
of health. This division does not require that plans be submitted 38958
to the director for approval for the replacement of recreational 38959
vehicles or portable camping units on previously approved sites in 38960
a recreational vehicle park, recreation camp, or combined 38961
park-camp when no development is to occur in connection with the 38962
replacement. Within thirty days after receipt of the plans, all 38963

supporting documents and materials required to complete the 38964
review, and the applicable plan review fee established under 38965
division (D) of this section, the director shall approve or 38966
disapprove the plans. 38967

(B) Any person aggrieved by the director's disapproval of a 38968
set of plans under division (A) of this section may request a 38969
hearing on the matter within thirty days after receipt of the 38970
director's notice of the disapproval. The hearing shall be held in 38971
accordance with Chapter 119. of the Revised Code. Thereafter, the 38972
disapproval may be appealed in the manner provided in section 38973
119.12 of the Revised Code. 38974

(C) The director shall establish a system by which 38975
development occurring within a recreational vehicle park, 38976
recreation camp, or combined park-camp is inspected or verified in 38977
accordance with rules adopted under division (A) of section 38978
3729.02 of the Revised Code to ensure that the development 38979
complies with the plans approved under division (A) of this 38980
section. 38981

(D) The ~~public health council~~ director shall establish fees 38982
for reviewing plans under division (A) of this section and 38983
conducting inspections under division (C) of this section. 38984

(E) The director shall charge the appropriate fees 38985
established under division (D) of this section for reviewing plans 38986
under division (A) of this section and conducting inspections 38987
under division (C) of this section. All such plan review and 38988
inspection fees received by the director shall be transmitted to 38989
the treasurer of state and shall be credited to the general 38990
operations fund created in section 3701.83 of the Revised Code. 38991
Moneys so credited to the fund shall be used only for the purpose 38992
of administering and enforcing this chapter and rules adopted 38993
under it. 38994

(F) Plan approvals issued under this section do not 38995
constitute an exemption from the land use and building 38996
requirements of the political subdivision in which the 38997
recreational vehicle park, recreation camp, or combined park-camp 38998
is or is to be located. 38999

Sec. 3729.04. (A) No person shall cause development to occur 39000
within any portion of a recreational vehicle park, recreation 39001
camp, combined park-camp, or temporary park-camp that is located 39002
within a one-hundred-year flood plain in a municipal corporation 39003
unless the person first obtains a permit therefor from the 39004
municipal corporation in accordance with the flood plain 39005
management ordinance of the municipal corporation. 39006

(B) No person shall cause development to occur within any 39007
portion of a recreational vehicle park, recreation camp, combined 39008
park-camp, or temporary park-camp that is located within a 39009
one-hundred-year flood plain in an unincorporated area unless the 39010
person first obtains a permit therefor from the board of county 39011
commissioners of the county in which the development is to occur 39012
in accordance with the flood plain management resolution of the 39013
county adopted under section 307.37 of the Revised Code. 39014

(C) If development for which a permit is required under 39015
division (A) or (B) of this section is to occur on a site where a 39016
recreational vehicle or portable camping unit is or is to be 39017
located, the owner of the recreational vehicle or portable camping 39018
unit and the operator of the recreational vehicle park, recreation 39019
camp, or combined park-camp shall jointly obtain the permit. Each 39020
of the persons to whom a permit is jointly issued is responsible 39021
for compliance with the provisions of the approved permit that are 39022
applicable to that person. 39023

If development for which a permit is required under division 39024
(A) or (B) of this section is to occur within a temporary 39025

park-camp on a site where a recreational vehicle or portable 39026
camping unit is or is to be located, the owner of the temporary 39027
park-camp shall obtain the permit. 39028

(D) Fees established by a municipal corporation or county for 39029
the issuance of permits under division (A) or (B) of this section 39030
are not subject to regulation by the ~~public~~ director of health 39031
~~council~~. 39032

Sec. 3729.07. The licensor of a recreational vehicle park, 39033
recreation camp, or combined park-camp may charge a fee for an 39034
annual license to operate such a park, camp, or park-camp. In the 39035
case of a temporary park-camp, the licensor may charge a fee for a 39036
license to operate the temporary park-camp for the period 39037
specified in division (A) of section 3729.05 of the Revised Code. 39038
The fees for both types of licenses shall be determined in 39039
accordance with section 3709.09 of the Revised Code and shall 39040
include the cost of licensing and all inspections. 39041

Except for the fee for a temporary park-camp license, the fee 39042
also shall include any additional amount determined by rule of the 39043
~~public~~ director of health ~~council~~, which shall be collected and 39044
transmitted by the board of health to the director ~~of health~~ 39045
pursuant to section 3709.092 of the Revised Code and used only for 39046
the purpose of administering and enforcing this chapter and rules 39047
adopted under it. The portion of any fee retained by the board of 39048
health shall be paid into a special fund and used only for the 39049
purpose of administering and enforcing this chapter and rules 39050
adopted under it. 39051

Sec. 3729.08. The licensor of the health district in which a 39052
recreational vehicle park, recreation camp, combined park-camp, or 39053
temporary park-camp is or is to be located, in accordance with 39054
Chapter 119. of the Revised Code, may refuse to grant, may 39055

suspend, or may revoke any license granted to any person for 39056
failure to comply with this chapter or with any rule adopted by 39057
the ~~public director of health council~~ under section 3729.02 of the 39058
Revised Code. 39059

Sec. 3730.10. (A) ~~Not later than ninety days after the~~ 39060
~~effective date of this section, the public~~ The director of health 39061
~~council~~ shall adopt rules in accordance with Chapter 119. of the 39062
Revised Code as necessary for the implementation and enforcement 39063
of this chapter. The rules shall include all of the following: 39064

(1) Safety and sanitation standards and procedures to be 39065
followed to prevent the transmission of infectious diseases during 39066
the performance of tattooing and body piercing procedures; 39067

(2) Standards and procedures to be followed for appropriate 39068
disinfection and sterilization of all invasive equipment or parts 39069
of equipment used in tattooing procedures, body piercing 39070
procedures, and ear piercing procedures performed with an ear 39071
piercing gun; 39072

(3) Procedures for suspending and revoking approvals under 39073
section 3730.05 of the Revised Code. 39074

(B) The rules adopted under division (A)(1) of this section 39075
shall establish universal blood and body fluid precautions to be 39076
used by any individual who performs tattooing or body piercing 39077
procedures. The precautions shall include all of the following: 39078

(1) The appropriate use of hand washing; 39079

(2) The handling and disposal of all needles and other sharp 39080
instruments used in tattooing or body piercing procedures; 39081

(3) The wearing and disposal of gloves and other protective 39082
garments and devices. 39083

(C) The rules adopted under division (A) of this section may 39084
include standards and procedures to be followed by a business that 39085

offers tattooing or body piercing services to ensure that the 39086
individuals who perform tattooing or body piercing procedures for 39087
the business are adequately trained to perform the procedures 39088
properly. 39089

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the 39090
Revised Code: 39091

(A) "Agricultural labor camp" means one or more buildings or 39092
structures, trailers, tents, or vehicles, together with any land 39093
appertaining thereto, established, operated, or used as temporary 39094
living quarters for two or more families or five or more persons 39095
intending to engage in or engaged in agriculture or related food 39096
processing, whether occupancy is by rent, lease, or mutual 39097
agreement. "Agricultural labor camp" does not include a hotel or 39098
motel, or a manufactured home park regulated pursuant to ~~section~~ 39099
~~3733.01~~ sections 4781.26 to 4781.52 of the Revised Code, and rules 39100
adopted thereunder. 39101

(B) "Board of health" means the board of health of a city or 39102
general health district or the authority having the duties of a 39103
board of health in any city as authorized by section 3709.05 of 39104
the Revised Code or an authorized representative of the board of 39105
health. 39106

(C) "Director" means the director of ~~the department of~~ health 39107
or the authorized representative of the director of health. 39108

(D) "Licensor" means the director of health. 39109

(E) "Person" means the state, any political subdivision, 39110
public or private corporation, partnership, association, trust, 39111
individual, or other entity. 39112

~~(F) "Public health council" means the public health council~~ 39113
~~as created by section 3701.33 of the Revised Code.~~ 39114

Sec. 3733.42. The ~~public~~ director of health council, subject 39115
to sections 119.01 to 119.13 of the Revised Code, shall adopt 39116
rules having a uniform application throughout the state, governing 39117
the issuance of licenses, location, layout, construction, approval 39118
of plans, sanitation, safety, operation, use, and maintenance of 39119
agricultural labor camps. The rules shall establish minimum 39120
standards of habitability with which a licensee shall comply in 39121
operating an agricultural labor camp. The rules shall establish, 39122
beyond minimum standards of habitability, additional standards of 39123
habitability for those camps and shall establish priorities for 39124
those additional standards with which a licensee may ~~voluntary~~ 39125
voluntarily comply. 39126

In addition to meeting the requirements of section 119.03 of 39127
the Revised Code, the director of health shall mail a notice of 39128
the date, time, and place of any hearing on the adoption, 39129
amendment, or rescission of such rules and the full text of the 39130
proposed rule, amendment, or rule to be rescinded, at least thirty 39131
days prior to the hearing date, to all persons currently 39132
authorized or licensed to operate camps by the department of 39133
health, or authorized or licensed to operate camps in the previous 39134
calendar year. 39135

Sec. 3734.01. As used in this chapter: 39136

(A) "Board of health" means the board of health of a city or 39137
general health district or the authority having the duties of a 39138
board of health in any city as authorized by section 3709.05 of 39139
the Revised Code. 39140

(B) "Director" means the director of environmental 39141
protection. 39142

(C) "Health district" means a city or general health district 39143
as created by or under authority of Chapter 3709. of the Revised 39144

| | |
|---|---|
| Code. | 39145 |
| (D) "Agency" means the environmental protection agency. | 39146 |
| (E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste. | 39147 39148 39149 39150 39151 39152 39153 39154 39155 39156 39157 39158 39159 39160 39161 |
| (F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code. | 39162 39163 39164 39165 39166 39167 39168 39169 |
| (G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code. | 39170 39171 39172 39173 |
| (H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or | 39174 39175 |

vessel that is not approved or authorized in rules adopted by the 39176
director under section 3734.02 of the Revised Code or, if the 39177
solid wastes consist of scrap tires, in rules adopted under 39178
division (V) of this section or section 3734.73 of the Revised 39179
Code, or the burning of treated or untreated infectious wastes in 39180
an open area or in a type of chamber or vessel that is not 39181
approved in rules adopted by the director under section 3734.021 39182
of the Revised Code. 39183

(I) "Open dumping" means the depositing of solid wastes into 39184
a body or stream of water or onto the surface of the ground at a 39185
site that is not licensed as a solid waste facility under section 39186
3734.05 of the Revised Code or, if the solid wastes consist of 39187
scrap tires, as a scrap tire collection, storage, monocell, 39188
monofill, or recovery facility under section 3734.81 of the 39189
Revised Code; the depositing of solid wastes that consist of scrap 39190
tires onto the surface of the ground at a site or in a manner not 39191
specifically identified in divisions (C)(2) to (5), (7), or (10) 39192
of section 3734.85 of the Revised Code; the depositing of 39193
untreated infectious wastes into a body or stream of water or onto 39194
the surface of the ground; or the depositing of treated infectious 39195
wastes into a body or stream of water or onto the surface of the 39196
ground at a site that is not licensed as a solid waste facility 39197
under section 3734.05 of the Revised Code. 39198

(J) "Hazardous waste" means any waste or combination of 39199
wastes in solid, liquid, semisolid, or contained gaseous form that 39200
in the determination of the director, because of its quantity, 39201
concentration, or physical or chemical characteristics, may do 39202
either of the following: 39203

(1) Cause or significantly contribute to an increase in 39204
mortality or an increase in serious irreversible or incapacitating 39205
reversible illness; 39206

(2) Pose a substantial present or potential hazard to human 39207

health or safety or to the environment when improperly stored, 39208
treated, transported, disposed of, or otherwise managed. 39209

"Hazardous waste" includes any substance identified by 39210
regulation as hazardous waste under the "Resource Conservation and 39211
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 39212
amended, and does not include any substance that is subject to the 39213
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 39214
amended. 39215

(K) "Treat" or "treatment," when used in connection with 39216
hazardous waste, means any method, technique, or process designed 39217
to change the physical, chemical, or biological characteristics or 39218
composition of any hazardous waste; to neutralize the waste; to 39219
recover energy or material resources from the waste; to render the 39220
waste nonhazardous or less hazardous, safer to transport, store, 39221
or dispose of, or amenable for recovery, storage, further 39222
treatment, or disposal; or to reduce the volume of the waste. When 39223
used in connection with infectious wastes, "treat" or "treatment" 39224
means any method, technique, or process designed to render the 39225
wastes noninfectious, including, without limitation, steam 39226
sterilization and incineration, or, in the instance of wastes 39227
identified in division (R)(7) of this section, to substantially 39228
reduce or eliminate the potential for the wastes to cause 39229
lacerations or puncture wounds. 39230

(L) "Manifest" means the form used for identifying the 39231
quantity, composition, origin, routing, and destination of 39232
hazardous waste during its transportation from the point of 39233
generation to the point of disposal, treatment, or storage. 39234

(M) "Storage," when used in connection with hazardous waste, 39235
means the holding of hazardous waste for a temporary period in 39236
such a manner that it remains retrievable and substantially 39237
unchanged physically and chemically and, at the end of the period, 39238
is treated; disposed of; stored elsewhere; or reused, recycled, or 39239

reclaimed in a beneficial manner. When used in connection with 39240
solid wastes that consist of scrap tires, "storage" means the 39241
holding of scrap tires for a temporary period in such a manner 39242
that they remain retrievable and, at the end of that period, are 39243
beneficially used; stored elsewhere; placed in a scrap tire 39244
monocell or monofill facility licensed under section 3734.81 of 39245
the Revised Code; processed at a scrap tire recovery facility 39246
licensed under that section or a solid waste incineration or 39247
energy recovery facility subject to regulation under this chapter; 39248
or transported to a scrap tire monocell, monofill, or recovery 39249
facility, any other solid waste facility authorized to dispose of 39250
scrap tires, or a facility that will beneficially use the scrap 39251
tires, that is located in another state and is operating in 39252
compliance with the laws of the state in which the facility is 39253
located. 39254

(N) "Facility" means any site, location, tract of land, 39255
installation, or building used for incineration, composting, 39256
sanitary landfilling, or other methods of disposal of solid wastes 39257
or, if the solid wastes consist of scrap tires, for the 39258
collection, storage, or processing of the solid wastes; for the 39259
transfer of solid wastes; for the treatment of infectious wastes; 39260
or for the storage, treatment, or disposal of hazardous waste. 39261

(O) "Closure" means the time at which a hazardous waste 39262
facility will no longer accept hazardous waste for treatment, 39263
storage, or disposal, the time at which a solid waste facility 39264
will no longer accept solid wastes for transfer or disposal or, if 39265
the solid wastes consist of scrap tires, for storage or 39266
processing, or the effective date of an order revoking the permit 39267
for a hazardous waste facility or the registration certificate, 39268
permit, or license for a solid waste facility, as applicable. 39269
"Closure" includes measures performed to protect public health or 39270
safety, to prevent air or water pollution, or to make the facility 39271

suitable for other uses, if any, including, but not limited to, 39272
the removal of processing residues resulting from solid wastes 39273
that consist of scrap tires; the establishment and maintenance of 39274
a suitable cover of soil and vegetation over cells in which 39275
hazardous waste or solid wastes are buried; minimization of 39276
erosion, the infiltration of surface water into such cells, the 39277
production of leachate, and the accumulation and runoff of 39278
contaminated surface water; the final construction of facilities 39279
for the collection and treatment of leachate and contaminated 39280
surface water runoff, except as otherwise provided in this 39281
division; the final construction of air and water quality 39282
monitoring facilities, except as otherwise provided in this 39283
division; the final construction of methane gas extraction and 39284
treatment systems; or the removal and proper disposal of hazardous 39285
waste or solid wastes from a facility when necessary to protect 39286
public health or safety or to abate or prevent air or water 39287
pollution. With regard to a solid waste facility that is a scrap 39288
tire facility, "closure" includes the final construction of 39289
facilities for the collection and treatment of leachate and 39290
contaminated surface water runoff and the final construction of 39291
air and water quality monitoring facilities only if those actions 39292
are determined to be necessary. 39293

(P) "Premises" means either of the following: 39294

(1) Geographically contiguous property owned by a generator; 39295

(2) Noncontiguous property that is owned by a generator and 39296
connected by a right-of-way that the generator controls and to 39297
which the public does not have access. Two or more pieces of 39298
property that are geographically contiguous and divided by public 39299
or private right-of-way or rights-of-way are a single premises. 39300

(Q) "Post-closure" means that period of time following 39301
closure during which a hazardous waste facility is required to be 39302
monitored and maintained under this chapter and rules adopted 39303

under it, including, without limitation, operation and maintenance 39304
of methane gas extraction and treatment systems, or the period of 39305
time after closure during which a scrap tire monocell or monofill 39306
facility licensed under section 3734.81 of the Revised Code is 39307
required to be monitored and maintained under this chapter and 39308
rules adopted under it. 39309

(R) "Infectious wastes" includes all of the following 39310
substances or categories of substances: 39311

(1) Cultures and stocks of infectious agents and associated 39312
biologicals, including, without limitation, specimen cultures, 39313
cultures and stocks of infectious agents, wastes from production 39314
of biologicals, and discarded live and attenuated vaccines; 39315

(2) Laboratory wastes that were, or are likely to have been, 39316
in contact with infectious agents that may present a substantial 39317
threat to public health if improperly managed; 39318

(3) Pathological wastes, including, without limitation, human 39319
and animal tissues, organs, and body parts, and body fluids and 39320
excreta that are contaminated with or are likely to be 39321
contaminated with infectious agents, removed or obtained during 39322
surgery or autopsy or for diagnostic evaluation, provided that, 39323
with regard to pathological wastes from animals, the animals have 39324
or are likely to have been exposed to a zoonotic or infectious 39325
agent; 39326

(4) Waste materials from the rooms of humans, or the 39327
enclosures of animals, that have been isolated because of 39328
diagnosed communicable disease that are likely to transmit 39329
infectious agents. Such waste materials from the rooms of humans 39330
do not include any wastes of patients who have been placed on 39331
blood and body fluid precautions under the universal precaution 39332
system established by the centers for disease control in the 39333
public health service of the United States department of health 39334

and human services, except to the extent specific wastes generated 39335
under the universal precautions system have been identified as 39336
infectious wastes by rules adopted under division (R)(8) of this 39337
section. 39338

(5) Human and animal blood specimens and blood products that 39339
are being disposed of, provided that, with regard to blood 39340
specimens and blood products from animals, the animals were or are 39341
likely to have been exposed to a zoonotic or infectious agent. 39342
"Blood products" does not include patient care waste such as 39343
bandages or disposable gowns that are lightly soiled with blood or 39344
other body fluids unless those wastes are soiled to the extent 39345
that the generator of the wastes determines that they should be 39346
managed as infectious wastes. 39347

(6) Contaminated carcasses, body parts, and bedding of 39348
animals that were intentionally exposed to infectious agents from 39349
zoonotic or human diseases during research, production of 39350
biologicals, or testing of pharmaceuticals, and carcasses and 39351
bedding of animals otherwise infected by zoonotic or infectious 39352
agents that may present a substantial threat to public health if 39353
improperly managed; 39354

(7) Sharp wastes used in the treatment, diagnosis, or 39355
inoculation of human beings or animals or that have, or are likely 39356
to have, come in contact with infectious agents in medical, 39357
research, or industrial laboratories, including, without 39358
limitation, hypodermic needles and syringes, scalpel blades, and 39359
glass articles that have been broken; 39360

(8) Any other waste materials generated in the diagnosis, 39361
treatment, or immunization of human beings or animals, in research 39362
pertaining thereto, or in the production or testing of 39363
biologicals, that the ~~public director of health council created in~~ 39364
~~section 3701.33 of the Revised Code~~, by rules adopted in 39365
accordance with Chapter 119. of the Revised Code, identifies as 39366

infectious wastes after determining that the wastes present a 39367
substantial threat to human health when improperly managed because 39368
they are contaminated with, or are likely to be contaminated with, 39369
infectious agents. 39370

(S) "Infectious agent" means a type of microorganism, 39371
helminth, or virus that causes, or significantly contributes to 39372
the cause of, increased morbidity or mortality of human beings. 39373

(T) "Zoonotic agent" means a type of microorganism, helminth, 39374
or virus that causes disease in vertebrate animals and that is 39375
transmissible to human beings and causes or significantly 39376
contributes to the cause of increased morbidity or mortality of 39377
human beings. 39378

(U) "Solid waste transfer facility" means any site, location, 39379
tract of land, installation, or building that is used or intended 39380
to be used primarily for the purpose of transferring solid wastes 39381
that were generated off the premises of the facility from vehicles 39382
or containers into other vehicles for transportation to a solid 39383
waste disposal facility. "Solid waste transfer facility" does not 39384
include any facility that consists solely of portable containers 39385
that have an aggregate volume of fifty cubic yards or less nor any 39386
facility where legitimate recycling activities are conducted. 39387

(V) "Beneficially use" means to use a scrap tire in a manner 39388
that results in a commodity for sale or exchange or in any other 39389
manner authorized as a beneficial use in rules adopted by the 39390
director in accordance with Chapter 119. of the Revised Code. 39391

(W) "Commercial car," "commercial tractor," "farm machinery," 39392
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 39393
the same meanings as in section 4501.01 of the Revised Code. 39394

(X) "Construction equipment" means road rollers, traction 39395
engines, power shovels, power cranes, and other equipment used in 39396
construction work, or in mining or producing or processing 39397

aggregates, and not designed for or used in general highway transportation. 39398
39399

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code. 39400
39401

(Z) "Scrap tire" means an unwanted or discarded tire. 39402

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications: 39403
39404

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located. 39405
39406
39407
39408
39409
39410
39411
39412
39413
39414
39415
39416

(2) The facility exclusively stores scrap tires in portable containers. 39417
39418

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet. 39419
39420
39421

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed. 39422
39423
39424
39425
39426

(CC) "Scrap tire monofill facility" means an engineered 39427

facility used or intended to be used exclusively for the storage 39428
or disposal of scrap tires, including at least facilities for the 39429
submergence of whole scrap tires in a body of water. 39430

(DD) "Scrap tire recovery facility" means any facility, or 39431
portion thereof, for the processing of scrap tires for the purpose 39432
of extracting or producing usable products, materials, or energy 39433
from the scrap tires through a controlled combustion process, 39434
mechanical process, or chemical process. "Scrap tire recovery 39435
facility" includes any facility that uses the controlled 39436
combustion of scrap tires in a manufacturing process to produce 39437
process heat or steam or any facility that produces usable heat or 39438
electric power through the controlled combustion of scrap tires in 39439
combination with another fuel, but does not include any solid 39440
waste incineration or energy recovery facility that is designed, 39441
constructed, and used for the primary purpose of incinerating 39442
mixed municipal solid wastes and that burns scrap tires in 39443
conjunction with mixed municipal solid wastes, or any tire 39444
retreading business, tire manufacturing finishing center, or tire 39445
adjustment center having on the premises of the business a single, 39446
covered scrap tire storage area at which not more than four 39447
thousand scrap tires are stored. 39448

(EE) "Scrap tire storage facility" means any facility where 39449
whole scrap tires are stored prior to their transportation to a 39450
scrap tire monocell, monofill, or recovery facility licensed under 39451
section 3734.81 of the Revised Code; a solid waste incineration or 39452
energy recovery facility subject to regulation under this chapter; 39453
a premises within the state where the scrap tires will be 39454
beneficially used; or a scrap tire storage, monocell, monofill, or 39455
recovery facility, any other solid waste disposal facility 39456
authorized to dispose of scrap tires, or a facility that will 39457
beneficially use the scrap tires, that is located in another 39458
state, and that is operating in compliance with the laws of the 39459

state in which the facility is located. 39460

(FF) "Used oil" means any oil that has been refined from 39461
crude oil, or any synthetic oil, that has been used and, as a 39462
result of that use, is contaminated by physical or chemical 39463
impurities. "Used oil" includes only those substances identified 39464
as used oil by the United States environmental protection agency 39465
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 39466
U.S.C.A. 6901a, as amended. 39467

(GG) "Accumulated speculatively" has the same meaning as in 39468
rules adopted by the director under section 3734.12 of the Revised 39469
Code. 39470

Sec. 3734.131. (A)(1) Except as provided in divisions (D)(1) 39471
and (2) of this section, no person shall transport any solid 39472
wastes from outside this state to a solid waste facility in this 39473
state unless that person has first irrevocably consented in 39474
writing to the jurisdiction of the courts of this state and 39475
service of process in this state, including, without limitation, 39476
summonses and subpoenas, for any civil or criminal proceeding 39477
arising out of or relating to the wastes that are shipped to a 39478
facility in this state. 39479

(2) The original of the consent-to-jurisdiction document 39480
shall be legible and shall be filed with the director of 39481
environmental protection on a form provided by the director. A 39482
legible copy of the completed document shall be filed with the 39483
owner or operator of each solid waste facility to which the wastes 39484
are transported. A consent-to-jurisdiction document applies only 39485
to shipments into this state of wastes described in division 39486
(A)(1) of this section. 39487

(3) All consent-to-jurisdiction documents required under 39488
division (A)(1) or (3) of this section shall be refiled during the 39489
month of December, 1995, and during the month of December of every 39490

fourth year thereafter. Except as provided in division (D)(1) of 39491
this section, after December 31, 1995, or after the thirty-first 39492
day of December of every fourth year thereafter, whichever is 39493
applicable, no person shall continue to transport any solid wastes 39494
from outside this state to a solid waste facility in this state 39495
unless the person refiles with the director and the owner or 39496
operator of each facility to which the wastes are transported 39497
consent-to-jurisdiction documents, in the manner prescribed in 39498
division (A)(2) of this section, during the month of December next 39499
preceding the period for which the refiled document is required. 39500

(4) If the address of a person changes from that listed on 39501
the current consent-to-jurisdiction document filed under division 39502
(A)(1) or (3) of this section, the person shall file amended 39503
consent-to-jurisdiction documents containing the new address with 39504
the director and the owner or operator of each facility to which 39505
the wastes are transported. 39506

(5)(a) Except as provided in division (D)(1) of this section, 39507
no person identified in divisions (D)(2)(a) to (d) of this section 39508
shall transport any solid wastes from outside this state to a 39509
solid waste facility in this state unless the person has first 39510
filed a notification and authorization document naming the 39511
person's agent who is authorized to accept service of process in 39512
this state, including, without limitation, summonses and 39513
subpoenas, for any civil or criminal proceeding arising out of or 39514
relating to the wastes that are shipped to a facility in this 39515
state. 39516

The original of the notification and authorization document 39517
shall be legible and shall be filed with the director on a form 39518
provided by the director. A legible copy of the completed document 39519
shall be filed with the owner or operator of each solid waste 39520
facility to which the wastes are transported. 39521

(b) All notification and authorization documents required 39522

under division (A)(5) of this section shall be refiled during the 39523
month of December, 1995, and during the month of December of every 39524
fourth year thereafter. Except as provided in division (D)(1) of 39525
this section, after December 31, 1995, or after the thirty-first 39526
day of December of every fourth year thereafter, whichever is 39527
applicable, no person identified in divisions (D)(2)(a) to (d) of 39528
this section shall continue to transport any solid wastes from 39529
outside this state to a solid waste facility in this state unless 39530
the person refiles with the director and the owner or operator of 39531
each facility to which the wastes are transported notification and 39532
authorization documents, in the manner prescribed in division 39533
(A)(5)(a) of this section, during the month of December next 39534
preceding the period for which the refiled document is required. 39535

(c) If a person's agent or the address of a person's agent 39536
changes from that listed on the current notification and 39537
authorization document filed under division (A)(5)(a) or (b) of 39538
this section, the person shall file amended notification and 39539
authorization documents containing the name and address of the new 39540
agent or the agent's new address with the director and the owner 39541
or operator of each facility to which the wastes are transported. 39542

(B) A person who enters this state pursuant to a summons, 39543
subpoena, or other form of process authorized by this section is 39544
not subject to arrest or the service of process, whether civil or 39545
criminal, in connection with other matters that arose before his 39546
entrance into this state pursuant to the summons, subpoena, or 39547
other form of process authorized by this section. 39548

(C)(1) Except as provided in division (D)(1) of this section, 39549
no owner, operator, or employee of a solid waste facility shall 39550
accept for treatment, transfer, storage, or disposal at the 39551
facility any solid wastes from outside the boundaries of this 39552
state unless the facility has received a copy of the 39553
consent-to-jurisdiction document or notification and authorization 39554

document required under this section and applicable to the wastes. 39555

(2) The owner or operator of a solid waste facility shall 39556
keep the consent-to-jurisdiction documents and the notification 39557
and authorization documents filed with him under this section at 39558
the facility in such a location and manner that they are readily 39559
accessible to the director or his authorized representative, and 39560
the board of health having jurisdiction over the facility and its 39561
authorized representative, for the purposes of sections 3734.07 39562
and 3734.10 of the Revised Code. 39563

(D)(1) Divisions (A), (B), and (C) of this section do not 39564
apply to the transportation, transfer, or disposal of solid wastes 39565
from residential premises located less than ten miles outside the 39566
boundaries of this state. 39567

(2) Divisions (A)(1) to (4) of this section do not apply to 39568
any of the following: 39569

(a) A corporation incorporated under the laws of this state 39570
that has appointed a statutory agent pursuant to section 1701.07 39571
of the Revised Code; 39572

(b) A foreign corporation licensed to transact business in 39573
this state that has appointed a designated agent pursuant to 39574
section 1703.041 of the Revised Code; 39575

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent~~ 39576
~~pursuant to, as defined in section 4919.77~~ 4923.01 of the Revised 39577
Code, that is a nonresident; 39578

(d) Any other person who is a resident of this state. 39579

Sec. 3734.15. (A) No person shall transport hazardous waste 39580
anywhere in this state unless ~~he~~ the person has first registered 39581
with and obtained a uniform permit from the public utilities 39582
commission in accordance with ~~section 4905.80~~ Chapter 4921. of the 39583
Revised Code. 39584

For the purposes of this section, "registered transporter" 39585
means any person who is registered with and has received a uniform 39586
permit from the public utilities commission pursuant to ~~section~~ 39587
~~4905.80~~ Chapter 4921. of the Revised Code. 39588

(B) A registered transporter of hazardous waste shall be 39589
responsible for the safe delivery of any hazardous waste that ~~he~~ 39590
the registered transporter transports from such time as ~~he~~ the 39591
registered transporter obtains the waste until ~~he~~ the registered 39592
transporter delivers it to a treatment, storage, or disposal 39593
facility specified in division (F) of section 3734.02 of the 39594
Revised Code, as recorded on the manifest required in division (B) 39595
of section 3734.12 of the Revised Code. Any registered transporter 39596
who violates this chapter or any rule adopted under the chapter 39597
while transporting hazardous waste shall be liable for any damage 39598
or injury caused by the violation and for the costs of rectifying 39599
the violation and conditions caused by the violation. 39600

(C) No person who generates hazardous waste shall cause the 39601
waste to be transported by any person who is not a registered 39602
transporter. No person shall accept for treatment, storage, or 39603
disposal any hazardous waste from an unregistered transporter. Any 39604
person who is requested to accept such waste for treatment, 39605
storage, or disposal shall notify the director, the board of 39606
health in ~~his~~ the person's location, and the public utilities 39607
commission of the request. 39608

If a generator causes an unregistered transporter to 39609
transport the hazardous waste, the generator of the waste, the 39610
transporter, and any person who accepts the waste for treatment, 39611
storage, or disposal shall be jointly and severally liable for any 39612
damage or injury caused by the handling of the waste and for the 39613
costs of rectifying their violation and conditions caused by their 39614
violation. 39615

Sec. 3734.51. There is hereby created within the 39616
environmental protection agency the solid waste management 39617
advisory council consisting of the directors of environmental 39618
protection, and development, ~~and natural resources~~, or their 39619
designees, as members ex officio, one member of the senate to be 39620
appointed by the president of the senate, one member of the house 39621
of representatives to be appointed by the speaker of the house of 39622
representatives, and fourteen members to be appointed by the 39623
governor with the advice and consent of the senate. Of the 39624
appointed members, one shall be an employee of a health district 39625
whose duties include enforcement of the solid waste provisions of 39626
this chapter, two shall represent the interests of counties, two 39627
shall represent the interests of municipal corporations, two shall 39628
represent the interests of townships, one shall represent the 39629
interests of county solid waste management districts, one shall 39630
represent the interests of joint solid waste management districts, 39631
one shall represent the interests of industrial generators of 39632
solid wastes, one shall be from the private recycling industry, 39633
one shall be from the private solid waste management industry, one 39634
shall be from a statewide environmental advocacy organization, and 39635
one shall represent the public. ~~Within ninety days after June 24,~~ 39636
~~1988, the governor shall make the initial appointments to the~~ 39637
~~advisory council. Of those initial appointments, six shall be for~~ 39638
~~a term ending June 24, 1989, and six shall be for a term ending~~ 39639
~~June 24, 1990. The governor shall make the initial appointments to~~ 39640
~~the advisory council of the members representing county and joint~~ 39641
~~solid waste management districts within ninety days after the~~ 39642
~~effective date of this amendment. Of the initial appointments of~~ 39643
~~the members representing solid waste management districts, one~~ 39644
~~shall be for a term ending June 24, 1993, and one shall be for a~~ 39645
~~term ending June 24, 1994. Thereafter, terms Terms of office shall~~ 39646
be for two years with each term ending on the same day of the same 39647

month as did the term that it succeeds. Each member shall hold 39648
office from the date of ~~his~~ appointment until the end of the term 39649
for which ~~he~~ the member was appointed. Members may be reappointed. 39650
Vacancies shall be filled in the manner provided for original 39651
appointments. Any member appointed to fill a vacancy occurring 39652
prior to the expiration of the term for which ~~his~~ the member's 39653
predecessor was appointed shall hold office for the remainder of 39654
that term. A member shall continue in office subsequent to the 39655
expiration of ~~his~~ the member's term or until a period of sixty 39656
days has elapsed, whichever occurs first. 39657

The advisory council shall hold at least four regular 39658
quarterly meetings each year. Special meetings may be held at the 39659
behest of the ~~chairman~~ chairperson or a majority of the members. 39660
The director of environmental protection shall serve as ~~chairman~~ 39661
chairperson of the advisory council. The advisory council annually 39662
shall select from among its members a vice-~~chairman~~ chairperson 39663
and a secretary to keep a record of its proceedings. A majority 39664
vote of the members of the advisory council is necessary to take 39665
action on any matter. 39666

Serving as an appointed member of the advisory council does 39667
not constitute holding a public office or position of employment 39668
under the laws of this state and does not constitute grounds for 39669
removal of public officers or employees from their offices or 39670
positions of employment. The governor may remove an appointed 39671
member of the advisory council at any time for misfeasance, 39672
nonfeasance, or malfeasance in office. 39673

Appointed members of the advisory council shall serve without 39674
compensation for attending council meetings. Members of the 39675
advisory council shall be reimbursed for their actual and 39676
necessary expenses incurred in the performance of their duties as 39677
members of the council from moneys appropriated to the 39678
environmental protection agency for administration and enforcement 39679

of the solid waste provisions of this chapter. 39680

The advisory council shall do all of the following: 39681

(A) Advise and assist the director of environmental 39682
protection with preparation of the state solid waste management 39683
plan and periodic revisions to the plan under section 3734.50 of 39684
the Revised Code; 39685

(B) Approve or disapprove the draft state solid waste 39686
management plan and periodic revisions prior to adoption of the 39687
plan under section 3734.50 of the Revised Code; 39688

(C) Annually review implementation of the state solid waste 39689
management plan and the solid waste management plans of county and 39690
joint solid waste management districts approved or ordered to be 39691
implemented under section 3734.521 or 3734.55 of the Revised Code 39692
or amendments to those plans approved or ordered to be implemented 39693
under section 3734.521 or 3734.56 of the Revised Code, and report 39694
its findings to the director. 39695

Sec. 3734.55. (A) Upon completion of its draft solid waste 39696
management plan under section 3734.54 of the Revised Code, the 39697
solid waste management policy committee of a county or joint solid 39698
waste management district shall send a copy of the draft plan to 39699
the director of environmental protection for preliminary review 39700
and comment. Within forty-five days after receiving the draft 39701
plan, the director shall provide the committee with a written, 39702
nonbinding advisory opinion regarding the draft plan and any 39703
recommended changes to it that the director considers necessary to 39704
effect its approval. After receipt of the director's written 39705
opinion, the committee may make such revisions to the draft plan 39706
based on the director's opinion as it considers appropriate. Upon 39707
receipt of the director's opinion and after making any such 39708
revisions to the draft plan, the committee shall prepare and 39709
publish in at least one newspaper of general circulation within 39710

the county or joint district a public notice that describes the 39711
draft plan, specifies the location where it is available for 39712
review, and establishes a period of thirty days for comments 39713
concerning the draft plan. The committee shall send written notice 39714
of the draft plan to adjacent county and joint districts and shall 39715
make it available for review by those districts, by the board of 39716
county commissioners of each county forming the district, by all 39717
municipal corporations and townships within the county or joint 39718
district, and by the public. The committee also shall send written 39719
notice of the plan to the director and to the fifty industrial, 39720
commercial, or institutional generators of solid wastes within the 39721
district that generate the largest quantities of solid wastes, as 39722
determined by the board, and their local trade associations. The 39723
board shall make good faith efforts to identify those generators 39724
within the district and their local trade associations, but the 39725
nonprovision of notice under this division to a particular 39726
industrial, commercial, or institutional generator or local trade 39727
association does not invalidate the proceedings under this 39728
section. All such written notices shall include the date, time, 39729
and location of the public hearing; the dates when the comment 39730
period begins and ends; and a description of the plan that 39731
includes, without limitation, the proposed amount of the fees to 39732
be levied under the plan pursuant to division (B) of section 39733
3734.57 or division (A) of section 3734.573 of the Revised Code, 39734
if any, and an indication as to whether the provision required to 39735
be included in the plan under division (E)(1) of section 3734.53 39736
of the Revised Code authorizes the board of county commissioners 39737
or directors of the district to establish, or precludes the board 39738
from establishing, facility designations under section 343.014 of 39739
the Revised Code. Within fifteen days after expiration of the 39740
comment period, the committee shall conduct a public hearing 39741
concerning the draft plan and, at least fifteen days before the 39742
hearing, shall publish in at least one newspaper of general 39743

circulation within the county or joint district a notice 39744
containing the time and place of the hearing and the location 39745
where the draft plan is available for review. 39746

(B) After the public hearing, the committee may modify the 39747
draft plan based upon the public's comments and shall adopt or 39748
reject it by a majority vote. Within thirty days after adoption of 39749
the draft plan, the committee shall deliver a copy of it to the 39750
board of county commissioners of each county forming the district 39751
and to the legislative authority of each municipal corporation and 39752
township under the jurisdiction of the district. Within ninety 39753
days after receiving a copy of the draft plan adopted by the 39754
committee, each such board and legislative authority shall approve 39755
or disapprove the draft plan, by ordinance or resolution, and 39756
deliver a copy of the ordinance or resolution to the committee. 39757

The solid waste management policy committee of a county 39758
district or a joint district formed by two or three counties shall 39759
declare the draft plan to be ratified as the solid waste 39760
management plan of the district upon determining that the board of 39761
county commissioners of each county forming the district has 39762
approved the draft plan and that the legislative authorities of a 39763
combination of municipal corporations and townships with a 39764
combined population within the county or joint district comprising 39765
at least sixty per cent of the total population of the district 39766
have approved the draft plan, provided that in the case of a 39767
county district, that combination shall include the municipal 39768
corporation having the largest population within the boundaries of 39769
the district, and provided further that in the case of a joint 39770
district formed by two or three counties, that combination shall 39771
include for each county forming the joint district the municipal 39772
corporation having the largest population within the boundaries of 39773
both the county in which the municipal corporation is located and 39774
the joint district. The solid waste management policy committee of 39775

a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a

revised plan that remedies those deficiencies, except that if the 39808
committee, by resolution, requests an extension of the time for 39809
submission of a revised plan, the director, for good cause shown, 39810
may grant one such extension for a period of not more than sixty 39811
additional days. 39812

(2) Within sixty days after issuance of the order 39813
disapproving its plan, the committee shall prepare a draft revised 39814
plan, adopt a draft revised plan by a majority vote, and deliver a 39815
copy of the draft revised plan to the board of county 39816
commissioners of each county forming the district and to the 39817
legislative authority of each municipal corporation and township 39818
under the jurisdiction of the district. Within twenty-one days 39819
after the delivery of the draft revised plan, each such board and 39820
legislative authority shall approve or disapprove the draft 39821
revised plan, by ordinance or resolution, and deliver a copy of 39822
the ordinance or resolution to the committee. In the case of a 39823
county district or a joint district formed by two or three 39824
counties, the committee shall declare the draft revised plan to be 39825
ratified as the solid waste management plan of the county or joint 39826
district upon determining that the board of county commissioners 39827
of each county forming the district has approved the draft revised 39828
plan and that the legislative authorities of a combination of 39829
municipal corporations and townships with a combined population 39830
within the district comprising at least sixty per cent of the 39831
total population of the district have approved the draft revised 39832
plan, provided that in the case of a county district, that 39833
combination shall include the municipal corporation having the 39834
largest population within the boundaries of the district, and 39835
provided further that in the case of a joint district formed by 39836
two or three counties, that combination shall include for each 39837
county forming the joint district the municipal corporation having 39838
the largest population within the boundaries of both the county in 39839
which the municipal corporation is located and the joint district. 39840

In the case of a joint district formed by four or more counties, 39841
the committee shall declare the draft revised plan to be ratified 39842
as the solid waste management plan of the joint district upon 39843
determining that the boards of county commissioners of a majority 39844
of the counties forming the district have approved the draft 39845
revised plan; that, in each of a majority of the counties forming 39846
the joint district, the draft revised plan has been approved by 39847
the municipal corporation having the largest population within the 39848
county and the joint district; and that the legislative 39849
authorities of a combination of municipal corporations and 39850
townships with a combined population within the joint district 39851
comprising at least sixty per cent of the total population of the 39852
joint district have approved the draft revised plan. Upon 39853
ratification of the draft revised plan, the committee shall submit 39854
it to the director for approval in accordance with division (C)(1) 39855
of this section. The director, by order, shall approve or 39856
disapprove the draft revised plan within thirty days after 39857
receiving it. 39858

(3) Notwithstanding section 119.06 of the Revised Code, the 39859
director may approve or disapprove a plan or revised plan 39860
submitted under division (C)(1) or (2) of this section by issuance 39861
of a final order that is effective upon issuance, without the 39862
necessity to hold any adjudication hearing in connection with the 39863
order and without issuance of a proposed action under section 39864
3745.07 of the Revised Code. In any appeal taken under section 39865
3745.04 of the Revised Code pertaining to the director's 39866
disapproval of the solid waste management plan or revised plan of 39867
a county or joint district, the solid waste management policy 39868
committee of the county or joint district and the director shall 39869
be the parties. Upon a showing by the policy committee that there 39870
is a substantial likelihood that it will prevail on the merits, 39871
the environmental review appeals commission, within thirty days 39872
after filing of the notice of appeal under that section and 39873

pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section 3734.521 of the Revised Code and subsequent amended plans approved under section 3734.521 or 3734.56 of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to 39906
implement the plan, the board of county commissioners or board of 39907
directors of the district shall determine whether the solid waste 39908
management policy committee of the district should continue to 39909
exist to monitor implementation of the plan or for the purposes of 39910
division (B) of section 3734.57 or section 3734.574 of the Revised 39911
Code. The board, by resolution, may abolish the committee if it 39912
determines that the committee is not necessary for any of those 39913
purposes. If the board of county commissioners or directors of a 39914
district that has so abolished the policy committee of the 39915
district finds that it is necessary or appropriate for the 39916
district to consider levying fees under section 3734.574 of the 39917
Revised Code, the board shall reestablish and convene the policy 39918
committee to initiate proceedings to levy the fees. If the fees 39919
are levied, the policy committee shall continue to exist for as 39920
long as the district is levying the fees. If, after a policy 39921
committee is convened to initiate proceedings to levy those fees, 39922
the fees are not levied or are abolished under section 3734.574 of 39923
the Revised Code, the board, by resolution, may abolish the 39924
committee if it determines that the committee is not necessary to 39925
monitor implementation of the plan. 39926

(E) If the director finds that the board of county 39927
commissioners or the board of directors of a district has 39928
materially failed to implement the district's plan or amended plan 39929
approved under division (C) of this section or section 3734.521 or 39930
3734.56 of the Revised Code, or prepared and ordered to be 39931
implemented under division (D) of this section or section 3734.521 39932
or 3734.56 of the Revised Code, in compliance with the 39933
implementation schedule contained in the plan or amended plan, the 39934
director shall issue an enforcement order under division (A) of 39935
section 3734.13 of the Revised Code directing the board to comply 39936
with the implementation schedule in the plan or amended plan 39937
within a specified, reasonable time. If the director finds that 39938

the board of county commissioners or directors of a district for 39939
which the provision included in the district's initial or amended 39940
plan approved under section 3734.521, 3734.55, or 3734.56 of the 39941
Revised Code pursuant to division (E)(1) or (2)(b) or (c) of 39942
section 3734.53 of the Revised Code, or an amendment to the 39943
district's approved initial or amended plan adopted and ratified 39944
under division (F) of section 3734.56 of the Revised Code, 39945
precludes the board from establishing facility designations under 39946
section 343.014 of the Revised Code has initiated proceedings to 39947
establish facility designations in violation of that section and 39948
the district's initial or amended plan, the director shall issue 39949
an enforcement order under division (A) of section 3734.13 of the 39950
Revised Code directing the board, at the board's discretion, to 39951
either abandon the proceedings or suspend them until after the 39952
board has adopted and obtained ratification of an amendment to the 39953
district's initial or amended plan under division (F) of section 39954
3734.56 of the Revised Code that authorizes the board to establish 39955
facility designations under section 343.014 of the Revised Code. 39956
If the director finds that a board of county commissioners or 39957
directors of a district for which the provision included in the 39958
district's initial or amended plan approved under section 39959
3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to 39960
division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised 39961
Code, or an amendment to the district's approved initial or 39962
amended plan adopted and ratified under division (F) of section 39963
3734.56 of the Revised Code, authorizes the board to establish 39964
facility designations under section 343.014 of the Revised Code 39965
has established facility designations under section 343.014 of the 39966
Revised Code or continued facility designations under section 39967
343.015 of the Revised Code and subsequently has initiated 39968
proceedings to terminate any such facility designations in 39969
violation of section 343.014 of the Revised Code and the 39970
district's initial or amended plan, the director shall issue an 39971

enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that precludes the board from establishing facility designations under section 343.014 of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section 3734.521, and section 3734.56 of the Revised Code. ~~Upon determining that each county within the state is subject to such a plan or amended plan, the director shall notify the chief of recycling and litter prevention in the department of natural resources of that fact.~~

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E) of this section and section 3734.521 of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section 343.011 of the Revised Code.

(2) As used in this section and sections 3734.521 and 3734.57 of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.

Sec. 3734.79. (A) Except as provided in division (B) of this section, each application for a permit submitted under sections 3734.76 to 3734.78 of the Revised Code shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. If a permit is issued, the amount of

the application fee paid shall be deducted from the amount of the 40003
applicable permit fee due under division ~~(G)~~(R) of section 3745.11 40004
of the Revised Code. 40005

(B) Division (A) of this section does not apply to an 40006
application for a permit for a scrap tire storage facility 40007
submitted under section 3734.76 of the Revised Code if the owner 40008
or operator of the facility or proposed facility is a motor 40009
vehicle salvage dealer licensed under Chapter 4738. of the Revised 40010
Code. 40011

Sec. 3734.82. (A) The annual fee for a scrap tire recovery 40012
facility license issued under section 3734.81 of the Revised Code 40013
shall be in accordance with the following schedule: 40014

| Daily Design | Annual | 40015 |
|----------------|---------|-------|
| Input Capacity | License | 40016 |
| (Tons) | Fee | 40017 |
| 1 or less | \$ 100 | 40018 |
| 2 to 25 | 500 | 40019 |
| 26 to 50 | 1,000 | 40020 |
| 51 to 100 | 1,500 | 40021 |
| 101 to 200 | 2,500 | 40022 |
| 201 to 500 | 3,500 | 40023 |
| 501 or more | 5,500 | 40024 |

For the purpose of determining the applicable license fee 40025
under this division, the daily design input capacity shall be the 40026
quantity of scrap tires the facility is designed to process daily 40027
as set forth in the registration certificate or permit for the 40028
facility, and any modifications to the permit, if applicable, 40029
issued under section 3734.78 of the Revised Code. 40030

(B) The annual fee for a scrap tire monocell or monofill 40031
facility license shall be in accordance with the following 40032
schedule: 40033

| | | |
|---------------------|----------|-------|
| Authorized Maximum | Annual | 40034 |
| Daily Waste Receipt | License | 40035 |
| (Tons) | Fee | 40036 |
| 100 or less | \$ 5,000 | 40037 |
| 101 to 200 | 12,500 | 40038 |
| 201 to 500 | 30,000 | 40039 |
| 501 or more | 60,000 | 40040 |

For the purpose of determining the applicable license fee 40041
under this division, the authorized maximum daily waste receipt 40042
shall be the maximum amount of scrap tires the facility is 40043
authorized to receive daily that is established in the permit for 40044
the facility, and any modification to that permit, issued under 40045
section 3734.77 of the Revised Code. 40046

(C)(1) Except as otherwise provided in division (C)(2) of 40047
this section, the annual fee for a scrap tire storage facility 40048
license shall equal one thousand dollars times the number of acres 40049
on which scrap tires are to be stored at the facility during the 40050
license year, as set forth on the application for the annual 40051
license, except that the total annual license fee for any such 40052
facility shall not exceed three thousand dollars. 40053

(2) The annual fee for a scrap tire storage facility license 40054
for a storage facility that is owned or operated by a motor 40055
vehicle salvage dealer licensed under Chapter 4738. of the Revised 40056
Code is one hundred dollars. 40057

(D)(1) Except as otherwise provided in division (D)(2) of 40058
this section, the annual fee for a scrap tire collection facility 40059
license is two hundred dollars. 40060

(2) The annual fee for a scrap tire collection facility 40061
license for a collection facility that is owned or operated by a 40062
motor vehicle salvage dealer licensed under Chapter 4738. of the 40063
Revised Code is fifty dollars. 40064

(E) Except as otherwise provided in divisions (C)(2) and 40065
(D)(2) of this section, the same fees apply to private operators 40066
and to the state and its political subdivisions and shall be paid 40067
within thirty days after the issuance of a license. The fees 40068
include the cost of licensing, all inspections, and other costs 40069
associated with the administration of the scrap tire provisions of 40070
this chapter and rules adopted under them. Each license shall 40071
specify that it is conditioned upon payment of the applicable fee 40072
to the board of health or the director of environmental 40073
protection, as appropriate, within thirty days after the issuance 40074
of the license. 40075

(F) The board of health shall retain fifteen thousand dollars 40076
of each license fee collected by the board under division (B) of 40077
this section, or the entire amount of any such fee that is less 40078
than fifteen thousand dollars, and the entire amount of each 40079
license fee collected by the board under divisions (A), (C), and 40080
(D) of this section. The moneys retained shall be paid into a 40081
special fund, which is hereby created in each health district, and 40082
used solely to administer and enforce the scrap tire provisions of 40083
this chapter and rules adopted under them. The remainder, if any, 40084
of each license fee collected by the board under division (B) of 40085
this section shall be transmitted to the director within 40086
forty-five days after receipt of the fee. 40087

(G) The director shall transmit the moneys received by the 40088
director from license fees collected under division (B) of this 40089
section to the treasurer of state to be credited to the scrap tire 40090
management fund, which is hereby created in the state treasury. 40091
The fund shall consist of all federal moneys received by the 40092
environmental protection agency for the scrap tire management 40093
program; all grants, gifts, and contributions made to the director 40094
for that program; and all other moneys that may be provided by law 40095
for that program. The director shall use moneys in the fund as 40096

follows: 40097

(1) Expend amounts determined necessary by the director to 40098
implement, administer, and enforce the scrap tire provisions of 40099
this chapter and rules adopted under them; 40100

(2) During each fiscal year, request the director of budget 40101
and management to, and the director of budget and management 40102
shall, transfer one million dollars to the scrap tire grant fund 40103
created in section ~~1502.12~~ 3734.822 of the Revised Code for 40104
supporting market development activities for scrap tires and 40105
synthetic rubber from tire manufacturing processes and tire 40106
recycling processes. In addition, during a fiscal year, the 40107
director of environmental protection may request the director of 40108
budget and management to, and the director of budget and 40109
management shall, transfer up to an additional five hundred 40110
thousand dollars to the scrap tire grant fund for scrap tire 40111
amnesty events and scrap tire cleanup events. 40112

(3) After the expenditures and transfers are made under 40113
divisions (G)(1) and (2) of this section, expend the balance of 40114
the money in the scrap tire management fund remaining in each 40115
fiscal year to conduct removal actions under section 3734.85 of 40116
the Revised Code and to provide grants to boards of health under 40117
section 3734.042 of the Revised Code. 40118

Sec. ~~1502.12~~ 3734.822. (A) There is hereby created in the 40119
state treasury the scrap tire grant fund, consisting of moneys 40120
transferred to the fund under section 3734.82 of the Revised Code. 40121
The ~~chief of the division of recycling and litter prevention, with~~ 40122
~~the approval of the director of natural resources, environmental~~ 40123
protection may make grants from the fund for the following 40124
purposes: 40125

(1) Supporting market development activities for scrap tires 40126
and synthetic rubber from tire manufacturing processes and tire 40127

| | |
|---|---|
| recycling processes; | 40128 |
| (2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts. | 40129 40130 |
| Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (A) of section 1502.04 <u>3736.04</u> of the Revised Code. | 40131 40132 40133 |
| (B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria: | 40134 40135 40136 |
| (1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state; | 40137 40138 |
| (2) The degree of local financial support for a proposed project; | 40139 40140 |
| (3) The technical merit and quality of a proposed project. | 40141 |
| Sec. 3735.37. A metropolitan housing authority shall keep an accurate account of all its activities and of all receipts and expenditures and make an annual report thereof to the director of development of these publicly available . All moneys received in excess of operating expenditures shall be devoted to the payment of interest and sinking fund charges for the retirement of indebtedness, whether secured by mortgage or otherwise, and from the excess there shall be set aside such fund as the authority deems proper for the purpose of covering repairs, depreciation, and reserves. Whatever balance then remains shall be applied to the reduction of rentals thereafter falling due. | 40142 40143 40144 40145 40146 40147 40148 40149 40150 40151 40152 |
| Sec. 1502.01 <u>3736.01</u>. As used in this chapter: | 40153 |
| (A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary | 40154 40155 40156 |

nature thrown, dropped, discarded, placed, or deposited by a 40157
person on public property, on private property not owned by the 40158
person, or in or on waters of the state unless one of the 40159
following applies: 40160

(1) The person has been directed to do so by a public 40161
official as part of a litter collection drive. 40162

(2) The person has thrown, dropped, discarded, placed, or 40163
deposited the material in a receptacle in a manner that prevented 40164
its being carried away by the elements. 40165

(3) The person has been issued a permit or license covering 40166
the material pursuant to Chapter 3734. or 6111. of the Revised 40167
Code. 40168

(B) "Recycling" means the process of collecting, sorting, 40169
cleansing, treating, and reconstituting waste or other discarded 40170
materials for the purpose of recovering and reusing the materials. 40171

(C) "Agency of the state" includes, but is not limited to, an 40172
"agency" subject to Chapter 119. of the Revised Code and a "state 40173
university or college" as defined in section 3345.12 of the 40174
Revised Code. 40175

(D) "Source reduction" means activities that decrease the 40176
initial production of waste materials at their point of origin. 40177

(E) "Enterprise" means a business with its principal place of 40178
business in this state and that proposes to engage in research and 40179
development or recycling in this state. 40180

(F) "Research and development" means inquiry, 40181
experimentation, or demonstration to advance basic scientific or 40182
technical knowledge or the application, adaptation, or use of 40183
existing or newly discovered scientific or technical knowledge 40184
regarding recycling, source reduction, or litter prevention. 40185

(G) "Recyclables" means waste materials that are collected, 40186

separated, or processed and used as raw materials or products. 40187

(H) "Recycling market development" means activities that 40188
stimulate the demand for recycled products, provide for a 40189
consistent supply of recyclables to meet the needs of recycling 40190
industries, or both. 40191

(I) "Solid waste management districts" means solid waste 40192
management districts established under Chapter 343. of the Revised 40193
Code. 40194

(J) "Synthetic rubber" means produced or extended rubber and 40195
products made from a synthetic rubber base material originating 40196
from petrochemical feedstocks, including scrap tires, tire molds, 40197
automobile engine belts, brake pads and hoses, weather stripping, 40198
fittings, electrical insulation, and other molded objects and 40199
parts. 40200

Sec. ~~1502.03~~ 3736.02. (A) The ~~chief director of the division~~ 40201
~~of recycling and litter prevention~~ environmental protection shall 40202
establish and implement statewide source reduction, recycling, 40203
recycling market development, and litter prevention programs that 40204
are consistent with the state solid waste management plan adopted 40205
under section 3734.50 of the Revised Code. The programs shall 40206
include all of the following: 40207

(1) The assessment of waste generation within the state and 40208
implementation of source reduction practices; 40209

(2) The implementation of recycling and recycling market 40210
development activities and projects, including all of the 40211
following: 40212

(a) Collection of recyclables; 40213

(b) Separation of recyclables; 40214

(c) Processing of recyclables; 40215

| | |
|--|--|
| (d) Facilitation and encouragement of the use of recyclables and products made with recyclables; | 40216 40217 |
| (e) Education and training concerning recycling and products manufactured with recyclables; | 40218 40219 |
| (f) Public awareness campaigns to promote recycling; | 40220 |
| (g) Other activities and projects that promote recycling and recycling market development. | 40221 40222 |
| (3) Litter prevention assistance to enforce antilitter laws, educate the public, and stimulate collection and containment of litter; | 40223 40224 40225 |
| (4) Research and development regarding source reduction, recycling, and litter prevention, including, without limitation, research and development regarding materials or products manufactured with recyclables. | 40226 40227 40228 40229 |
| (B) The chief, with the approval of the director of natural resources, may enter into contracts or other agreements and may execute any instruments necessary or incidental to the discharge of the chief's <u>director's</u> responsibilities under this chapter. | 40230 40231 40232 40233 |
| Sec. 1502.02 3736.03. (A) There is hereby created in the department of natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention. | 40234 40235 40236 40237 |
| (B) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings. | 40238 40239 40240 40241 40242 40243 |
| (C) (B) The <u>chief director</u> of recycling and litter prevention <u>environmental protection</u> shall do all of the following: | 40244 40245 |

(1) Use moneys credited to the fund exclusively for the 40246
purposes set forth in sections ~~1502.03~~ 3736.02, ~~1502.04~~ 3736.04, 40247
3736.05, and ~~1502.05~~ 3745.014 of the Revised Code, with particular 40248
emphasis on programs relating to recycling; 40249

(2) ~~Expend for administration of the division not more than~~ 40250
~~ten per cent of any fiscal year's appropriation to the division,~~ 40251
~~excluding the amount assessed to the division for direct and~~ 40252
~~indirect central support charges;~~ 40253

~~(3)~~ Require recipients of grants under section ~~1502.05~~ 40254
3736.05 of the Revised Code, as a condition of receiving and 40255
retaining them, to do all of the following: 40256

(a) Create a separate account for the grants and any cash 40257
donations received that qualify for the donor credit allowed by 40258
section 5733.064 of the Revised Code; 40259

(b) Make expenditures from the account exclusively for the 40260
purposes for which the grants were received; 40261

(c) Use any auditing and accounting practices the ~~chief~~ 40262
director considers necessary regarding the account; 40263

(d) Report to the ~~chief~~ director information regarding the 40264
amount and donor of cash donations received as described by 40265
section 5733.064 of the Revised Code; 40266

(e) Use grants received to supplement and not to replace any 40267
existing funding for such purposes. 40268

~~(4)~~(3) Report to the tax commissioner information the ~~chief~~ 40269
director receives pursuant to division ~~(C)~~(3)~~(B)~~(2)(d) of this 40270
section. 40271

Sec. ~~1502.04~~ 3736.04. There is hereby created within the 40272
~~division of recycling and litter prevention~~ environmental 40273
protection agency the recycling and litter prevention advisory 40274
council consisting of thirteen members. The speaker of the house 40275

of representatives shall appoint one member of the house of 40276
representatives to the council, and the president of the senate 40277
shall appoint one member of the senate to the council. If the 40278
president of the senate belongs to the same political party as the 40279
speaker of the house of representatives, the president shall 40280
appoint a member of the senate who belongs to a different 40281
political party as recommended by the minority leader of the 40282
senate. ~~The speaker of the house of representatives and the~~ 40283
~~president of the senate shall make their initial appointments to~~ 40284
~~the council within sixty days after July 20, 1994.~~ Each member 40285
appointed by the speaker of the house of representatives or the 40286
president of the senate shall serve for a term of office of three 40287
years. The appropriate appointing authority may fill any vacancy 40288
occurring during the term of any member whom the appointing 40289
authority has appointed to the advisory council. 40290

The remaining eleven members shall be appointed by the 40291
governor with the advice and consent of the senate and shall be 40292
persons with knowledge of or experience in recycling or litter 40293
prevention programs. The council shall have broad-based 40294
representation of interests including agriculture, labor, the 40295
environment, manufacturing, wholesale and retail industry, and the 40296
public. One of the business members shall be from the commercial 40297
recycling industry, and another shall be from an industry required 40298
to pay taxes under section 5733.065 of the Revised Code. The 40299
director of ~~natural resources~~ environmental protection shall not 40300
be a member of the council. ~~The governor shall make initial~~ 40301
~~appointments to the council within thirty days after October 20,~~ 40302
~~1987. Of the governor's initial appointments to the council, five~~ 40303
~~shall be for a term of one year, and six shall be for a term of~~ 40304
~~two years. Thereafter, terms~~ Terms of office shall be for three 40305
years. Each member appointed by the governor shall hold office 40306
from the date of the member's appointment until the end of the 40307
term for which the member was appointed. In the event of death, 40308

removal, resignation, or incapacity of a member of the council 40309
appointed by the governor, the governor, with the advice and 40310
consent of the senate, shall appoint a successor who shall hold 40311
office for the remainder of the term for which the successor's 40312
predecessor was appointed. A member shall continue in office 40313
subsequent to the expiration date of the member's term until the 40314
member's successor takes office, or until a period of sixty days 40315
has elapsed, whichever occurs first. The governor at any time may 40316
remove any of the governor's appointees from the council for 40317
misfeasance, nonfeasance, or malfeasance in office. 40318

Members of the council may be reappointed. 40319

The council shall hold at least four regular quarterly 40320
meetings each year. Special meetings may be held at the behest of 40321
the chairperson or a majority of the members. The council annually 40322
shall select from among its members a chairperson, a 40323
vice-chairperson, and a secretary to keep a record of its 40324
proceedings. 40325

A majority vote of the members of the council is necessary to 40326
take action ~~in~~ on any matter. 40327

A member of the council shall serve without compensation for 40328
attending council meetings, but shall be reimbursed for all 40329
traveling, hotel, and other ordinary and necessary expenses 40330
incurred in the performance of the member's work as a member of 40331
the council. 40332

Membership on the council does not constitute holding a 40333
public office or position of employment under the laws of this 40334
state and does not constitute grounds for removal of public 40335
officers or employees from their offices or positions of 40336
employment. 40337

The council shall do all of the following: 40338

(A) ~~In conjunction with the chief of recycling and litter~~ 40339

~~prevention and with~~ With the approval of the director of ~~natural~~
~~resources~~ environmental protection, establish criteria by which to
certify, and certify, agencies of the state, municipal
corporations with a population of more than fifty thousand,
counties, and solid waste management districts as eligible to
receive grants under section ~~1502.05~~ 3736.05 of the Revised Code;

(B) ~~In conjunction with the chief and with~~ With the approval
of the director, establish criteria by which to certify, and
certify, political subdivisions for receipt of special grants for
activities or projects that are intended to accomplish the
purposes of any of the programs established under section ~~1502.03~~
3736.02 of the Revised Code;

(C) Advise the ~~chief~~ director in carrying out the ~~chief's~~
director's duties under this chapter.

Sec. ~~1502.05~~ 3736.05. (A) The ~~chief~~ director of ~~recycling and~~
~~litter prevention~~ environmental protection, pursuant to division
(A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the~~
~~approval of the director of natural resources~~, may make grants
from the recycling and litter prevention fund created in section
~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of
the programs established under section ~~1502.03~~ 3736.02 of the
Revised Code.

(B) Except as provided in division (C) of this section, ~~the~~
~~chief, with the approval of~~ the director, may require any eligible
applicant certified by the recycling and litter prevention
advisory council under division (A) of section ~~1502.04~~ 3736.04 of
the Revised Code that applies for a grant for an activity or
project that is intended to further the purposes of any program
established under division (A)(1), (2), or (4) of section ~~1502.03~~
3736.02 of the Revised Code to provide a matching contribution of
not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The ~~chief~~ director may consider cooperating contributions in the form of state of the art new equipment or in other forms if the ~~chief~~ director determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the ~~chief~~ director considers to be appropriate.

(D)(1) The ~~chief, with the approval of the~~ director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the ~~chief~~ director using the most recently available figures from the United States census bureau, to provide a

matching contribution as follows: 40403

(a) Up to ten per cent of the grant from any eligible 40404
applicant that is or is located in a county that has a per capita 40405
income above ninety per cent of the median county per capita 40406
income of the state, but equal to or below one hundred per cent of 40407
the median county per capita income of the state; 40408

(b) Up to twenty per cent of the grant from any eligible 40409
applicant that is or is located in a county that has a per capita 40410
income above the median county per capita income of the state. 40411

(2) If the eligible applicant is a joint solid waste 40412
management district or is filing a joint application on behalf of 40413
two or more counties, the matching contribution required under 40414
division (D)(1) of this section shall be the average of the 40415
matching contributions of all of the counties covered by the 40416
application as determined in accordance with that division. The 40417
matching contribution of a county that has a per capita income 40418
equal to or below ninety per cent of the median county per capita 40419
income of the state shall be included as zero in calculating the 40420
average matching contribution. 40421

~~(E) After receiving notice from the The director of 40422
environmental protection that each county within the state is 40423
subject to the solid waste management plan of a solid waste 40424
management district, the chief shall ensure that not less than 40425
fifty per cent of the moneys distributed as grants under this 40426
section shall be expended for the purposes of recycling and 40427
recycling market development. 40428~~

(F) No information that is submitted to, acquired by, or 40429
exchanged with employees of the environmental protection agency 40430
who administer or provide services under this section and that is 40431
submitted, acquired, or exchanged in order to obtain a grant 40432
pursuant to division (A) of this section shall be used in any 40433

manner for the purpose of the enforcement of any requirement 40434
established in an environmental law or used as evidence in any 40435
judicial or administrative enforcement proceeding unless that 40436
information reveals a clear and immediate danger to the 40437
environment or to the health, safety, or welfare of the public. 40438

(G) Nothing in this section confers immunity on persons from 40439
enforcement that is based on information that is obtained by the 40440
director or the director's authorized representatives who are not 40441
employees of the agency who administer or provide services under 40442
this section. 40443

(H) As used in this section, "environmental law" means a law 40444
that is administered by the environmental protection agency. 40445

Sec. ~~1502.06~~ 3736.06. (A) Agencies of the state certified 40446
pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as 40447
eligible to receive a grant shall designate an employee as the 40448
liaison with the ~~chief~~ director of ~~recycling and litter prevention~~ 40449
environmental protection to cooperate with ~~him~~ the director in 40450
carrying out ~~his~~ the director's duties under this chapter. 40451

(B) The executive and legislative authorities of municipal 40452
corporations, counties, and townships and the boards of park 40453
commissioners of township park districts created under section 40454
511.18 of the Revised Code, boards of park commissioners of park 40455
districts created under section 1545.04 of the Revised Code, and 40456
boards of education of city, exempted village, local, and joint 40457
vocational school districts may participate in the programs 40458
established under section ~~1502.03~~ 3736.02 of the Revised Code. 40459

Sec. ~~1502.07~~ 3736.07. No person, agency of the state, 40460
municipal corporation, county, or township shall sell or offer for 40461
sale any beer or mixed beverages as defined in section 4301.01 of 40462
the Revised Code, or any soft drink as defined in section 913.22 40463

of the Revised Code, in a metal container that is so designed that 40464
it may be opened by removing from the container a part of the 40465
container without using a separate opener. However, nothing in 40466
this section prohibits the sale or offering for sale of a 40467
container the only detachable part of which is a piece of tape or 40468
other similar adhesive material. 40469

Sec. ~~1502.99~~ 3736.99. Whoever violates section ~~1502.07~~ 40470
3736.07 of the Revised Code is guilty of a minor misdemeanor. Each 40471
day of violation constitutes a separate offense. 40472

Sec. 3737.83. The fire marshal shall, as part of the state 40473
fire code, adopt rules to: 40474

(A) Establish minimum standards of performance for fire 40475
protection equipment and fire fighting equipment; 40476

(B) Establish minimum standards of training, fix minimum 40477
qualifications, and require certificates for all persons who 40478
engage in the business for profit of installing, testing, 40479
repairing, or maintaining fire protection equipment; 40480

(C) Provide for the issuance of certificates required under 40481
division (B) of this section and establish the fees to be charged 40482
for such certificates. A certificate shall be granted, renewed, or 40483
revoked according to rules the fire marshal shall adopt. 40484

(D) Establish minimum standards of flammability for consumer 40485
goods in any case where the federal government or any department 40486
or agency thereof has established, or may from time to time 40487
establish standards of flammability for consumer goods. The 40488
standards established by the fire marshal shall be identical to 40489
the minimum federal standards. 40490

In any case where the federal government or any department or 40491
agency thereof, establishes standards of flammability for consumer 40492

goods subsequent to the adoption of a flammability standard by the 40493
fire marshal, standards previously adopted by the fire marshal 40494
shall not continue in effect to the extent such standards are not 40495
identical to the minimum federal standards. 40496

With respect to the adoption of minimum standards of 40497
flammability, this division shall supersede any authority granted 40498
a political subdivision by any other section of the Revised Code. 40499

(E) Establish minimum standards pursuant to section 5104.05 40500
of the Revised Code for fire prevention and fire safety in child 40501
day-care centers and in type A family day-care homes, as defined 40502
in section 5104.01 of the Revised Code. 40503

(F) Establish minimum standards for fire prevention and 40504
safety ~~an adult group home seeking licensure as an adult care in a~~ 40505
residential facility ~~must meet licensed~~ under section ~~5119.71~~ 40506
5119.22 of the Revised Code that provides accommodations, 40507
supervision, and personal care services for three to sixteen 40508
unrelated adults. The fire marshal shall adopt the rules under 40509
this division in consultation with the ~~directors~~ director of 40510
mental health ~~and aging~~ and interested parties designated by the 40511
~~directors~~ director of mental health ~~and aging~~. 40512

Sec. 3737.841. As used in this section and section 3737.842 40513
of the Revised Code: 40514

(A) "Public occupancy" means all of the following: 40515

(1) Any state correctional institution as defined in section 40516
2967.01 of the Revised Code and any county, multicounty, 40517
municipal, or municipal-county jail or workhouse; 40518

(2) Any hospital as defined in section 3727.01 of the Revised 40519
Code, any hospital licensed by the department of mental health 40520
under section 5119.20 of the Revised Code, and any institution, 40521
hospital, or other place established, controlled, or supervised by 40522

the department of mental health under Chapter 5119. of the Revised Code; 40523
40524

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any ~~adult care residential~~ facility ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; 40525
40526
40527
40528
40529
40530

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code; 40531
40532

(5) Any public auditorium or stadium; 40533

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture. 40534
40535

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner. 40536
40537
40538

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either: 40539
40540
40541
40542
40543

(1) Is made with loose or attached cushions or pillows; 40544

(2) Is stuffed or filled in whole or in part with any filling material; 40545
40546

(3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering. 40547
40548
40549

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering. 40550
40551
40552

(D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following:

(1) Cushions or pads intended solely for outdoor use;

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3742.01. As used in this chapter:

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

(B) "Child care facility" means each area of any of the following in which child care, as defined in section 5104.01 of the Revised Code, is provided to children under six years of age:

(1) A child day-care center, type A family day-care home, or type B family day-care home as defined in section 5104.01 of the Revised Code;

(2) A type C family day-care home authorized to provide child care by Sub. H.B. 62 of the 121st general assembly, as amended by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 of the 123rd general assembly;

(3) A preschool program or school child program as defined in section 3301.52 of the Revised Code. 40582
40583

(C) "Clearance examination" means an examination to determine whether the lead hazards in a residential unit, child care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection, and analysis of environmental samples. 40584
40585
40586
40587
40588

(D) "Clearance technician" means a person, other than a licensed lead inspector or licensed lead risk assessor, who performs a clearance examination. 40589
40590
40591

(E) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human beings. "Clinical laboratory" does not include a facility that only collects or prepares specimens, or serves as a mailing service, and does not perform testing. 40592
40593
40594
40595
40596
40597
40598
40599
40600
40601

(F) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children. 40602
40603
40604
40605
40606
40607
40608

(G) "Enclosure" means the resurfacing or covering of surfaces with durable materials such as wallboard or paneling, and the sealing or caulking of edges and joints, so as to prevent or control chalking, flaking, peeling, scaling, or loose 40609
40610
40611
40612

lead-containing substances from becoming part of house dust or otherwise accessible to children. 40613
40614

(H) "Environmental lead analytical laboratory" means a facility that analyzes air, dust, soil, water, paint, film, or other substances, other than substances derived from the human body, for the presence and concentration of lead. 40615
40616
40617
40618

(I) "HEPA" means the designation given to a product, device, or system that has been equipped with a high-efficiency particulate air filter, which is a filter capable of removing particles of 0.3 microns or larger from air at 99.97 per cent or greater efficiency. 40619
40620
40621
40622
40623

(J) "Interim controls" means a set of measures designed to reduce temporarily human exposure or likely human exposure to lead hazards. Interim controls include specialized cleaning, repairs, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and resident education programs. 40624
40625
40626
40627
40628
40629

(K)(1) "Lead abatement" means a measure or set of measures designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following: 40630
40631
40632

(a) Removal of lead-based paint and lead-contaminated dust; 40633

(b) Permanent enclosure or encapsulation of lead-based paint; 40634

(c) Replacement of surfaces or fixtures painted with lead-based paint; 40635
40636

(d) Removal or permanent covering of lead-contaminated soil; 40637

(e) Preparation, cleanup, and disposal activities associated with lead abatement. 40638
40639

(2) "Lead abatement" does not include any of the following: 40640

(a) Preventive treatments performed pursuant to section 3742.41 of the Revised Code; 40641
40642

| | |
|--|-------|
| (b) Implementation of interim controls; | 40643 |
| (c) Activities performed by a property owner on a residential unit to which both of the following apply: | 40644 |
| (i) It is a freestanding single-family home used as the property owner's private residence. | 40645 |
| (ii) No child under six years of age who has lead poisoning resides in the unit. | 40646 |
| (L) "Lead abatement contractor" means any individual who engages in or intends to engage in lead abatement and employs or supervises one or more lead abatement workers, including on-site supervision of lead abatement projects, or prepares specifications, plans, or documents for a lead abatement project. | 40647 |
| (M) "Lead abatement project" means one or more lead abatement activities that are conducted by a lead abatement contractor and are reasonably related to each other. | 40648 |
| (N) "Lead abatement project designer" means a person who is responsible for designing lead abatement projects and preparing a pre-abatement plan for all designed projects. | 40649 |
| (O) "Lead abatement worker" means an individual who is responsible in a nonsupervisory capacity for the performance of lead abatement. | 40650 |
| (P) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health, as <u>that level is established by rule of the public health council in rules adopted</u> under section 3742.50 of the Revised Code. | 40651 |
| (Q) "Lead-contaminated dust" means dust that contains an area or mass concentration of lead at or in excess of the level that is hazardous to human health, as <u>that level is established by rule of the public health council in rules adopted</u> under section 3742.50 | 40652 |
| | 40653 |
| | 40654 |
| | 40655 |
| | 40656 |
| | 40657 |
| | 40658 |
| | 40659 |
| | 40660 |
| | 40661 |
| | 40662 |
| | 40663 |
| | 40664 |
| | 40665 |
| | 40666 |
| | 40667 |
| | 40668 |
| | 40669 |
| | 40670 |
| | 40671 |
| | 40672 |

of the Revised Code. 40673

(R) "Lead-contaminated soil" means soil that contains lead at 40674
or in excess of the level that is hazardous to human health, as 40675
that level is established by rule of the public health council in 40676
rules adopted under section 3742.50 of the Revised Code. 40677

(S) "Lead hazard" means material that is likely to cause lead 40678
exposure and endanger an individual's health as determined by the 40679
public director of health council in rules adopted under section 40680
3742.50 of the Revised Code. "Lead hazard" includes lead-based 40681
paint, lead-contaminated dust, lead-contaminated soil, and 40682
lead-contaminated water pipes. 40683

(T) "Lead inspection" means a surface-by-surface 40684
investigation to determine the presence of lead-based paint. The 40685
inspection shall use a sampling or testing technique approved by 40686
the public health council director in rules adopted ~~by the council~~ 40687
under section 3742.03 of the Revised Code. A licensed lead 40688
inspector or laboratory approved under section 3742.09 of the 40689
Revised Code shall certify in writing the precise results of the 40690
inspection. 40691

(U) "Lead inspector" means any individual who conducts a lead 40692
inspection, provides professional advice regarding a lead 40693
inspection, or prepares a report explaining the results of a lead 40694
inspection. 40695

(V) "Lead poisoning" means the level of lead in human blood 40696
that is hazardous to human health, as specified in rules adopted 40697
under section 3742.50 of the Revised Code. 40698

(W) "Lead risk assessment" means an on-site investigation to 40699
determine and report the existence, nature, severity, and location 40700
of lead hazards in a residential unit, child care facility, or 40701
school, including information gathering from the unit, facility, 40702
or school's current owner's knowledge regarding the age and 40703

painting history of the unit, facility, or school and occupancy by children under six years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(X) "Lead risk assessor" means a person who is responsible for developing a written inspection, risk assessment, and analysis plan; conducting inspections for lead hazards in a residential unit, child care facility, or school; interpreting results of inspections and risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(Y) "Lead-safe renovation" means the supervision or performance of services for the general improvement of all or part of an existing structure, including a residential unit, child care facility, or school, when the services are supervised or performed by a lead-safe renovator.

(Z) "Lead-safe renovator" means a person who has successfully completed a training program in lead-safe renovation approved under section 3742.47 of the Revised Code.

(AA) "Manager" means a person, who may be the same person as the owner, responsible for the daily operation of a residential unit, child care facility, or school.

(BB) "Permanent" means an expected design life of at least twenty years.

(CC) "Replacement" means an activity that entails removing components such as windows, doors, and trim that have lead hazards on their surfaces and installing components free of lead hazards.

(DD) "Residential unit" means a dwelling or any part of a building being used as an individual's private residence.

(EE) "School" means a public or nonpublic school in which

children under six years of age receive education. 40734

Sec. 3742.02. (A) No person shall do any of the following: 40735

(1) Violate any provision of this chapter or the rules 40736
adopted pursuant to it; 40737

(2) Apply or cause to be applied any lead-based paint on or 40738
inside a residential unit, child care facility, or school, unless 40739
the ~~public~~ director of health council has determined by rule under 40740
section 3742.50 of the Revised Code that no suitable substitute 40741
exists; 40742

(3) Interfere with an investigation conducted by the director 40743
of health or a board of health in accordance with section 3742.35 40744
of the Revised Code. 40745

(B) No person shall knowingly authorize or employ an 40746
individual to perform lead abatement on a residential unit, child 40747
care facility, or school unless the individual who will perform 40748
the lead abatement holds a valid license issued under section 40749
3742.05 of the Revised Code. 40750

(C) No person shall do any of the following when a 40751
residential unit, child care facility, or school is involved: 40752

(1) Perform a lead inspection without a valid lead inspector 40753
license issued under section 3742.05 of the Revised Code; 40754

(2) Perform a lead risk assessment or provide professional 40755
advice regarding lead abatement without a valid lead risk assessor 40756
license issued under section 3742.05 of the Revised Code; 40757

(3) Act as a lead abatement contractor without a valid lead 40758
abatement contractor's license issued under section 3742.05 of the 40759
Revised Code; 40760

(4) Act as a lead abatement project designer without a valid 40761
lead abatement project designer license issued under section 40762

| | |
|--|---|
| 3742.05 of the Revised Code; | 40763 |
| (5) Perform lead abatement without a valid lead abatement worker license issued under section 3742.05 of the Revised Code; | 40764 40765 |
| (6) Effective one year after April 7, 2003, perform a clearance examination without a valid clearance technician license issued under section 3742.05 of the Revised Code, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section; | 40766 40767 40768 40769 40770 |
| (7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under section 3742.08 of the Revised Code; | 40771 40772 40773 |
| (8) Perform interim controls without complying with 24 C.F.R. Part 35. | 40774 40775 |
| Sec. 3742.03. The public <u>director of health council</u> shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code. The rules shall specify all of the following: | 40776 40777 40778 40779 40780 |
| (A) Procedures to be followed by a lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, or lead risk assessor licensed under section 3742.05 of the Revised Code for undertaking lead abatement activities and procedures to be followed by a clearance technician, lead inspector, or lead risk assessor in performing a clearance examination; | 40781 40782 40783 40784 40785 40786 40787 |
| (B)(1) Requirements for training and licensure, in addition to those established under section 3742.08 of the Revised Code, to include levels of training and periodic refresher training for each class of worker, and to be used for licensure under section 3742.05 of the Revised Code. Except in the case of clearance | 40788 40789 40790 40791 40792 |

technicians, these requirements shall include at least twenty-four 40793
classroom hours of training based on the Occupational Safety and 40794
Health Act training program for lead set forth in 29 C.F.R. 40795
1926.62. For clearance technicians, the training requirements to 40796
obtain an initial license shall not exceed six hours and the 40797
requirements for refresher training shall not exceed two hours 40798
every four years. In establishing the training and licensure 40799
requirements, the ~~public health council~~ director shall consider 40800
the core of information that is needed by all licensed persons, 40801
and establish the training requirements so that persons who would 40802
seek licenses in more than one area would not have to take 40803
duplicative course work. 40804

(2) Persons certified by the American board of industrial 40805
hygiene as a certified industrial hygienist or as an industrial 40806
hygienist-in-training, and persons registered as a sanitarian or 40807
sanitarian-in-training under Chapter 4736. of the Revised Code, 40808
shall be exempt from any training requirements for initial 40809
licensure established under this chapter, but shall be required to 40810
take any examinations for licensure required under section 3742.05 40811
of the Revised Code. 40812

(C) Fees for licenses issued under section 3742.05 of the 40813
Revised Code and for their renewal; 40814

(D) Procedures to be followed by lead inspectors, lead 40815
abatement contractors, environmental lead analytical laboratories, 40816
lead risk assessors, lead abatement project designers, and lead 40817
abatement workers to prevent public exposure to lead hazards and 40818
ensure worker protection during lead abatement projects; 40819

(E)(1) Record-keeping and reporting requirements for clinical 40820
laboratories, environmental lead analytical laboratories, lead 40821
inspectors, lead abatement contractors, lead risk assessors, lead 40822
abatement project designers, and lead abatement workers for lead 40823
abatement projects and record-keeping and reporting requirements 40824

for clinical laboratories, environmental lead analytical 40825
laboratories, and clearance technicians for clearance 40826
examinations; 40827

(2) Record-keeping and reporting requirements regarding lead 40828
poisoning for physicians, in addition to the requirements of 40829
section 3701.25 of the Revised Code; 40830

(3) Information that is required to be reported under rules 40831
based on divisions (E)(1) and (2) of this section and that is a 40832
medical record is not a public record under section 149.43 of the 40833
Revised Code and shall not be released, except in aggregate 40834
statistical form. 40835

(F) Environmental sampling techniques for use in collecting 40836
samples of air, water, dust, paint, and other materials; 40837

(G) Requirements for a respiratory protection plan prepared 40838
in accordance with section 3742.07 of the Revised Code; 40839

(H) Requirements under which a manufacturer of encapsulants 40840
must demonstrate evidence of the safety and durability of its 40841
encapsulants by providing results of testing from an independent 40842
laboratory indicating that the encapsulants meet the standards 40843
developed by the "E06.23.30 task group on encapsulants," which is 40844
the task group of the lead hazards associated with buildings 40845
subcommittee of the performance of buildings committee of the 40846
American society for testing and materials. 40847

Sec. 3742.04. (A) The director of health shall do all of the 40848
following: 40849

(1) Administer and enforce the requirements of sections 40850
3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules 40851
adopted pursuant to those sections; 40852

(2) Examine records and reports submitted by lead inspectors, 40853
lead abatement contractors, lead risk assessors, lead abatement 40854

project designers, lead abatement workers, and clearance 40855
technicians in accordance with section 3742.05 of the Revised Code 40856
to determine whether the requirements of this chapter are being 40857
met; 40858

(3) Examine records and reports submitted by physicians, 40859
clinical laboratories, and environmental lead analytical 40860
laboratories under section 3701.25 or 3742.09 of the Revised Code; 40861

(4) Issue approval to manufacturers of encapsulants that have 40862
done all of the following: 40863

(a) Submitted an application for approval to the director on 40864
a form prescribed by the director; 40865

(b) Paid the application fee established by the director; 40866

(c) Submitted results from an independent laboratory 40867
indicating that the manufacturer's encapsulants satisfy the 40868
requirements established in rules adopted under division (H) of 40869
section 3742.03 of the Revised Code; 40870

(d) Complied with rules adopted by the ~~public health council~~ 40871
director regarding durability and safety to workers and residents. 40872

(5) Establish liaisons and cooperate with the directors or 40873
agencies in states having lead abatement, licensing, 40874
accreditation, certification, and approval programs to promote 40875
consistency between the requirements of this chapter and those of 40876
other states in order to facilitate reciprocity of the programs 40877
among states; 40878

(6) Establish a program to monitor and audit the quality of 40879
work of lead inspectors, lead risk assessors, lead abatement 40880
project designers, lead abatement contractors, lead abatement 40881
workers, and clearance technicians. The director may refer 40882
improper work discovered through the program to the attorney 40883
general for appropriate action. 40884

(B) In addition to any other authority granted by this chapter, the director of health may do any of the following:

(1) Employ persons who have received training from a program the director has determined provides the necessary background. The appropriate training may be obtained in a state that has an ongoing lead abatement program under which it conducts educational programs.

(2) Cooperate with the United States environmental protection agency in any joint oversight procedures the agency may propose for laboratories that offer lead analysis services and are accredited under the agency's laboratory accreditation program;

(3) Advise, consult, cooperate with, or enter into contracts or cooperative agreements with any person, government entity, interstate agency, or the federal government as the director considers necessary to fulfill the requirements of this chapter and the rules adopted under it.

Sec. 3742.05. (A)(1) The director of health shall issue lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, and clearance technician licenses. The director shall issue a license to an applicant who meets all of the following requirements:

(a) Submits an application to the director on a form prescribed by the director;

(b) Meets the licensing and training requirements established ~~by the public health council~~ in rules adopted under section 3742.03 of the Revised Code;

(c) Successfully completes the licensing examination for the applicant's area of expertise administered under section 3742.08 of the Revised Code and any training required by the director under that section;

| | |
|--|-------|
| (d) Pays the license fee established by the public health | 40915 |
| council in rules adopted under section 3742.03 of the Revised | 40916 |
| Code; | 40917 |
| (e) Provides the applicant's social security number and any | 40918 |
| information the director may require to demonstrate the | 40919 |
| applicant's compliance with this chapter and the rules adopted | 40920 |
| under it. | 40921 |
| (2) An individual may hold more than one license issued under | 40922 |
| this section, but a separate application is required for each | 40923 |
| license. | 40924 |
| (B) A license issued under this section expires two years | 40925 |
| after the date of issuance. The director shall renew a license in | 40926 |
| accordance with the standard renewal procedure set forth in | 40927 |
| Chapter 4745. of the Revised Code, if the licensee does all of the | 40928 |
| following: | 40929 |
| (1) Continues to meet the requirements of division (A) of | 40930 |
| this section; | 40931 |
| (2) Demonstrates compliance with procedures to prevent public | 40932 |
| exposure to lead hazards and for worker protection during lead | 40933 |
| abatement projects established by rule in rules adopted by the | 40934 |
| public health council under section 3742.03 of the Revised Code; | 40935 |
| (3) Meets the record-keeping and reporting requirements for | 40936 |
| lead abatement projects or clearance examinations established by | 40937 |
| rule in rules adopted by the public health council under section | 40938 |
| 3742.03 of the Revised Code; | 40939 |
| (4) Pays the license renewal fee established by rule in rules | 40940 |
| adopted by the public health council under section 3742.03 of the | 40941 |
| Revised Code. | 40942 |
| (C) An individual licensed, certified, or otherwise approved | 40943 |
| under the law of another state to perform functions substantially | 40944 |

similar to those of a lead inspector, lead abatement contractor, 40945
lead risk assessor, lead abatement project designer, lead 40946
abatement worker, or clearance technician may apply to the 40947
director of health for licensure in accordance with the procedures 40948
set forth in division (A) of this section. The director shall 40949
license an individual under this division on a determination that 40950
the standards for licensure, certification, or approval in that 40951
state are at least substantially equivalent to those established 40952
by this chapter and the rules adopted under it. The director may 40953
require an examination for licensure under this division. 40954

Sec. 3742.30. Each child at risk of lead poisoning shall 40955
undergo a blood lead screening test to determine whether the child 40956
has lead poisoning. The at-risk children shall undergo the test at 40957
times determined by rules the ~~public director of health council~~ 40958
shall adopt in accordance with Chapter 119. of the Revised Code 40959
that are consistent with the guidelines established by the centers 40960
for disease control and prevention in the public health service of 40961
the United States department of health and human services. The 40962
rules shall specify which children are at risk of lead poisoning. 40963

Neither this section nor the rules adopted under it affect 40964
the coverage of blood lead screening tests by any publicly funded 40965
health program, including the medicaid program established by 40966
Chapter 5111. of the Revised Code. Neither this section nor the 40967
rules adopted under it apply to a child if a parent of the child 40968
objects to the test on the grounds that the test conflicts with 40969
the parent's religious tenets and practices. 40970

Sec. 3742.31. (A) The director of health shall establish, 40971
promote, and maintain a child lead poisoning prevention program. 40972
The program shall provide statewide coordination of screening, 40973
diagnosis, and treatment services for children under age six, 40974
including both of the following: 40975

(1) Collecting the social security numbers of all children screened, diagnosed, or treated as part of the program's case management system; 40976
40977
40978

(2) Disclosing to the office of ~~Ohio health plans~~ medical assistance in the department of job and family services on at least an annual basis the identity and lead screening test results of each child screened pursuant to section 3742.30 of the Revised Code. The director shall collect and disseminate information relating to child lead poisoning and controlling lead hazards. 40979
40980
40981
40982
40983
40984

(B) The director of health shall operate the child lead poisoning prevention program in accordance with rules adopted under section 3742.50 of the Revised Code. The director may enter into an interagency agreement with one or more other state agencies to perform one or more of the program's duties. The director shall supervise and direct an agency's performance of such a duty. 40985
40986
40987
40988
40989
40990
40991

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members: 40992
40993
40994
40995
40996

(1) A representative of the office of ~~Ohio health plans~~ medical assistance in the department of job and family services; 40997
40998

(2) A representative of the bureau of child care in the department of job and family services; 40999
41000

(3) A representative of the department of environmental protection; 41001
41002

(4) A representative of the department of education; 41003

(5) A representative of the department of development; 41004

(6) A representative of the Ohio apartment owner's 41005

| | |
|---|--|
| association; | 41006 |
| (7) A representative of the Ohio help end lead poisoning coalition; | 41007 41008 |
| (8) A representative of the Ohio environmental health association; | 41009 41010 |
| (9) An Ohio representative of the national paint and coatings association. | 41011 41012 |
| (B) The advisory council shall do both of the following: | 41013 |
| (1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation; | 41014 41015 41016 41017 |
| (2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year. | 41018 41019 41020 |
| (C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code. | 41021 41022 |
| Sec. 3742.47. (A) A person seeking approval of a training program in either essential maintenance practices or lead-safe renovation shall apply for approval to the director of health. The application shall be made on a form prescribed by the director and shall include the fee established under division (B) of this section. The director shall issue approval to the applicant if the applicant demonstrates to the satisfaction of the director that the training program will meet the following requirements and any other training program requirements established by rules adopted under section 3742.50 of the Revised Code: | 41023 41024 41025 41026 41027 41028 41029 41030 41031 41032 |
| (1) Conducts the training program in a period of time that does not exceed six hours; | 41033 41034 |

(2) Administers an examination established by rule of the 41035
~~public health council~~ director at the end of the training program 41036
to each person who completes the training; 41037

(3) Grades each examination not later than one week after its 41038
completion and determines whether the person who took the 41039
examination received a passing score; 41040

(4) Not later than one week after the examination is 41041
completed provides written proof of training program completion to 41042
each person who completes the program and passes the examination. 41043

(B) The director of health shall establish an application fee 41044
for approving training programs under this section. The fee shall 41045
be reasonable and shall not exceed the expenses incurred in 41046
conducting the approval of training programs. An application fee 41047
submitted under division (A) of this section is nonrefundable. 41048

Sec. 3742.50. (A) The ~~public~~ director of health ~~council~~ shall 41049
adopt rules in accordance with Chapter 119. of the Revised Code 41050
establishing all of the following: 41051

(1) Procedures necessary for the development and operation of 41052
the child lead poisoning prevention program established under 41053
section 3742.31 of the Revised Code; 41054

(2) Standards and procedures for conducting investigations 41055
and risk assessments under sections 3742.35 and 3742.36 of the 41056
Revised Code; 41057

(3) Standards and procedures for issuing lead hazard control 41058
orders under section 3742.37 of the Revised Code, including 41059
standards and procedures for determining appropriate deadlines for 41060
complying with lead hazard control orders; 41061

(4) The level of lead in human blood that is hazardous to 41062
human health, consistent with the guidelines issued by the centers 41063
for disease control and prevention in the public health service of 41064

| | |
|--|---|
| the United States department of health and human services; | 41065 |
| (5) The level of lead in paint, dust, and soil that is hazardous to human health; | 41066 41067 |
| (6) Standards and procedures to be followed when implementing preventive treatments for the control of lead hazards pursuant to section 3742.41 of the Revised Code that are based on information from the United States environmental protection agency, department of housing and urban development, occupational safety and health administration, or other agencies with recommendations or guidelines regarding implementation of preventive treatments; | 41068 41069 41070 41071 41072 41073 41074 |
| (7) Standards that must be met to pass a clearance examination; | 41075 41076 |
| (8) Procedures for approving under section 3742.47 of the Revised Code training programs in essential maintenance practices and lead-safe renovation and requirements, in addition to those specified in section 3742.47 of the Revised Code, that a program must meet to receive approval; | 41077 41078 41079 41080 41081 |
| (9) The examination to be administered by a training program approved under section 3742.47 of the Revised Code and the examination's passing score. | 41082 41083 41084 |
| (B) The public health council <u>director</u> shall establish procedures for revising its rules to ensure that the child lead poisoning prevention activities conducted under this chapter continue to meet the requirements necessary to obtain any federal funding available for those activities, including requirements established by the United States environmental protection agency, United States department of housing and urban development, or any other federal agency with jurisdiction over activities pertaining to child lead poisoning prevention. | 41085 41086 41087 41088 41089 41090 41091 41092 41093 |
| Sec. 3743.04. (A) The license of a manufacturer of fireworks | 41094 |

is effective for one year beginning on the first day of December. 41095
The state fire marshal shall issue or renew a license only on that 41096
date and at no other time. If a manufacturer of fireworks wishes 41097
to continue manufacturing fireworks at the designated fireworks 41098
plant after its then effective license expires, it shall apply no 41099
later than the first day of October for a new license pursuant to 41100
section 3743.02 of the Revised Code. The state fire marshal shall 41101
send a written notice of the expiration of its license to a 41102
licensed manufacturer at least three months before the expiration 41103
date. 41104

(B) If, during the effective period of its licensure, a 41105
licensed manufacturer of fireworks wishes to construct, locate, or 41106
relocate any buildings or other structures on the premises of its 41107
fireworks plant, to make any structural change or renovation in 41108
any building or other structure on the premises of its fireworks 41109
plant, or to change the nature of its manufacturing of fireworks 41110
so as to include the processing of fireworks, the manufacturer 41111
shall notify the state fire marshal in writing. The state fire 41112
marshal may require a licensed manufacturer also to submit 41113
documentation, including, but not limited to, plans covering the 41114
proposed construction, location, relocation, structural change or 41115
renovation, or change in manufacturing of fireworks, if the state 41116
fire marshal determines the documentation is necessary for 41117
evaluation purposes in light of the proposed construction, 41118
location, relocation, structural change or renovation, or change 41119
in manufacturing of fireworks. 41120

Upon receipt of the notification and additional documentation 41121
required by the state fire marshal, the state fire marshal shall 41122
inspect the premises of the fireworks plant to determine if the 41123
proposed construction, location, relocation, structural change or 41124
renovation, or change in manufacturing of fireworks conforms to 41125
sections 3743.02 to 3743.08 of the Revised Code and the rules 41126

adopted by the state fire marshal pursuant to section 3743.05 of 41127
the Revised Code. The state fire marshal shall issue a written 41128
authorization to the manufacturer for the construction, location, 41129
relocation, structural change or renovation, or change in 41130
manufacturing of fireworks if the state fire marshal determines, 41131
upon the inspection and a review of submitted documentation, that 41132
the construction, location, relocation, structural change or 41133
renovation, or change in manufacturing of fireworks conforms to 41134
those sections and rules. Upon authorizing a change in 41135
manufacturing of fireworks to include the processing of fireworks, 41136
the state fire marshal shall make notations on the manufacturer's 41137
license and in the list of licensed manufacturers in accordance 41138
with section 3743.03 of the Revised Code. 41139

On or before June 1, 1998, a licensed manufacturer shall 41140
install, in every licensed building in which fireworks are 41141
manufactured, stored, or displayed and to which the public has 41142
access, interlinked fire detection, smoke exhaust, and smoke 41143
evacuation systems that are approved by the superintendent of 41144
~~labor~~ industrial compliance, and shall comply with floor plans 41145
showing occupancy load limits and internal circulation and egress 41146
patterns that are approved by the state fire marshal and 41147
superintendent, and that are submitted under seal as required by 41148
section 3791.04 of the Revised Code. Notwithstanding section 41149
3743.59 of the Revised Code, the construction and safety 41150
requirements established in this division are not subject to any 41151
variance, waiver, or exclusion. 41152

(C) The license of a manufacturer of fireworks authorizes the 41153
manufacturer to engage only in the following activities: 41154

(1) The manufacturing of fireworks on the premises of the 41155
fireworks plant as described in the application for licensure or 41156
in the notification submitted under division (B) of this section, 41157
except that a licensed manufacturer shall not engage in the 41158

processing of fireworks unless authorized to do so by its license. 41159

(2) To possess for sale at wholesale and sell at wholesale 41160
the fireworks manufactured by the manufacturer, to persons who are 41161
licensed wholesalers of fireworks, to out-of-state residents in 41162
accordance with section 3743.44 of the Revised Code, to residents 41163
of this state in accordance with section 3743.45 of the Revised 41164
Code, or to persons located in another state provided the 41165
fireworks are shipped directly out of this state to them by the 41166
manufacturer. A person who is licensed as a manufacturer of 41167
fireworks on June 14, 1988, also may possess for sale and sell 41168
pursuant to division (C)(2) of this section fireworks other than 41169
those the person manufactures. The possession for sale shall be on 41170
the premises of the fireworks plant described in the application 41171
for licensure or in the notification submitted under division (B) 41172
of this section, and the sale shall be from the inside of a 41173
licensed building and from no other structure or device outside a 41174
licensed building. At no time shall a licensed manufacturer sell 41175
any class of fireworks outside a licensed building. 41176

(3) Possess for sale at retail and sell at retail the 41177
fireworks manufactured by the manufacturer, other than 1.4G 41178
fireworks as designated by the state fire marshal in rules adopted 41179
pursuant to division (A) of section 3743.05 of the Revised Code, 41180
to licensed exhibitors in accordance with sections 3743.50 to 41181
3743.55 of the Revised Code, and possess for sale at retail and 41182
sell at retail the fireworks manufactured by the manufacturer, 41183
including 1.4G fireworks, to out-of-state residents in accordance 41184
with section 3743.44 of the Revised Code, to residents of this 41185
state in accordance with section 3743.45 of the Revised Code, or 41186
to persons located in another state provided the fireworks are 41187
shipped directly out of this state to them by the manufacturer. A 41188
person who is licensed as a manufacturer of fireworks on June 14, 41189
1988, may also possess for sale and sell pursuant to division 41190

(C)(3) of this section fireworks other than those the person 41191
manufactures. The possession for sale shall be on the premises of 41192
the fireworks plant described in the application for licensure or 41193
in the notification submitted under division (B) of this section, 41194
and the sale shall be from the inside of a licensed building and 41195
from no other structure or device outside a licensed building. At 41196
no time shall a licensed manufacturer sell any class of fireworks 41197
outside a licensed building. 41198

A licensed manufacturer of fireworks shall sell under 41199
division (C) of this section only fireworks that meet the 41200
standards set by the consumer product safety commission or by the 41201
American fireworks standard laboratories or that have received an 41202
EX number from the United States department of transportation. 41203

(D) The license of a manufacturer of fireworks shall be 41204
protected under glass and posted in a conspicuous place on the 41205
premises of the fireworks plant. Except as otherwise provided in 41206
this division, the license is not transferable or assignable. A 41207
license may be transferred to another person for the same 41208
fireworks plant for which the license was issued if the assets of 41209
the plant are transferred to that person by inheritance or by a 41210
sale approved by the state fire marshal. The license is subject to 41211
revocation in accordance with section 3743.08 of the Revised Code. 41212

(E) The state fire marshal shall not place the license of a 41213
manufacturer of fireworks in a temporarily inactive status while 41214
the holder of the license is attempting to qualify to retain the 41215
license. 41216

(F) Each licensed manufacturer of fireworks that possesses 41217
fireworks for sale and sells fireworks under division (C) of 41218
section 3743.04 of the Revised Code, or a designee of the 41219
manufacturer, whose identity is provided to the state fire marshal 41220
by the manufacturer, annually shall attend a continuing education 41221
program. The state fire marshal shall develop the program and the 41222

state fire marshal or a person or public agency approved by the 41223
state fire marshal shall conduct it. A licensed manufacturer or 41224
the manufacturer's designee who attends a program as required 41225
under this division, within one year after attending the program, 41226
shall conduct in-service training as approved by the state fire 41227
marshal for other employees of the licensed manufacturer regarding 41228
the information obtained in the program. A licensed manufacturer 41229
shall provide the state fire marshal with notice of the date, 41230
time, and place of all in-service training. For any program 41231
conducted under this division, the state fire marshal shall, in 41232
accordance with rules adopted by the state fire marshal under 41233
Chapter 119. of the Revised Code, establish the subjects to be 41234
taught, the length of classes, the standards for approval, and 41235
time periods for notification by the licensee to the state fire 41236
marshal of any in-service training. 41237

(G) A licensed manufacturer shall maintain comprehensive 41238
general liability insurance coverage in the amount and type 41239
specified under division (B)(2) of section 3743.02 of the Revised 41240
Code at all times. Each policy of insurance required under this 41241
division shall contain a provision requiring the insurer to give 41242
not less than fifteen days' prior written notice to the state fire 41243
marshal before termination, lapse, or cancellation of the policy, 41244
or any change in the policy that reduces the coverage below the 41245
minimum required under this division. Prior to canceling or 41246
reducing the amount of coverage of any comprehensive general 41247
liability insurance coverage required under this division, a 41248
licensed manufacturer shall secure supplemental insurance in an 41249
amount and type that satisfies the requirements of this division 41250
so that no lapse in coverage occurs at any time. A licensed 41251
manufacturer who secures supplemental insurance shall file 41252
evidence of the supplemental insurance with the state fire marshal 41253
prior to canceling or reducing the amount of coverage of any 41254
comprehensive general liability insurance coverage required under 41255

this division. 41256

(H) The state fire marshal shall adopt rules for the 41257
expansion or contraction of a licensed premises and for approval 41258
of such expansions or contractions. The boundaries of a licensed 41259
premises, including any geographic expansion or contraction of 41260
those boundaries, shall be approved by the state fire marshal in 41261
accordance with rules the state fire marshal adopts. If the 41262
licensed premises consists of more than one parcel of real estate, 41263
those parcels shall be contiguous unless an exception is allowed 41264
pursuant to division (I) of this section. 41265

(I)(1) A licensed manufacturer may expand its licensed 41266
premises within this state to include not more than two storage 41267
locations that are located upon one or more real estate parcels 41268
that are noncontiguous to the licensed premises as that licensed 41269
premises exists on the date a licensee submits an application as 41270
described below, if all of the following apply: 41271

(a) The licensee submits an application to the state fire 41272
marshal and an application fee of one hundred dollars per storage 41273
location for which the licensee is requesting approval. 41274

(b) The identity of the holder of the license remains the 41275
same at the storage location. 41276

(c) The storage location has received a valid certificate of 41277
zoning compliance as applicable and a valid certificate of 41278
occupancy for each building or structure at the storage location 41279
issued by the authority having jurisdiction to issue the 41280
certificate for the storage location, and those certificates 41281
permit the distribution and storage of fireworks regulated under 41282
this chapter at the storage location and in the buildings or 41283
structures. The storage location shall be in compliance with all 41284
other applicable federal, state, and local laws and regulations. 41285

(d) Every building or structure located upon the storage 41286

location is separated from occupied residential and nonresidential 41287
buildings or structures, railroads, highways, or any other 41288
buildings or structures on the licensed premises in accordance 41289
with the distances specified in the rules adopted by the state 41290
fire marshal pursuant to section 3743.05 of the Revised Code. 41291

(e) Neither the licensee nor any person holding, owning, or 41292
controlling a five per cent or greater beneficial or equity 41293
interest in the licensee has been convicted of or pleaded guilty 41294
to a felony under the laws of this state, any other state, or the 41295
United States, after September 29, 2005. 41296

(f) The state fire marshal approves the application for 41297
expansion. 41298

(2) The state fire marshal shall approve an application for 41299
expansion requested under division (I)(1) of this section if the 41300
state fire marshal receives the application fee and proof that the 41301
requirements of divisions (I)(1)(b) to (e) of this section are 41302
satisfied. The storage location shall be considered part of the 41303
original licensed premises and shall use the same distinct number 41304
assigned to the original licensed premises with any additional 41305
designations as the state fire marshal deems necessary in 41306
accordance with section 3743.03 of the Revised Code. 41307

(J)(1) A licensee who obtains approval for the use of a 41308
storage location in accordance with division (I) of this section 41309
shall use the storage location exclusively for the following 41310
activities, in accordance with division (C) of this section: 41311

(a) The packaging, assembling, or storing of fireworks, which 41312
shall only occur in buildings or structures approved for such 41313
hazardous uses by the building code official having jurisdiction 41314
for the storage location or, for 1.4G fireworks, in containers or 41315
trailers approved for such hazardous uses by the state fire 41316
marshal if such containers or trailers are not subject to 41317

regulation by the building code adopted in accordance with Chapter 41318
3781. of the Revised Code. All such storage shall be in accordance 41319
with the rules adopted by the state fire marshal under division 41320
(G) of section 3743.05 of the Revised Code for the packaging, 41321
assembling, and storage of fireworks. 41322

(b) Distributing fireworks to other parcels of real estate 41323
located on the manufacturer's licensed premises, to licensed 41324
wholesalers or other licensed manufacturers in this state or to 41325
similarly licensed persons located in another state or country; 41326

(c) Distributing fireworks to a licensed exhibitor of 41327
fireworks pursuant to a properly issued permit in accordance with 41328
section 3743.54 of the Revised Code. 41329

(2) A licensed manufacturer shall not engage in any sales 41330
activity, including the retail sale of fireworks otherwise 41331
permitted under division (C)(2) or (C)(3) of this section, or 41332
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 41333
storage location approved under this section. 41334

(3) A storage location may not be relocated for a minimum 41335
period of five years after the storage location is approved by the 41336
state fire marshal in accordance with division (I) of this 41337
section. 41338

(K) The licensee shall prohibit public access to the storage 41339
location. The state fire marshal shall adopt rules to describe the 41340
acceptable measures a manufacturer shall use to prohibit access to 41341
the storage site. 41342

Sec. 3743.06. In addition to conforming to the rules of the 41343
fire marshal adopted pursuant to section 3743.05 of the Revised 41344
Code, licensed manufacturers of fireworks shall operate their 41345
fireworks plants in accordance with the following: 41346

(A) Signs indicating that smoking is generally forbidden and 41347

trespassing is prohibited on the premises of a fireworks plant 41348
shall be posted on the premises in a manner determined by the fire 41349
marshal. 41350

(B) Reasonable precautions shall be taken to protect the 41351
premises of a fireworks plant from trespass, loss, theft, or 41352
destruction. Only persons employed by the manufacturer, authorized 41353
governmental personnel, and persons who have obtained permission 41354
from a member of the manufacturer's office to be on the premises, 41355
are to be allowed to enter and remain on the premises. 41356

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 41357
matches, lighters, other flame-producing items, or open flame on, 41358
or the carrying of a concealed source of ignition into, the 41359
premises of a fireworks plant is prohibited, except that a 41360
manufacturer may permit smoking in specified lunchrooms or 41361
restrooms in buildings or other structures in which no 41362
manufacturing, handling, sales, or storage of fireworks takes 41363
place. "NO SMOKING" signs shall be posted on the premises as 41364
required by the fire marshal. 41365

(D) Fire and explosion prevention and other reasonable safety 41366
measures and precautions shall be implemented by a manufacturer. 41367

(E) Persons shall not be permitted to have in their 41368
possession or under their control, while they are on the premises 41369
of the fireworks plant, any intoxicating liquor, beer, or 41370
controlled substance, and they shall not be permitted to enter or 41371
remain on the premises if they are found to be under the influence 41372
of any intoxicating liquor, beer, or controlled substance. 41373

(F) A manufacturer shall conform to all building, safety, and 41374
zoning statutes, ordinances, rules, or other enactments that apply 41375
to the premises of its fireworks plant. 41376

(G) Each fireworks plant shall have at least one class 1 41377
magazine that is approved by the bureau of alcohol, tobacco, and 41378

firearms of the United States department of the treasury and that 41379
is otherwise in conformity with federal law. This division does 41380
not apply to fireworks plants existing on or before August 3, 41381
1931. 41382

(H) Awnings, tents, and canopies shall not be used as 41383
facilities for the sale or storage of fireworks. This division 41384
does not prohibit the use of an awning or canopy attached to a 41385
public access showroom for storing nonflammable shopping 41386
convenience items such as shopping carts or baskets or providing a 41387
shaded area for patrons waiting to enter the public sales area. 41388

(I) Fireworks may be stored in trailers if the trailers are 41389
properly enclosed, secured, and grounded and are separated from 41390
any structure to which the public is admitted by a distance that 41391
will, in the fire marshal's judgment, allow fire-fighting 41392
equipment to have full access to the structures on the licensed 41393
premises. Such trailers may be moved into closer proximity to any 41394
structure only to accept or discharge cargo for a period not to 41395
exceed forty-eight hours. Only two such trailers may be placed in 41396
such closer proximity at any one time. At no time may trailers be 41397
used for conducting sales of any class of fireworks, nor may 41398
members of the public have access to the trailers. 41399

Storage areas for fireworks that are in the same building 41400
where fireworks are displayed and sold to the public shall be 41401
separated from the areas to which the public has access by an 41402
appropriately rated fire wall. 41403

(J) A fire suppression system as defined in section 3781.108 41404
of the Revised Code may be turned off only for repair, drainage of 41405
the system to prevent damage by freezing during the period of 41406
time, approved by the fire marshal, that the facility is closed to 41407
all public access during winter months, or maintenance of the 41408
system. If any repair or maintenance is necessary during times 41409
when the facility is open for public access and business as 41410

approved by the fire marshal, the licensed manufacturer shall 41411
notify in advance the appropriate insurance company and fire chief 41412
or fire prevention officer regarding the nature of the maintenance 41413
or repair and the time when it will be performed. 41414

(K) If any fireworks item is removed from its original 41415
package or is manufactured with any fuse other than a safety fuse 41416
approved by the consumer product safety commission, then the item 41417
shall be covered completely by repackaging or bagging or it shall 41418
otherwise be covered so as to prevent ignition prior to sale. 41419

(L) A safety officer shall be present during regular business 41420
hours at a building open to the public during the period 41421
commencing fourteen days before, and ending two days after, each 41422
fourth day of July. The officer shall be highly visible, enforce 41423
this chapter and any applicable building codes to the extent the 41424
officer is authorized by law, and be one of the following: 41425

(1) A deputy sheriff; 41426

(2) A law enforcement officer of a municipal corporation, 41427
township, or township or joint police district; 41428

(3) A private uniformed security guard registered under 41429
section 4749.06 of the Revised Code. 41430

(M) All doors of all buildings on the licensed premises shall 41431
swing outward. 41432

(N) All wholesale and commercial sales of fireworks shall be 41433
packaged, shipped, placarded, and transported in accordance with 41434
United States department of transportation regulations applicable 41435
to the transportation, and the offering for transportation, of 41436
hazardous materials. For purposes of this division, "wholesale and 41437
commercial sales" includes all sales for resale and any nonretail 41438
sale made in furtherance of a commercial enterprise. For purposes 41439
of enforcement of these regulations under section ~~4905.83~~ 4923.99 41440
of the Revised Code, any sales transaction exceeding one thousand 41441

pounds shall be rebuttably presumed to be a wholesale or 41442
commercial sale. 41443

Sec. 3743.19. In addition to conforming to the rules of the 41444
fire marshal adopted pursuant to section 3743.18 of the Revised 41445
Code, licensed wholesalers of fireworks shall conduct their 41446
business operations in accordance with the following: 41447

(A) A wholesaler shall conduct its business operations from 41448
the location described in its application for licensure or in a 41449
notification submitted under division (B) of section 3743.17 of 41450
the Revised Code. 41451

(B) Signs indicating that smoking is generally forbidden and 41452
trespassing is prohibited on the premises of a wholesaler shall be 41453
posted on the premises as determined by the fire marshal. 41454

(C) Reasonable precautions shall be taken to protect the 41455
premises of a wholesaler from trespass, loss, theft, or 41456
destruction. 41457

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 41458
matches, lighters, other flame-producing items, or open flame on, 41459
or the carrying of a concealed source of ignition into, the 41460
premises of a wholesaler is prohibited, except that a wholesaler 41461
may permit smoking in specified lunchrooms or restrooms in 41462
buildings or other structures in which no sales, handling, or 41463
storage of fireworks takes place. "NO SMOKING" signs shall be 41464
posted on the premises as required by the fire marshal. 41465

(E) Fire and explosion prevention and other reasonable safety 41466
measures and precautions shall be implemented by a wholesaler. 41467

(F) Persons shall not be permitted to have in their 41468
possession or under their control, while they are on the premises 41469
of a wholesaler, any intoxicating liquor, beer, or controlled 41470
substance, and they shall not be permitted to enter or remain on 41471

the premises if they are found to be under the influence of any 41472
intoxicating liquor, beer, or controlled substance. 41473

(G) A wholesaler shall conform to all building, safety, and 41474
zoning statutes, ordinances, rules, or other enactments that apply 41475
to its premises. 41476

(H) Each building used in the sale of fireworks shall be kept 41477
open to the public for at least four hours each day between the 41478
hours of eight a.m. and five p.m., five days of each week, every 41479
week of the year. Upon application from a licensed wholesaler, the 41480
fire marshal may waive any of the requirements of this division. 41481

(I) Awnings, tents, or canopies shall not be used as 41482
facilities for the storage or sale of fireworks. This division 41483
does not prohibit the use of an awning or canopy attached to a 41484
public access showroom for storing nonflammable shopping 41485
convenience items such as shopping carts or baskets or providing a 41486
shaded area for patrons waiting to enter the public sales area. 41487

(J) 1.4G fireworks may be stored in trailers if the trailers 41488
are properly enclosed, secured, and grounded and are separated 41489
from any structure to which the public is admitted by a distance 41490
that will, in the fire marshal's judgment, allow fire-fighting 41491
equipment to have full access to the structures on the licensed 41492
premises. Such trailers may be moved into closer proximity to any 41493
structure only to accept or discharge cargo for a period not to 41494
exceed forty-eight hours. Only two such trailers may be placed in 41495
such closer proximity at any one time. At no time may trailers be 41496
used for conducting sales of any class of fireworks nor may 41497
members of the public have access to the trailers. 41498

Storage areas for fireworks that are in the same building 41499
where fireworks are displayed and sold to the public shall be 41500
separated from the areas to which the public has access by an 41501
appropriately rated fire wall. If the licensee installs and 41502

properly maintains an early suppression fast response sprinkler 41503
system or equivalent fire suppression system as described in the 41504
fire code adopted by the fire marshal in accordance with section 41505
3737.82 of the Revised Code throughout the structure, a fire 41506
barrier wall may be substituted for a fire wall between the areas 41507
to which the public has access and the storage portions of the 41508
structure. 41509

(K) A fire suppression system as defined in section 3781.108 41510
of the Revised Code may be turned off only for repair, drainage of 41511
the system to prevent damage by freezing during the period of 41512
time, approved by the fire marshal under division (I) of this 41513
section, that the facility is closed to public access during 41514
winter months, or maintenance of the system. If any repair or 41515
maintenance is necessary during times when the facility is open 41516
for public access and business, the licensed wholesaler shall 41517
notify in advance the appropriate insurance company and fire chief 41518
or fire prevention officer regarding the nature of the maintenance 41519
or repair and the time when it will be performed. 41520

(L) If any fireworks item is removed from its original 41521
package or is manufactured with any fuse other than a fuse 41522
approved by the consumer product safety commission, then the item 41523
shall be covered completely by repackaging or bagging or it shall 41524
otherwise be covered so as to prevent ignition prior to sale. 41525

(M) A safety officer shall be present during regular business 41526
hours at a building open to the public during the period 41527
commencing fourteen days before, and ending two days after, each 41528
fourth day of July. The officer shall be highly visible, enforce 41529
this chapter and any applicable building codes to the extent the 41530
officer is authorized by law, and be one of the following: 41531

(1) A deputy sheriff; 41532

(2) A law enforcement officer of a municipal corporation, 41533

township, or township or joint police district; 41534

(3) A private uniformed security guard registered under 41535
section 4749.06 of the Revised Code. 41536

(N) All doors of all buildings on the licensed premises shall 41537
swing outward. 41538

(O) All wholesale and commercial sales of fireworks shall be 41539
packaged, shipped, placarded, and transported in accordance with 41540
United States department of transportation regulations applicable 41541
to the transportation, and the offering for transportation, of 41542
hazardous materials. For purposes of this division, "wholesale and 41543
commercial sales" includes all sales for resale and any nonretail 41544
sale made in furtherance of a commercial enterprise. For purposes 41545
of enforcement of these regulations under section ~~4905.83~~ 4923.99 41546
of the Revised Code, any sales transaction exceeding one thousand 41547
pounds shall be rebuttably presumed to be a wholesale or 41548
commercial sale. 41549

Sec. 3743.25. (A)(1) Except as described in division (A)(2) 41550
of this section, all retail sales of 1.4G fireworks by a licensed 41551
manufacturer or wholesaler shall only occur from an approved 41552
retail sales showroom on a licensed premises or from a 41553
representative sample showroom as described in this section on a 41554
licensed premises. For the purposes of this section, a retail sale 41555
includes the transfer of the possession of the 1.4G fireworks from 41556
the licensed manufacturer or wholesaler to the purchaser of the 41557
fireworks. 41558

(2) Sales of 1.4G fireworks to a licensed exhibitor for a 41559
properly permitted exhibition shall occur in accordance with the 41560
provisions of the Revised Code and rules adopted by the state fire 41561
marshal under Chapter 119. of the Revised Code. Such rules shall 41562
specify, at a minimum, that the licensed exhibitor holds a license 41563
under section 3743.51 of the Revised Code, that the exhibitor 41564

possesses a valid exhibition permit issued in accordance with 41565
section 3743.54 of the Revised Code, and that the fireworks 41566
shipped are to be used at the specifically permitted exhibition. 41567

(B) All wholesale sales of fireworks by a licensed 41568
manufacturer or wholesaler shall only occur from a licensed 41569
premises to persons who intend to resell the fireworks purchased 41570
at wholesale. A wholesale sale by a licensed manufacturer or 41571
wholesaler may occur as follows: 41572

(1) The direct sale and shipment of fireworks to a person 41573
outside of this state; 41574

(2) From an approved retail sales showroom as described in 41575
this section; 41576

(3) From a representative sample showroom as described in 41577
this section; 41578

(4) By delivery of wholesale fireworks to a purchaser at a 41579
licensed premises outside of a structure or building on that 41580
premises. All other portions of the wholesale sales transaction 41581
may occur at any location on a licensed premises. 41582

(5) Any other method as described in rules adopted by the 41583
state fire marshal under Chapter 119. of the Revised Code. 41584

(C) A licensed manufacturer or wholesaler shall only sell 41585
1.4G fireworks from a representative sample showroom or a retail 41586
sales showroom. Each licensed premises shall only contain one 41587
sales structure. 41588

A representative sample showroom shall consist of a structure 41589
constructed and maintained in accordance with the nonresidential 41590
building code adopted under Chapter 3781. of the Revised Code and 41591
the fire code adopted under section 3737.82 of the Revised Code 41592
for a use and occupancy group that permits mercantile sales. A 41593
representative sample showroom shall not contain any pyrotechnics, 41594

pyrotechnic materials, fireworks, explosives, explosive materials, 41595
or any similar hazardous materials or substances. A representative 41596
sample showroom shall be used only for the public viewing of 41597
fireworks product representations, including paper materials, 41598
packaging materials, catalogs, photographs, or other similar 41599
product depictions. The delivery of product to a purchaser of 41600
fireworks at a licensed premises that has a representative sample 41601
structure shall not occur inside any structure on a licensed 41602
premises. Such product delivery shall occur on the licensed 41603
premises in a manner prescribed by rules adopted by the state fire 41604
marshal pursuant to Chapter 119. of the Revised Code. 41605

If a manufacturer or wholesaler elects to conduct sales from 41606
a retail sales showroom, the showroom structures, to which the 41607
public may have any access and in which employees are required to 41608
work, on all licensed premises, shall comply with the following 41609
safety requirements: 41610

(1) A fireworks showroom that is constructed or upon which 41611
expansion is undertaken on and after June 30, 1997, shall be 41612
equipped with interlinked fire detection, fire suppression, smoke 41613
exhaust, and smoke evacuation systems that are approved by the 41614
superintendent of ~~labor~~ industrial compliance in the department of 41615
commerce. 41616

(2) A fireworks showroom that first begins to operate on or 41617
after June 30, 1997, and to which the public has access for retail 41618
purposes shall not exceed five thousand square feet in floor area. 41619

(3) A newly constructed or an existing fireworks showroom 41620
structure that exists on September 23, 2008, but that, on or after 41621
September 23, 2008, is altered or added to in a manner requiring 41622
the submission of plans, drawings, specifications, or data 41623
pursuant to section 3791.04 of the Revised Code, shall comply with 41624
a graphic floor plan layout that is approved by the state fire 41625
marshal and superintendent showing width of aisles, parallel 41626

arrangement of aisles to exits, number of exits per wall, maximum 41627
occupancy load, evacuation plan for occupants, height of storage 41628
or display of merchandise, and other information as may be 41629
required by the state fire marshal and superintendent. 41630

(4) A fireworks showroom structure that exists on June 30, 41631
1997, shall be in compliance on or after June 30, 1997, with floor 41632
plans showing occupancy load limits and internal circulation and 41633
egress patterns that are approved by the state fire marshal and 41634
superintendent, and that are submitted under seal as required by 41635
section 3791.04 of the Revised Code. 41636

(D) The safety requirements established in division (C) of 41637
this section are not subject to any variance, waiver, or exclusion 41638
pursuant to this chapter or any applicable building code. 41639

Sec. 3745.01. There is hereby created the environmental 41640
protection agency, headed by the director of environmental 41641
protection. The agency, under the supervision of the director, 41642
shall administer the laws pertaining to chemical emergency 41643
planning, community right-to-know, and toxic chemical release 41644
reporting; the cessation of chemical handling operations; the 41645
prevention, control, and abatement of air and water pollution; 41646
public water supply; comprehensive water resource management 41647
planning; products that contain mercury as defined in section 41648
3734.61 of the Revised Code; and the disposal and treatment of 41649
solid wastes, infectious wastes, construction and demolition 41650
debris, hazardous waste, sewage, industrial waste, and other 41651
wastes. The director may do all of the following: 41652

(A) Provide such methods of administration, appoint such 41653
personnel, make such reports, and take such other action as may be 41654
necessary to comply with the requirements of the federal laws and 41655
regulations pertaining to chemical emergency planning, community 41656
right-to-know, and toxic chemical release reporting; air and water 41657

pollution control; public water supply; water resource planning; 41658
and waste disposal and treatment; 41659

(B) Procure by contract the temporary or intermittent 41660
services of experts or consultants, or organizations thereof, when 41661
those services are to be performed on a part-time or 41662
fee-for-service basis and do not involve the performance of 41663
administrative duties; 41664

(C) Advise, consult, cooperate, and enter into contracts or 41665
agreements, including consensual administrative order agreements, 41666
with any other agencies of the state, the federal government, 41667
other states, ~~and~~ interstate agencies, and persons and with 41668
affected groups, political subdivisions, and industries in 41669
furtherance of the purposes of this chapter and Chapters 3704., 41670
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 41671

(D) Establish advisory boards in accordance with section 41672
121.13 of the Revised Code; 41673

(E) Accept on behalf of the state any grant, gift, or 41674
contribution made for toxic chemical release reporting, air or 41675
water pollution control, public water supply, water resource 41676
planning, waste disposal or treatment, or related purposes, and 41677
expend it for those purposes; 41678

(F) Make an annual report to the governor and the general 41679
assembly on activities and expenditures as well as recommendations 41680
for such additional legislation as the director considers 41681
appropriate to carry out the director's duties or accomplish the 41682
purposes of this section; 41683

(G) Enter into environmental covenants in accordance with 41684
sections 5301.80 to 5301.92 of the Revised Code, and grant or 41685
accept easements or sell real property pursuant to section 41686
3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as 41687
applicable. 41688

The agency shall utilize the laboratory facilities of the 41689
department of health and other state institutions and agencies to 41690
the maximum extent that the utilization is practicable, 41691
economical, and technically satisfactory. 41692

The director shall maintain and keep available for public 41693
inspection, at the director's principal office, a current register 41694
of all applications filed for permits, leases, licenses, 41695
variances, certificates, and approval of plans and specifications 41696
and of publicly owned treatment works pretreatment programs under 41697
the director's jurisdiction, hearings pending, the director's 41698
final action thereon, and the dates on which the filings, 41699
hearings, and final actions occur. The director shall maintain and 41700
keep available for public inspection at the director's principal 41701
office all plans, reports, and other documents required to be 41702
filed with the emergency response commission under Chapter 3750. 41703
of the Revised Code and rules adopted under it, and all reports 41704
and other documents required to be filed with the director under 41705
Chapter 3751. of the Revised Code and rules adopted under it, 41706
subject to the requirements of those chapters and rules adopted 41707
under them for the protection of trade secrets and confidential 41708
business information from disclosure to persons not authorized 41709
under those laws to receive trade secret or confidential business 41710
information. 41711

Sec. 3745.05. (A) In hearing the appeal, if an adjudication 41712
hearing was conducted by the director of environmental protection 41713
in accordance with sections 119.09 and 119.10 of the Revised Code 41714
or conducted by a board of health, the environmental review 41715
appeals commission is confined to the record as certified to it by 41716
the director or the board of health, as applicable. The commission 41717
may grant a request for the admission of additional evidence when 41718
satisfied that such additional evidence is newly discovered and 41719
could not with reasonable diligence have been ascertained prior to 41720

the hearing before the director or the board, as applicable. If no 41721
adjudication hearing was conducted in accordance with sections 41722
119.09 and 119.10 of the Revised Code or conducted by a board of 41723
health, the commission shall conduct a hearing de novo on the 41724
appeal. 41725

For the purpose of conducting a de novo hearing, or where the 41726
commission has granted a request for the admission of additional 41727
evidence, the commission may require the attendance of witnesses 41728
and the production of written or printed materials. 41729

When conducting a de novo hearing, or when a request for the 41730
admission of additional evidence has been granted, the commission 41731
may, and at the request of any party it shall, issue subpoenas for 41732
witnesses or for books, papers, correspondence, memoranda, 41733
agreements, or other documents or records relevant or material to 41734
the inquiry directed to the sheriff of the counties where the 41735
witnesses or documents or records are found, which subpoenas shall 41736
be served and returned in the same manner as those allowed by the 41737
court of common pleas in criminal cases. 41738

(B) The fees of sheriffs shall be the same as those allowed 41739
by the court of common pleas in criminal cases. Witnesses shall be 41740
paid the fees and mileage provided for under section 119.094 of 41741
the Revised Code. The fee and mileage expenses incurred at the 41742
request of the appellant shall be paid in advance by the 41743
appellant, and the remainder of the expenses shall be paid out of 41744
funds appropriated for the expenses of the commission. 41745

(C) In case of disobedience or neglect of any subpoena served 41746
on any person, or the refusal of any witness to testify to any 41747
matter regarding which the witness may be lawfully interrogated, 41748
the court of common pleas of the county in which the disobedience, 41749
neglect, or refusal occurs, or any judge thereof, on application 41750
of the commission or any member thereof, may compel obedience by 41751
attachment proceedings for contempt as in the case of disobedience 41752

of the requirements of a subpoena issued from the court or a 41753
refusal to testify therein. 41754

(D) A witness at any hearing shall testify under oath or 41755
affirmation, which any member of the commission may administer. A 41756
witness, if the witness requests, shall be permitted to be 41757
accompanied, represented, and advised by an attorney, whose 41758
participation in the hearing shall be limited to the protection of 41759
the rights of the witness, and who may not examine or 41760
cross-examine witnesses. A witness shall be advised of the right 41761
to counsel before the witness is interrogated. 41762

(E) A ~~stenographic~~ record of the testimony and other evidence 41763
submitted shall be taken by an official court ~~shorthand~~ reporter. 41764
The record shall include all of the testimony and other evidence 41765
and the rulings on the admissibility thereof presented at the 41766
hearing. The commission shall pass upon the admissibility of 41767
evidence, but any party may at the time object to the admission of 41768
any evidence and except to the rulings of the commission thereon, 41769
and if the commission refuses to admit evidence the party offering 41770
same may make a proffer thereof, and such proffer shall be made a 41771
part of the record of such hearing. 41772

Any party may request the ~~stenographic~~ record of the hearing. 41773
Promptly after receiving such a request, the commission shall 41774
prepare and provide the ~~stenographic~~ record of the hearing to the 41775
party who requested it. The commission may charge a fee to the 41776
party who requested the ~~stenographic~~ record that does not exceed 41777
the cost to the commission for preparing and transcribing or 41778
transmitting it. 41779

(F) If, upon completion of the hearing, the commission finds 41780
that the action appealed from was lawful and reasonable, it shall 41781
make a written order affirming the action, or if the commission 41782
finds that the action was unreasonable or unlawful, it shall make 41783
a written order vacating or modifying the action appealed from. 41784

The commission shall issue a written order affirming, 41785
vacating, or modifying an action pursuant to the following 41786
schedule: 41787

(1) For an appeal that was filed with the commission before 41788
April 15, 2008, the commission shall issue a written order not 41789
later than December 15, 2009. 41790

(2) For all other appeals that have been filed with the 41791
commission as of October 15, 2009, the commission shall issue a 41792
written order not later than July 15, 2010. 41793

(3) For an appeal that is filed with the commission after 41794
October 15, 2009, the commission shall issue a written order not 41795
later than twelve months after the filing of the appeal with the 41796
commission. 41797

(G) Every order made by the commission shall contain a 41798
written finding by the commission of the facts upon which the 41799
order is based. Notice of the making of the order shall be given 41800
forthwith to each party to the appeal by mailing a certified copy 41801
thereof to each party by certified mail, with a statement of the 41802
time and method by which an appeal may be perfected. 41803

(H) The order of the commission is final unless vacated or 41804
modified upon judicial review. 41805

Sec. 3745.11. (A) Applicants for and holders of permits, 41806
licenses, variances, plan approvals, and certifications issued by 41807
the director of environmental protection pursuant to Chapters 41808
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 41809
to the environmental protection agency for each such issuance and 41810
each application for an issuance as provided by this section. No 41811
fee shall be charged for any issuance for which no application has 41812
been submitted to the director. 41813

(B) ~~Each person who is issued a permit to install prior to~~ 41814

~~July 1, 2003, pursuant to rules adopted under division (F) of~~ 41815
~~section 3704.03 of the Revised Code shall pay the fees specified~~ 41816
~~in the following schedules:~~ 41817

~~(1) Fuel burning equipment (boilers)~~ 41818
~~Input capacity (maximum)~~ 41819
~~(million British thermal units per hour) Permit to install~~ 41820
~~Greater than 0, but less than 10 \$ 200~~ 41821
~~10 or more, but less than 100 400~~ 41822
~~100 or more, but less than 300 800~~ 41823
~~300 or more, but less than 500 1500~~ 41824
~~500 or more, but less than 1000 2500~~ 41825
~~1000 or more, but less than 5000 4000~~ 41826
~~5000 or more 6000~~ 41827

~~Units burning exclusively natural gas, number two fuel oil,~~ 41828
~~or both shall be assessed a fee that is one half of the applicable~~ 41829
~~amount established in division (F)(1) of this section.~~ 41830

~~(2) Incinerators~~ 41831
~~Input capacity (pounds per hour) Permit to install~~ 41832
~~0 to 100 \$ 100~~ 41833
~~101 to 500 400~~ 41834
~~501 to 2000 750~~ 41835
~~2001 to 20,000 1000~~ 41836
~~more than 20,000 2500~~ 41837

~~(3)(a) Process~~ 41838
~~Process weight rate (pounds per hour) Permit to install~~ 41839
~~0 to 1000 \$ 200~~ 41840
~~1001 to 5000 400~~ 41841
~~5001 to 10,000 600~~ 41842
~~10,001 to 50,000 800~~ 41843
~~more than 50,000 1000~~ 41844

~~In any process where process weight rate cannot be~~ 41845

~~ascertained, the minimum fee shall be assessed.~~ 41846

~~(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:~~ 41847
41848
41849
41850
41851
41852
41853
41854
41855

~~1211 Bituminous coal and lignite mining;~~ 41856

~~1213 Bituminous coal and lignite mining services;~~ 41857

~~1411 Dimension stone;~~ 41858

~~1422 Crushed and broken limestone;~~ 41859

~~1427 Crushed and broken stone, not elsewhere classified;~~ 41860

~~1442 Construction sand and gravel;~~ 41861

~~1446 Industrial sand;~~ 41862

~~3281 Cut stone and stone products;~~ 41863

~~3295 Minerals and earth, ground or otherwise treated.~~ 41864

~~(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:~~ 41865
41866
41867
41868

| Process weight rate (pounds per hour) | Permit to install | |
|--|------------------------------|-------|
| 0 to 1000 | \$ 200 | 41869 |
| 10,001 to 50,000 | 300 | 41870 |
| 50,001 to 100,000 | 400 | 41871 |
| 100,001 to 200,000 | 500 | 41872 |
| 200,001 to 400,000 | 600 | 41873 |
| | | 41874 |

| | | |
|--|-------------------|-------|
| 400,001 or more | 700 | 41875 |
| (4) Storage tanks | | 41876 |
| Gallons (maximum useful capacity) | Permit to install | 41877 |
| 0 to 20,000 | \$ 100 | 41878 |
| 20,001 to 40,000 | 150 | 41879 |
| 40,001 to 100,000 | 200 | 41880 |
| 100,001 to 250,000 | 250 | 41881 |
| 250,001 to 500,000 | 350 | 41882 |
| 500,001 to 1,000,000 | 500 | 41883 |
| 1,000,001 or greater | 750 | 41884 |
| (5) Gasoline/fuel dispensing facilities | | 41885 |
| For each gasoline/fuel dispensing facility | Permit to install | 41886 |
| | \$ 100 | 41887 |
| (6) Dry cleaning facilities | | 41888 |
| For each dry cleaning facility (includes all units at the facility) | Permit to install | 41889 |
| | \$ 100 | 41890 |
| (7) Registration status | | 41891 |
| For each source covered by registration status | Permit to install | 41892 |
| | \$ 75 | 41893 |
| (C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in <u>this</u> division (C)(1) of this section . | | 41894 |
| For the purposes of that <u>this</u> division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director. | | 41895 |
| | | 41896 |
| | | 41897 |
| | | 41898 |
| | | 41899 |
| | | 41900 |
| | | 41901 |
| | | 41902 |
| The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, | | 41903 |
| | | 41904 |
| | | 41905 |

organic compounds, and lead: 41906

~~(a)~~(1) Fifteen dollars per ton on the total actual emissions 41907
of each such regulated pollutant during the period July through 41908
December 1993, to be collected no sooner than July 1, 1994; 41909

~~(b)~~(2) Twenty dollars per ton on the total actual emissions 41910
of each such regulated pollutant during calendar year 1994, to be 41911
collected no sooner than April 15, 1995; 41912

~~(c)~~(3) Twenty-five dollars per ton on the total actual 41913
emissions of each such regulated pollutant in calendar year 1995, 41914
and each subsequent calendar year, to be collected no sooner than 41915
the fifteenth day of April of the year next succeeding the 41916
calendar year in which the emissions occurred. 41917

The fees levied under this division ~~(C)(1)~~ ~~of this section~~ do 41918
not apply to that portion of the emissions of a regulated 41919
pollutant at a facility that exceed four thousand tons during a 41920
calendar year. 41921

~~(2)~~(C)(1) The fees assessed under division ~~(C)(1)~~(B) of this 41922
section are for the purpose of providing funding for the Title V 41923
permit program. 41924

~~(3)~~(2) The fees assessed under division ~~(C)(1)~~(B) of this 41925
section do not apply to emissions from any electric generating 41926
unit designated as a Phase I unit under Title IV of the federal 41927
Clean Air Act prior to calendar year 2000. Those fees shall be 41928
assessed on the emissions from such a generating unit commencing 41929
in calendar year 2001 based upon the total actual emissions from 41930
the generating unit during calendar year 2000 and shall continue 41931
to be assessed each subsequent calendar year based on the total 41932
actual emissions from the generating unit during the preceding 41933
calendar year. 41934

~~(4)~~(3) The director shall issue invoices to owners or 41935
operators of air contaminant sources who are required to pay a fee 41936

assessed under division ~~(C)~~(B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

| Total tons per year of regulated pollutants emitted | Annual fee per facility |
|---|----------------------------|
| More than 0, but less than 50 | \$ 75 |
| 50 or more, but less than 100 | 300 |
| 100 or more | 700 |

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter,

sulfur dioxide, nitrogen oxides, organic compounds, and lead in 41969
accordance with the following schedule: 41970

| Total tons per year of regulated pollutants emitted | Annual fee per facility | |
|---|----------------------------|-------|
| More than 0, but less than 10 | \$ 100 | 41974 |
| 10 or more, but less than 50 | 200 | 41975 |
| 50 or more, but less than 100 | 300 | 41976 |
| 100 or more | 700 | 41977 |

(3)(a) As used in division (D) of this section, "synthetic 41978
minor facility" means a facility for which one or more permits to 41979
install or permits to operate have been issued for the air 41980
contaminant sources at the facility that include terms and 41981
conditions that lower the facility's potential to emit air 41982
contaminants below the major source thresholds established in 41983
rules adopted under section 3704.036 of the Revised Code. 41984

(b) Beginning January 1, 2000, through June 30, 2014, each 41985
person who owns or operates a synthetic minor facility shall pay 41986
an annual fee based on the sum of the actual annual emissions from 41987
the facility of particulate matter, sulfur dioxide, nitrogen 41988
dioxide, organic compounds, and lead in accordance with the 41989
following schedule: 41990

| Combined total tons per year of all regulated pollutants emitted | Annual fee per facility | |
|--|----------------------------|-------|
| Less than 10 | \$ 170 | 41994 |
| 10 or more, but less than 20 | 340 | 41995 |
| 20 or more, but less than 30 | 670 | 41996 |
| 30 or more, but less than 40 | 1,010 | 41997 |
| 40 or more, but less than 50 | 1,340 | 41998 |
| 50 or more, but less than 60 | 1,680 | 41999 |
| 60 or more, but less than 70 | 2,010 | 42000 |

| | | |
|-------------------------------|-------|-------|
| 70 or more, but less than 80 | 2,350 | 42001 |
| 80 or more, but less than 90 | 2,680 | 42002 |
| 90 or more, but less than 100 | 3,020 | 42003 |
| 100 or more | 3,350 | 42004 |

(4) The fees assessed under division (D)(1) of this section 42005
shall be collected annually no sooner than the fifteenth day of 42006
April, commencing in 1995. The fees assessed under division (D)(2) 42007
of this section shall be collected annually no sooner than the 42008
fifteenth day of April, commencing in 2005. The fees assessed 42009
under division (D)(3) of this section shall be collected no sooner 42010
than the fifteenth day of April, commencing in 2000. The fees 42011
assessed under division (D) of this section in a calendar year 42012
shall be based upon the sum of the actual emissions of those 42013
regulated pollutants during the preceding calendar year. For the 42014
purpose of division (D) of this section, emissions of air 42015
contaminants may be calculated using engineering calculations, 42016
emission factors, material balance calculations, or performance 42017
testing procedures, as authorized by the director. The director, 42018
by rule, may require persons who are required to pay the fees 42019
assessed under division (D) of this section to pay those fees 42020
biennially rather than annually. 42021

(E)(1) Consistent with the need to cover the reasonable costs 42022
of the Title V permit program, the director annually shall 42023
increase the fees prescribed in division ~~(C)(1)~~(B) of this section 42024
by the percentage, if any, by which the consumer price index for 42025
the most recent calendar year ending before the beginning of a 42026
year exceeds the consumer price index for calendar year 1989. Upon 42027
calculating an increase in fees authorized by division (E)(1) of 42028
this section, the director shall compile revised fee schedules for 42029
the purposes of division ~~(C)(1)~~(B) of this section and shall make 42030
the revised schedules available to persons required to pay the 42031
fees assessed under that division and to the public. 42032

(2) For the purposes of division (E)(1) of this section: 42033

(a) The consumer price index for any year is the average of 42034
the consumer price index for all urban consumers published by the 42035
United States department of labor as of the close of the 42036
twelve-month period ending on the thirty-first day of August of 42037
that year. 42038

(b) If the 1989 consumer price index is revised, the director 42039
shall use the revision of the consumer price index that is most 42040
consistent with that for calendar year 1989. 42041

(F) Each person who is issued a permit to install pursuant to 42042
rules adopted under division (F) of section 3704.03 of the Revised 42043
Code on or after July 1, 2003, shall pay the fees specified in the 42044
following schedules: 42045

(1) Fuel-burning equipment (boilers, furnaces, or process 42046
heaters used in the process of burning fuel for the primary 42047
purpose of producing heat or power by indirect heat transfer) 42048
Input capacity (maximum) 42049
(million British thermal units per hour) Permit to install 42050

| | | |
|----------------------------------|--------|-------|
| Greater than 0, but less than 10 | \$ 200 | 42051 |
| 10 or more, but less than 100 | 400 | 42052 |
| 100 or more, but less than 300 | 1000 | 42053 |
| 300 or more, but less than 500 | 2250 | 42054 |
| 500 or more, but less than 1000 | 3750 | 42055 |
| 1000 or more, but less than 5000 | 6000 | 42056 |
| 5000 or more | 9000 | 42057 |

Units burning exclusively natural gas, number two fuel oil, 42058
or both shall be assessed a fee that is one-half the applicable 42059
amount shown in division (F)(1) of this section. 42060

(2) Combustion turbines and stationary internal combustion 42061
engines designed to generate electricity 42062
Generating capacity (mega watts) Permit to install 42063

| | | |
|--------------------------------|-------|-------|
| 0 or more, but less than 10 | \$ 25 | 42064 |
| 10 or more, but less than 25 | 150 | 42065 |
| 25 or more, but less than 50 | 300 | 42066 |
| 50 or more, but less than 100 | 500 | 42067 |
| 100 or more, but less than 250 | 1000 | 42068 |
| 250 or more | 2000 | 42069 |

(3) Incinerators 42070

| | | |
|----------------------------------|-------------------|-------|
| Input capacity (pounds per hour) | Permit to install | 42071 |
| 0 to 100 | \$ 100 | 42072 |
| 101 to 500 | 500 | 42073 |
| 501 to 2000 | 1000 | 42074 |
| 2001 to 20,000 | 1500 | 42075 |
| more than 20,000 | 3750 | 42076 |

(4)(a) Process 42077

| | | |
|---------------------------------------|-------------------|-------|
| Process weight rate (pounds per hour) | Permit to install | 42078 |
| 0 to 1000 | \$ 200 | 42079 |
| 1001 to 5000 | 500 | 42080 |
| 5001 to 10,000 | 750 | 42081 |
| 10,001 to 50,000 | 1000 | 42082 |
| more than 50,000 | 1250 | 42083 |

In any process where process weight rate cannot be 42084
ascertained, the minimum fee shall be assessed. A boiler, furnace, 42085
combustion turbine, stationary internal combustion engine, or 42086
process heater designed to provide direct heat or power to a 42087
process not designed to generate electricity shall be assessed a 42088
fee established in division (F)(4)(a) of this section. A 42089
combustion turbine or stationary internal combustion engine 42090
designed to generate electricity shall be assessed a fee 42091
established in division (F)(2) of this section. 42092

(b) Notwithstanding division (F)(4)(a) of this section, any 42093
person issued a permit to install pursuant to rules adopted under 42094
division (F) of section 3704.03 of the Revised Code shall pay the 42095

| | | |
|--|-------------------|-------|
| fees set forth in division (F)(4)(c) of this section for a process | 42096 | |
| used in any of the following industries, as identified by the | 42097 | |
| applicable two-digit, three-digit, or four-digit standard | 42098 | |
| industrial classification code according to the Standard | 42099 | |
| Industrial Classification Manual published by the United States | 42100 | |
| office of management and budget in the executive office of the | 42101 | |
| president, 1987, as revised: | 42102 | |
| Major group 10, metal mining; | 42103 | |
| Major group 12, coal mining; | 42104 | |
| Major group 14, mining and quarrying of nonmetallic minerals; | 42105 | |
| Industry group 204, grain mill products; | 42106 | |
| 2873 Nitrogen fertilizers; | 42107 | |
| 2874 Phosphatic fertilizers; | 42108 | |
| 3281 Cut stone and stone products; | 42109 | |
| 3295 Minerals and earth, ground or otherwise treated; | 42110 | |
| 4221 Grain elevators (storage only); | 42111 | |
| 5159 Farm related raw materials; | 42112 | |
| 5261 Retail nurseries and lawn and garden supply stores. | 42113 | |
| (c) The fees set forth in the following schedule apply to the | 42114 | |
| issuance of a permit to install pursuant to rules adopted under | 42115 | |
| division (F) of section 3704.03 of the Revised Code for a process | 42116 | |
| identified in division (F)(4)(b) of this section: | 42117 | |
| Process weight rate (pounds per | Permit to install | 42118 |
| hour) | | |
| 0 to 10,000 | \$ 200 | 42119 |
| 10,001 to 50,000 | 400 | 42120 |
| 50,001 to 100,000 | 500 | 42121 |
| 100,001 to 200,000 | 600 | 42122 |
| 200,001 to 400,000 | 750 | 42123 |

| | | |
|--|-------------------|-------|
| 400,001 or more | 900 | 42124 |
| (5) Storage tanks | | 42125 |
| Gallons (maximum useful capacity) | Permit to install | 42126 |
| 0 to 20,000 | \$ 100 | 42127 |
| 20,001 to 40,000 | 150 | 42128 |
| 40,001 to 100,000 | 250 | 42129 |
| 100,001 to 500,000 | 400 | 42130 |
| 500,001 or greater | 750 | 42131 |
| (6) Gasoline/fuel dispensing facilities | | 42132 |
| For each gasoline/fuel | | 42133 |
| dispensing facility (includes all | Permit to install | 42134 |
| units at the facility) | \$ 100 | 42135 |
| (7) Dry cleaning facilities | | 42136 |
| For each dry cleaning | | 42137 |
| facility (includes all units | Permit to install | 42138 |
| at the facility) | \$ 100 | 42139 |
| (8) Registration status | | 42140 |
| For each source covered | Permit to install | 42141 |
| by registration status | \$ 75 | 42142 |
| (G) An owner or operator who is responsible for an asbestos | | 42143 |
| demolition or renovation project pursuant to rules adopted under | | 42144 |
| section 3704.03 of the Revised Code shall pay the fees set forth | | 42145 |
| in the following schedule: | | 42146 |
| Action | Fee | 42147 |
| Each notification | \$75 | 42148 |
| Asbestos removal | \$3/unit | 42149 |
| Asbestos cleanup | \$4/cubic yard | 42150 |
| For purposes of this division, "unit" means any combination of | | 42151 |
| linear feet or square feet equal to fifty. | | 42152 |
| (H) A person who is issued an extension of time for a permit | | 42153 |
| to install an air contaminant source pursuant to rules adopted | | 42154 |

under division (F) of section 3704.03 of the Revised Code shall 42155
pay a fee equal to one-half the fee originally assessed for the 42156
permit to install under this section, except that the fee for such 42157
an extension shall not exceed two hundred dollars. 42158

(I) A person who is issued a modification to a permit to 42159
install an air contaminant source pursuant to rules adopted under 42160
section 3704.03 of the Revised Code shall pay a fee equal to 42161
one-half of the fee that would be assessed under this section to 42162
obtain a permit to install the source. The fee assessed by this 42163
division only applies to modifications that are initiated by the 42164
owner or operator of the source and shall not exceed two thousand 42165
dollars. 42166

(J) Notwithstanding division ~~(B)~~ or (F) of this section, a 42167
person who applies for or obtains a permit to install pursuant to 42168
rules adopted under division (F) of section 3704.03 of the Revised 42169
Code after the date actual construction of the source began shall 42170
pay a fee for the permit to install that is equal to twice the fee 42171
that otherwise would be assessed under the applicable division 42172
unless the applicant received authorization to begin construction 42173
under division (W) of section 3704.03 of the Revised Code. This 42174
division only applies to sources for which actual construction of 42175
the source begins on or after July 1, 1993. The imposition or 42176
payment of the fee established in this division does not preclude 42177
the director from taking any administrative or judicial 42178
enforcement action under this chapter, Chapter 3704., 3714., 42179
3734., or 6111. of the Revised Code, or a rule adopted under any 42180
of them, in connection with a violation of rules adopted under 42181
division (F) of section 3704.03 of the Revised Code. 42182

As used in this division, "actual construction of the source" 42183
means the initiation of physical on-site construction activities 42184
in connection with improvements to the source that are permanent 42185
in nature, including, without limitation, the installation of 42186

building supports and foundations and the laying of underground 42187
pipework. 42188

(K) ~~Fifty~~ (1) Money received under division (B) of this 42189
section shall be deposited in the state treasury to the credit of 42190
the Title V clean air fund created in section 3704.035 of the 42191
Revised Code. Annually, fifty cents per ton of each fee assessed 42192
under division ~~(C)~~(B) of this section on actual emissions from a 42193
source and received by the environmental protection agency 42194
pursuant to that division shall be ~~deposited into~~ transferred 42195
using an interstate transfer voucher to the state treasury to the 42196
credit of the small business assistance fund created in section 42197
3706.19 of the Revised Code. ~~The remainder of the moneys In~~ 42198
addition, annually, the amount of money necessary for the 42199
operation of the office of ombudsperson as determined under 42200
division (B) of that section shall be transferred to the state 42201
treasury to the credit of the small business ombudsperson fund 42202
created by that section. 42203

(2) Money received by ~~the division pursuant to that division~~ 42204
~~and moneys received by~~ the agency pursuant to divisions (D), (F), 42205
(G), (H), (I), and (J) of this section shall be deposited in the 42206
state treasury to the credit of the non-Title V clean air fund 42207
created in section 3704.035 of the Revised Code. 42208

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 42209
or (c) of this section, a person issued a water discharge permit 42210
or renewal of a water discharge permit pursuant to Chapter 6111. 42211
of the Revised Code shall pay a fee based on each point source to 42212
which the issuance is applicable in accordance with the following 42213
schedule: 42214

| Design flow discharge (gallons per day) | Fee | |
|---|------|-------|
| 0 to 1000 | \$ 0 | 42215 |
| 1,001 to 5000 | 100 | 42216 |
| 5,001 to 50,000 | 200 | 42217 |
| | | 42218 |

| | | |
|--------------------|-----|-------|
| 50,001 to 100,000 | 300 | 42219 |
| 100,001 to 300,000 | 525 | 42220 |
| over 300,000 | 750 | 42221 |

(b) Notwithstanding the fee schedule specified in division 42222
(L)(1)(a) of this section, the fee for a water discharge permit 42223
that is applicable to coal mining operations regulated under 42224
Chapter 1513. of the Revised Code shall be two hundred fifty 42225
dollars per mine. 42226

(c) Notwithstanding the fee schedule specified in division 42227
(L)(1)(a) of this section, the fee for a water discharge permit 42228
for a public discharger identified by I in the third character of 42229
the permittee's NPDES permit number shall not exceed seven hundred 42230
fifty dollars. 42231

(2) A person applying for a plan approval for a wastewater 42232
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 42233
of the Revised Code shall pay a fee of one hundred dollars plus 42234
sixty-five one-hundredths of one per cent of the estimated project 42235
cost through June 30, 2014, and one hundred dollars plus 42236
two-tenths of one per cent of the estimated project cost on and 42237
after July 1, 2014, except that the total fee shall not exceed 42238
fifteen thousand dollars through June 30, 2014, and five thousand 42239
dollars on and after July 1, 2014. The fee shall be paid at the 42240
time the application is submitted. 42241

(3) A person issued a modification of a water discharge 42242
permit shall pay a fee equal to one-half the fee that otherwise 42243
would be charged for a water discharge permit, except that the fee 42244
for the modification shall not exceed four hundred dollars. 42245

(4) A person who has entered into an agreement with the 42246
director under section 6111.14 of the Revised Code shall pay an 42247
administrative service fee for each plan submitted under that 42248
section for approval that shall not exceed the minimum amount 42249
necessary to pay administrative costs directly attributable to 42250

processing plan approvals. The director annually shall calculate 42251
the fee and shall notify all persons who have entered into 42252
agreements under that section, or who have applied for agreements, 42253
of the amount of the fee. 42254

(5)(a)(i) Not later than January 30, 2012, and January 30, 42255
2013, a person holding an NPDES discharge permit issued pursuant 42256
to Chapter 6111. of the Revised Code with an average daily 42257
discharge flow of five thousand gallons or more shall pay a 42258
nonrefundable annual discharge fee. Any person who fails to pay 42259
the fee at that time shall pay an additional amount that equals 42260
ten per cent of the required annual discharge fee. 42261

(ii) The billing year for the annual discharge fee 42262
established in division (L)(5)(a)(i) of this section shall consist 42263
of a twelve-month period beginning on the first day of January of 42264
the year preceding the date when the annual discharge fee is due. 42265
In the case of an existing source that permanently ceases to 42266
discharge during a billing year, the director shall reduce the 42267
annual discharge fee, including the surcharge applicable to 42268
certain industrial facilities pursuant to division (L)(5)(c) of 42269
this section, by one-twelfth for each full month during the 42270
billing year that the source was not discharging, but only if the 42271
person holding the NPDES discharge permit for the source notifies 42272
the director in writing, not later than the first day of October 42273
of the billing year, of the circumstances causing the cessation of 42274
discharge. 42275

(iii) The annual discharge fee established in division 42276
(L)(5)(a)(i) of this section, except for the surcharge applicable 42277
to certain industrial facilities pursuant to division (L)(5)(c) of 42278
this section, shall be based upon the average daily discharge flow 42279
in gallons per day calculated using first day of May through 42280
thirty-first day of October flow data for the period two years 42281
prior to the date on which the fee is due. In the case of NPDES 42282

discharge permits for new sources, the fee shall be calculated 42283
using the average daily design flow of the facility until actual 42284
average daily discharge flow values are available for the time 42285
period specified in division (L)(5)(a)(iii) of this section. The 42286
annual discharge fee may be prorated for a new source as described 42287
in division (L)(5)(a)(ii) of this section. 42288

(b) An NPDES permit holder that is a public discharger shall 42289
pay the fee specified in the following schedule: 42290

| Average daily | Fee due by | |
|---------------------------|------------------|-------|
| discharge flow | January 30, | |
| | 2012, and | |
| | January 30, 2013 | |
| 5,000 to 49,999 | \$ 200 | 42295 |
| 50,000 to 100,000 | 500 | 42296 |
| 100,001 to 250,000 | 1,050 | 42297 |
| 250,001 to 1,000,000 | 2,600 | 42298 |
| 1,000,001 to 5,000,000 | 5,200 | 42299 |
| 5,000,001 to 10,000,000 | 10,350 | 42300 |
| 10,000,001 to 20,000,000 | 15,550 | 42301 |
| 20,000,001 to 50,000,000 | 25,900 | 42302 |
| 50,000,001 to 100,000,000 | 41,400 | 42303 |
| 100,000,001 or more | 62,100 | 42304 |

Public dischargers owning or operating two or more publicly 42305
owned treatment works serving the same political subdivision, as 42306
"treatment works" is defined in section 6111.01 of the Revised 42307
Code, and that serve exclusively political subdivisions having a 42308
population of fewer than one hundred thousand shall pay an annual 42309
discharge fee under division (L)(5)(b) of this section that is 42310
based on the combined average daily discharge flow of the 42311
treatment works. 42312

(c) An NPDES permit holder that is an industrial discharger, 42313
other than a coal mining operator identified by P in the third 42314

| | | |
|---|------------------|-------|
| character of the permittee's NPDES permit number, shall pay the | | 42315 |
| fee specified in the following schedule: | | 42316 |
| Average daily | Fee due by | 42317 |
| discharge flow | January 30, | 42318 |
| | 2012, and | 42319 |
| | January 30, 2013 | 42320 |
| 5,000 to 49,999 | \$ 250 | 42321 |
| 50,000 to 250,000 | 1,200 | 42322 |
| 250,001 to 1,000,000 | 2,950 | 42323 |
| 1,000,001 to 5,000,000 | 5,850 | 42324 |
| 5,000,001 to 10,000,000 | 8,800 | 42325 |
| 10,000,001 to 20,000,000 | 11,700 | 42326 |
| 20,000,001 to 100,000,000 | 14,050 | 42327 |
| 100,000,001 to 250,000,000 | 16,400 | 42328 |
| 250,000,001 or more | 18,700 | 42329 |

In addition to the fee specified in the above schedule, an 42330
NPDES permit holder that is an industrial discharger classified as 42331
a major discharger during all or part of the annual discharge fee 42332
billing year specified in division (L)(5)(a)(ii) of this section 42333
shall pay a nonrefundable annual surcharge of seven thousand five 42334
hundred dollars not later than January 30, 2012, and not later 42335
than January 30, 2013. Any person who fails to pay the surcharge 42336
at that time shall pay an additional amount that equals ten per 42337
cent of the amount of the surcharge. 42338

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 42339
section, a public discharger identified by I in the third 42340
character of the permittee's NPDES permit number and an industrial 42341
discharger identified by I, J, L, V, W, X, Y, or Z in the third 42342
character of the permittee's NPDES permit number shall pay a 42343
nonrefundable annual discharge fee of one hundred eighty dollars 42344
not later than January 30, 2012, and not later than January 30, 42345
2013. Any person who fails to pay the fee at that time shall pay 42346

an additional amount that equals ten per cent of the required fee. 42347

(6) Each person obtaining a national pollutant discharge 42348
elimination system general or individual permit for municipal 42349
storm water discharge shall pay a nonrefundable storm water 42350
discharge fee of one hundred dollars per square mile of area 42351
permitted. The fee shall not exceed ten thousand dollars and shall 42352
be payable on or before January 30, 2004, and the thirtieth day of 42353
January of each year thereafter. Any person who fails to pay the 42354
fee on the date specified in division (L)(6) of this section shall 42355
pay an additional amount per year equal to ten per cent of the 42356
annual fee that is unpaid. 42357

(7) The director shall transmit all moneys collected under 42358
division (L) of this section to the treasurer of state for deposit 42359
into the state treasury to the credit of the surface water 42360
protection fund created in section 6111.038 of the Revised Code. 42361

(8) As used in division (L) of this section: 42362

(a) "NPDES" means the federally approved national pollutant 42363
discharge elimination system program for issuing, modifying, 42364
revoking, reissuing, terminating, monitoring, and enforcing 42365
permits and imposing and enforcing pretreatment requirements under 42366
Chapter 6111. of the Revised Code and rules adopted under it. 42367

(b) "Public discharger" means any holder of an NPDES permit 42368
identified by P in the second character of the NPDES permit number 42369
assigned by the director. 42370

(c) "Industrial discharger" means any holder of an NPDES 42371
permit identified by I in the second character of the NPDES permit 42372
number assigned by the director. 42373

(d) "Major discharger" means any holder of an NPDES permit 42374
classified as major by the regional administrator of the United 42375
States environmental protection agency in conjunction with the 42376
director. 42377

(M) Through June 30, 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under ~~division (A)(1) of~~ section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

| Number of service connections | Fee amount | |
|-------------------------------|-----------------------------|--|
| Not more than 49 | \$ 112 | |
| 50 to 99 | 176 | |
| Number of service connections | Average cost per connection | |
| 100 to 2,499 | \$ 1.92 | |
| 2,500 to 4,999 | 1.48 | |
| 5,000 to 7,499 | 1.42 | |
| 7,500 to 9,999 | 1.34 | |
| 10,000 to 14,999 | 1.16 | |
| 15,000 to 24,999 | 1.10 | |
| 25,000 to 49,999 | 1.04 | |
| 50,000 to 99,999 | .92 | |
| 100,000 to 149,999 | .86 | |
| 150,000 to 199,999 | .80 | |

200,000 or more .76 42410

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis. 42411
42412
42413
42414

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet. 42415
42416
42417
42418

(2) For the initial license required under ~~division (A)(2) of~~ section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is: 42419
42420
42421
42422
42423

| Population served | Fee amount | |
|-------------------|------------|----------------|
| Fewer than 150 | \$ 112 | 42424 42425 |
| 150 to 299 | 176 | 42426 |
| 300 to 749 | 384 | 42427 |
| 750 to 1,499 | 628 | 42428 |
| 1,500 to 2,999 | 1,268 | 42429 |
| 3,000 to 7,499 | 2,816 | 42430 |
| 7,500 to 14,999 | 5,510 | 42431 |
| 15,000 to 22,499 | 9,048 | 42432 |
| 22,500 to 29,999 | 12,430 | 42433 |
| 30,000 or more | 16,820 | 42434 |

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection. 42435
42436
42437
42438
42439
42440

(3) For the initial license required under ~~division (A)(3) of~~ 42441

| | | |
|--|------------|-------|
| section 6109.21 of the Revised Code for any public water system | 42442 | |
| that is not a community water system and serves a transient | 42443 | |
| population, and for each license renewal required for such a | 42444 | |
| system prior to January 31, 2014, the fee is: | 42445 | |
| Number of wells or sources, other | Fee amount | 42446 |
| than surface water, supplying system | | |
| 1 | \$112 | 42447 |
| 2 | 112 | 42448 |
| 3 | 176 | 42449 |
| 4 | 278 | 42450 |
| 5 | 568 | 42451 |
| System designated as using a | | 42452 |
| surface water source | 792 | 42453 |
| As used in division (M)(3) of this section, "number of wells | | 42454 |
| or sources, other than surface water, supplying system" means | | 42455 |
| those wells or sources that are physically connected to the | | 42456 |
| plumbing system serving the public water system. | | 42457 |
| (4) A public water system designated as using a surface water | | 42458 |
| source shall pay a fee of seven hundred ninety-two dollars or the | | 42459 |
| amount calculated under division (M)(1) or (2) of this section, | | 42460 |
| whichever is greater. | | 42461 |
| (N)(1) A person applying for a plan approval for a public | | 42462 |
| water supply system under section 6109.07 of the Revised Code | | 42463 |
| shall pay a fee of one hundred fifty dollars plus thirty-five | | 42464 |
| hundredths of one per cent of the estimated project cost, except | | 42465 |
| that the total fee shall not exceed twenty thousand dollars | | 42466 |
| through June 30, 2014, and fifteen thousand dollars on and after | | 42467 |
| July 1, 2014. The fee shall be paid at the time the application is | | 42468 |
| submitted. | | 42469 |
| (2) A person who has entered into an agreement with the | | 42470 |
| director under division (A)(2) of section 6109.07 of the Revised | | 42471 |
| Code shall pay an administrative service fee for each plan | | 42472 |

submitted under that section for approval that shall not exceed 42473
the minimum amount necessary to pay administrative costs directly 42474
attributable to processing plan approvals. The director annually 42475
shall calculate the fee and shall notify all persons that have 42476
entered into agreements under that division, or who have applied 42477
for agreements, of the amount of the fee. 42478

(3) Through June 30, 2014, the following fee, on a per survey 42479
basis, shall be charged any person for services rendered by the 42480
state in the evaluation of laboratories and laboratory personnel 42481
for compliance with accepted analytical techniques and procedures 42482
established pursuant to Chapter 6109. of the Revised Code for 42483
determining the qualitative characteristics of water: 42484

| | | |
|--------------------|---------|-------|
| microbiological | | 42485 |
| MMO-MUG | \$2,000 | 42486 |
| MF | 2,100 | 42487 |
| MMO-MUG and MF | 2,550 | 42488 |
| organic chemical | 5,400 | 42489 |
| trace metals | 5,400 | 42490 |
| standard chemistry | 2,800 | 42491 |
| limited chemistry | 1,550 | 42492 |

On and after July 1, 2014, the following fee, on a per survey 42493
basis, shall be charged any such person: 42494

| | | |
|--------------------|----------|-------|
| microbiological | \$ 1,650 | 42495 |
| organic chemicals | 3,500 | 42496 |
| trace metals | 3,500 | 42497 |
| standard chemistry | 1,800 | 42498 |
| limited chemistry | 1,000 | 42499 |

The fee for those services shall be paid at the time the request 42500
for the survey is made. Through June 30, 2014, an individual 42501
laboratory shall not be assessed a fee under this division more 42502
than once in any three-year period unless the person requests the 42503
addition of analytical methods or analysts, in which case the 42504

person shall pay eighteen hundred dollars for each additional 42505
survey requested. 42506

As used in division (N)(3) of this section: 42507

(a) "MF" means microfiltration. 42508

(b) "MMO" means minimal medium ONPG. 42509

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 42510

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 42511

The director shall transmit all moneys collected under this 42512
division to the treasurer of state for deposit into the drinking 42513
water protection fund created in section 6109.30 of the Revised 42514
Code. 42515

(O) Any person applying to the director ~~for to take an~~ 42516
examination for certification as an operator of a water supply 42517
system or wastewater system under Chapter 6109. or 6111. of the 42518
Revised Code that is administered by the director, at the time the 42519
application is submitted, shall pay ~~an application fee of~~ 42520
~~forty five dollars through November 30, 2014, and twenty five~~ 42521
~~dollars on and after December 1, 2014. Upon approval from the~~ 42522
~~director that the applicant is eligible to take the examination~~ 42523
~~therefor, the applicant shall pay a fee in accordance with the~~ 42524
following schedule through November 30, 2014: 42525

| | | |
|------------------|---------------------------|-------|
| Class A operator | \$35 <u>80</u> | 42526 |
|------------------|---------------------------|-------|

| | | |
|------------------|--------------------------|-------|
| Class I operator | 60 <u>105</u> | 42527 |
|------------------|--------------------------|-------|

| | | |
|-------------------|--------------------------|-------|
| Class II operator | 75 <u>120</u> | 42528 |
|-------------------|--------------------------|-------|

| | | |
|--------------------|--------------------------|-------|
| Class III operator | 85 <u>130</u> | 42529 |
|--------------------|--------------------------|-------|

| | | |
|-------------------|---------------------------|-------|
| Class IV operator | 100 <u>145</u> | 42530 |
|-------------------|---------------------------|-------|

On and after December 1, 2014, the applicant shall pay a fee 42531
in accordance with the following schedule: 42532

| | | |
|------------------|---------------------------|-------|
| Class A operator | \$25 <u>50</u> | 42533 |
|------------------|---------------------------|-------|

| | | |
|------------------|---------------------------|-------|
| Class I operator | \$45 <u>70</u> | 42534 |
|------------------|---------------------------|-------|

| | | |
|--------------------|--------------------------|-------|
| Class II operator | 55 <u>80</u> | 42535 |
| Class III operator | 65 <u>90</u> | 42536 |
| Class IV operator | 75 <u>100</u> | 42537 |

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

| | | |
|--------------------|------|-------|
| Class A operator | \$25 | 42546 |
| Class I operator | 35 | 42547 |
| Class II operator | 45 | 42548 |
| Class III operator | 55 | 42549 |
| Class IV operator | 65 | 42550 |

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

| | | |
|--------------------|------|-------|
| Class A operator | \$45 | 42556 |
| Class I operator | 55 | 42557 |
| Class II operator | 65 | 42558 |
| Class III operator | 75 | 42559 |
| Class IV operator | 85 | 42560 |

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination

provider shall pay an annual fee that is equal to ten per cent of 42567
the fees that the provider assesses and collects for administering 42568
water supply system or wastewater treatment system certification 42569
examinations in this state for the calendar year. The fee shall be 42570
paid not later than forty-five days after the end of a calendar 42571
year. 42572

The director shall transmit all moneys collected under this 42573
division to the treasurer of state for deposit into the drinking 42574
water protection fund created in section 6109.30 of the Revised 42575
Code. 42576

(P) Any person submitting an application for an industrial 42577
water pollution control certificate under section 6111.31 of the 42578
Revised Code, as that section existed before its repeal by H.B. 95 42579
of the 125th general assembly, shall pay a nonrefundable fee of 42580
five hundred dollars at the time the application is submitted. The 42581
director shall transmit all moneys collected under this division 42582
to the treasurer of state for deposit into the surface water 42583
protection fund created in section 6111.038 of the Revised Code. A 42584
person paying a certificate fee under this division shall not pay 42585
an application fee under division (S)(1) of this section. On and 42586
after June 26, 2003, persons shall file such applications and pay 42587
the fee as required under sections 5709.20 to 5709.27 of the 42588
Revised Code, and proceeds from the fee shall be credited as 42589
provided in section 5709.212 of the Revised Code. 42590

(Q) Except as otherwise provided in division (R) of this 42591
section, a person issued a permit by the director for a new solid 42592
waste disposal facility other than an incineration or composting 42593
facility, a new infectious waste treatment facility other than an 42594
incineration facility, or a modification of such an existing 42595
facility that includes an increase in the total disposal or 42596
treatment capacity of the facility pursuant to Chapter 3734. of 42597
the Revised Code shall pay a fee of ten dollars per thousand cubic 42598

yards of disposal or treatment capacity, or one thousand dollars, 42599
whichever is greater, except that the total fee for any such 42600
permit shall not exceed eighty thousand dollars. A person issued a 42601
modification of a permit for a solid waste disposal facility or an 42602
infectious waste treatment facility that does not involve an 42603
increase in the total disposal or treatment capacity of the 42604
facility shall pay a fee of one thousand dollars. A person issued 42605
a permit to install a new, or modify an existing, solid waste 42606
transfer facility under that chapter shall pay a fee of two 42607
thousand five hundred dollars. A person issued a permit to install 42608
a new or to modify an existing solid waste incineration or 42609
composting facility, or an existing infectious waste treatment 42610
facility using incineration as its principal method of treatment, 42611
under that chapter shall pay a fee of one thousand dollars. The 42612
increases in the permit fees under this division resulting from 42613
the amendments made by Amended Substitute House Bill 592 of the 42614
117th general assembly do not apply to any person who submitted an 42615
application for a permit to install a new, or modify an existing, 42616
solid waste disposal facility under that chapter prior to 42617
September 1, 1987; any such person shall pay the permit fee 42618
established in this division as it existed prior to June 24, 1988. 42619
In addition to the applicable permit fee under this division, a 42620
person issued a permit to install or modify a solid waste facility 42621
or an infectious waste treatment facility under that chapter who 42622
fails to pay the permit fee to the director in compliance with 42623
division (V) of this section shall pay an additional ten per cent 42624
of the amount of the fee for each week that the permit fee is 42625
late. 42626

Permit and late payment fees paid to the director under this 42627
division shall be credited to the general revenue fund. 42628

(R)(1) A person issued a registration certificate for a scrap 42629
tire collection facility under section 3734.75 of the Revised Code 42630

shall pay a fee of two hundred dollars, except that if the 42631
facility is owned or operated by a motor vehicle salvage dealer 42632
licensed under Chapter 4738. of the Revised Code, the person shall 42633
pay a fee of twenty-five dollars. 42634

(2) A person issued a registration certificate for a new 42635
scrap tire storage facility under section 3734.76 of the Revised 42636
Code shall pay a fee of three hundred dollars, except that if the 42637
facility is owned or operated by a motor vehicle salvage dealer 42638
licensed under Chapter 4738. of the Revised Code, the person shall 42639
pay a fee of twenty-five dollars. 42640

(3) A person issued a permit for a scrap tire storage 42641
facility under section 3734.76 of the Revised Code shall pay a fee 42642
of one thousand dollars, except that if the facility is owned or 42643
operated by a motor vehicle salvage dealer licensed under Chapter 42644
4738. of the Revised Code, the person shall pay a fee of fifty 42645
dollars. 42646

(4) A person issued a permit for a scrap tire monocell or 42647
monofill facility under section 3734.77 of the Revised Code shall 42648
pay a fee of ten dollars per thousand cubic yards of disposal 42649
capacity or one thousand dollars, whichever is greater, except 42650
that the total fee for any such permit shall not exceed eighty 42651
thousand dollars. 42652

(5) A person issued a registration certificate for a scrap 42653
tire recovery facility under section 3734.78 of the Revised Code 42654
shall pay a fee of one hundred dollars. 42655

(6) A person issued a permit for a scrap tire recovery 42656
facility under section 3734.78 of the Revised Code shall pay a fee 42657
of one thousand dollars. 42658

(7) In addition to the applicable registration certificate or 42659
permit fee under divisions (R)(1) to (6) of this section, a person 42660
issued a registration certificate or permit for any such scrap 42661

tire facility who fails to pay the registration certificate or 42662
permit fee to the director in compliance with division (V) of this 42663
section shall pay an additional ten per cent of the amount of the 42664
fee for each week that the fee is late. 42665

(8) The registration certificate, permit, and late payment 42666
fees paid to the director under divisions (R)(1) to (7) of this 42667
section shall be credited to the scrap tire management fund 42668
created in section 3734.82 of the Revised Code. 42669

(S)(1) Except as provided by divisions (L), (M), (N), (O), 42670
(P), and (S)(2) of this section, division (A)(2) of section 42671
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 42672
and rules adopted under division (T)(1) of this section, any 42673
person applying for a registration certificate under section 42674
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 42675
variance, or plan approval under Chapter 3734. of the Revised Code 42676
shall pay a nonrefundable fee of fifteen dollars at the time the 42677
application is submitted. 42678

Except as otherwise provided, any person applying for a 42679
permit, variance, or plan approval under Chapter 6109. or 6111. of 42680
the Revised Code shall pay a nonrefundable fee of one hundred 42681
dollars at the time the application is submitted through June 30, 42682
2014, and a nonrefundable fee of fifteen dollars at the time the 42683
application is submitted on and after July 1, 2014. Except as 42684
provided in division (S)(3) of this section, through June 30, 42685
2014, any person applying for a national pollutant discharge 42686
elimination system permit under Chapter 6111. of the Revised Code 42687
shall pay a nonrefundable fee of two hundred dollars at the time 42688
of application for the permit. On and after July 1, 2014, such a 42689
person shall pay a nonrefundable fee of fifteen dollars at the 42690
time of application. 42691

In addition to the application fee established under division 42692
(S)(1) of this section, any person applying for a national 42693

pollutant discharge elimination system general storm water 42694
construction permit shall pay a nonrefundable fee of twenty 42695
dollars per acre for each acre that is permitted above five acres 42696
at the time the application is submitted. However, the per acreage 42697
fee shall not exceed three hundred dollars. In addition, any 42698
person applying for a national pollutant discharge elimination 42699
system general storm water industrial permit shall pay a 42700
nonrefundable fee of one hundred fifty dollars at the time the 42701
application is submitted. 42702

The director shall transmit all moneys collected under 42703
division (S)(1) of this section pursuant to Chapter 6109. of the 42704
Revised Code to the treasurer of state for deposit into the 42705
drinking water protection fund created in section 6109.30 of the 42706
Revised Code. 42707

The director shall transmit all moneys collected under 42708
division (S)(1) of this section pursuant to Chapter 6111. of the 42709
Revised Code and under division (S)(3) of this section to the 42710
treasurer of state for deposit into the surface water protection 42711
fund created in section 6111.038 of the Revised Code. 42712

If a registration certificate is issued under section 42713
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 42714
the application fee paid shall be deducted from the amount of the 42715
registration certificate fee due under division (R)(1), (2), or 42716
(5) of this section, as applicable. 42717

If a person submits an electronic application for a 42718
registration certificate, permit, variance, or plan approval for 42719
which an application fee is established under division (S)(1) of 42720
this section, the person shall pay the applicable application fee 42721
as expeditiously as possible after the submission of the 42722
electronic application. An application for a registration 42723
certificate, permit, variance, or plan approval for which an 42724
application fee is established under division (S)(1) of this 42725

section shall not be reviewed or processed until the applicable 42726
application fee, and any other fees established under this 42727
division, are paid. 42728

(2) Division (S)(1) of this section does not apply to an 42729
application for a registration certificate for a scrap tire 42730
collection or storage facility submitted under section 3734.75 or 42731
3734.76 of the Revised Code, as applicable, if the owner or 42732
operator of the facility or proposed facility is a motor vehicle 42733
salvage dealer licensed under Chapter 4738. of the Revised Code. 42734

(3) A person applying for coverage under a national pollutant 42735
discharge elimination system general discharge permit for 42736
household sewage treatment systems shall pay the following fees: 42737

(a) A nonrefundable fee of two hundred dollars at the time of 42738
application for initial permit coverage; 42739

(b) A nonrefundable fee of one hundred dollars at the time of 42740
application for a renewal of permit coverage. 42741

(T) The director may adopt, amend, and rescind rules in 42742
accordance with Chapter 119. of the Revised Code that do all of 42743
the following: 42744

(1) Prescribe fees to be paid by applicants for and holders 42745
of any license, permit, variance, plan approval, or certification 42746
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 42747
the Revised Code that are not specifically established in this 42748
section. The fees shall be designed to defray the cost of 42749
processing, issuing, revoking, modifying, denying, and enforcing 42750
the licenses, permits, variances, plan approvals, and 42751
certifications. 42752

The director shall transmit all moneys collected under rules 42753
adopted under division (T)(1) of this section pursuant to Chapter 42754
6109. of the Revised Code to the treasurer of state for deposit 42755
into the drinking water protection fund created in section 6109.30 42756

of the Revised Code. 42757

The director shall transmit all moneys collected under rules 42758
adopted under division (T)(1) of this section pursuant to Chapter 42759
6111. of the Revised Code to the treasurer of state for deposit 42760
into the surface water protection fund created in section 6111.038 42761
of the Revised Code. 42762

(2) Exempt the state and political subdivisions thereof, 42763
including education facilities or medical facilities owned by the 42764
state or a political subdivision, or any person exempted from 42765
taxation by section 5709.07 or 5709.12 of the Revised Code, from 42766
any fee required by this section; 42767

(3) Provide for the waiver of any fee, or any part thereof, 42768
otherwise required by this section whenever the director 42769
determines that the imposition of the fee would constitute an 42770
unreasonable cost of doing business for any applicant, class of 42771
applicants, or other person subject to the fee; 42772

(4) Prescribe measures that the director considers necessary 42773
to carry out this section. 42774

(U) When the director reasonably demonstrates that the direct 42775
cost to the state associated with the issuance of a permit to 42776
install, license, variance, plan approval, or certification 42777
exceeds the fee for the issuance or review specified by this 42778
section, the director may condition the issuance or review on the 42779
payment by the person receiving the issuance or review of, in 42780
addition to the fee specified by this section, the amount, or any 42781
portion thereof, in excess of the fee specified under this 42782
section. The director shall not so condition issuances for which 42783
~~fees are a fee is~~ prescribed in ~~divisions (B)(7) and~~ division 42784
(L)(1)(b) of this section. 42785

(V) Except as provided in divisions (L), (M), and (P) of this 42786
section or unless otherwise prescribed by a rule of the director 42787

adopted pursuant to Chapter 119. of the Revised Code, all fees 42788
required by this section are payable within thirty days after the 42789
issuance of an invoice for the fee by the director or the 42790
effective date of the issuance of the license, permit, variance, 42791
plan approval, or certification. If payment is late, the person 42792
responsible for payment of the fee shall pay an additional ten per 42793
cent of the amount due for each month that it is late. 42794

(W) As used in this section, "fuel-burning equipment," 42795
"fuel-burning equipment input capacity," "incinerator," 42796
"incinerator input capacity," "process," "process weight rate," 42797
"storage tank," "gasoline dispensing facility," "dry cleaning 42798
facility," "design flow discharge," and "new source treatment 42799
works" have the meanings ascribed to those terms by applicable 42800
rules or standards adopted by the director under Chapter 3704. or 42801
6111. of the Revised Code. 42802

(X) As used in divisions (B), ~~(C)~~, (D), (E), (F), (H), (I), 42803
and (J) of this section, and in any other provision of this 42804
section pertaining to fees paid pursuant to Chapter 3704. of the 42805
Revised Code: 42806

(1) "Facility," "federal Clean Air Act," "person," and "Title 42807
V permit" have the same meanings as in section 3704.01 of the 42808
Revised Code. 42809

(2) "Title V permit program" means the following activities 42810
as necessary to meet the requirements of Title V of the federal 42811
Clean Air Act and 40 C.F.R. part 70, including at least: 42812

(a) Preparing and adopting, if applicable, generally 42813
applicable rules or guidance regarding the permit program or its 42814
implementation or enforcement; 42815

(b) Reviewing and acting on any application for a Title V 42816
permit, permit revision, or permit renewal, including the 42817
development of an applicable requirement as part of the processing 42818

| | |
|--|-------|
| of a permit, permit revision, or permit renewal; | 42819 |
| (c) Administering the permit program, including the | 42820 |
| supporting and tracking of permit applications, compliance | 42821 |
| certification, and related data entry; | 42822 |
| (d) Determining which sources are subject to the program and | 42823 |
| implementing and enforcing the terms of any Title V permit, not | 42824 |
| including any court actions or other formal enforcement actions; | 42825 |
| (e) Emission and ambient monitoring; | 42826 |
| (f) Modeling, analyses, or demonstrations; | 42827 |
| (g) Preparing inventories and tracking emissions; | 42828 |
| (h) Providing direct and indirect support to small business | 42829 |
| stationary sources to determine and meet their obligations under | 42830 |
| the federal Clean Air Act pursuant to the small business | 42831 |
| stationary source technical and environmental compliance | 42832 |
| assistance program required by section 507 of that act and | 42833 |
| established in sections 3704.18, 3704.19, and 3706.19 of the | 42834 |
| Revised Code. | 42835 |
| (Y)(1) Except as provided in divisions (Y)(2), (3), and (4) | 42836 |
| of this section, each sewage sludge facility shall pay a | 42837 |
| nonrefundable annual sludge fee equal to three dollars and fifty | 42838 |
| cents per dry ton of sewage sludge, including the dry tons of | 42839 |
| sewage sludge in materials derived from sewage sludge, that the | 42840 |
| sewage sludge facility treats or disposes of in this state. The | 42841 |
| annual volume of sewage sludge treated or disposed of by a sewage | 42842 |
| sludge facility shall be calculated using the first day of January | 42843 |
| through the thirty-first day of December of the calendar year | 42844 |
| preceding the date on which payment of the fee is due. | 42845 |
| (2)(a) Except as provided in division (Y)(2)(d) of this | 42846 |
| section, each sewage sludge facility shall pay a minimum annual | 42847 |
| sewage sludge fee of one hundred dollars. | 42848 |

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state

shall be required to pay the annual sludge fee for the tons of 42880
sewage sludge that have been transferred. 42881

(d) A sewage sludge facility that generates sewage sludge 42882
resulting from an average daily discharge flow of less than five 42883
thousand gallons per day is not subject to the fees assessed under 42884
division (Y) of this section. 42885

(3) No sewage sludge facility required to pay the annual 42886
sludge fee shall be required to pay more than the maximum annual 42887
fee for each disposal method that the sewage sludge facility uses. 42888
The maximum annual fee does not include the additional amount that 42889
may be charged under division (Y)(5) of this section for late 42890
payment of the annual sludge fee. The maximum annual fee for the 42891
following methods of disposal of sewage sludge is as follows: 42892

(a) Incineration: five thousand dollars; 42893

(b) Preexisting land reclamation project or disposal in a 42894
landfill: five thousand dollars; 42895

(c) Land application, land reclamation, surface disposal, or 42896
any other disposal method not specified in division (Y)(3)(a) or 42897
(b) of this section: twenty thousand dollars. 42898

(4)(a) In the case of an entity that generates sewage sludge 42899
or a sewage sludge facility that treats sewage sludge and 42900
transfers the sewage sludge to an incineration facility for 42901
disposal, the incineration facility, and not the entity generating 42902
the sewage sludge or the sewage sludge facility treating the 42903
sewage sludge, shall pay the annual sludge fee for the tons of 42904
sewage sludge that are transferred. However, the entity or 42905
facility generating or treating the sewage sludge shall pay the 42906
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42907
of this section. 42908

(b) In the case of an entity that generates sewage sludge and 42909
transfers the sewage sludge to a landfill for disposal or to a 42910

sewage sludge facility for land reclamation or surface disposal, 42911
the entity generating the sewage sludge, and not the landfill or 42912
sewage sludge facility, shall pay the annual sludge fee for the 42913
tons of sewage sludge that are transferred. 42914

(5) Not later than the first day of April of the calendar 42915
year following March 17, 2000, and each first day of April 42916
thereafter, the director shall issue invoices to persons who are 42917
required to pay the annual sludge fee. The invoice shall identify 42918
the nature and amount of the annual sludge fee assessed and state 42919
the first day of May as the deadline for receipt by the director 42920
of objections regarding the amount of the fee and the first day of 42921
July as the deadline for payment of the fee. 42922

Not later than the first day of May following receipt of an 42923
invoice, a person required to pay the annual sludge fee may submit 42924
objections to the director concerning the accuracy of information 42925
regarding the number of dry tons of sewage sludge used to 42926
calculate the amount of the annual sludge fee or regarding whether 42927
the sewage sludge qualifies for the exceptional quality sludge 42928
discount established in division (Y)(2)(b) of this section. The 42929
director may consider the objections and adjust the amount of the 42930
fee to ensure that it is accurate. 42931

If the director does not adjust the amount of the annual 42932
sludge fee in response to a person's objections, the person may 42933
appeal the director's determination in accordance with Chapter 42934
119. of the Revised Code. 42935

Not later than the first day of June, the director shall 42936
notify the objecting person regarding whether the director has 42937
found the objections to be valid and the reasons for the finding. 42938
If the director finds the objections to be valid and adjusts the 42939
amount of the annual sludge fee accordingly, the director shall 42940
issue with the notification a new invoice to the person 42941
identifying the amount of the annual sludge fee assessed and 42942

stating the first day of July as the deadline for payment. 42943

Not later than the first day of July, any person who is 42944
required to do so shall pay the annual sludge fee. Any person who 42945
is required to pay the fee, but who fails to do so on or before 42946
that date shall pay an additional amount that equals ten per cent 42947
of the required annual sludge fee. 42948

(6) The director shall transmit all moneys collected under 42949
division (Y) of this section to the treasurer of state for deposit 42950
into the surface water protection fund created in section 6111.038 42951
of the Revised Code. The moneys shall be used to defray the costs 42952
of administering and enforcing provisions in Chapter 6111. of the 42953
Revised Code and rules adopted under it that govern the use, 42954
storage, treatment, or disposal of sewage sludge. 42955

(7) Beginning in fiscal year 2001, and every two years 42956
thereafter, the director shall review the total amount of moneys 42957
generated by the annual sludge fees to determine if that amount 42958
exceeded six hundred thousand dollars in either of the two 42959
preceding fiscal years. If the total amount of moneys in the fund 42960
exceeded six hundred thousand dollars in either fiscal year, the 42961
director, after review of the fee structure and consultation with 42962
affected persons, shall issue an order reducing the amount of the 42963
fees levied under division (Y) of this section so that the 42964
estimated amount of moneys resulting from the fees will not exceed 42965
six hundred thousand dollars in any fiscal year. 42966

If, upon review of the fees under division (Y)(7) of this 42967
section and after the fees have been reduced, the director 42968
determines that the total amount of moneys collected and 42969
accumulated is less than six hundred thousand dollars, the 42970
director, after review of the fee structure and consultation with 42971
affected persons, may issue an order increasing the amount of the 42972
fees levied under division (Y) of this section so that the 42973
estimated amount of moneys resulting from the fees will be 42974

approximately six hundred thousand dollars. Fees shall never be 42975
increased to an amount exceeding the amount specified in division 42976
(Y)(7) of this section. 42977

Notwithstanding section 119.06 of the Revised Code, the 42978
director may issue an order under division (Y)(7) of this section 42979
without the necessity to hold an adjudicatory hearing in 42980
connection with the order. The issuance of an order under this 42981
division is not an act or action for purposes of section 3745.04 42982
of the Revised Code. 42983

(8) As used in division (Y) of this section: 42984

(a) "Sewage sludge facility" means an entity that performs 42985
treatment on or is responsible for the disposal of sewage sludge. 42986

(b) "Sewage sludge" means a solid, semi-solid, or liquid 42987
residue generated during the treatment of domestic sewage in a 42988
treatment works as defined in section 6111.01 of the Revised Code. 42989
"Sewage sludge" includes, but is not limited to, scum or solids 42990
removed in primary, secondary, or advanced wastewater treatment 42991
processes. "Sewage sludge" does not include ash generated during 42992
the firing of sewage sludge in a sewage sludge incinerator, grit 42993
and screenings generated during preliminary treatment of domestic 42994
sewage in a treatment works, animal manure, residue generated 42995
during treatment of animal manure, or domestic septage. 42996

(c) "Exceptional quality sludge" means sewage sludge that 42997
meets all of the following qualifications: 42998

(i) Satisfies the class A pathogen standards in 40 C.F.R. 42999
503.32(a); 43000

(ii) Satisfies one of the vector attraction reduction 43001
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 43002

(iii) Does not exceed the ceiling concentration limitations 43003
for metals listed in table one of 40 C.F.R. 503.13; 43004

- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 43005
43006
- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 43007
43008
43009
- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 43010
43011
43012
- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. 43013
43014
43015
43016
43017
- (g) "Land reclamation" means the returning of disturbed land to productive use. 43018
43019
- (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. 43020
43021
43022
43023
- (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. 43024
43025
43026
43027
- (j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway. 43028
43029
43030
43031
- (k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section. 43032
43033
- (l) "Landfill" means a sanitary landfill facility, as defined 43034

in rules adopted under section 3734.02 of the Revised Code, that 43035
is licensed under section 3734.05 of the Revised Code. 43036

(m) "Preexisting land reclamation project" means a 43037
property-specific land reclamation project that has been in 43038
continuous operation for not less than five years pursuant to 43039
approval of the activity by the director and includes the 43040
implementation of a community outreach program concerning the 43041
activity. 43042

Sec. 3745.112. During the month of August 1997, and 43043
biennially thereafter, the director of environmental protection 43044
shall enter into a contract for the performance of an independent 43045
evaluation of the Title V permit program to be conducted under the 43046
supervision of an independent certified public accountant. The 43047
evaluation shall review the finances, operations, revenues, costs, 43048
and expenditures of the Title V permit program under section 43049
3704.036 of the Revised Code and the Title V clean air fund 43050
created in section 3704.035 of the Revised Code. The findings of 43051
each such evaluation shall be set forth in a written report that 43052
shall include, without limitation, all of the following: 43053

(A) A review and analysis of all expenditures from the Title 43054
V clean air fund for the Title V permit program; 43055

(B) A review and analysis of all costs incurred by the 43056
environmental protection agency designated by the director to be 43057
costs of the Title V permit program; 43058

(C) A review and analysis of all expenditures from the Title 43059
V clean air fund for costs not designated by the director as costs 43060
of the Title V permit program; 43061

(D) A review and analysis of the adequacy of the fees 43062
assessed under division ~~(C)~~(B) of section 3745.11 for meeting the 43063
costs of the Title V permit program during the period reviewed by 43064

the evaluation. 43065

Upon completion of the written report of each evaluation 43066
required by this section, the director shall provide copies of the 43067
report to the governor and the general assembly and shall make 43068
copies of it available to the public. 43069

The reasonable and necessary expenses for conducting an 43070
evaluation required under this section are hereby deemed to be 43071
reasonable costs to administer the Title V permit program and 43072
shall be paid from moneys credited to the Title V clean air fund 43073
arising from the fees assessed under division ~~(C)~~(B) of section 43074
3745.11 of the Revised Code. 43075

Sec. 3748.04. The ~~public~~ director of health council, in 43076
accordance with Chapter 119. of the Revised Code, shall adopt and 43077
may amend or rescind rules doing all of the following: 43078

(A) Listing types of radioactive material for which licensure 43079
by its handler is required and types of radiation-generating 43080
equipment for which registration by its handler is required, and 43081
establishing requirements governing them. Rules adopted under 43082
division (A) of this section shall be compatible with applicable 43083
federal regulations and shall establish all of the following, 43084
without limitation: 43085

(1) Requirements governing both of the following: 43086

(a) The licensing and inspection of handlers of radioactive 43087
material. Standards established in rules adopted under division 43088
(A)(1)(a) of this section regarding byproduct material or any 43089
activity that results in the production of that material, to the 43090
extent practicable, shall be equivalent to or more stringent than 43091
applicable standards established by the United States nuclear 43092
regulatory commission. 43093

(b) The registration and inspection of handlers of 43094

radiation-generating equipment. Standards established in rules 43095
adopted under division (A)(1)(b) of this section, to the extent 43096
practicable, shall be equivalent to applicable standards 43097
established by the food and drug administration in the United 43098
States department of health and human services. 43099

(2) Identification of and requirements governing possession 43100
and use of specifically licensed and generally licensed quantities 43101
of radioactive material as either sealed sources or unsealed 43102
sources; 43103

(3) A procedure for the issuance of and the frequency of 43104
renewal of the licenses of handlers of radioactive material, other 43105
than a license for a facility for the disposal of low-level 43106
radioactive waste, and of the certificates of registration of 43107
handlers of radiation-generating equipment; 43108

(4) Procedures for suspending and revoking the licenses of 43109
handlers of radioactive material and the certificates of 43110
registration of handlers of radiation-generating equipment; 43111

(5) Criteria to be used by the director of health in amending 43112
the license of a handler of radioactive material or the 43113
certificate of registration of a handler of radiation-generating 43114
equipment subsequent to its issuance; 43115

(6) Criteria for achieving and maintaining compliance with 43116
this chapter and rules adopted under it by licensees and 43117
registrants; 43118

(7) Criteria governing environmental monitoring of licensed 43119
and registered activities to assess compliance with this chapter 43120
and rules adopted under it; 43121

(8) Fees for both of the following: 43122

(a) The licensing of handlers, other than facilities for the 43123
disposal of low-level radioactive waste, of radioactive material; 43124

(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment. 43125
43126
43127

(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding: 43128
43129
43130

(a) The inspection of handlers of radioactive material; 43131

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment. 43132
43133
43134

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment; 43135
43136
43137
43138

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment; 43139
43140
43141
43142
43143
43144

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment. 43145
43146
43147
43148

In adopting rules under divisions (A) and (B) of this section, the ~~council~~ director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and 43149
43150
43151
43152
43153
43154
43155

human services and shall consider reports of the national council 43156
on radiation protection and measurement and the relevant standards 43157
of the American national standards institute. 43158

(C) Establishing fees, procedures, and requirements for 43159
certification as a radiation expert, including all of the 43160
following, without limitation: 43161

(1) Minimum training and experience requirements; 43162

(2) Procedures for applying for certification; 43163

(3) Procedures for review of applications and issuance of 43164
certificates; 43165

(4) Procedures for suspending and revoking certification. 43166

(D) Establishing a schedule for inspection of sources of 43167
radiation and their shielding and surroundings; 43168

(E) Establishing the responsibilities of a radiation expert; 43169

(F) Establishing criteria for quality assurance programs for 43170
licensees of radioactive material and registrants of 43171
radiation-generating equipment; 43172

(G) Establishing fees to be paid by any facility that, on 43173
September 8, 1995, holds a license from the United States nuclear 43174
regulatory commission in order to provide moneys necessary for the 43175
transfer of licensing and other regulatory authority from the 43176
commission to the state pursuant to section 3748.03 of the Revised 43177
Code. Rules adopted under this division shall stipulate that fees 43178
so established do not apply to any functions dealing specifically 43179
with a facility for the disposal of low-level radioactive waste. 43180
Fees collected under this division shall be deposited into the 43181
state treasury to the credit of the general operations fund 43182
created in section 3701.83 of the Revised Code. The fees shall be 43183
used solely to administer and enforce this chapter and rules 43184
adopted under it. 43185

(H) Establishing fees to be collected annually from 43186
generators of low-level radioactive waste, which shall be based 43187
upon the volume and radioactivity of the waste generated and the 43188
costs of administering low-level radioactive waste management 43189
activities under this chapter and rules adopted under it. All fees 43190
collected under this division shall be deposited into the state 43191
treasury to the credit of the general operations fund created in 43192
section 3701.83 of the Revised Code. The fees shall be used solely 43193
to administer and enforce this chapter and rules adopted under it. 43194
Any fee required under this division that ~~has not been paid within~~ 43195
~~ninety days~~ remains unpaid on the ninety-first day after the 43196
original invoice date shall be assessed at ~~two times~~ an additional 43197
amount equal to ten per cent of the original ~~invoiced~~ fee. Any fee 43198
~~that has not been paid within one hundred eighty days after the~~ 43199
~~invoice date shall be assessed at five times the original invoiced~~ 43200
~~fee.~~ 43201

(I) Establishing requirements governing closure, 43202
decontamination, decommissioning, reclamation, and long-term 43203
surveillance and care of a facility licensed under this chapter 43204
and rules adopted under it. Rules adopted under division (I) of 43205
this section shall include, without limitation, all of the 43206
following: 43207

(1) Standards and procedures to ensure that a licensee 43208
prepares a decommissioning funding plan that provides an adequate 43209
financial guaranty to permit the completion of all requirements 43210
governing the closure, decontamination, decommissioning, and 43211
reclamation of sites, structures, and equipment used in 43212
conjunction with a licensed activity; 43213

(2) For licensed activities where radioactive material that 43214
will require surveillance or care is likely to remain at the site 43215
after the licensed activities cease, as indicated in the 43216
application for the license submitted under section 3748.07 of the 43217

Revised Code, standards and procedures to ensure that the licensee 43218
prepares an additional decommissioning funding plan for long-term 43219
surveillance and care, before termination of the license, that 43220
provides an additional adequate financial guaranty as necessary to 43221
provide for that surveillance and care; 43222

(3) For the purposes of the decommissioning funding plans 43223
required in rules adopted under divisions (I)(1) and (2) of this 43224
section, the types of acceptable financial guaranties, which shall 43225
include bonds issued by fidelity or surety companies authorized to 43226
do business in the state, certificates of deposit, deposits of 43227
government securities, irrevocable letters or lines of credit, 43228
trust funds, escrow accounts, or other similar types of 43229
arrangements, but shall not include any arrangement that 43230
constitutes self-insurance; 43231

(4) A requirement that the decommissioning funding plans 43232
required in rules adopted under divisions (I)(1) and (2) of this 43233
section contain financial guaranties in amounts sufficient to 43234
ensure compliance with any standards established by the United 43235
States nuclear regulatory commission, or by the state if it has 43236
become an agreement state pursuant to section 3748.03 of the 43237
Revised Code, pertaining to closure, decontamination, 43238
decommissioning, reclamation, and long-term surveillance and care 43239
of licensed activities and sites of licensees. 43240

Standards established in rules adopted under division (I) of 43241
this section regarding any activity that resulted in the 43242
production of byproduct material, as defined in division (A)(2) of 43243
section 3748.01 of the Revised Code, to the extent practicable, 43244
shall be equivalent to or more stringent than standards 43245
established by the United States nuclear regulatory commission for 43246
sites at which ores were processed primarily for their source 43247
material content and at which byproduct material, as defined in 43248
division (A)(2) of section 3748.01 of the Revised Code, is 43249

| | |
|---|---|
| deposited. | 43250 |
| (J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility; | 43251 43252 43253 43254 |
| (K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section. | 43255 43256 43257 43258 |
| Sec. 3748.05. (A) The director of health shall do all of the following: | 43259 43260 |
| (1) Administer and enforce this chapter and the rules adopted under it; | 43261 43262 |
| (2) Collect and make available information relating to sources of radiation; | 43263 43264 |
| (3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the public health council <u>director</u> , for the control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment; | 43265 43266 43267 43268 43269 |
| (4) Review reports of quality assurance audits performed by certified radiation experts under this chapter and the rules adopted under it; | 43270 43271 43272 |
| (5) Ensure that programs for the control of sources of radiation are developed with due regard for compatibility with federal programs for the regulation of byproduct, source, and special nuclear materials; | 43273 43274 43275 43276 |
| (6) In accordance with Chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules providing for the administrative assessment and collection of monetary penalties | 43277 43278 43279 |

for failure by any facility licensed under this chapter and rules 43280
adopted under it to comply with this chapter and those rules. The 43281
director may require the submission of compliance schedules and 43282
other related information. Any orders issued or payments or other 43283
requirements imposed pursuant to rules adopted under division 43284
(A)(6) of this section shall not affect any civil or criminal 43285
enforcement proceeding brought under this chapter or any other 43286
provision of state or local law. Moneys collected as 43287
administrative penalties imposed pursuant to rules adopted under 43288
division (A)(6) of this section shall be deposited in the state 43289
treasury to the credit of the general operations fund created in 43290
section 3701.83 of the Revised Code. The moneys shall be used 43291
solely to administer and enforce this chapter and the rules 43292
adopted under it. 43293

(7) Maintain files of both of the following: 43294

(a) All license and registration applications, issuances, 43295
denials, amendments, renewals, suspensions, and revocations and 43296
any administrative or judicial action pertaining to them; 43297

(b) All rules adopted under this chapter, or proposed to be 43298
adopted, relating to the regulation of sources of radiation and 43299
proceedings on them. 43300

(B) The director may do any or all of the following: 43301

(1) Advise, consult, and cooperate with other agencies of the 43302
state, the federal government, other states, interstate agencies, 43303
political subdivisions, industries, and other affected groups in 43304
furtherance of the purposes of this chapter and the rules adopted 43305
under it; 43306

(2) Accept and administer grants from the federal government 43307
and from other sources, public or private, for carrying out any of 43308
the director's functions under this chapter and the rules adopted 43309
under it; 43310

(3) Encourage, participate in, or conduct studies, 43311
investigations, training, research, and demonstrations relating to 43312
the detection and control of radiation that constitutes an 43313
unreasonable or unnecessary risk to human health or the 43314
environment, the measurement of radiation, the evaluation of 43315
potential effects on health of cumulative or acute exposure to 43316
radiation, the development and improvement of methods to limit and 43317
reduce the generation of radioactive waste, and related problems 43318
as the director considers necessary or advisable; 43319

(4) In accordance with Chapter 119. of the Revised Code, 43320
adopt rules establishing criteria under which other agencies of 43321
the state or private entities may perform inspections of x-ray 43322
equipment at registered dental facilities at the request of the 43323
facility or pursuant to contract with the department; 43324

(5) Exercise all incidental powers necessary to carry out the 43325
purposes of this chapter and the rules adopted under it, 43326
including, without limitation, the issuance of orders. 43327

Sec. 3748.07. (A) Every facility that proposes to handle 43328
radioactive material or radiation-generating equipment for which 43329
licensure or registration, respectively, by its handler is 43330
required shall apply in writing to the director of health on forms 43331
prescribed and provided by the director for licensure or 43332
registration. Terms and conditions of licenses and certificates of 43333
registration may be amended in accordance with rules adopted under 43334
section 3748.04 of the Revised Code or orders issued by the 43335
director pursuant to section 3748.05 of the Revised Code. 43336

(B)(1) An applicant proposing to handle radioactive material 43337
shall pay for a license or renewal of a license the appropriate 43338
fee specified in rules adopted under section 3748.04 of the 43339
Revised Code and listed on an invoice provided by the director. 43340
The applicant shall pay the fee on receipt of the invoice. 43341

(2)(a) Except as provided in division (B)(2)(b) of this 43342
section, until fees are established in rules adopted under 43343
division (A)(8)(b) of section 3748.04 of the Revised Code, an 43344
applicant proposing to handle radiation-generating equipment shall 43345
pay for a certificate of registration or renewal of a certificate 43346
a biennial registration fee of two hundred sixty-two dollars. 43347

Except as provided in division (B)(2)(b) of this section, on 43348
and after the effective date of the rules in which fees are 43349
established under division (A)(8)(b) of section 3748.04 of the 43350
Revised Code, an applicant proposing to handle 43351
radiation-generating equipment shall pay for a certificate of 43352
registration or renewal of a certificate the appropriate fee 43353
established in those rules. 43354

The applicant shall pay the fees described in division 43355
(B)(2)(a) of this section at the time of applying for a 43356
certificate of registration or renewal of a certificate. 43357

(b) An applicant that is, or is operated by, a medical 43358
practitioner or medical-practitioner group and proposes to handle 43359
radiation-generating equipment shall pay for a certificate of 43360
registration or renewal of a certificate a biennial registration 43361
fee of two hundred sixty-two dollars. The applicant shall pay the 43362
fee at the time of applying for a certificate of registration or 43363
renewal of the certificate. 43364

(C) All fees collected under this section shall be deposited 43365
in the state treasury to the credit of the general operations fund 43366
created in section 3701.83 of the Revised Code. The fees shall be 43367
used solely to administer and enforce this chapter and rules 43368
adopted under it. 43369

(D) Any fee required under this section that ~~has not been~~ 43370
~~paid within ninety days~~ remains unpaid on the ninety-first day 43371
after the original invoice date shall be assessed ~~at two times~~ an 43372

~~additional amount equal to ten per cent of the original invoiced 43373~~
~~fee. Any fee that has not been paid within one hundred eighty days 43374~~
~~after the invoice date shall be assessed at five times the 43375~~
~~original invoiced fee. 43376~~

(E) The director shall grant a license or registration to any 43377
applicant who has paid the required fee and is in compliance with 43378
this chapter and rules adopted under it. 43379

(F) Except as provided in division (B)(2) of this section, 43380
licenses and certificates of registration shall be effective for 43381
the applicable period established in rules adopted under section 43382
3748.04 of the Revised Code. Licenses and certificates of 43383
registration shall be renewed in accordance with the renewal 43384
procedure established in rules adopted under section 3748.04 of 43385
the Revised Code. 43386

Sec. 3748.10. (A) As used in this section, "person" means any 43387
legal entity defined as a person under section 1.59 of the Revised 43388
Code, the state or any agency of the state, any political 43389
subdivision or agency of a political subdivision, and the United 43390
States or any agency or instrumentality of the United States other 43391
than the United States department of energy or the United States 43392
nuclear regulatory commission where state regulation of the 43393
treatment, recycling, storage, or disposal of low-level 43394
radioactive waste by either of those agencies is prohibited by 43395
federal law. 43396

(B) No person shall treat, recycle, store, or dispose of any 43397
low-level radioactive waste except at a facility that is licensed 43398
for treatment, recycling, storage, or disposal of that waste by 43399
the director of health under this chapter and rules adopted under 43400
it or, until the state becomes an agreement state pursuant to 43401
section 3748.03 of the Revised Code, by the United States nuclear 43402
regulatory commission under the "Atomic Energy Act of 1954," 68 43403

Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 43404
under it regardless of whether the waste has been reclassified as 43405
"below regulatory concern" by the United States nuclear regulatory 43406
commission pursuant to any rule or standard adopted after January 43407
1, 1990. 43408

(C) Division (B) of this section does not apply to either of 43409
the following: 43410

(1) Any low-level radioactive waste that on or before January 43411
1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 43412
Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 43413
under it to be treated, recycled, stored, or disposed of at a 43414
facility that has not been licensed under that act and regulations 43415
adopted under it; 43416

(2) Any low-level radioactive waste that has received an 43417
exemption from the director of health under division (C)(2) of 43418
this section. If the United States nuclear regulatory commission 43419
declares its intent to institute a policy regarding the 43420
reclassification of waste as "below regulatory concern," the 43421
~~public health council~~ director, in consultation with the 43422
environmental protection agency, shall adopt rules in accordance 43423
with Chapter 119. of the Revised Code that govern the granting of 43424
such exemptions and that do at least all of the following: 43425

(a) Establish an application procedure to be followed by the 43426
generator of a low-level radioactive waste who wishes to obtain an 43427
exemption for that waste under division (C)(2) of this section; 43428

(b) Require that in order to receive an exemption, a 43429
low-level radioactive waste shall have been reclassified as "below 43430
regulatory concern" by the United States nuclear regulatory 43431
commission after August 19, 1992. The rules adopted under division 43432
(C)(2)(b) of this section shall stipulate that such a 43433
reclassification does not automatically qualify a low-level 43434

radioactive waste for an exemption under division (C)(2) of this section. 43435
43436

(c) Require an applicant to demonstrate with clear and convincing evidence that the low-level radioactive waste that is the subject of the application does not present a higher radioactive hazard than any low-level radioactive waste to which division (C)(1) of this section applies and that treatment, recycling, storage, or disposal of the waste at a facility that has not been licensed by the director under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it, will not harm public health or safety or the environment; 43437
43438
43439
43440
43441
43442
43443
43444
43445
43446
43447
43448
43449

(d) Establish public notification procedures to be followed by the director for any public hearing held ~~by him~~ under division (C)(2) of this section. 43450
43451
43452

The director shall review an application submitted ~~to him~~ under division (C)(2) of this section and shall hold a public hearing concerning the application before granting or denying the exemption requested. The director may grant an exemption to the low-level radioactive waste that is the subject of the application ~~if he determines~~ after determining that the generator has complied with the rules adopted under division (C)(2)(a) of this section and that the waste satisfies the requirements established in the rules adopted under divisions (C)(2)(b) and (c) of this section. The director shall maintain a list of all low-level radioactive wastes to which ~~he~~ the director has granted such an exemption. 43453
43454
43455
43456
43457
43458
43459
43460
43461
43462
43463

Division (C)(2) of this section does not apply to any low-level radioactive waste generated at a nuclear power station. 43464
43465

Sec. 3748.12. The director of health shall certify radiation 43466
experts pursuant to rules adopted under division (C) of section 43467
3748.04 of the Revised Code. The director shall issue a 43468
certificate to each person certified under this section. An 43469
individual certified by the director is qualified to develop, 43470
provide periodic review of, and conduct audits of the quality 43471
assurance program for sources of radiation for which such a 43472
program is required under division (A) of section 3748.13 of the 43473
Revised Code. 43474

The ~~public health council~~ director shall establish an 43475
application fee for applying for certification and a biennial 43476
certification renewal fee in rules adopted under division (C) of 43477
section 3748.04 of the Revised Code. A certificate issued under 43478
this section shall expire two years after the date of its 43479
issuance. To maintain certification, a radiation expert shall 43480
apply to the director for renewal of certification in accordance 43481
with the standard renewal procedures established in Chapter 4745. 43482
of the Revised Code. The certification renewal fee is not required 43483
for initial certification, but shall be paid for every renewal of 43484
certification. Fees collected under this section shall be 43485
deposited into the state treasury to the credit of the general 43486
operations fund created in section 3701.83 of the Revised Code. 43487
The fees shall be used solely to administer and enforce this 43488
chapter and rules adopted under it. Any fee required under this 43489
section that ~~has not been paid within ninety days~~ remains unpaid 43490
on the ninety-first day after the original invoice date shall be 43491
assessed ~~at two times~~ an additional amount equal to ten per cent 43492
of the original invoiced fee. ~~Any fee that has not been paid~~ 43493
~~within one hundred eighty days after the invoice date shall be~~ 43494
~~assessed at five times the original invoiced fee.~~ 43495

Sec. 3748.13. (A) The director of health shall inspect 43496

sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under section 3748.04 of the Revised Code, the director shall inspect all records and operating procedures of handlers that install or service sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of a violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B)(1) Except as provided in division (B)(2) of this section, a facility shall pay inspection fees for radioactive material and radiation-generating equipment according to the schedule and categories established in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) A facility that is, or is operated by, a medical practitioner or medical-practitioner group shall pay inspection fees for radiation-generating equipment according to the following schedule and categories:

| | | |
|---|-----------|-------|
| First dental x-ray tube | \$ 155.00 | 43526 |
| Each additional dental x-ray tube at the same location | \$ 77.00 | 43527 |

| | | |
|---|-----------|-------|
| First medical x-ray tube | \$ 307.00 | 43528 |
| Each additional medical x-ray tube at the same location | \$ 163.00 | 43529 |
| Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak | \$ 610.00 | 43530 |
| First nonionizing radiation-generating equipment of any kind | \$ 307.00 | 43531 |
| Each additional nonionizing radiation-generating equipment of any kind at the same location | \$ 163.00 | 43532 |

(C)(1) Except as provided in division (C)(2) of this section, 43533
the fee for the inspection of a facility that proposes to handle 43534
radioactive material or radiation-generating equipment and is not 43535
licensed or registered, and for which no license or registration 43536
application is pending at the time of inspection, is four hundred 43537
seventy-four dollars plus the applicable fee specified in rules 43538
adopted under division (A)(9) of section 3748.04 of the Revised 43539
Code. 43540

(2) For a facility that is, or is operated by, a medical 43541
practitioner or medical-practitioner group and proposes to handle 43542
radiation-generating equipment, the fee for an inspection if the 43543
facility is not licensed or registered, and no license or 43544
registration is pending at the time of inspection, is four hundred 43545
seventy-four dollars plus the fee applicable under the schedule in 43546
division (B)(2) of this section. 43547

(D)(1) Except as provided in division (D)(2) of this section, 43548
for a facility that handles radioactive material or 43549
radiation-generating equipment, the fee for an inspection to 43550
determine whether violations cited in a previous inspection have 43551

been corrected is the amount specified in rules adopted under 43552
division (A)(9) of section 3748.04 of the Revised Code. 43553

(2) For a facility that is, or is operated by, a medical 43554
practitioner or medical-practitioner group and handles 43555
radiation-generating equipment, the fee for an inspection to 43556
determine whether violations cited in a previous inspection have 43557
been corrected is fifty per cent of the applicable fee under the 43558
schedule in division (B)(2) of this section. 43559

(E) The director may conduct a review of shielding plans or 43560
the adequacy of shielding on the request of a licensee or 43561
registrant or an applicant for licensure or registration or during 43562
an inspection when the director considers a review to be 43563
necessary. 43564

(1) Except as provided in division (E)(2) of this section, 43565
the fee for the review is the applicable amount specified in rules 43566
adopted under division (A)(9) of section 3748.04 of the Revised 43567
Code. 43568

(2) For a facility that is, or is operated by, a medical 43569
practitioner or medical-practitioner group and handles or proposes 43570
to handle radiation-generating equipment, the fee for the review 43571
is seven hundred sixty-two dollars for each room where a source of 43572
radiation is used and is in addition to any other fee applicable 43573
under the schedule in division (B)(2) of this section. 43574

(F) All fees shall be paid to the department of health no 43575
later than thirty days after the invoice for the fee is mailed. 43576
Fees shall be deposited in the general operations fund created in 43577
section 3701.83 of the Revised Code. The fees shall be used solely 43578
to administer and enforce this chapter and rules adopted under it. 43579

(G) Any fee required under this section that ~~has not been~~ 43580
~~paid within ninety days~~ remains unpaid on the ninety-first day 43581
after the original invoice date shall be assessed ~~at two times~~ an 43582

~~additional amount equal to ten per cent of the original invoiced 43583
fee. Any fee that has not been paid within one hundred eighty days 43584
after the invoice date shall be assessed at five times the 43585
original invoiced fee. 43586~~

(H) If the director determines that a board of health of a 43587
city or general health district is qualified to conduct 43588
inspections of radiation-generating equipment, the director may 43589
delegate to the board, by contract, the authority to conduct such 43590
inspections. In making a determination of the qualifications of a 43591
board of health to conduct those inspections, the director shall 43592
evaluate the credentials of the individuals who are to conduct the 43593
inspections of radiation-generating equipment and the radiation 43594
detection and measuring equipment available to them for that 43595
purpose. If a contract is entered into, the board shall have the 43596
same authority to make inspections of radiation-generating 43597
equipment as the director has under this chapter and rules adopted 43598
under it. The contract shall stipulate that only individuals 43599
approved by the director as qualified shall be permitted to 43600
inspect radiation-generating equipment under the contract's 43601
provisions. The contract shall provide for such compensation for 43602
services as is agreed to by the director and the board of health 43603
of the contracting health district. The director may reevaluate 43604
the credentials of the inspection personnel and their radiation 43605
detecting and measuring equipment as often as the director 43606
considers necessary and may terminate any contract with the board 43607
of health of any health district that, in the director's opinion, 43608
is not satisfactorily performing the terms of the contract. 43609

(I) The director may enter at all reasonable times upon any 43610
public or private property to determine compliance with this 43611
chapter and rules adopted under it. 43612

Sec. 3748.15. No facility shall violate or fail to comply 43613

with any duty imposed by this chapter, fail to pay any 43614
administrative penalty assessed in accordance with rules adopted 43615
under division (A)(6) of section 3748.05 of the Revised Code, or 43616
violate or fail to comply with any valid order ~~of~~ issued or rule 43617
adopted by the director of health ~~issued or rule of the public~~ 43618
~~health council adopted~~ under this chapter. Each day a violation 43619
continues is a separate offense. 43620

Sec. 3748.20. (A) The governor, with the advice and consent 43621
of the senate, shall appoint a radiation advisory council, which 43622
shall consist of the following members: 43623

(1) One individual who has recognized ability and credentials 43624
in the field of medical radiation physics; 43625

(2) One individual who has recognized ability and credentials 43626
in the field of health physics; 43627

(3) One individual holding the degree of doctor of medicine 43628
or doctor of osteopathy and licensed to practice medicine or 43629
surgery or osteopathic medicine and surgery, as applicable, under 43630
Chapter 4731. of the Revised Code who has recognized ability and 43631
credentials in the practice of radiology; 43632

(4) One individual who is licensed to practice dentistry 43633
under Chapter 4715. of the Revised Code; 43634

(5) One individual holding the degree of doctor of medicine 43635
and licensed to practice medicine or surgery under Chapter 4731. 43636
of the Revised Code who has recognized ability and credentials in 43637
the field of nuclear medicine; 43638

(6) One individual who has recognized ability and credentials 43639
in the field of public health or environmental science; 43640

(7) One individual licensed as a podiatrist under Chapter 43641
4731. of the Revised Code; 43642

(8) One individual licensed as a chiropractor under Chapter 43643

4734. of the Revised Code; 43644

(9) One individual who is a qualified radiation safety officer or radiation protection manager from a facility in this state that is licensed for the use of radiation materials; 43645
43646
43647

(10) One individual who has recognized ability and credentials in the field of radon measurement, mitigation, or health risk management; 43648
43649
43650

(11) One individual who is a member of a statewide consumer or environmental advocacy organization; 43651
43652

(12) One individual representing the public; 43653

(13) One individual who has recognized ability and experience in the administration and enforcement of federal radiation protection regulations, who shall be a nonvoting member. 43654
43655
43656

The governor shall make the initial appointments to the council not later than December 7, 1995. Of the initial appointments, four shall be for a term of office of three years, four shall be for a term of office of four years, and four shall be for a term of office of five years. Thereafter, terms of office for the members of the council shall be five years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term or until a period of sixty days has elapsed, whichever occurs first. 43657
43658
43659
43660
43661
43662
43663
43664
43665
43666
43667
43668
43669
43670
43671
43672
43673

The council shall hold four regular quarterly meetings each 43674

year. Special meetings may be held at the request of the 43675
chairperson of the council or the director of health. The 43676
chairperson shall be selected annually by members of the council 43677
during the first meeting of the calendar year. Following each 43678
meeting, the chairperson shall submit a report to the director 43679
summarizing the activities, discussion, and recommendations of the 43680
council. Seven voting members of the council constitute a quorum. 43681

Members of the radiation advisory council shall receive a per 43682
diem compensation in an amount approved by the director and also 43683
shall be reimbursed for actual expenses incurred in the 43684
performance of their official duties. 43685

The department of health shall provide the council the 43686
administrative support necessary to execute its duties. 43687

(B) The radiation advisory council shall do all of the 43688
following: 43689

(1) Advise and consult with the ~~public health council~~ 43690
director in the development of rules ~~proposed for adoption to be~~ 43691
adopted under section 3748.04 of the Revised Code; 43692

(2) Advise and consult with the director concerning the 43693
administration, implementation, and enforcement of this chapter, 43694
including the implementation of the specific responsibilities 43695
delineated in section 3748.05 of the Revised Code; 43696

(3) Advise and consult with the director in the development 43697
of inspection criteria, procedures, and guidelines to be used in 43698
the radiation control program established under this chapter and 43699
rules adopted under it; 43700

(4) Prepare and submit to the director an annual report 43701
evaluating the department's administration of the radiation 43702
control program. 43703

(C) The council shall establish committees to focus on 43704

specific components of the radiation control program established 43705
under this chapter and rules adopted under it. Chairpersons of the 43706
committees shall be appointed by the chairperson of the council 43707
and shall be members of the council. Other members of the 43708
committees shall be appointed by the chairperson of the council 43709
and may include individuals who are not members of the council. 43710

The membership and responsibilities of each committee 43711
established under this division shall be subject to the approval 43712
of the director. Members of the committees shall be reimbursed for 43713
actual expenses incurred in the performance of their official 43714
duties. 43715

Committee reports shall be presented to the council at each 43716
regular meeting of the council. 43717

Sec. 3749.02. The ~~public~~ director of health council shall, 43718
subject to Chapter 119. of the Revised Code, adopt rules of 43719
general application throughout the state governing the issuance of 43720
licenses, approval of plans, layout, construction, sanitation, 43721
safety, and operation of public swimming pools, public spas, and 43722
special use pools. Such rules shall not be applied to the 43723
construction, erection, or manufacture of any building to which 43724
section 3781.06 of the Revised Code is applicable when the 43725
building or structure is either integral to or appurtenant to a 43726
public swimming pool, a public spa, or a special use pool. 43727

Sec. 3749.03. (A) No person shall construct or install, or 43728
renovate or otherwise substantially alter, a public swimming pool, 43729
public spa, or ~~special-use~~ special use pool after September 10, 43730
1987, until the plans for the pool or spa have been submitted to 43731
and approved by the director of health. Within thirty days of 43732
receipt of the plans, the director shall approve or disapprove 43733
them. The plans and approval required under this division do not 43734

apply to repairs or ordinary maintenance that does not 43735
substantially affect the manner of water recirculation or basic 43736
design of the public swimming pool, public spa, or ~~special-use~~ 43737
special use pool. 43738

Any person aggrieved by the director's disapproval of plans 43739
under this division may, within thirty days following receipt of 43740
the director's notice of disapproval, request a hearing on the 43741
matter. The hearing shall be held in accordance with Chapter 119. 43742
of the Revised Code and may be appealed in the manner provided in 43743
that chapter. 43744

(B) Prior to the issuance of a license to operate a newly 43745
constructed or altered public swimming pool, public spa, or 43746
~~special-use~~ special use pool, the director or a licensor 43747
authorized by the director shall verify that the construction or 43748
alterations are consistent with the plans submitted and approved 43749
under division (A) of this section. The director or licensor 43750
authorized by the director shall have two working days from the 43751
time notification is received that a public swimming pool, public 43752
spa, or ~~special-use~~ special use pool is ready for an inspection to 43753
verify the construction or alterations. 43754

(C) ~~The~~ (1) Except as provided in division (C)(2) of this 43755
section, the fees for the approval of plans are as follows: 43756

~~(1)~~(a) Five per cent of the total cost of the equipment and 43757
installation not to exceed two hundred seventy-five dollars for a 43758
public swimming pool, public spa, or ~~special-use~~ special use pool, 43759
or a combination thereof, that has less than two thousand square 43760
feet of surface area; 43761

~~(2)~~(b) Five per cent of the total cost of the equipment and 43762
installation not to exceed five hundred fifty dollars for a public 43763
swimming pool, public spa, ~~special-use~~ special use pool, or a 43764
combination thereof, that has two thousand or more square feet of 43765

surface area. 43766

~~After December 31, 1992, the public health council~~ (2) The 43767
director may, by rule adopted in accordance with Chapter 119. of 43768
the Revised Code, increase the fees established by this section. 43769

(D) All plan approval fees shall be paid into the state 43770
treasury to the credit of the general operations fund created by 43771
section 3701.83 of the Revised Code. The fees shall be 43772
administered by the director and shall be used solely for the 43773
administration and enforcement of this chapter and the rules 43774
adopted thereunder. 43775

(E) Plan approvals issued under this section shall not 43776
constitute an exemption from the land use and building 43777
requirements of the political subdivision in which the public 43778
swimming pool, public spa, or ~~special-use~~ special use pool is or 43779
is to be located. 43780

Sec. 3749.04. (A) No person shall operate or maintain a 43781
public swimming pool, public spa, or ~~special-use~~ special use pool 43782
without a license issued by the licensor having jurisdiction. 43783

(B) Every person who intends to operate or maintain an 43784
existing public swimming pool, public spa, or ~~special-use~~ special 43785
use pool shall, during the month of April of each year, apply to 43786
the licensor having jurisdiction for a license to operate the pool 43787
or spa. Any person proposing to operate or maintain a new or 43788
otherwise unlicensed public swimming pool, public spa, or 43789
~~special-use~~ special use pool shall apply to the licensor having 43790
jurisdiction at least thirty days prior to the intended start of 43791
operation of the pool or spa. Within thirty days of receipt of an 43792
application for licensure of a public swimming pool, public spa, 43793
or ~~special-use~~ special use pool, the licensor shall process the 43794
application and either issue a license or otherwise respond to the 43795
applicant regarding the application. 43796

(C) Each license issued shall be effective from the date of 43797
issuance until the last day of May of the following year. 43798

(D) Each licensor administering and enforcing sections 43799
3749.01 to 3749.09 of the Revised Code and the rules adopted 43800
thereunder may establish licensing and inspection fees in 43801
accordance with section 3709.09 of the Revised Code, which shall 43802
not exceed the cost of licensing and inspecting public swimming 43803
pools, public spas, and ~~special-use~~ special use pools. 43804

(E) Except as provided in division (F) of this section and in 43805
division (B) of section 3749.07 of the Revised Code, all license 43806
fees collected by a licensor shall be deposited into a swimming 43807
pool fund, which is hereby created in each health district. The 43808
fees shall be used by the licensor solely for the purpose of 43809
administering and enforcing this chapter and the rules adopted 43810
under this chapter. 43811

(F) An annual license fee established under division (D) of 43812
this section shall include any additional amount determined by 43813
rule of the ~~public~~ director of health council, which the board of 43814
health shall collect and transmit to the director ~~of health~~ 43815
pursuant to section 3709.092 of the Revised Code. The amounts 43816
collected under this division shall be administered by the 43817
director of health and shall be used solely for the administration 43818
and enforcement of this chapter and the rules adopted under this 43819
chapter. 43820

Sec. 3752.06. (A) Unless the owner or operator of a reporting 43821
facility has submitted to the director of environmental protection 43822
in connection with the facility a notice of the temporary 43823
discontinuation of all regulated operations at the facility in 43824
compliance with division (A)(1) of section 3752.09 of the Revised 43825
Code, has submitted an application for a waiver in compliance with 43826
or been issued a waiver under division (A) of section 3752.10 of 43827

the Revised Code, or, pursuant to division (B) of this section, 43828
has been granted an extension of time for compliance with 43829
divisions (A)(4) to (6) of this section, and except as provided in 43830
division (C) of this section, the owner or operator, not later 43831
than ninety days after the cessation of all regulated operations 43832
at the facility, shall do all of the following: 43833

(1) Submit to the director a copy of the most recent 43835
emergency and hazardous chemical inventory form for the facility 43836
submitted to the emergency response commission in accordance with 43837
section 3750.08 of the Revised Code accompanied by a statement 43838
indicating whether any asbestos-containing materials are present 43839
at the facility; 43840

(2) Submit to the director a copy of the current hazardous 43841
chemical list, or of each of the material safety data sheets, that 43842
the owner or operator is required to have on file with the 43843
commission under section 3750.07 of the Revised Code in connection 43844
with the facility; 43845

(3) Submit to the director a list of every stationary tank, 43846
vat, electrical transformer, and vessel of any type that contains 43847
or is contaminated with regulated substances and that is to remain 43848
at the facility; a precise description of the location of each; 43849
and an identification of the regulated substances that are in or 43850
contaminate each; 43851

(4) Drain or remove all regulated substances from each 43852
stationary vat, tank, electrical transformer, and vessel, and from 43853
all piping, that is to remain at the facility and do any or a 43854
combination of the following: 43855

(a) Transfer the regulated substances to another facility 43856
owned or operated by the owner or operator. If any regulated 43857
substances are transferred to another facility of the owner or 43858

operator located within this state, they shall be transferred to a 43859
facility that is operating. If any regulated substances are 43860
transferred to another facility of the owner or operator located 43861
outside this state, they shall be transferred in compliance with 43862
the applicable laws governing the receiving facility of the state 43863
in which the receiving facility is located. 43864

(b) Lawfully transfer ownership of the regulated substances 43865
to another person through sale or otherwise; 43866

(c) Cause the regulated substances to be transported off the 43867
premises of the facility and managed in compliance with the 43868
applicable provisions of Chapter 3734. of the Revised Code and 43869
rules adopted under that chapter; the "Toxic Substances Control 43870
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and 43871
regulations adopted under it; or the "Resource Conservation and 43872
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 43873
amended, and regulations adopted under it; or, if transported out 43874
of state, to be managed in compliance with the waste management 43875
laws of the state to which the regulated substances are 43876
transported. 43877

In the case of any regulated substance that also is a 43878
hazardous material identified or listed in regulations adopted 43879
under the "Hazardous Materials Transportation Act," 88 Stat. 2156 43880
(1975), 49 U.S.C.A. 1801, as amended, and that is to be 43881
transported off the premises of the facility, the owner or 43882
operator of the facility shall transport the regulated substance, 43883
or cause it to be transported, in compliance with the applicable 43884
rules adopted under ~~division (A) of section 4919.85, division (E)~~ 43885
~~of section 4921.04, division (C) of section 4923.03, or division~~ 43886
~~(C) of section 4923.20~~ Chapters 4905., 4921., and 4923. of the 43887
Revised Code. 43888

(5) Remove from the facility all debris, nonstationary 43889
equipment and furnishings, nonstationary containers, and motor 43890

vehicles and rolling stock that contain or are contaminated with a regulated substance and do any or a combination of the following:

(a) Transfer the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another facility owned or operated by the owner or operator. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located in this state, it shall be transferred to a facility that is operating. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located outside this state, it only shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the receiving facility is located.

(b) Lawfully transfer ownership of the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another person through sale or otherwise;

(c) Cause the debris, equipment, furnishings, and containers to be transported off the premises of the facility and managed in compliance with the applicable provisions of Chapter 3734. of the Revised Code and rules adopted under that chapter; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and regulations adopted under it; or the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and regulations adopted under it; or, if transported out of state, to be managed in compliance with the waste management laws of the state to which the debris, equipment, furnishings, and containers are transported.

(6) Make a written certification to the director that the actions required by divisions (A)(4) and (5) of this section have been completed in compliance with those divisions and any applicable rules adopted under section 3752.03 of the Revised

Code. The certification shall be made on a form prescribed by the 43923
director and, in addition to the information required in division 43924
(A) of this section, shall include, without limitation, the 43925
owner's or operator's name and the address of the owner's or 43926
operator's principal office. 43927

(B) Upon the written request of the owner or operator of a 43928
facility who is subject to division (A) of this section, the 43929
director, at ~~his~~ the director's discretion, may extend the length 43930
of time required for compliance with divisions (A)(4) to (6) of 43931
this section for any period of time the director considers 43932
reasonable and necessary if the director finds from the request 43933
that either of the following applies: 43934

(1) The inability of the owner or operator to complete the 43935
required actions within the time prescribed in that division is 43936
due to circumstances that are temporary in nature and are beyond 43937
the control of the owner or operator; 43938

(2) The owner or operator, exercising reasonable diligence, 43939
is unable to complete the required actions within the time 43940
prescribed in that division due to facility size, operational 43941
complexity, or other such relevant factors. 43942

Upon making a decision on a request submitted under division 43943
(B) of this section, the director shall mail notice of ~~his~~ the 43944
decision to the owner or operator by certified mail, return 43945
receipt requested, and, if the request was approved, notice of the 43946
length of the extension. 43947

(C) An owner or operator of a reporting facility who is 43948
subject to this section is not required to perform the removal 43949
actions required by it or to make the certification required by 43950
division (A)(6) of this section with respect to hazardous waste 43951
stored, treated, or disposed of at the facility, or portion of the 43952
facility, for which the owner holds a valid hazardous waste 43953

facility installation and operation permit or renewal permit 43954
issued under section 3734.05 of the Revised Code or has obtained a 43955
generator identification number pursuant to rules adopted under 43956
section 3734.12 of the Revised Code. Instead, the owner shall 43957
comply with the applicable closure and post-closure care 43958
requirements established in rules adopted under section 3734.12 of 43959
the Revised Code. 43960

(D) No person shall fail to comply with any provision of 43961
division (A) of this section within the time required by that 43962
division and any extension of that time granted under division (B) 43963
of this section, as appropriate. 43964

Sec. 3770.06. (A) There is hereby created the state lottery 43965
gross revenue fund, which shall be in the custody of the treasurer 43966
of state but shall not be part of the state treasury. All gross 43967
revenues received from sales of lottery tickets, fines, fees, and 43968
related proceeds in connection with the statewide lottery and all 43969
gross proceeds from statewide joint lottery games shall be 43970
deposited into the fund. The treasurer of state shall invest any 43971
portion of the fund not needed for immediate use in the same 43972
manner as, and subject to all provisions of law with respect to 43973
the investment of, state funds. The treasurer of state shall 43974
disburse money from the fund on order of the director of the state 43975
lottery commission or the director's designee. 43976

Except for gross proceeds from statewide joint lottery games, 43977
all revenues of the state lottery gross revenue fund that are not 43978
paid to holders of winning lottery tickets, that are not required 43979
to meet short-term prize liabilities, that are not credited to 43980
lottery sales agents in the form of bonuses, commissions, or 43981
reimbursements, that are not paid to financial institutions to 43982
reimburse those institutions for sales agent nonsufficient funds, 43983
and that are collected from sales agents for remittance to 43984

insurers under contract to provide sales agent bonding services 43985
shall be transferred to the state lottery fund, which is hereby 43986
created in the state treasury. In addition, all revenues of the 43987
state lottery gross revenue fund that represent the gross proceeds 43988
from the statewide joint lottery games and that are not paid to 43989
holders of winning lottery tickets, that are not required to meet 43990
short-term prize liabilities, that are not credited to lottery 43991
sales agents in the form of bonuses, commissions, or 43992
reimbursements, and that are not necessary to cover operating 43993
expenses associated with those games or to otherwise comply with 43994
the agreements signed by the governor that the director enters 43995
into under division (J) of section 3770.02 of the Revised Code or 43996
the rules the commission adopts under division (B)(5) of section 43997
3770.03 of the Revised Code shall be transferred to the state 43998
lottery fund. All investment earnings of the fund shall be 43999
credited to the fund. Moneys shall be disbursed from the fund 44000
pursuant to vouchers approved by the director. Total disbursements 44001
for monetary prize awards to holders of winning lottery tickets in 44002
connection with the statewide lottery and purchases of goods and 44003
services awarded as prizes to holders of winning lottery tickets 44004
shall be of an amount equal to at least fifty per cent of the 44005
total revenue accruing from the sale of lottery tickets. 44006

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 44007
there is hereby established in the state treasury the lottery 44008
profits education fund. Whenever, in the judgment of the director 44009
of ~~budget and management~~ the state lottery commission, the amount 44010
to the credit of the state lottery fund that does not represent 44011
proceeds from statewide joint lottery games is in excess of that 44012
needed to meet the maturing obligations of the commission and as 44013
working capital for its further operations, the director of the 44014
state lottery commission shall recommend the amount of the excess 44015
to be transferred to the lottery profits education fund, and the 44016
director of budget and management may transfer the excess to the 44017

lottery profits education fund in connection with the statewide 44018
lottery. In addition, whenever, in the judgment of the director of 44019
~~budget and management~~ the state lottery commission, the amount to 44020
the credit of the state lottery fund that represents proceeds from 44021
statewide joint lottery games equals the entire net proceeds of 44022
those games as described in division (B)(5) of section 3770.03 of 44023
the Revised Code and the rules adopted under that division, the 44024
director of the state lottery commission shall recommend the 44025
amount of the proceeds to be transferred to the lottery profits 44026
education fund, and the director of budget and management may 44027
transfer those proceeds to the lottery profits education fund. 44028
~~There shall also be credited to the fund any repayments of moneys~~ 44029
~~loaned from the educational excellence investment fund.~~ Investment 44030
earnings of the lottery profits education fund shall be credited 44031
to the fund. 44032

The lottery profits education fund shall be used solely for 44033
the support of elementary, secondary, vocational, and special 44034
education programs as determined in appropriations made by the 44035
general assembly, or as provided in applicable bond proceedings 44036
for the payment of debt service on obligations issued to pay costs 44037
of capital facilities, including those for a system of common 44038
schools throughout the state pursuant to section 2n of Article 44039
VIII, Ohio Constitution. When determining the availability of 44040
money in the lottery profits education fund, the director of 44041
budget and management may consider all balances and estimated 44042
revenues of the fund. 44043

(C) There is hereby established in the state treasury the 44044
deferred prizes trust fund. With the approval of the director of 44045
budget and management, an amount sufficient to fund annuity prizes 44046
shall be transferred from the state lottery fund and credited to 44047
the trust fund. The treasurer of state shall credit all earnings 44048
arising from investments purchased under this division to the 44049

trust fund. Within sixty days after the end of each fiscal year, 44050
the treasurer of state shall certify to the director of budget and 44051
management whether the actuarial amount of the trust fund is 44052
sufficient over the fund's life for continued funding of all 44053
remaining deferred prize liabilities as of the last day of the 44054
fiscal year just ended. Also, within that sixty days, the director 44055
of budget and management shall certify the amount of investment 44056
earnings necessary to have been credited to the trust fund during 44057
the fiscal year just ending to provide for such continued funding 44058
of deferred prizes. Any earnings credited in excess of the latter 44059
certified amount shall be transferred to the lottery profits 44060
education fund. 44061

To provide all or a part of the amounts necessary to fund 44062
deferred prizes awarded by the commission in connection with the 44063
statewide lottery, the treasurer of state, in consultation with 44064
the commission, may invest moneys contained in the deferred prizes 44065
trust fund which represents proceeds from the statewide lottery in 44066
obligations of the type permitted for the investment of state 44067
funds but whose maturities are thirty years or less. 44068
Notwithstanding the requirements of any other section of the 44069
Revised Code, to provide all or part of the amounts necessary to 44070
fund deferred prizes awarded by the commission in connection with 44071
statewide joint lottery games, the treasurer of state, in 44072
consultation with the commission, may invest moneys in the trust 44073
fund which represent proceeds derived from the statewide joint 44074
lottery games in accordance with the rules the commission adopts 44075
under division (B)(5) of section 3770.03 of the Revised Code. 44076
Investments of the trust fund are not subject to the provisions of 44077
division (A)(10) of section 135.143 of the Revised Code limiting 44078
to twenty-five per cent the amount of the state's total average 44079
portfolio that may be invested in debt interests and limiting to 44080
one-half of one per cent the amount that may be invested in debt 44081
interests of a single issuer. 44082

All purchases made under this division shall be effected on a 44083
delivery versus payment method and shall be in the custody of the 44084
treasurer of state. 44085

The treasurer of state may retain an investment advisor, if 44086
necessary. The commission shall pay any costs incurred by the 44087
treasurer of state in retaining an investment advisor. 44088

(D) The auditor of state shall conduct annual audits of all 44089
funds and any other audits as the auditor of state or the general 44090
assembly considers necessary. The auditor of state may examine all 44091
records, files, and other documents of the commission, and records 44092
of lottery sales agents that pertain to their activities as 44093
agents, for purposes of conducting authorized audits. 44094

The state lottery commission shall establish an internal 44095
audit program before the beginning of each fiscal year, subject to 44096
the approval of the auditor of state. At the end of each fiscal 44097
year, the commission shall prepare and submit an annual report to 44098
the auditor of state for the auditor of state's review and 44099
approval, specifying the internal audit work completed by the end 44100
of that fiscal year and reporting on compliance with the annual 44101
internal audit program. The form and content of the report shall 44102
be prescribed by the auditor of state under division (C) of 44103
section 117.20 of the Revised Code. 44104

(E) Whenever, in the judgment of the director of budget and 44105
management, an amount of net state lottery proceeds is necessary 44106
to be applied to the payment of debt service on obligations, all 44107
as defined in sections 151.01 and 151.03 of the Revised Code, the 44108
director shall transfer that amount directly from the state 44109
lottery fund or from the lottery profits education fund to the 44110
bond service fund defined in those sections. The provisions of 44111
this division are subject to any prior pledges or obligation of 44112
those amounts to the payment of bond service charges as defined in 44113
division (C) of section 3318.21 of the Revised Code, as referred 44114

to in division (B) of this section. 44115

Sec. 3781.03. (A) The state fire marshal, the fire chief of a 44116
municipal corporation that has a fire department, or the fire 44117
chief of a township that has a fire department shall enforce the 44118
provisions of this chapter and Chapter 3791. of the Revised Code 44119
that relate to fire prevention. 44120

(B) The superintendent of ~~labor~~ industrial compliance, or the 44121
building inspector or commissioner of buildings in a municipal 44122
corporation, county, or township in which the building department 44123
is certified by the board of building standards under section 44124
3781.10 of the Revised Code shall enforce in the jurisdiction of 44125
each entity all the provisions in this chapter and Chapter 3791. 44126
of the Revised Code and any rules adopted pursuant to those 44127
chapters that relate to the construction, arrangement, and 44128
erection of all buildings or parts of buildings, as defined in 44129
section 3781.06 of the Revised Code, including the sanitary 44130
condition of those buildings in relation to heating and 44131
ventilation. 44132

(C) The division of ~~labor~~ industrial compliance in the 44133
department of commerce, boards of health of health districts, 44134
certified departments of building inspection of municipal 44135
corporations, and county building departments that have authority 44136
to perform inspections pursuant to a contract under division 44137
(C)(1) of section 3703.01 of the Revised Code, subject to Chapter 44138
3703. of the Revised Code, shall enforce this chapter and Chapter 44139
3791. of the Revised Code and the rules adopted pursuant to those 44140
chapters that relate to plumbing. Building drains are considered 44141
plumbing for the purposes of enforcement of those chapters. 44142

(D)(1) In accordance with Chapter 3703. of the Revised Code, 44143
the department of the city engineer, in cities having such 44144
departments, the boards of health of health districts, or the 44145

sewer purveyor, as appropriate, shall have complete authority to 44146
supervise and regulate the entire sewerage and drainage system in 44147
the jurisdiction in which it is exercising the authority described 44148
in this division, including the building sewer and all laterals 44149
draining into the street sewers. 44150

(2) In accordance with Chapter 3703. of the Revised Code, the 44151
department of the city engineer, the boards of health of health 44152
districts, or the sewer purveyor, as appropriate, shall control 44153
and supervise the installation and construction of all drains and 44154
sewers that become a part of the sewerage system and shall issue 44155
all the necessary permits and licenses for the construction and 44156
installation of all building sewers and of all other lateral 44157
drains that empty into the main sewers. The department of the city 44158
engineer, the boards of health of health districts, and the sewer 44159
purveyor, as appropriate, shall keep a permanent record of the 44160
installation and location of every drain and sewer of the drainage 44161
and sewerage system of the jurisdiction in which it has exercised 44162
the authority described in this division. 44163

(E) This section does not exempt any officer or department 44164
from the obligation to enforce this chapter and Chapter 3791. of 44165
the Revised Code. 44166

Sec. 3781.06. (A)(1) Any building that may be used as a place 44167
of resort, assembly, education, entertainment, lodging, dwelling, 44168
trade, manufacture, repair, storage, traffic, or occupancy by the 44169
public, any residential building, and all other buildings or parts 44170
and appurtenances of those buildings erected within this state, 44171
shall be so constructed, erected, equipped, and maintained that 44172
they shall be safe and sanitary for their intended use and 44173
occupancy. 44174

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 44175
Revised Code shall be construed to limit the power of the public 44176

~~health council~~ manufactured homes commission to adopt rules of 44177
uniform application governing manufactured home parks pursuant to 44178
section ~~3733.02~~ 4781.26 of the Revised Code. 44179

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 44180
Code do not apply to either of the following: 44181

(1) Buildings or structures that are incident to the use for 44182
agricultural purposes of the land on which the buildings or 44183
structures are located, provided those buildings or structures are 44184
not used in the business of retail trade. For purposes of this 44185
division, a building or structure is not considered used in the 44186
business of retail trade if fifty per cent or more of the gross 44187
income received from sales of products in the building or 44188
structure by the owner or operator is from sales of products 44189
produced or raised in a normal crop year on farms owned or 44190
operated by the seller. 44191

(2) Existing single-family, two-family, and three-family 44192
detached dwelling houses for which applications have been 44193
submitted to the director of job and family services pursuant to 44194
section 5104.03 of the Revised Code for the purposes of operating 44195
type A family day-care homes as defined in section 5104.01 of the 44196
Revised Code. 44197

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the 44198
Revised Code: 44199

(1) "Agricultural purposes" include agriculture, farming, 44200
dairying, pasturage, apiculture, horticulture, floriculture, 44201
viticulture, ornamental horticulture, olericulture, pomiculture, 44202
and animal and poultry husbandry. 44203

(2) "Building" means any structure consisting of foundations, 44204
walls, columns, girders, beams, floors, and roof, or a combination 44205
of any number of these parts, with or without other parts or 44206
appurtenances. 44207

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding

garages, porches, or attachments, of at least nine hundred square feet; 44239
44240

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering; 44241
44242
44243

(d) The structure was manufactured after January 1, 1995; 44244

(e) The structure is not located in a manufactured home park as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 44245
44246

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise. 44247
44248
44249
44250
44251
44252
44253
44254

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing. 44255
44256
44257
44258
44259
44260

(9) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit as defined by division (C)(3) of this section, a manufactured home as defined by division (C)(4) of this section, or a mobile home as defined by division (O) of section 4501.01 of the Revised Code. 44261
44262
44263
44264
44265
44266
44267
44268
44269

(10) "Nonresidential building" means any building that is not a residential building or a manufactured or mobile home.

(11) "Accessory structure" means a structure that is attached to a residential building and serves the principal use of the residential building. "Accessory structure" includes, but is not limited to, a garage, porch, or screened-in patio.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the

power of municipal corporations under Section 3 of Article XVIII, 44301
Ohio Constitution, to adopt rules concerning the erection, 44302
construction, repair, alteration, and maintenance of buildings and 44303
structures or of establishing standards and providing for the 44304
licensing of specialty contractors pursuant to section 715.27 of 44305
the Revised Code. 44306

A board of county commissioners, pursuant to this division, 44307
may require all electrical contractors and heating, ventilating, 44308
and air conditioning contractors, other than those who hold a 44309
valid and unexpired license issued pursuant to Chapter 4740. of 44310
the Revised Code, to successfully complete an examination, test, 44311
or demonstration of technical skills, and may impose a fee and 44312
additional requirements for a license to engage in their 44313
respective occupations within the jurisdiction of the board's 44314
rules under this division. 44315

(C) No board of county commissioners shall require any 44316
specialty contractor who holds a valid and unexpired license 44317
issued pursuant to Chapter 4740. of the Revised Code to 44318
successfully complete an examination, test, or demonstration of 44319
technical skills in order to engage in the type of contracting for 44320
which the license is held, within the unincorporated areas of the 44321
county and within any municipal corporation whose legislative 44322
authority has contracted with the board for the enforcement of 44323
county regulations within the municipal corporation, pursuant to 44324
section 307.15 of the Revised Code. 44325

(D) A board may impose a fee for registration of a specialty 44326
contractor who holds a valid and unexpired license issued pursuant 44327
to Chapter 4740. of the Revised Code before that specialty 44328
contractor may engage in the type of contracting for which the 44329
license is held within the unincorporated areas of the county and 44330
within any municipal corporation whose legislative authority has 44331
contracted with the board for the enforcement of county 44332

regulations within the municipal corporation, pursuant to section 44333
307.15 of the Revised Code, provided that the fee is the same for 44334
all specialty contractors who wish to engage in that type of 44335
contracting. If a board imposes such a fee, the board immediately 44336
shall permit a specialty contractor who presents proof of holding 44337
a valid and unexpired license and pays the required fee to engage 44338
in the type of contracting for which the license is held within 44339
the unincorporated areas of the county and within any municipal 44340
corporation whose legislative authority has contracted with the 44341
board for the enforcement of county regulations within the 44342
municipal corporation, pursuant to section 307.15 of the Revised 44343
Code. 44344

(E) The political subdivision associated with each municipal, 44345
township, and county building department the board of building 44346
standards certifies pursuant to division (E) of section 3781.10 of 44347
the Revised Code may prescribe fees to be paid by persons, 44348
political subdivisions, or any department, agency, board, 44349
commission, or institution of the state, for the acceptance and 44350
approval of plans and specifications, and for the making of 44351
inspections, pursuant to sections 3781.03 and 3791.04 of the 44352
Revised Code. 44353

(F) Each political subdivision that prescribes fees pursuant 44354
to division (E) of this section shall collect, on behalf of the 44355
board of building standards, fees equal to the following: 44356

(1) Three per cent of the fees the political subdivision 44357
collects in connection with nonresidential buildings; 44358

(2) One per cent of the fees the political subdivision 44359
collects in connection with residential buildings. 44360

(G)(1) The board shall adopt rules, in accordance with 44361
Chapter 119. of the Revised Code, specifying the manner in which 44362
the fee assessed pursuant to division (F) of this section shall be 44363

collected and remitted monthly to the board. The board shall pay 44364
the fees into the state treasury to the credit of the ~~labor~~ 44365
industrial compliance operating fund created in section 121.084 of 44366
the Revised Code. 44367

(2) All money credited to the ~~labor~~ industrial compliance 44368
operating fund under this division shall be used exclusively for 44369
the following: 44370

(a) Operating costs of the board; 44371

(b) Providing services, including educational programs, for 44372
the building departments that are certified by the board pursuant 44373
to division (E) of section 3781.10 of the Revised Code; 44374

(c) Paying the expenses of the residential construction 44375
advisory committee, including the expenses of committee members as 44376
provided in section 4740.14 of the Revised Code. 44377

(H) A board of county commissioners that adopts rules 44378
providing for the licensing of electrical and heating, 44379
ventilating, and air conditioning contractors, pursuant to 44380
division (B) of this section, may accept, for purposes of 44381
satisfying the requirements of rules adopted under that division, 44382
a valid and unexpired license issued pursuant to Chapter 4740. of 44383
the Revised Code that is held by an electrical or heating, 44384
ventilating, and air conditioning contractor, for the 44385
construction, replacement, maintenance, or repair of one-family, 44386
two-family, or three-family dwelling houses or accessory 44387
structures incidental to those dwelling houses. 44388

(I) A board of county commissioners shall not register a 44389
specialty contractor who is required to hold a license under 44390
Chapter 4740. of the Revised Code but does not hold a valid 44391
license issued under that chapter. 44392

(J) As used in this section, "specialty contractor" means a 44393
heating, ventilating, and air conditioning contractor, 44394

refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code. 44395
44396
44397

Sec. 3781.11. (A) The rules of the board of building standards shall: 44398
44399

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in section 3781.06 of the Revised Code; 44400
44401
44402
44403
44404
44405
44406

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability; 44407
44408
44409
44410

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction; 44411
44412
44413
44414
44415
44416
44417
44418

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units; 44419
44420
44421
44422

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, 44423
44424

local, exempted village, or joint vocational school district and 44425
operated in conjunction with any primary or secondary school 44426
program that is not being altered or repaired if all of the 44427
following apply: 44428

(a) The school building meets all of the applicable building 44429
code requirements in existence at the time of the construction of 44430
the building. 44431

(b) The school building otherwise satisfies the requirements 44432
of section 3781.06 of the Revised Code. 44433

(c) The part of the school building altered or repaired 44434
conforms to all rules of the board existing on the date of the 44435
repair or alteration. 44436

(6) Not require any alteration or repair to any part of a 44437
workshop or factory that is not otherwise being altered, repaired, 44438
or added to if all of the following apply: 44439

(a) The workshop or factory otherwise satisfies the 44440
requirements of section 3781.06 of the Revised Code. 44441

(b) The part of the workshop or factory altered, repaired, or 44442
added conforms to all rules of the board existing on the date of 44443
plan approval of the repair, alteration, or addition. 44444

(B) The rules of the board shall supersede and govern any 44445
order, standard, or rule of the division of ~~labor~~ industrial 44446
compliance in the department of commerce, division of the state 44447
fire marshal, the department of health, and of counties and 44448
townships, in all cases where such orders, standards, or rules are 44449
in conflict with the rules of the board, except that rules adopted 44450
and orders issued by the state fire marshal pursuant to Chapter 44451
3743. of the Revised Code prevail in the event of a conflict. 44452

(C) The construction, alteration, erection, and repair of 44453
buildings including industrialized units, and the materials and 44454

devices of any kind used in connection with them and the heating 44455
and ventilating of them and the plumbing and electric wiring in 44456
them shall conform to the statutes of this state or the rules 44457
adopted and promulgated by the board, and to provisions of local 44458
ordinances not inconsistent therewith. Any building, structure, or 44459
part thereof, constructed, erected, altered, manufactured, or 44460
repaired not in accordance with the statutes of this state or with 44461
the rules of the board, and any building, structure, or part 44462
thereof in which there is installed, altered, or repaired any 44463
fixture, device, and material, or plumbing, heating, or 44464
ventilating system, or electric wiring not in accordance with such 44465
statutes or rules is a public nuisance. 44466

(D) As used in this section: 44467

(1) "Nonpublic school" means a chartered school for which 44468
minimum standards are prescribed by the state board of education 44469
pursuant to division (D) of section 3301.07 of the Revised Code. 44470

(2) "Workshop or factory" includes manufacturing, mechanical, 44471
electrical, mercantile, art, and laundering establishments, 44472
printing, telegraph, and telephone offices, railroad depots, and 44473
memorial buildings, but does not include hotels and tenement and 44474
apartment houses. 44475

Sec. 3781.112. (A) As used in this section, "secured 44476
facility" means any of the following: 44477

(1) A maternity ~~boardinghouse or lying in hospital unit,~~ 44478
newborn care nursery, or maternity home licensed under ~~section~~ 44479
3711.02 Chapter 3711. of the Revised Code; 44480

(2) A pediatric intensive care unit subject to rules adopted 44481
by the director of health pursuant to section 3702.11 of the 44482
Revised Code; 44483

(3) A children's hospital, as defined in section ~~3702.51~~ 44484

3727.01 of the Revised Code; 44485

(4) A hospital that is licensed under section 5119.20 of the Revised Code to receive mentally ill persons; 44486
44487

(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public. 44488
44489
44490
44491
44492
44493
44494

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code. A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under division (A) section 3781.10 of the Revised Code and in compliance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted 44495
44496
44497
44498
44499
44500
44501
44502
44503
44504
44505
44506
44507
44508
44509
44510
44511
44512
44513
44514
44515
44516

in their freedom of movement. A secured facility that uses 44517
delayed-egress doors and electronically coded doors, 44518
controlled-egress locks, or both, shall do both of the following: 44519

(1) Provide continuous, twenty-four-hour custodial care to 44520
the patients or residents of the facility; 44521

(2) Establish a system to evacuate patients or residents in 44522
the event of fire or other emergency. 44523

Sec. 3783.05. The board of building standards, in accordance 44524
with Chapters 119., 3781., and 3791. of the Revised Code, shall 44525
adopt, amend, or repeal such rules as may be reasonably necessary 44526
to administer this chapter. All fees collected by the board 44527
pursuant to this chapter shall be paid into the state treasury to 44528
the credit of the ~~labor~~ industrial compliance operating fund 44529
created in section 121.084 of the Revised Code. 44530

Sec. 3791.02. No owner, or person having the control as an 44531
officer or member of a board or committee or otherwise of any 44532
opera house, hall, theater, church, schoolhouse, college, academy, 44533
seminary, infirmary, sanitarium, children's home, hospital, 44534
medical institute, asylum, memorial building, armory, assembly 44535
hall, or other building for the assemblage or betterment of people 44536
shall fail to obey any order of the state fire marshal, boards of 44537
health of city and general health districts, the building 44538
inspector or commissioner in cities having a building inspection 44539
department, or the superintendent of ~~labor~~ industrial compliance 44540
in the department of commerce under Chapters 3781. and 3791. of 44541
the Revised Code or rules or regulations adopted pursuant thereto. 44542

Whoever violates this section shall be fined not more than 44543
one thousand dollars. 44544

Sec. 3791.04. (A)(1) Before beginning the construction, 44545

erection, or manufacture of any building to which section 3781.06 44546
of the Revised Code applies, including all industrialized units, 44547
the owner of that building, in addition to any other submission 44548
required by law, shall submit plans or drawings, specifications, 44549
and data prepared for the construction, erection, equipment, 44550
alteration, or addition that indicate the portions that have been 44551
approved pursuant to section 3781.12 of the Revised Code and for 44552
which no further approval is required, to the municipal, township, 44553
or county building department having jurisdiction unless one of 44554
the following applies: 44555

(a) If no municipal, township, or county building department 44556
certified for nonresidential buildings pursuant to division (E) of 44557
section 3781.10 of the Revised Code has jurisdiction, the owner 44558
shall make the submissions described in division (A)(1) of this 44559
section to the superintendent of ~~labor~~ industrial compliance. 44560

(b) If no certified municipal, township, or county building 44561
department certified for residential buildings pursuant to 44562
division (E) of section 3781.10 of the Revised Code has 44563
jurisdiction, the owner is not required to make the submissions 44564
described in division (A)(1) of this section. 44565

(2)(a) The seal of an architect registered under Chapter 44566
4703. of the Revised Code or an engineer registered under Chapter 44567
4733. of the Revised Code is required for any plans, drawings, 44568
specifications, or data submitted for approval, unless the plans, 44569
drawings, specifications, or data are permitted to be prepared by 44570
persons other than registered architects pursuant to division (C) 44571
or (D) of section 4703.18 of the Revised Code, or by persons other 44572
than registered engineers pursuant to division (C) or (D) of 44573
section 4733.18 of the Revised Code. 44574

(b) No seal is required for any plans, drawings, 44575
specifications, or data submitted for approval for any residential 44576
buildings, as defined in section 3781.06 of the Revised Code, or 44577

erected as industrialized one-, two-, or three-family units or 44578
structures within the meaning of "industrialized unit" as defined 44579
in section 3781.06 of the Revised Code. 44580

(c) No seal is required for approval of the installation of 44581
replacement equipment or systems that are similar in type or 44582
capacity to the equipment or systems being replaced. No seal is 44583
required for approval for any new construction, improvement, 44584
alteration, repair, painting, decorating, or other modification of 44585
any buildings or structures subject to sections 3781.06 to 3781.18 44586
and 3791.04 of the Revised Code if the proposed work does not 44587
involve technical design analysis, as defined by rule adopted by 44588
the board of building standards. 44589

(B) No owner shall proceed with the construction, erection, 44590
alteration, or equipment of any building until the plans or 44591
drawings, specifications, and data have been approved as this 44592
section requires, or the industrialized unit inspected at the 44593
point of origin. No plans or specifications shall be approved or 44594
inspection approval given unless the building represented would, 44595
if constructed, repaired, erected, or equipped, comply with 44596
Chapters 3781. and 3791. of the Revised Code and any rule made 44597
under those chapters. 44598

(C) The approval of plans or drawings and specifications or 44599
data pursuant to this section is invalid if construction, 44600
erection, alteration, or other work upon the building has not 44601
commenced within twelve months of the approval of the plans or 44602
drawings and specifications. One extension shall be granted for an 44603
additional twelve-month period if the owner requests at least ten 44604
days in advance of the expiration of the permit and upon payment 44605
of a fee not to exceed one hundred dollars. If in the course of 44606
construction, work is delayed or suspended for more than six 44607
months, the approval of plans or drawings and specifications or 44608
data is invalid. Two extensions shall be granted for six months 44609

each if the owner requests at least ten days in advance of the 44610
expiration of the permit and upon payment of a fee for each 44611
extension of not more than one hundred dollars. Before any work 44612
may continue on the construction, erection, alteration, or 44613
equipment of any building for which the approval is invalid, the 44614
owner of the building shall resubmit the plans or drawings and 44615
specifications for approval pursuant to this section. 44616

(D) Subject to section 3791.042 of the Revised Code, the 44617
board of building standards or the legislative authority of a 44618
municipal corporation, township, or county, by rule, may regulate 44619
the requirements for the submission of plans and specifications to 44620
the respective enforcing departments and for processing by those 44621
departments. The board of building standards or the legislative 44622
authority of a municipal corporation, township, or county may 44623
adopt rules to provide for the approval, subject to section 44624
3791.042 of the Revised Code, by the department having 44625
jurisdiction of the plans for construction of a foundation or any 44626
other part of a building or structure before the complete plans 44627
and specifications for the entire building or structure are 44628
submitted. When any plans are approved by the department having 44629
jurisdiction, the structure and every particular represented by 44630
and disclosed in those plans shall, in the absence of fraud or a 44631
serious safety or sanitation hazard, be conclusively presumed to 44632
comply with Chapters 3781. and 3791. of the Revised Code and any 44633
rule issued pursuant to those chapters, if constructed, altered, 44634
or repaired in accordance with those plans and any rule in effect 44635
at the time of approval. 44636

(E) The approval of plans and specifications, including 44637
inspection of industrialized units, under this section is a 44638
"license" and the failure to approve plans or specifications as 44639
submitted or to inspect the unit at the point of origin within 44640
thirty days after the plans or specifications are filed or the 44641

request to inspect the industrialized unit is made, the 44642
disapproval of plans and specifications, or the refusal to approve 44643
an industrialized unit following inspection at the point of origin 44644
is "an adjudication order denying the issuance of a license" 44645
requiring an "adjudication hearing" as provided by sections 119.07 44646
to 119.13 of the Revised Code and as modified by sections 3781.031 44647
and 3781.19 of the Revised Code. An adjudication order denying the 44648
issuance of a license shall specify the reasons for that denial. 44649

(F) The board of building standards shall not require the 44650
submission of site preparation plans or plot plans to the division 44651
of ~~labor~~ industrial compliance when industrialized units are used 44652
exclusively as one-, two-, or three-family dwellings. 44653

(G) Notwithstanding any procedures the board establishes, if 44654
the agency having jurisdiction objects to any portion of the plans 44655
or specifications, the owner or the owner's representative may 44656
request the agency to issue conditional approval to proceed with 44657
construction up to the point of the objection. Approval shall be 44658
issued only when the objection results from conflicting 44659
interpretations of the rules of the board of building standards 44660
rather than the application of specific technical requirements of 44661
the rules. Approval shall not be issued where the correction of 44662
the objection would cause extensive changes in the building design 44663
or construction. The giving of conditional approval is a 44664
"conditional license" to proceed with construction up to the point 44665
where the construction or materials objected to by the agency are 44666
to be incorporated into the building. No construction shall 44667
proceed beyond that point without the prior approval of the agency 44668
or another agency that conducts an adjudication hearing relative 44669
to the objection. The agency having jurisdiction shall specify its 44670
objections to the plans or specifications, which is an 44671
"adjudication order denying the issuance of a license" and may be 44672
appealed pursuant to sections 119.07 to 119.13 of the Revised Code 44673

and as modified by sections 3781.031 and 3781.19 of the Revised Code. 44674
44675

(H) A certified municipal, township, or county building department having jurisdiction, or the superintendent, as appropriate, shall review any plans, drawings, specifications, or data described in this section that are submitted to it or to the superintendent. 44676
44677
44678
44679
44680

(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section. 44681
44682
44683
44684
44685
44686

(J) Whoever violates this section shall be fined not more than five hundred dollars. 44687
44688

Sec. 3791.05. No owner, lessee, agent, factor, architect, or contractor engaged in and having supervision or charge of the building, erection, or construction of a block, building, or structure, shall neglect or refuse to place or have placed upon the joists of each story thereof, as soon as joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and from thereon of all mechanics, laborers, and other persons engaged upon the work of construction or supervision, or in placing materials for such construction. 44689
44690
44691
44692
44693
44694
44695
44696
44697

Whoever violates this section shall be fined not less than twenty-five nor more than two hundred dollars. 44698
44699

Each day that such person neglects or refuses to have such counter floors so placed, after notice is given by a building inspector, a chief inspector, or deputy inspector of the city building inspection department in cities where such department is 44700
44701
44702
44703

organized, or by the superintendent of ~~labor~~ industrial compliance 44704
of the state, in cities where such departments are not organized, 44705
or from a person whose life or personal safety may be endangered 44706
by such neglect or refusal, is a separate offense. 44707

Sec. 3791.07. (A) The board of building standards may 44708
establish such reasonable inspection fee schedules as it 44709
determines necessary or desirable relating to the inspection of 44710
all plans and specifications submitted for approval to the 44711
division of ~~labor~~ industrial compliance, and all industrialized 44712
units inspected at the point of origin and at the construction 44713
site of the building. The inspection fee schedule established 44714
shall bear some reasonable relationship to the cost of 44715
administering and enforcing the provisions of Chapters 3781. and 44716
3791. of the Revised Code. 44717

(B) In addition to the fee assessed in division (A) of this 44718
section, the board shall assess a fee of not more than five 44719
dollars for each application for acceptance and approval of plans 44720
and specifications and for making inspections pursuant to section 44721
3791.04 of the Revised Code. The board shall adopt rules, in 44722
accordance with Chapter 119. of the Revised Code, specifying the 44723
manner by which the superintendent of ~~labor~~ industrial compliance 44724
shall collect and remit to the board the fees assessed under this 44725
division and requiring that remittance of the fees be made at 44726
least quarterly. 44727

(C) Any person who fails to pay an inspection fee required 44728
for any inspection conducted by the department of commerce 44729
pursuant to Chapters 3781. and 3791. of the Revised Code, except 44730
for fees charged for the inspection of plans and specifications, 44731
within forty-five days after the inspection is conducted, shall 44732
pay a late payment fee equal to twenty-five per cent of the 44733
inspection fee. 44734

(D) The board shall pay the fees assessed under this section 44735
into the state treasury to the credit of the ~~labor~~ industrial 44736
compliance operating fund created in section 121.084 of the 44737
Revised Code. 44738

Sec. 3791.11. (A) As used in this section and sections 44739
3791.12 and 3791.13 of the Revised Code: 44740

(1) "Service station" means any facility designed and 44741
constructed primarily for use in the retail sale of gasoline, 44742
other petroleum products, and related accessories; except that 44743
"service station" does not include any such facility that has been 44744
converted for use for another bona fide business purpose, on and 44745
after the date of commencement of such other use. 44746

(2) "Abandoned service station" means any service station 44747
that has not been used for the retail sale of gasoline, other 44748
petroleum products, and related accessories for a continuous 44749
period of six months, whenever failure to reasonably secure 44750
station buildings from ready access by unauthorized persons and to 44751
reasonably maintain the station's premises has resulted in 44752
conditions that endanger the public health, welfare, safety, or 44753
morals; provided, that such conditions include, but are not 44754
limited to, the presence of defective or deteriorated electrical 44755
wiring, heating apparatus, and gas connections, or of unprotected 44756
gasoline storage tanks, piping, and valves, or any combination of 44757
the foregoing; and provided further that the casual and 44758
intermittent use of a service station for the retail sale of any 44759
item described in division (A)(1) of this section during such 44760
six-month period shall not be held to prevent the station from 44761
being determined an abandoned service station if it meets the 44762
other qualifications of this division. 44763

(B) No person shall construct, renew operation of, or 44764
continue operation of a service station unless, prior to the 44765

commencement of construction or renewed operation and during the 44766
period of continued operation, a valid bond is on file as provided 44767
in division (C) ~~or (D)~~ of this section. The bond shall be obtained 44768
by the owner of the property if ~~he~~ the owner is also the owner of 44769
the service station. If the owner of the property is not the owner 44770
of the service station, then the bond shall be obtained by the 44771
lessee of the property; except that such lessee shall be other 44772
than any person who leases and operates the service station 44773
pursuant to a contract with a supplier of gasoline and petroleum 44774
products. The bond shall identify and list the name and address of 44775
the property owner and any lessee other than a person who leases 44776
and operates the service station pursuant to a contract with a 44777
supplier of gasoline and petroleum products. 44778

(C) The bond required by division (B) of this section shall 44779
be filed annually with the executive authority of the municipal 44780
corporation in which the service station is, or is to be, located, 44781
or with the clerk of the board of county commissioners if the 44782
service station is not, or is not to be, located within a 44783
municipal corporation. The bond shall either be a cash bond or 44784
have sufficient sureties approved by the executive authority or 44785
clerk with whom it is filed. The bond shall be for a term of one 44786
year and shall be renewed annually. The bond shall be in the 44787
amount of three thousand dollars for each service station to 44788
provide for the repair or removal of the service station and its 44789
appurtenances and restoration of the property. The bond shall be 44790
conditioned upon the repair or removal of the service station and 44791
restoration of the property if the service station is determined 44792
to be an abandoned service station as provided in section 3791.12 44793
of the Revised Code. If the service station is determined to be an 44794
abandoned service station, and division (D) or (F) of section 44795
3791.12 of the Revised Code applies, the bond shall be forfeited 44796
and the proceeds applied to the costs of repair or removal and 44797
restoration as provided in section 3791.13 of the Revised Code. If 44798

the amount of the bond exceeds the costs of repair or removal and 44799
restoration, the excess shall be returned to the depositor. 44800

~~(D) Whenever a property owner or lessee, other than a person 44801
leasing and operating a service station pursuant to a contract 44802
with a supplier of gasoline and other petroleum products, owns, 44803
leases, or is constructing two or more service stations in this 44804
state, such owner or lessee may deposit with the treasurer of 44805
state, in lieu of the bond required by division (C) of this 44806
section, money or a surety bond approved by the treasurer in the 44807
amount of one hundred fifty thousand dollars, or bonds of the 44808
United States, this state, or of a political subdivision of this 44809
state, having a market value, as determined by the treasurer, of 44810
one hundred fifty thousand dollars. The bond or deposit shall 44811
cover all service stations owned in the state, being constructed, 44812
leased, or operated by the depositor and shall be conditioned upon 44813
the repair or removal of any such station and its appurtenances 44814
and restoration of the property, if the station is determined to 44815
be an abandoned service station as provided in section 3791.12 of 44816
the Revised Code. If any such service station is determined to be 44817
an abandoned service station, and division (D) or (F) of section 44818
3791.12 of the Revised Code applies, the portion of the bond or 44819
deposit required to pay the costs of repair or removal and 44820
restoration shall be forfeited and paid to the executive authority 44821
of the municipal corporation or to the board of county 44822
commissioners of the county, upon request therefor. If the surety 44823
refuses to pay the costs of repair or removal and restoration to 44824
the treasurer, the treasurer shall forthwith file an action on the 44825
bond in the amount certified by the executive authority or board 44826
as the costs of repair or removal and restoration, and shall pay 44827
to the executive authority or board the proceeds of any judgment. 44828
A bond or deposit shall remain valid as long as it is sufficient 44829
to cover one hundred thousand dollars of liability. If the bond or 44830
deposit is reduced to a lesser amount, it shall be invalid unless 44831~~

~~sufficient additional bond or deposit is provided to restore the~~ 44832
~~amount of liability covered to one hundred fifty thousand dollars.~~ 44833

Sec. 3791.12. (A) The executive authority of each municipal 44834
corporation and the board of county commissioners of each county 44835
shall designate a suitable person to make inspections, within 44836
their respective territorial jurisdictions, of any service 44837
stations that are, or appear to be, no longer in use for the 44838
purposes described in division (A)(1) of section 3791.11 of the 44839
Revised Code, or for any other bona fide business purpose. 44840
Inspections of service stations under this section shall be made 44841
at the order of the executive authority or board, or upon the 44842
complaint of any person claiming to be adversely affected by the 44843
condition of a service station. Any inspector designated under 44844
this section shall have the right to enter upon and inspect any 44845
service station that is, or appears to be, no longer in use as 44846
described in this section. No inspector, while in the lawful 44847
pursuit of ~~his~~ official duties for such purpose, shall be subject 44848
to arrest for trespass while so engaged or for such cause 44849
thereafter. 44850

(B) Whenever an inspector, upon inspecting a service station 44851
as provided in this section, has reasonable cause to believe that 44852
it qualifies as an abandoned service station, ~~he~~ the inspector 44853
shall prepare a written report of the condition of the station's 44854
buildings and premises. The report shall be filed immediately with 44855
the executive authority or board. Upon receipt of the report, the 44856
executive authority or board shall fix a place and time, not less 44857
than thirty days nor more than sixty days after receipt of the 44858
report, for a hearing to determine whether the service station is 44859
an abandoned service station. The executive authority or board 44860
shall send written notice of the place and date of the hearing, 44861
together with a copy of the inspector's report and information 44862
that the service station may be ordered repaired or removed if 44863

determined to be abandoned, to all persons listed in the bond 44864
filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised 44865
Code, and to all persons listed in the records of the county 44866
recorder or county clerk of courts as holding a lien on the 44867
affected property. Such notice shall be sent by certified mail to 44868
the address shown on such records. 44869

(C) In hearing the matter and deciding the issue, the 44870
executive authority or board shall consider the testimony of any 44871
persons appearing pursuant to the notice, or their authorized 44872
representatives, the testimony of any witnesses appearing on 44873
behalf of such persons, the inspector's report or testimony, or 44874
both, and any other evidence pertinent to the matter. If the 44875
executive authority or board thereupon determines that the service 44876
station is an abandoned service station in such condition as to 44877
constitute a danger to the public health, welfare, safety, or 44878
morals, it shall order the satisfactory repair, or removal, of the 44879
service station and its appurtenances, and restoration of the 44880
property, within such period of time, not less than thirty days, 44881
as the executive authority or board thereupon determines 44882
reasonable. Notice of the findings and order shall be sent to all 44883
persons required to be notified by division (B) of this section in 44884
the same manner as provided in that division. 44885

(D) If an abandoned service station is not satisfactorily 44886
repaired or removed within the period of time provided in an order 44887
made under division (C) of this section, the municipal corporation 44888
or county may enter the land and complete the repair, if repair 44889
was ordered, or remove the service station and its appurtenances, 44890
if removal was ordered, and restore the property. 44891

(E) Any person aggrieved by an order of an executive 44892
authority or board made under division (C) of this section, may 44893
appeal as provided in Chapter 2506. of the Revised Code within 44894
thirty days of the mailing of notice of the order. 44895

(F) In the event that no persons notified as provided in 44896
division (B) of this section, or their authorized representatives, 44897
appear at the hearing, respond to an order of the executive 44898
authority or board, or appeal within thirty days of the mailing of 44899
notice of the order as provided in division (E) of this section, 44900
the municipal corporation or county may proceed as provided in 44901
division (D) of this section. 44902

Sec. 3793.04. The department of alcohol and drug addiction 44903
services shall develop, administer, and revise as necessary a 44904
comprehensive statewide alcohol and drug addiction services plan 44905
for the implementation of this chapter. The plan shall emphasize 44906
abstinence from the use of alcohol and drugs of abuse as the 44907
primary goal of alcohol and drug addiction services. The council 44908
on alcohol ~~and~~, drug, and gambling addiction services shall advise 44909
the department in the development and implementation of the plan. 44910

The plan shall provide for the allocation and distribution of 44911
funds appropriated to the department by the general assembly for 44912
services furnished by alcohol and drug addiction programs under 44913
contract with boards of alcohol, drug addiction, and mental health 44914
services. The department shall exclude from the allocation and 44915
distribution any funds that are transferred to the department of 44916
job and family services to pay the nonfederal share of alcohol and 44917
drug addiction services covered by the medicaid program. 44918

The plan shall specify the methodology that the department 44919
will use for determining how the funds will be allocated and 44920
distributed. A portion of the funds shall be allocated on the 44921
basis of the ratio of the population of each alcohol, drug 44922
addiction, and mental health service district to the total 44923
population of the state as determined from the most recent federal 44924
census or the most recent official estimate made by the United 44925
States census bureau. 44926

The plan shall ensure that alcohol and drug addiction 44927
services of a high quality are accessible to, and responsive to 44928
the needs of, all persons, especially those who are members of 44929
underserved groups, including, but not limited to, African 44930
Americans, Hispanics, native Americans, Asians, juvenile and adult 44931
offenders, women, veterans, and persons with special services 44932
needs due to age or disability. The plan shall include a program 44933
to promote and protect the rights of those who receive services. 44934

To aid in formulating the plan and in evaluating the 44935
effectiveness and results of alcohol and drug addiction services, 44936
the department, in consultation with the department of mental 44937
health, shall establish and maintain an information system or 44938
systems. The department of alcohol and drug addiction services 44939
shall specify the information that must be provided by boards of 44940
alcohol, drug addiction, and mental health services and by alcohol 44941
and drug addiction programs for inclusion in the system. The 44942
department shall not collect any personal information from the 44943
boards except as required or permitted by state or federal law for 44944
purposes related to payment, health care operations, program and 44945
service evaluation, reporting activities, research, system 44946
administration, and oversight. 44947

In consultation with boards, programs, and persons receiving 44948
services, the department shall establish guidelines for the use of 44949
funds allocated and distributed under this section and for the 44950
boards' development of plans for services required by sections 44951
340.033 and 3793.05 of the Revised Code. 44952

In any fiscal year, the department shall spend, or allocate 44953
to boards, for methadone maintenance programs or any similar 44954
programs not more than eight per cent of the total amount 44955
appropriated to the department for the fiscal year. 44956

Sec. 3793.041. The department of alcohol and drug addiction 44957

services shall develop, administer, and revise as necessary a 44958
comprehensive statewide gambling addiction services plan. The 44959
council on alcohol, drug, and gambling addiction services shall 44960
advise the department in the development and implementation of the 44961
plan. 44962

The plan shall provide for allocation and distribution of 44963
funds from the problem casino gambling and addictions fund 44964
described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, 44965
and any funding to be distributed by the department for problem 44966
gambling. 44967

The plan shall specify the methodology that the department 44968
will use for determining how the funds will be allocated and 44969
distributed. A portion of the funds shall be allocated on the 44970
basis of the ratio of the population of each alcohol, drug 44971
addiction, and mental health service district to the total 44972
population of the state as determined from the most recent federal 44973
census or the most recent official estimate made by the United 44974
States census bureau. 44975

The plan shall ensure that gambling addiction services of a 44976
high quality are accessible to, and responsive to the needs of, 44977
all persons, especially those who are members of underserved 44978
groups, including, but not limited to, African Americans, 44979
Hispanics, native Americans, Asians, juvenile and adult offenders, 44980
women, veterans, and persons with special services needs due to 44981
age or disability. The plan shall include a program to promote and 44982
protect the rights of those who receive services. 44983

To aid in formulating the plan and in evaluating the 44984
effectiveness and results of gambling addiction services, the 44985
department, in consultation with the department of mental health, 44986
shall establish and maintain an information system or systems. The 44987
department of alcohol and drug addiction services shall specify 44988
the information that must be provided by boards of alcohol, drug 44989

addiction, and mental health services and by gambling addiction 44990
programs for inclusion in the system. The department shall not 44991
collect any personal information from the boards except as 44992
required or permitted by state or federal law for purposes related 44993
to payment, health care operations, program and service 44994
evaluation, reporting activities, research, system administration, 44995
and oversight. 44996

In consultation with boards, programs, and persons receiving 44997
services, the department shall establish guidelines for the use of 44998
funds allocated and distributed under this section. 44999

Sec. 3793.09. (A) There is hereby created the council on 45000
alcohol ~~and,~~ drug, and gambling addiction services which shall 45001
consist of the public officials specified in division (B) of this 45002
section, or their designees, and ~~thirteen~~ fourteen members 45003
appointed by the governor with the advice and consent of the 45004
senate. The members appointed by the governor shall be 45005
representatives of the following: boards of alcohol, drug 45006
addiction, and mental health services; the criminal and juvenile 45007
justice systems; ~~and~~ alcohol and drug addiction programs; and 45008
gambling addiction programs. At least four of the appointed 45009
members shall be persons who have received or are receiving 45010
alcohol or drug addiction services or are parents or other 45011
relatives of such persons; of these at least two shall be women 45012
and at least one shall be a member of a minority ~~group.~~ 45013

~~The governor shall make initial appointments to the council~~ 45014
~~not later than thirty days after October 10, 1989. Of the initial~~ 45015
~~appointments, six shall be for terms ending July 31, 1991, and~~ 45016
~~seven shall be for terms ending July 31, 1992. Thereafter, terms~~ 45017
group. At least one appointed member shall be an individual who 45018
has received or is receiving gambling addiction services. 45019

Terms of office shall be two years, with each term ending on 45020

the same day of the same month as the term it succeeds. Each 45021
member shall hold office from the date of the member's appointment 45022
until the end of the term for which the member was appointed. 45023
Members may be reappointed. Vacancies shall be filled in the same 45024
manner as original appointments. Any member appointed to fill a 45025
vacancy occurring prior to the expiration of the term for which 45026
the member's predecessor was appointed shall hold office as a 45027
member for the remainder of the term. A member shall continue in 45028
office subsequent to the expiration of the member's term until the 45029
member's successor takes office or until a period of sixty days 45030
has elapsed, whichever occurs first. 45031

(B) The directors of health, public safety, mental health, 45032
rehabilitation and correction, and youth services; the 45033
superintendents of public instruction and liquor control; the 45034
attorney general; the adjutant general; ~~and~~ the executive director 45035
of the division of criminal justice services in the department of 45036
public safety; the executive director of the casino control 45037
commission; the executive director of the lottery commission; and 45038
the executive director of the state racing commission shall be 45039
voting members of the council, except that any of these officials 45040
may designate an individual to serve in the official's place as a 45041
voting member of the council. The director of alcohol and drug 45042
addiction services shall serve as a nonvoting member of the 45043
council. 45044

(C) The governor shall annually appoint a chairperson from 45045
among the members of the council. The council shall meet quarterly 45046
and at other times the chairperson considers necessary. In 45047
addition to other duties specified in this chapter, the council 45048
shall review the development of the comprehensive statewide plan 45049
for alcohol and drug addiction services, the comprehensive 45050
statewide plan for gambling addiction services, revisions of ~~the~~ 45051
~~plan~~ those plans, and other actions taken to implement the 45052

purposes of this chapter by the department of alcohol and drug 45053
addiction services and shall act as an advisory council to the 45054
director of alcohol and drug addiction services. 45055

(D) Members of the council shall serve without compensation, 45056
but shall be paid actual and necessary expenses incurred in the 45057
performance of their duties. 45058

Sec. 3798.01. As used in this chapter: 45059

(A) "Administrative safeguards," "physical safeguards," and 45060
"technical safeguards" have the same meanings as in 45 C.F.R. 45061
164.304. 45062

(B) "Approved health information exchange" means a health 45063
information exchange that has been approved or reapproved by the 45064
director of job and family services pursuant to the approval or 45065
reapproval process, as applicable, the director establishes in 45066
rules adopted under division (A) of section 3798.15 of the Revised 45067
Code or that has been certified by the office of the national 45068
coordinator for health information technology in the United States 45069
department of health and human services. 45070

(C) "Covered entity," "disclosure," "health care provider," 45071
"health information," "individually identifiable health 45072
information," "protected health information," and "use" have the 45073
same meanings as in 45 C.F.R. 160.103. 45074

(D) "Designated record set" has the same meaning as in 45 45075
C.F.R. 164.501. 45076

(E) "Direct exchange" means the activity of electronic 45077
transmission of health information through a direct connection 45078
between the electronic record systems of health care providers 45079
without the use of a health information exchange. 45080

(F) "Health care component" and "hybrid entity" have the same 45081
meanings as in 45 C.F.R. 164.103. 45082

(G) "Health information exchange" means any person or governmental entity that provides in this state a technical infrastructure to connect computer systems or other electronic devices used by covered entities to facilitate the secure transmission of health information. "Health information exchange" excludes health care providers engaged in direct exchange, including direct exchange through the use of a health information service provider. 45083
45084
45085
45086
45087
45088
45089
45090

(H) "HIPAA privacy rule" means the standards for privacy of individually identifiable health information in 45 C.F.R. part 160 and in 45 C.F.R. part 164, subparts A and E. 45091
45092
45093

(I) "Interoperability" means the capacity of two or more information systems to exchange information in an accurate, effective, secure, and consistent manner. 45094
45095
45096

(J) "Minor" means an unemancipated person under eighteen years of age or a mentally or physically disabled person under twenty-one years of age who meets criteria specified in rules adopted by the director of job and family services under section 3798.13 of the Revised Code. 45097
45098
45099
45100
45101

(K) "More stringent" has the same meaning as in 45 C.F.R. 160.202. 45102
45103

(L) "Office of health transformation" means the office of health transformation created by executive order 2011-02K or a successor governmental entity responsible for health system oversight in this state. 45104
45105
45106
45107

(M) "Personal representative" means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or emancipated minor, or the parent, legal guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor. "Personal representative" does not include 45108
45109
45110
45111
45112
45113

the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor's own receipt of health care or a minor who makes medical decisions on the minor's own behalf pursuant to law, court approval, or because the minor's parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor. 45114
45115
45116
45117
45118
45119
45120

(N) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. 45121
45122
45123
45124

(O) "State agency" means any one or more of the following: 45125

(1) The department of aging; 45126

(2) The department of alcohol and drug addiction services; 45127

(3) The department of developmental disabilities; 45128

(4) The department of education; 45129

(5) The department of health; 45130

(6) The department of insurance; 45131

(7) The department of job and family services; 45132

(8) The department of mental health; 45133

(9) The department of rehabilitation and correction; 45134

(10) The department of youth services; 45135

(11) The bureau of workers' compensation; 45136

(12) The rehabilitation services commission; 45137

(13) The office of the attorney general; 45138

(14) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information. 45139
45140
45141

Sec. 3798.02. It is the intent of the general assembly in 45142
enacting this chapter to make the laws of this state governing the 45143
use and disclosure of protected health information by covered 45144
entities consistent with, but generally not more stringent than, 45145
the HIPAA privacy rule for the purpose of eliminating barriers to 45146
the adoption and use of electronic health records and health 45147
information exchanges. Therefore, it is also the general 45148
assembly's intent in enacting this chapter to supersede any 45149
judicial or administrative ruling issued in this state that is 45150
inconsistent with the provisions of this chapter. 45151

Sec. 3798.03. (A) Subject to division (B) of this section, a 45152
covered entity shall do both of the following: 45153

(1) If an individual's protected health information is 45154
maintained by the covered entity in a designated record set, 45155
provide the individual or the individual's personal representative 45156
with access to that information in a manner consistent with 45 45157
C.F.R. 164.524; 45158

(2) Implement and maintain appropriate administrative, 45159
technical, and physical safeguards to protect the privacy of 45160
protected health information in a manner consistent with 45 C.F.R. 45161
164.530(c). 45162

(B) If a covered entity is a hybrid entity, this section 45163
applies only to the health care component of the covered entity. 45164

Sec. 3798.04. A covered entity shall not do either of the 45165
following: 45166

(A) Use or disclose protected health information without an 45167
authorization that is valid under 45 C.F.R. 164.508 and, if 45168
applicable, 42 C.F.R. part 2, except when the use or disclosure is 45169
required or permitted without such authorization by Subchapter C 45170

of Subtitle A of Title 45 of the Code of Federal Regulations and, 45171
if applicable, 42 C.F.R. part 2; 45172

(B) Use or disclose protected health information in a manner 45173
that is not consistent with 45 C.F.R. 164.502. 45174

Sec. 3798.06. Except in the circumstances described in 45175
division (A) of section 3798.04 of the Revised Code when a covered 45176
entity is permitted to disclose protected health information 45177
without an authorization that is valid under 45 C.F.R. 164.508, a 45178
covered entity shall not disclose protected health information to 45179
a health information exchange without an authorization described 45180
in division (A) of section 3798.04 of the Revised Code unless all 45181
of the following are true: 45182

(A) The disclosure is to an approved health information 45183
exchange. 45184

(B) The covered entity is a party to a valid participation 45185
agreement with the approved health information exchange that meets 45186
the requirements of rules adopted under section 3798.16 of the 45187
Revised Code. 45188

(C) The disclosure is consistent with all procedures 45189
established by the approved health information exchange. 45190

(D) Prior to the disclosure, the covered entity furnishes to 45191
the individual or individual's personal representative a written 45192
notice that complies with rules adopted under division (A)(3) of 45193
section 3798.16 of the Revised Code. 45194

Sec. 3798.07. (A) In addition to a covered entity generally 45195
being subject to the conditions specified in divisions (A) to (D) 45196
of section 3798.06 of the Revised Code when the covered entity 45197
discloses protected health information to a health information 45198
exchange without a valid authorization, the covered entity shall 45199
also be subject to the following conditions when it discloses 45200

protected health information to a health information exchange: 45201

(1) The covered entity shall restrict disclosure consistent with all applicable federal laws governing the disclosure; 45202
45203

(2) If the protected health information concerns a minor, the covered entity shall restrict disclosure in a manner that complies with laws of this state pertaining to the circumstances under which a minor may consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code unless the minor authorizes the disclosure. 45204
45205
45206
45207
45208
45209
45210
45211

(3) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative to restrict disclosure of all of the individual's protected health information. 45212
45213
45214
45215

(4) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative concerning specific categories of protected health information to the extent that rules adopted pursuant to section 3798.16 of the Revised Code require the covered entity to comply with such a request. 45216
45217
45218
45219
45220
45221

(B) The conditions in division (A) of this section on a covered entity's disclosure of protected health information to a health information exchange do not render unenforceable or restrict in any manner any of the following: 45222
45223
45224
45225

(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity; 45226
45227
45228
45229

(2) The confidential status of proceedings and records within 45230

| | |
|---|-------|
| <u>the scope of a peer review committee of a health care entity as</u> | 45231 |
| <u>described in section 2305.252 of the Revised Code;</u> | 45232 |
| <u>(3) The confidential status of quality assurance program</u> | 45233 |
| <u>activities and quality assurance records as described in section</u> | 45234 |
| <u>5122.32 of the Revised Code;</u> | 45235 |
| <u>(4) The testimonial privilege established by division (B) of</u> | 45236 |
| <u>section 2317.02 of the Revised Code;</u> | 45237 |
| <u>(5) Any of the following items that govern the</u> | 45238 |
| <u>confidentiality, privacy, security, or privileged status of</u> | 45239 |
| <u>protected health information in the possession or custody of an</u> | 45240 |
| <u>agency as defined in section 111.15 of the Revised Code; govern</u> | 45241 |
| <u>the process for obtaining from a patient consent to the provision</u> | 45242 |
| <u>of health care or consent for participation in medical or other</u> | 45243 |
| <u>scientific research; govern the process for determining whether an</u> | 45244 |
| <u>adult has a physical or mental impairment or an adult's capacity</u> | 45245 |
| <u>to make health care decisions for purposes of Chapter 5126. of the</u> | 45246 |
| <u>Revised Code; or govern the process for determining whether a</u> | 45247 |
| <u>minor has been emancipated:</u> | 45248 |
| <u>(a) A section of the Revised Code that is not in this</u> | 45249 |
| <u>chapter;</u> | 45250 |
| <u>(b) A rule as defined in section 119.01 of the Revised Code;</u> | 45251 |
| <u>(c) An internal management rule as defined in section 111.15</u> | 45252 |
| <u>of the Revised Code;</u> | 45253 |
| <u>(d) Guidance issued by an agency as defined in section 111.15</u> | 45254 |
| <u>of the Revised Code;</u> | 45255 |
| <u>(e) Orders or regulations of a board of health of a city</u> | 45256 |
| <u>health district made under section 3709.20 of the Revised Code;</u> | 45257 |
| <u>(f) Orders or regulations of a board of health of a general</u> | 45258 |
| <u>health district made under section 3709.21 of the Revised Code;</u> | 45259 |
| <u>(g) An ordinance or resolution adopted by a political</u> | 45260 |

| | |
|---|---|
| <u>subdivision;</u> | 45261 |
| <u>(h) A professional code of ethics;</u> | 45262 |
| <u>(i) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code.</u> | 45263 45264 45265 45266 45267 |
| <u>Sec. 3798.08. (A) A covered entity that accesses protected health information from or through an approved health information exchange or discloses protected health information to an approved health information exchange in a manner that complies with section 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code is not liable in a civil action and is not subject to criminal prosecution or professional disciplinary action arising out of or relating to the access or disclosure.</u> | 45268 45269 45270 45271 45272 45273 45274 45275 45276 |
| <u>(B) An approved health information exchange is not liable in a civil action and not subject to criminal prosecution arising out of or relating to either of the following:</u> | 45277 45278 45279 |
| <u>(1) A covered entity's having accessed protected health information from or through an approved health information exchange;</u> | 45280 45281 45282 |
| <u>(2) A covered entity's disclosure of protected health information to the approved health information exchange if the disclosure complies with section 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code.</u> | 45283 45284 45285 45286 45287 |
| <u>Sec. 3798.10. (A) Not later than six months after the effective date of this section, the director of job and family services, in consultation with the office of health</u> | 45288 45289 45290 |

transformation, shall prescribe by rules adopted in accordance 45291
with Chapter 119. of the Revised Code a standard authorization 45292
form for the use and disclosure of protected health information by 45293
covered entities in this state. The form shall meet all 45294
requirements specified in 45 C.F.R. 164.508 and, where applicable, 45295
42 C.F.R. part 2. 45296

(B) If a form the director prescribes under division (A) of 45297
this section is properly executed by an individual or the 45298
individual's personal representative, it shall be accepted by any 45299
person or governmental entity in this state as valid authorization 45300
for the use or disclosure of the individual's protected health 45301
information to the persons or governmental entities specified in 45302
the form. 45303

(C) This section does not preclude a person or governmental 45304
entity from accepting as valid authorization for the use or 45305
disclosure of protected health information a form other than the 45306
form prescribed under division (A) of this section if the other 45307
form meets all requirements specified in 45 C.F.R. 164.508 and, if 45308
applicable, 42 C.F.R. part 2. 45309

Sec. 3798.12. As used in this section, "agency" has the same 45310
meaning as in section 111.15 of the Revised Code. 45311

(A) Except as provided in division (B) of this section, any 45312
of the following pertaining to the confidentiality, privacy, 45313
security, or privileged status of protected health information 45314
transacted, maintained in, or accessed through a health 45315
information exchange is unenforceable if it conflicts with this 45316
chapter: 45317

(1) A section of the Revised Code that is not in this 45318
chapter; 45319

(2) A rule as defined in section 119.01 of the Revised Code; 45320

| | |
|---|-------|
| <u>(3) An internal management rule as defined in section 111.15</u> | 45321 |
| <u>of the Revised Code;</u> | 45322 |
| <u>(4) Guidance issued by an agency;</u> | 45323 |
| <u>(5) Orders or regulations of a board of health of a city</u> | 45324 |
| <u>health district made under section 3709.20 of the Revised Code;</u> | 45325 |
| <u>(6) Orders or regulations of a board of health of a general</u> | 45326 |
| <u>health district made under section 3709.21 of the Revised Code;</u> | 45327 |
| <u>(7) An ordinance or resolution adopted by a political</u> | 45328 |
| <u>subdivision;</u> | 45329 |
| <u>(8) A professional code of ethics.</u> | 45330 |
| <u>(B) Division (A) of this section does not render</u> | 45331 |
| <u>unenforceable or restrict in any manner any of the following:</u> | 45332 |
| <u>(1) A provision of the Revised Code that on the effective</u> | 45333 |
| <u>date of this section requires a person or governmental entity to</u> | 45334 |
| <u>disclose protected health information to a state agency, political</u> | 45335 |
| <u>subdivision, or other governmental entity;</u> | 45336 |
| <u>(2) The confidential status of proceedings and records within</u> | 45337 |
| <u>the scope of a peer review committee of a health care entity as</u> | 45338 |
| <u>described in section 2305.252 of the Revised Code;</u> | 45339 |
| <u>(3) The confidential status of quality assurance program</u> | 45340 |
| <u>activities and quality assurance records as described in section</u> | 45341 |
| <u>5122.32 of the Revised Code;</u> | 45342 |
| <u>(4) The testimonial privilege established by division (B) of</u> | 45343 |
| <u>section 2317.02 of the Revised Code;</u> | 45344 |
| <u>(5) An item described in divisions (A)(1) to (8) of this</u> | 45345 |
| <u>section that governs any of the following:</u> | 45346 |
| <u>(a) The confidentiality, privacy, security, or privileged</u> | 45347 |
| <u>status of protected health information in the possession or</u> | 45348 |
| <u>custody of an agency;</u> | 45349 |

(b) The process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research; 45350
45351
45352

(c) The process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code; 45353
45354
45355
45356

(d) The process for determining whether a minor has been emancipated. 45357
45358

(6) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code. 45359
45360
45361
45362
45363

Sec. 3798.13. The director of job and family services shall adopt rules for purposes of specifying the criteria a person who is mentally or physically disabled and who is under twenty-one years of age must meet to be considered a minor for purposes of sections 3798.07 and 3798.12 of the Revised Code. 45364
45365
45366
45367
45368

Sec. 3798.14. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing standards the director must use to approve health information exchanges operating in this state. The rules shall not be adopted until the earlier of sixty days following the adoption of a federal certification process for health information exchanges by the office of the national coordinator for health information technology in the United States department of health and human services or January 1, 2013. Subject to division (B) of this section, the rules may include standards and procedures to be 45369
45370
45371
45372
45373
45374
45375
45376
45377
45378
45379

| | |
|--|-------|
| <u>followed by a health information exchange regarding the following:</u> | 45380 |
| <u>(1) Access to and use and disclosure of protected health information maintained by or on an approved health information exchange;</u> | 45381 |
| | 45382 |
| | 45383 |
| <u>(2) Demonstration of adequate financial resources to sustain continued operations in compliance with the rules adopted under this section;</u> | 45384 |
| | 45385 |
| | 45386 |
| <u>(3) Participation in outreach activities for individuals and covered entities;</u> | 45387 |
| | 45388 |
| <u>(4) Conduct of operations in a transparent manner to promote consumer confidence;</u> | 45389 |
| | 45390 |
| <u>(5) Implementation of security breach notification procedures.</u> | 45391 |
| | 45392 |
| <u>(B) The rules the director adopts pursuant to division (A) of this section shall be consistent with certification standards for health information exchanges established in federal statutes and regulations, including nationally recognized standards for interoperability.</u> | 45393 |
| | 45394 |
| | 45395 |
| | 45396 |
| | 45397 |
| <u>Sec. 3798.15.</u> (A) <u>The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing processes for all of the following:</u> | 45398 |
| | 45399 |
| | 45400 |
| | 45401 |
| | 45402 |
| <u>(1) A health information exchange to obtain approval to operate as an approved health information exchange in this state and, at times specified by the director, obtain reapproval of such status;</u> | 45403 |
| | 45404 |
| | 45405 |
| | 45406 |
| <u>(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health</u> | 45407 |
| | 45408 |

| | |
|--|-------|
| <u>information exchange;</u> | 45409 |
| <u>(3) A health information exchange to apply for</u> | 45410 |
| <u>reconsideration of a decision the director makes under a process</u> | 45411 |
| <u>established under division (A)(1) or (2) of this section;</u> | 45412 |
| <u>(4) Covered entities and approved health information</u> | 45413 |
| <u>exchanges to enter into participation agreements and enforce the</u> | 45414 |
| <u>terms of such agreements.</u> | 45415 |
| <u>(B) Any decision the director makes in relation to a request</u> | 45416 |
| <u>for reconsideration made in accordance with rules adopted under</u> | 45417 |
| <u>division (A)(3) of this section is not subject to appeal under</u> | 45418 |
| <u>Chapter 119. of the Revised Code.</u> | 45419 |
| <u>Sec. 3798.16. (A) The director of job and family services, in</u> | 45420 |
| <u>consultation with the office of health transformation, shall adopt</u> | 45421 |
| <u>rules in accordance with Chapter 119. of the Revised Code for the</u> | 45422 |
| <u>purpose of specifying the content of agreements governing covered</u> | 45423 |
| <u>entities' participation in approved health information exchanges.</u> | 45424 |
| <u>At a minimum, the rules shall require the content of such</u> | 45425 |
| <u>participation agreements to include all of the following:</u> | 45426 |
| <u>(1) Procedures for a covered entity to disclose an</u> | 45427 |
| <u>individual's protected health information to an approved health</u> | 45428 |
| <u>information exchange;</u> | 45429 |
| <u>(2) Procedures for a covered entity to access an individual's</u> | 45430 |
| <u>protected health information from an approved health information</u> | 45431 |
| <u>exchange;</u> | 45432 |
| <u>(3) Subject to division (B) of this section, a written notice</u> | 45433 |
| <u>to be provided by a covered entity to an individual or the</u> | 45434 |
| <u>individual's personal representative prior to the covered entity's</u> | 45435 |
| <u>disclosure of the individual's protected health information to an</u> | 45436 |
| <u>approved health information exchange;</u> | 45437 |
| <u>(4) Documentation the covered entity must use to verify that</u> | 45438 |

a notice described in division (A)(3) of this section has been 45439
provided by the covered entity to an individual or the 45440
individual's personal representative prior to the disclosure of 45441
the individual's protected health information to an approved 45442
health information exchange; 45443

(5) Procedures for an individual or the individual's personal 45444
representative to submit to the covered entity a written request 45445
to place restrictions on the covered entity's disclosure of 45446
protected health information to the approved health information 45447
exchange; 45448

(6) The standards a covered entity must use to determine 45449
whether, and to what extent, to comply with a written request 45450
described in division (A)(5) of this section; 45451

(7) The purposes for which a covered entity may access and 45452
use protected health information from the approved health 45453
information exchange. 45454

(B) With respect to the written notice described in division 45455
(A)(3) of this section, the rules may specify that the notice can 45456
be incorporated into the covered entity's notice of privacy 45457
practices required by 45 C.F.R. 164.520 and shall specify that the 45458
notice include the following statements: 45459

(1) The individual's protected health information will be 45460
disclosed to the approved health information exchange to 45461
facilitate the provision of health care to the individual. 45462

(2) The approved health information exchange maintains 45463
appropriate administrative, physical, and technical safeguards to 45464
protect the privacy and security of protected health information. 45465

(3) Only authorized individuals may access and use protected 45466
health information from the approved health information exchange. 45467

(4) The individual or the individual's personal 45468

representative has the right to request in writing that the 45469
covered entity do either or both of the following: 45470

(a) Not disclose any of the individual's protected health 45471
information to the approved health information exchange; 45472

(b) Not disclose specific categories of the individual's 45473
protected health information to the approved health information 45474
exchange. 45475

(5) Any restrictions on the disclosure of protected health 45476
information an individual requests as described in either division 45477
(B)(4)(a) or (b) of this section may result in a health care 45478
provider not having access to information that is necessary for 45479
the provider to render appropriate care to the individual. 45480

(6) Any restrictions on the disclosure of protected health 45481
information an individual requests as described in division 45482
(B)(4)(a) of this section must be honored by the covered entity. 45483

(7) Any restrictions on the disclosure of protected health 45484
information an individual requests as described in division 45485
(B)(4)(b) of this section must be honored if the restriction is 45486
consistent with rules adopted under this chapter. 45487

(C) In adopting standards under division (A)(6) of this 45488
section, the director shall take into consideration the technical 45489
capabilities of software available to health information 45490
exchanges. 45491

Sec. 3905.36. (A) Every insured association, company, 45492
corporation, or other person that enters, directly or indirectly, 45493
into any independent procurement or direct placement agreement 45494
with any insurance company, association, individual, firm, 45495
underwriter, or Lloyd's, not authorized to do business in this 45496
state, whereby the insured shall procure, continue, or renew 45497
contracts of insurance with such unauthorized insurance company, 45498

association, individual, firm, underwriter, or Lloyd's, for which 45499
insurance there is a gross premium, shall file the details of the 45500
transaction annually, on or before the thirty-first day of March, 45501
and shall at the same time pay to the treasurer of state, or to 45502
the superintendent of insurance upon the mutual agreement of the 45503
superintendent and the treasurer, a tax of five per cent of such 45504
gross premium, after a deduction for return premium, if any, as 45505
calculated in the prescribed format or in compliance with any 45506
requirements of the compact entered into by the superintendent 45507
pursuant to division (D) of section 3905.33 of the Revised Code. 45508
An insurer may submit the required details of the transaction and 45509
remit the tax payment on behalf of an insured. 45510

All taxes collected under this section shall be paid into the 45511
general revenue fund. If the tax is not paid when due, the tax 45512
shall be increased by a penalty of twenty-five per cent. An 45513
interest charge computed as set forth in section 5725.221 of the 45514
Revised Code shall be made on the entire sum of the tax plus 45515
penalty, which interest shall be computed from the date the tax is 45516
due until it is paid. For purposes of this section, payment is 45517
considered made when it is received by the treasurer or the 45518
superintendent, irrespective of any United States postal service 45519
marking or other stamp or mark indicating the date on which the 45520
payment may have been mailed. 45521

The superintendent of insurance, in the superintendent's sole 45522
discretion, may waive the twenty-five per cent penalty and 45523
interest charge thereon for a first-time, inadvertent nonpayment 45524
of the tax when due if the nonpayment is reported immediately upon 45525
discovery and the outstanding tax is thereafter immediately paid 45526
to the superintendent. 45527

(B) Each person licensed under section 3905.30 of the Revised 45528
Code shall pay to the treasurer of state, or to the superintendent 45529
of insurance upon the mutual agreement of the superintendent and 45530

the treasurer, on or before the thirty-first day of March of each 45531
year, five per cent of the balance of the gross premiums charged 45532
for insurance placed or procured under the license after a 45533
deduction for return premiums in the prescribed format or in 45534
compliance with any requirements of the compact entered into by 45535
the superintendent pursuant to division (D) of section 3905.33 of 45536
the Revised Code. The tax shall be collected from the insured by 45537
the surplus lines broker who placed or procured the policy of 45538
insurance at the time the policy is delivered to the insured. No 45539
license issued under section 3905.30 of the Revised Code shall be 45540
renewed until payment is made. If the tax is not paid when due, 45541
the tax shall be increased by a penalty of twenty-five per cent. 45542
An interest charge computed as set forth in section 5725.221 of 45543
the Revised Code shall be made on the entire sum of the tax plus 45544
penalty, which interest shall be computed from the date the tax is 45545
due until it is paid. For purposes of this section, payment is 45546
considered made when it is received by the treasurer or the 45547
superintendent, irrespective of any United States postal service 45548
marking or other stamp or mark indicating the date on which the 45549
payment may have been mailed. 45550

The superintendent, in the superintendent's sole discretion, 45551
may waive the twenty-five per cent penalty and interest charge 45552
thereon for a first-time, inadvertent nonpayment of the tax when 45553
due if the nonpayment is reported immediately upon discovery and 45554
the outstanding tax is thereafter immediately paid to the 45555
superintendent. 45556

(C) This section does not apply to: 45557

(1) An insured otherwise exempt from the payment of premium 45558
or franchise taxes under state or federal law; 45559

(2) Attorneys-at-law acting on behalf of their clients in the 45560
adjustment of claims or losses; 45561

| | |
|---|---|
| (3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following: | 45562 45563 45564 |
| (a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners; | 45565 45566 45567 45568 45569 |
| (b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members; | 45570 45571 45572 45573 |
| (c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds. | 45574 45575 45576 45577 |
| (4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code; | 45578 45579 |
| (5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance; | 45580 45581 45582 45583 |
| (6) Insurance procured on behalf of an entity that manufactures, packages, and sells, as more than fifty per cent of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are subject to regulation by an agency of the United States; | 45584 45585 45586 45587 45588 |
| (7) A political subdivision or any combination or consortium of two or more political subdivisions. | 45589 45590 |
| (D) As used in this section: | 45591 |

(1) "Political subdivision" means any county; municipal 45592
corporation; township; township police district; township fire 45593
district; joint fire district; joint ambulance district; joint 45594
emergency medical services district; fire and ambulance district; 45595
joint recreation district; township waste disposal district; 45596
township road district; community college district; technical 45597
college district; detention facility district; a district 45598
organized under section 2151.65 of the Revised Code; a combined 45599
district organized under sections 2151.65 and 2152.41 of the 45600
Revised Code; a joint-county alcohol, drug addiction, and mental 45601
health service district; a drainage improvement district created 45602
under section 6131.52 of the Revised Code; a union cemetery 45603
district; a county school financing district; a city, local, 45604
exempted village, cooperative education, or joint vocational 45605
school district; or a regional student education district created 45606
under section 3313.83 of the Revised Code, any public division, 45607
district, commission, authority, department, board, officer, or 45608
institution of any one or more of those political subdivisions, 45609
that is entirely or substantially supported by public tax moneys. 45610

(2) "Municipal corporation" means all municipal corporations, 45611
including those that have adopted a charter under Article XVIII, 45612
Ohio Constitution. 45613

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 45614
section 4104.99 of the Revised Code: 45615

(A) "Board of building standards" or "board" means the board 45616
established by section 3781.07 of the Revised Code. 45617

(B) "Superintendent" means the superintendent of ~~labor~~ 45618
industrial compliance created by section 121.04 of the Revised 45619
Code. 45620

(C) "Boiler" means a closed vessel in which water is heated, 45621
steam is generated, steam is superheated, or any combination 45622

thereof, under pressure or vacuum for use externally to itself by 45623
the direct application of heat from the combustion of fuels, or 45624
from electricity or nuclear energy. "Boiler" includes fired units 45625
for heating or vaporizing liquids other than water where these 45626
units are separate from processing systems and are complete within 45627
themselves. 45628

(D) "Power boiler" means a boiler in which steam or other 45629
vapor (to be used externally to itself) is generated at a pressure 45630
of more than fifteen psig. 45631

(E) "High pressure, high temperature water boiler" means a 45632
water heating boiler operating at pressures exceeding one hundred 45633
sixty psig or temperatures exceeding two hundred fifty degrees 45634
Fahrenheit. 45635

(F) "Low pressure boiler" means a steam boiler operating at 45636
pressures not exceeding fifteen psig, or a hot water heating 45637
boiler operating at pressures not exceeding one hundred sixty psig 45638
or temperatures not exceeding two hundred fifty degrees 45639
Fahrenheit. 45640

(G) "Pressure vessel" means a container for the containment 45641
of pressure, either internal or external. This pressure may be 45642
obtained from an external source or by the application of heat 45643
from a direct or indirect source or any combination thereof. 45644

(H) "Process boiler" means a boiler to which all of the 45645
following apply: 45646

(1) The steam in the boiler is either generated or 45647
superheated, or both, under pressure or vacuum for use external to 45648
itself. 45649

(2) The source of heat for the boiler is in part or in whole 45650
from a process other than the boiler itself. 45651

(3) The boiler is part of a continuous processing unit, such 45652

as used in chemical manufacture or petroleum refining, other than 45653
a steam-generated process unit. 45654

(I) "Stationary steam engine" means an engine or turbine in 45655
which the mechanical force arising from the elasticity and 45656
expansion action of steam or from its property of rapid 45657
condensation or from a combination of the two is made available as 45658
a motive power. 45659

Sec. 4104.02. The board of building standards shall: 45660

(A) Formulate rules for the construction, installation, 45661
repair, conservation of energy, and operation of boilers and the 45662
construction and repair of pressure vessels and for ascertaining 45663
the safe working pressures to be carried on such boilers and 45664
pressure vessels and the qualification of inspectors of boilers 45665
and pressure vessels; 45666

(B) Prescribe tests, if it is considered necessary, to 45667
ascertain the qualities of materials used in the construction of 45668
boilers and pressure vessels; 45669

(C) Adopt rules regulating the construction and sizes of 45670
safety valves for boilers and pressure vessels of different sizes 45671
and pressures, for the construction, use, and location of fusible 45672
plugs, appliances for indicating the pressure of steam and level 45673
of water in the boiler or pressure vessels, and such other 45674
appliances as the board considers necessary to safety in operating 45675
boilers; 45676

(D) Establish reasonable fees for the performance of reviews, 45677
surveys, or audits of manufacturer's facilities by the division of 45678
~~labor~~ industrial compliance for certification by the American 45679
society of mechanical engineers and the national board of boiler 45680
and pressure vessel inspectors; 45681

(E) The definitions and rules adopted by the board for the 45682

construction, installation, repair, conservation of energy, and 45683
operation of boilers and the construction and repair of pressure 45684
vessels and for ascertaining the safe working pressures to be used 45685
on such boilers and pressure vessels shall be based upon and 45686
follow generally accepted engineering standards, formulae, and 45687
practices established and pertaining to boilers and pressure 45688
vessel construction, operation, and safety, and the board may, for 45689
this purpose, adopt existing published standards as well as 45690
amendments thereto subsequently published by the same authority. 45691

When a person desires to manufacture a special type of boiler 45692
or pressure vessel, the design of which is not covered by the 45693
rules of the board, the person shall submit drawings and 45694
specifications of such boiler or pressure vessel to the board for 45695
investigation, after which the board may permit its installation. 45696

The provisions of sections 119.03 and 119.11 of the Revised 45697
Code in particular, and the applicable provisions of Chapter 119. 45698
of the Revised Code in general, shall govern the proceedings of 45699
the board of building standards in adopting, amending, or 45700
rescinding rules pursuant to this section. 45701

Sec. 4104.06. (A) The inspection of boilers and their 45702
appurtenances and pressure vessels shall be made by the inspectors 45703
mentioned in sections 4104.07 to 4104.20 of the Revised Code. The 45704
superintendent of ~~labor~~ industrial compliance shall administer and 45705
enforce such sections and rules adopted by the board of building 45706
standards pursuant to section 4104.02 of the Revised Code. 45707

(B) The superintendent shall adopt, amend, and repeal rules 45708
exclusively for the issuance, renewal, suspension, and revocation 45709
of certificates of competency and certificates of operation, for 45710
conducting hearings in accordance with Chapter 119. of the Revised 45711
Code related to these actions, and for the inspection of boilers 45712
and their appurtenances, and pressure vessels. 45713

(C) Notwithstanding division (B) of this section, the 45714
superintendent shall not adopt rules relating to construction, 45715
maintenance, or repair of boilers and their appurtenances, or 45716
repair of pressure vessels. 45717

(D) The superintendent and each general inspector may enter 45718
any premises and any building or room at all reasonable hours to 45719
perform an examination or inspection. 45720

Sec. 4104.07. (A) An application for examination as an 45721
inspector of boilers and pressure vessels shall be in writing, 45722
accompanied by a fee of one hundred fifty dollars, upon a blank to 45723
be furnished by the superintendent of ~~labor~~ industrial compliance. 45724
Any moneys collected under this section shall be paid into the 45725
state treasury to the credit of the ~~labor~~ industrial compliance 45726
operating fund created in section 121.084 of the Revised Code. 45727

(B) The superintendent shall determine if an applicant meets 45728
all the requirements for examination in accordance with rules 45729
adopted by the board of building standards under section 4104.02 45730
of the Revised Code. An application shall be rejected which 45731
contains any willful falsification, or untruthful statements. 45732

(C) An applicant shall be examined by the superintendent, by 45733
a written examination, prescribed by the board, dealing with the 45734
construction, installation, operation, maintenance, and repair of 45735
boilers and pressure vessels and their appurtenances, and the 45736
applicant shall be accepted or rejected on the merits of the 45737
applicant's application and examination. 45738

(D) Upon a favorable report by the superintendent of the 45739
result of an examination, the superintendent shall immediately 45740
issue to the successful applicant a certificate of competency to 45741
that effect. 45742

Sec. 4104.08. (A) The director of commerce may appoint from 45743

the holders of certificates of competency provided for in section 45744
4104.07 of the Revised Code, general inspectors of boilers and 45745
pressure vessels. 45746

(B) Any company authorized to insure boilers and pressure 45747
vessels against explosion in this state may designate from holders 45748
of certificates of competency issued by the superintendent of 45749
~~labor~~ industrial compliance, or holders of certificates of 45750
competency or commissions issued by other states or nations whose 45751
examinations for certificates or commissions have been approved by 45752
the board of building standards, persons to inspect and stamp 45753
boilers and pressure vessels covered by the company's policies, 45754
and the superintendent shall issue to such persons commissions 45755
authorizing them to act as special inspectors. Special inspectors 45756
shall be compensated by the company designating them. 45757

(C) The director shall establish an annual fee to be charged 45758
by the superintendent for each certificate of competency or 45759
commission the superintendent issues. 45760

(D) The superintendent shall issue to each general or special 45761
inspector a commission to the effect that the holder thereof is 45762
authorized to inspect boilers and pressure vessels in this state. 45763

(E) No person shall be authorized to act as a general 45764
inspector or a special inspector who is directly or indirectly 45765
interested in the manufacture or sale of boilers or pressure 45766
vessels. 45767

Sec. 4104.09. The certificate of competency issued under 45768
section 4104.07 of the Revised Code or the commission provided for 45769
in section 4104.08 of the Revised Code may be revoked by the 45770
superintendent of ~~labor~~ industrial compliance for the incompetence 45771
or untrustworthiness of the holder thereof, or for willful 45772
falsification of any matter or statement contained in the holder's 45773
application or in a report of any inspection in accordance with 45774

Chapter 119. of the Revised Code. If a certificate or commission 45775
is lost or destroyed, a new certificate or commission shall be 45776
issued in its place without another examination. 45777
45778

Sec. 4104.10. All unfired pressure vessels, except unfired 45779
pressure vessels exempt under section 4104.04 of the Revised Code, 45780
shall be thoroughly inspected during fabrication and upon 45781
completion and shall not be operated until a copy of the 45782
manufacturers' data report, properly executed and signed by the 45783
inspector is filed in the office of the superintendent of ~~labor~~ 45784
industrial compliance. All unfired pressure vessels shall conform 45785
in every detail with applicable rules adopted by the board of 45786
building standards pursuant to section 4104.02 of the Revised 45787
Code. 45788

Sec. 4104.101. (A) No person shall install or make major 45789
repairs or modifications to any boiler without first registering 45790
to do so with the division of ~~labor~~ industrial compliance. 45791

(B) No person shall make any installation or major repair or 45792
modification of any boiler without first obtaining a permit to do 45793
so from the division. The permit application form shall provide 45794
the name and address of the owner, location of the boiler, and 45795
type of repair or modification that will be made. The application 45796
permit fee shall be one hundred dollars. 45797

(C) The superintendent of ~~labor~~ industrial compliance shall 45798
require annual registration of all contractors who install, make 45799
major repairs to, or modify any boiler. The board of building 45800
standards shall establish a reasonable fee to cover the cost of 45801
processing registrations. 45802

Sec. 4104.12. All boilers, except boilers mentioned in 45803
section 4104.04 of the Revised Code, shall be inspected when 45804

installed and shall not be operated until an appropriate 45805
certificate of operation has been issued by the superintendent of 45806
~~labor~~ industrial compliance. The certificate of operation required 45807
by this section shall not be issued for any boiler which has not 45808
been thoroughly inspected during construction and upon completion, 45809
by either a general or special inspector, and which does not 45810
conform in every detail with the rules adopted by the board of 45811
building standards and unless, upon completion, such boiler is 45812
distinctly stamped under such rules by such inspector. 45813

Sec. 4104.15. (A) All certificates of inspection for boilers, 45814
issued prior to October 15, 1965, are valid and effective for the 45815
period set forth in such certificates unless sooner withdrawn by 45816
the superintendent of ~~labor~~ industrial compliance. The owner or 45817
user of any such boiler shall obtain an appropriate certificate of 45818
operation for such boiler, and shall not operate such boiler, or 45819
permit it to be operated unless a certificate of operation has 45820
been obtained in accordance with section 4104.17 of the Revised 45821
Code. 45822

(B) If, upon making the internal and external inspection 45823
required under sections 4104.11, 4104.12, and 4104.13 of the 45824
Revised Code, the inspector finds the boiler to be in safe working 45825
order, with the fittings necessary to safety, and properly set up, 45826
upon the inspector's report to the superintendent, the 45827
superintendent shall issue to the owner or user thereof, or renew, 45828
upon application and upon compliance with sections 4104.17 and 45829
4104.18 of the Revised Code, a certificate of operation which 45830
shall state the maximum pressure at which the boiler may be 45831
operated, as ascertained by the rules of the board of building 45832
standards. Such certificates shall also state the name of the 45833
owner or user, the location, size, and number of each boiler, and 45834
the date of issuance, and shall be so placed as to be easily read 45835
in the engine room or boiler room of the plant where the boiler is 45836

located, except that the certificate of operation for a portable 45837
boiler shall be kept on the premises and shall be accessible at 45838
all times. 45839

(C) If an inspector at any inspection finds that the boiler 45840
or pressure vessel is not in safe working condition, or is not 45841
provided with the fittings necessary to safety, or if the fittings 45842
are improperly arranged, the inspector shall immediately notify 45843
the owner or user and person in charge of the boiler and shall 45844
report the same to the superintendent who may revoke, suspend, or 45845
deny the certificate of operation and not renew the same until the 45846
boiler or pressure vessel and its fittings are put in condition to 45847
insure safety of operation, and the owner or user shall not 45848
operate the boiler or pressure vessel, or permit it to be operated 45849
until such certificate has been granted or restored. 45850

(D) If the superintendent or a general boiler inspector finds 45851
that a pressure vessel or boiler or a part thereof poses an 45852
explosion hazard that reasonably can be regarded as posing an 45853
imminent danger of death or serious physical harm to persons, the 45854
superintendent or the general boiler inspector shall seal the 45855
pressure vessel or boiler and order, in writing, the operator or 45856
owner of the pressure vessel or boiler to immediately cease the 45857
pressure vessel's or boiler's operation. The order shall be 45858
effective until the nonconformities are eliminated, corrected, or 45859
otherwise remedied, or for a period of seventy-two hours from the 45860
time of issuance, whichever occurs first. During the 45861
seventy-two-hour period, the superintendent may request that the 45862
prosecuting attorney or city attorney of Franklin county or of the 45863
county in which the pressure vessel or boiler is located obtain an 45864
injunction restraining the operator or owner of the pressure 45865
vessel or boiler from continuing its operation after the 45866
seventy-two-hour period expires until the nonconformities are 45867
eliminated, corrected, or otherwise remedied. 45868

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the pressure vessel or boiler safely.

Sec. 4104.16. The owner or user of any boiler required by sections 4104.01 to 4104.20 of the Revised Code, to be inspected, shall immediately notify the superintendent of ~~labor~~ industrial compliance in case a defect affecting the safety of the boiler is discovered.

The owner or user of any stationary boiler required by such sections to be inspected, who moves the same, shall report to the superintendent the new location of the boiler. Such boiler shall be inspected before it is again operated.

Sec. 4104.17. Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code

shall be issued and renewed in accordance with and at dates 45899
prescribed by rules and regulations adopted by the superintendent 45900
of ~~labor~~ industrial compliance. 45901

Sec. 4104.18. (A) The owner or user of a boiler required 45902
under section 4104.12 of the Revised Code to be inspected upon 45903
installation, and the owner or user of a boiler for which a 45904
certificate of inspection has been issued which is replaced with 45905
an appropriate certificate of operation, shall pay to the 45906
superintendent of ~~labor~~ industrial compliance a fee in the amount 45907
of fifty dollars for boilers subject to annual inspections under 45908
section 4104.11 of the Revised Code, one hundred dollars for 45909
boilers subject to biennial inspection under section 4104.13 of 45910
the Revised Code, one hundred fifty dollars for boilers subject to 45911
triennial inspection under section 4104.11 of the Revised Code, or 45912
two hundred fifty dollars for boilers subject to quinquennial 45913
inspection under section 4104.13 of the Revised Code. 45914

(B) The fee for complete inspection during construction by a 45915
general inspector on boilers and pressure vessels manufactured 45916
within the state shall be thirty-five dollars per hour. Boiler and 45917
pressure vessel manufacturers other than those located in the 45918
state may secure inspection by a general inspector on work during 45919
construction, upon application to the superintendent, and upon 45920
payment of a fee of thirty-five dollars per hour, plus the 45921
necessary traveling and hotel expenses incurred by the inspector. 45922

(C) The application fee for applicants for steam engineer, 45923
high pressure boiler operator, or low pressure boiler operator 45924
licenses is seventy-five dollars. The fee for each original or 45925
renewal steam engineer, high pressure boiler operator, or low 45926
pressure boiler operator license is fifty dollars. 45927

(D) The director of commerce, subject to the approval of the 45928
controlling board, may establish fees in excess of the fees 45929

provided in divisions (A), (B), and (C) of this section. Any 45930
moneys collected under this section shall be paid into the state 45931
treasury to the credit of the ~~labor~~ industrial compliance 45932
operating fund created in section 121.084 of the Revised Code. 45933

(E) Any person who fails to pay an invoiced renewal fee or an 45934
invoiced inspection fee required for any inspection conducted by 45935
the division of ~~labor~~ industrial compliance pursuant to this 45936
chapter within forty-five days of the invoice date shall pay a 45937
late payment fee equal to twenty-five per cent of the invoiced 45938
fee. 45939

(F) In addition to the fees assessed in divisions (A) and (B) 45940
of this section, the board of building standards shall assess the 45941
owner or user a fee of three dollars and twenty-five cents for 45942
each certificate of operation or renewal thereof issued under 45943
division (A) of this section and for each inspection conducted 45944
under division (B) of this section. The board shall adopt rules, 45945
in accordance with Chapter 119. of the Revised Code, specifying 45946
the manner by which the superintendent shall collect and remit to 45947
the board the fees assessed under this division and requiring that 45948
remittance of the fees be made at least quarterly. 45949

Sec. 4104.19. (A) Any person seeking a license to operate as 45950
a steam engineer, high pressure boiler operator, or low pressure 45951
boiler operator shall file a written application with the 45952
superintendent of ~~labor~~ industrial compliance on a form prescribed 45953
by the superintendent with the appropriate application fee as set 45954
forth in section 4104.18 of the Revised Code. The application 45955
shall contain information satisfactory to the superintendent to 45956
demonstrate that the applicant meets the requirements of division 45957
(B) of this section. The application shall be filed with the 45958
superintendent not more than sixty days and not less than thirty 45959
days before the license examination is offered. 45960

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for

which the applicant is seeking licensure. 45991

(F) Each license issued under this chapter expires one year 45992
after the date of issue. Each person holding a valid, unexpired 45993
license may renew the license, without reexamination, by applying 45994
to the superintendent not more than ninety days before the 45995
expiration of the license, and submitting with the application the 45996
renewal fee established in section 4104.18 of the Revised Code. 45997
Upon receipt of the renewal information and fee, the 45998
superintendent shall issue the licensee a certificate of renewal. 45999

(G) The superintendent, in accordance with Chapter 119. of 46000
the Revised Code, may suspend or revoke any license, or may refuse 46001
to issue a license under this chapter upon finding that a licensee 46002
or an applicant for a license has violated or is violating the 46003
requirements of this chapter. 46004

Sec. 4104.21. On receipt of a notice pursuant to section 46005
3123.43 of the Revised Code, the superintendent of ~~labor~~ 46006
industrial compliance shall comply with sections 3123.41 to 46007
3123.50 of the Revised Code and any applicable rules adopted under 46008
section 3123.63 of the Revised Code with respect to a certificate 46009
or license issued pursuant to this chapter. 46010

Sec. 4104.33. There is hereby created the historical boilers 46011
licensing board consisting of seven members, three of whom shall 46012
be appointed by the governor with the advice and consent of the 46013
senate. The governor shall make initial appointments to the board 46014
within ninety days after October 24, 2002. Of the initial members 46015
appointed by the governor, one shall be for a term ending three 46016
years after October 24, 2002, one shall be for a term ending four 46017
years after October 24, 2002, and one shall be for a term ending 46018
five years after October 24, 2002. Thereafter, terms of office 46019
shall be for five years, each term ending on the same day of the 46020

same month of the year as did the term that it succeeds. Of the 46021
three members the governor appoints, one member shall be an 46022
employee of the division of boiler inspection in the department of 46023
commerce; one member shall be an independent mechanical engineer 46024
who is not involved in selling or inspecting historical boilers; 46025
and one shall be an active member of an association that 46026
represents managers of fairs or festivals. 46027

Two members of the board shall be appointed by the president 46028
of the senate and two members of the board shall be appointed by 46029
the speaker of the house of representatives. The president and 46030
speaker shall make initial appointments to the board within ninety 46031
days after October 24, 2002. Of the initial members appointed by 46032
the president, one shall be for a term ending four years after 46033
October 24, 2002 and one shall be for a term ending five years 46034
after October 24, 2002. Of the initial members appointed by the 46035
speaker, one shall be for a term ending three years after October 46036
24, 2002 and one shall be for a term ending five years after 46037
October 24, 2002. Thereafter, terms of office shall be for five 46038
years, each term ending on the same day of the same month of the 46039
year as did the term that it succeeds. Of the four members 46040
appointed by the president and speaker, each shall own a 46041
historical boiler and also have at least ten years of experience 46042
in the operation of historical boilers, and each of these four 46043
members shall reside in a different region of the state. 46044

Each member shall hold office from the date of the member's 46045
appointment until the end of the term for which the member was 46046
appointed. Members may be reappointed. Vacancies shall be filled 46047
in the manner provided for initial appointments. Any member 46048
appointed to fill a vacancy occurring prior to the expiration date 46049
of the term for which the member's predecessor was appointed shall 46050
hold office as a member for the remainder of that term. A member 46051
shall continue in office subsequent to the expiration date of the 46052

member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~labor~~ industrial compliance shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;

(3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

(a) The specific edition of the code for pressure piping used in the design;

| | |
|--|--|
| (b) The design assumptions; | 46083 |
| (c) The calculations, piping material specifications, and construction documents for the piping; | 46084 46085 |
| (d) The records of piping alterations; | 46086 |
| (e) The piping examination and inspection records. | 46087 |
| (2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code. | 46088 46089 46090 46091 46092 46093 46094 46095 |
| (C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of labor <u>industrial compliance</u> in the department of commerce or to a certified building department for approval. | 46096 46097 46098 46099 |
| (D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code. | 46100 46101 |
| Sec. 4104.43. (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping. | 46102 46103 46104 46105 |
| (2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems. | 46106 46107 46108 46109 |
| (B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division | 46110 46111 46112 |

(A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of ~~labor~~ industrial compliance in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of ~~labor~~ industrial compliance shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of ~~labor~~ industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 46144
4104.48 of the Revised Code, fail to perform any duty lawfully 46145
enjoined in connection with those sections, or fail to comply with 46146
any order issued by the superintendent of ~~labor~~ industrial 46147
compliance or any judgment or decree issued by any court in 46148
connection with the enforcement of sections 4104.41 to 4104.48 of 46149
the Revised Code. 46150

(B) Every day during which a person violates sections 4104.41 46151
to 4104.48 of the Revised Code, fails to perform any duty lawfully 46152
enjoined in connection with those sections, or fails to comply 46153
with any order issued by the superintendent or any judgment or 46154
decree issued by any court in connection with the enforcement of 46155
sections 4104.41 to 4104.48 of the Revised Code constitutes a 46156
separate offense. 46157

Sec. 4105.01. As used in this chapter: 46158

(A) "Elevator" means a hoisting and lowering apparatus 46159
equipped with a car, cage, or platform which moves on or between 46160
permanent rails or guides and serves two or more fixed landings in 46161
a building or structure to which section 3781.06 of the Revised 46162
Code applies. "Elevator" includes dumb-waiters other than 46163
hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, 46164
moving walks, of the endless belt type, other lifting or lowering 46165
apparatus permanently installed on or between rails or guides, and 46166
all equipment, machinery, and construction related to any 46167
elevator; but does not include construction hoists and other 46168
similar temporary lifting or lowering apparatuses, ski lifts, 46169
traveling, portable amusement rides or devices that are not 46170
affixed to a permanent foundation, or nonportable amusement rides 46171
or devices that are affixed to a permanent foundation. 46172

(B) "Passenger elevator" means an elevator that is designed 46173

to carry persons to its contract capacity. 46174

(C) "Freight elevator" means an elevator normally used for 46175
carrying freight and on which only the operator and employees in 46176
the pursuit of their duties, by the permission of the employer, 46177
are allowed to ride. 46178

(D) "Gravity elevator" means an elevator utilizing gravity to 46179
move. 46180

(E) "General inspector" means a state inspector examined and 46181
hired to inspect elevators and lifting apparatus for that state. 46182

(F) "Special inspector" means an inspector examined and 46183
commissioned by the superintendent of ~~labor~~ industrial compliance 46184
to inspect elevators and lifting apparatus in the state. 46185

(G) "Inspector" means either a general or special inspector. 46186

Sec. 4105.02. No person may act, either as a general 46187
inspector or as a special inspector, of elevators, unless the 46188
person holds a certificate of competency from the division of 46189
~~labor~~ industrial compliance. 46190

Application for examination as an inspector of elevators 46191
shall be in writing, accompanied by a fee to be established as 46192
provided in section 4105.17 of the Revised Code, and upon a blank 46193
to be furnished by the division, stating the school education of 46194
the applicant, a list of the applicant's employers, the 46195
applicant's period of employment, and the position held with each. 46196
An applicant shall also submit a letter from one or more of the 46197
applicant's previous employers certifying as to the applicant's 46198
character and experience. 46199

Applications shall be rejected which contain any willful 46200
falsification or untruthful statements. An applicant, if the 46201
division considers the applicant's history and experience 46202
sufficient, shall be examined by the superintendent of ~~labor~~ 46203

industrial compliance by a written examination dealing with the 46204
construction, installation, operation, maintenance, and repair of 46205
elevators and their appurtenances, and the applicant shall be 46206
accepted or rejected on the merits of the applicant's application 46207
and examination. 46208

The superintendent shall issue a certificate of competency in 46209
the inspection of elevators to any applicant found competent upon 46210
examination. A rejected applicant shall be entitled, after the 46211
expiration of ninety days and upon payment of an examination fee 46212
to be established as provided in section 4105.17 of the Revised 46213
Code, to another examination. Should an applicant fail to pass the 46214
prescribed examination on second trial, the applicant will not be 46215
permitted to be an applicant for another examination for a period 46216
of one year after the second examination. 46217

Sec. 4105.03. The superintendent of ~~labor~~ industrial 46218
compliance, with the consent of the director of commerce, shall 46219
hire an assistant who has at least ten years of experience in the 46220
construction, installation, maintenance, and repair of elevators 46221
and their appurtenances. 46222

The superintendent, with the consent of the director, and in 46223
compliance with Chapter 124. of the Revised Code, may appoint and 46224
hire general inspectors of elevators from the holders of 46225
certificates of competency. 46226

Sec. 4105.04. From the holders of certificates of competency 46227
in the inspection of elevators, any company that is authorized to 46228
insure elevators in the state, may designate persons to inspect 46229
elevators covered by such company's policies, and the department 46230
of public safety of any city and the clerk of any village may 46231
designate persons to inspect elevators in such city or village. 46232
Such persons shall, upon the payment of a fee to be established as 46233

provided in section 4105.17 of the Revised Code, have issued to 46234
them annually by the division of ~~labor~~ industrial compliance, 46235
commissions to serve as special inspectors of elevators in the 46236
state. 46237

Sec. 4105.05. A commission to serve as a special inspector 46238
may be suspended or revoked by the superintendent of ~~labor~~ 46239
industrial compliance, for the incompetence or untrustworthiness 46240
of the holder thereof, or for the falsification of any matter or 46241
statement contained in the holder's application or in a report of 46242
any inspection. 46243

Sec. 4105.06. If a certificate or commission issued under 46244
sections 4105.02 and 4105.04 of the Revised Code is lost or 46245
destroyed a new one shall be issued in its place by the division 46246
of ~~labor~~ industrial compliance without another examination, upon 46247
the payment of a fee to be established as provided in section 46248
4105.07 of the Revised Code. 46249

Sec. 4105.09. The owner or user of any elevator shall 46250
register, with the division of ~~labor~~ industrial compliance, every 46251
elevator operated by the owner or user, giving the type, capacity, 46252
and description, name of manufacturer, and purpose for which each 46253
is used. Such registration shall be made on a form to be furnished 46254
by the division. 46255

Sec. 4105.11. The inspection of elevators shall be made by 46256
the inspectors authorized in sections 4105.03 and 4105.04 of the 46257
Revised Code, under the supervision of the superintendent of ~~labor~~ 46258
industrial compliance, and the superintendent shall enforce this 46259
chapter and any rules adopted pursuant thereto. 46260

Every inspector shall forward to the superintendent a full 46261
and complete report of each inspection made of any elevator and 46262

shall, on the day the inspection is completed, leave a copy of 46263
such report with the owner or operator of the elevator, or the 46264
owner's or operator's agent or representative. Such report shall 46265
indicate the exact condition of the elevator and shall list any 46266
and all of the provisions of this chapter and any rules adopted 46267
pursuant thereto, with which the elevator does not comply. Before 46268
attempting to enforce, by any remedy, civil or criminal, the 46269
provisions with which the inspected elevator does not comply, the 46270
chief shall issue an adjudication order within the meaning of 46271
Chapter 119. of the Revised Code. 46272

The approval of construction plans, or an application of 46273
specifications under section 4105.16 of the Revised Code is a 46274
license, and the failure to approve such plans or specifications 46275
by the chief within sixty days after they are filed is an 46276
adjudication order denying the issuance of a license. 46277

Every adjudication order shall specify what appliances, site 46278
preparations, additions, repairs, or alterations to any elevators, 46279
plans, materials, assemblages, or procedures are necessary for the 46280
same to comply with this chapter, or any rules adopted pursuant 46281
thereto. Such adjudication order shall be issued pursuant to 46282
Chapter 119. of the Revised Code and shall be effective without 46283
prior hearing, within thirty days after the receipt of such order, 46284
the owner of the elevator specified therein may appeal to the 46285
board of building appeals under section 3781.19 of the Revised 46286
Code. 46287

Notwithstanding the provisions of Chapter 119. of the Revised 46288
Code relating to adjudication hearings, a stenographic or 46289
mechanical record of the testimony and other evidence submitted 46290
before the board of building appeals shall be taken at the expense 46291
of the agency. A party adversely affected by an order issued 46292
following such adjudication hearing may appeal to the court of 46293
common pleas of the county in which the party is a resident or in 46294

which the elevator affected by such order is located. The court in 46295
such case shall not be confined to the record as certified to it 46296
by the agency, but any party may produce additional evidence and 46297
the court shall hear the matter upon such record and such 46298
additional evidence as is introduced by any party. The court shall 46299
not affirm the order of the agency unless the preponderance of the 46300
evidence before it supports the reasonableness and lawfulness of 46301
such order, and of any rules upon which the order of the agency is 46302
based in its application to the facts involved in the appeal. 46303

Failure to comply with the requirements of any order issued 46304
pursuant to this section or the continued operation of any 46305
elevator after it has been sealed pursuant to section 4105.21 of 46306
the Revised Code is hereby declared a public nuisance. 46307

Sec. 4105.12. (A) The superintendent of ~~labor~~ industrial 46308
compliance shall adopt, amend, and repeal rules exclusively for 46309
the issuance, renewal, suspension, and revocation of certificates 46310
of competency and certificates of operation, for the conduct of 46311
hearings related to these actions, and for the inspection of 46312
elevators. 46313

(B) Notwithstanding division (A) of this section, the 46314
superintendent shall not adopt rules relating to construction, 46315
maintenance, and repair of elevators. 46316

Sec. 4105.13. Every elevator shall be constructed, equipped, 46317
maintained, and operated, with respect to the supporting members, 46318
elevator car, shaftways, guides, cables, doors, and gates, safety 46319
stops and mechanism, electrical apparatus and wiring, mechanical 46320
apparatus, counterweights, and all other appurtenances, in 46321
accordance with state laws and rules as are authorized in respect 46322
thereto. Where reasonable safety is obtained without complying to 46323
the literal requirements of such rules as in cases of practical 46324

difficulty or unnecessary hardship, the literal requirements of 46325
such rules shall not be required. The superintendent of ~~labor~~ 46326
industrial compliance may permit the installation of vertical 46327
wheelchair lifts in public buildings to provide for handicapped 46328
accessibility where such lifts do not meet the literal 46329
requirements of the rules adopted by the board of building 46330
standards pursuant to section 4105.011 of the Revised Code, 46331
provided that reasonable safety may be obtained. 46332

Sec. 4105.15. No certificate of operation for any elevator 46333
shall be issued by the director of commerce until such elevator 46334
has been inspected as required by this chapter. Certificates of 46335
operation shall be renewed by the owner or user of the elevator in 46336
accordance with rules adopted by the superintendent of ~~labor~~ 46337
industrial compliance pursuant to section 4105.12 of the Revised 46338
Code. 46339

Sec. 4105.16. Before any new installation of an elevator of 46340
permanent nature is erected or before any existing elevator is 46341
removed to and installed in a different location, an application 46342
of specifications in duplicate shall be submitted to the division 46343
of ~~labor~~ industrial compliance giving such information concerning 46344
the construction, installation, and operation of said elevator as 46345
the division may require on forms to be furnished by the division, 46346
together with complete construction plans in duplicate. In all 46347
cases where any changes or repairs are made which alter its 46348
construction of classification, grade or rated lifting capacity, 46349
except when made pursuant to a report of an inspector, an 46350
application of specifications in duplicate shall be submitted to 46351
the division, containing such information, or approval, except in 46352
those municipal corporations which maintain their own elevator 46353
inspection departments, in which event such specifications shall 46354
be submitted to the elevator department of the municipal 46355

corporation for its approval, and if approved, a permit for the 46356
erection or repair of such elevator shall be issued by the 46357
municipal corporation. Upon approval of such application and 46358
construction plans, the superintendent of ~~labor~~ industrial 46359
compliance shall issue a permit for the erection or repair of such 46360
elevator. No new elevator shall be operated until completion in 46361
accordance with the approved plans and specifications, unless a 46362
temporary permit is granted by the division. 46363

The final inspection, before operation, of a permanent, new 46364
or repaired elevator shall be made by a general inspector or a 46365
special inspector designated by the superintendent. 46366

Sec. 4105.17. (A) The fee for each inspection, or attempted 46367
inspection that, due to no fault of a general inspector or the 46368
division of ~~labor~~ industrial compliance, is not successfully 46369
completed, by a general inspector before the operation of a 46370
permanent new elevator prior to the issuance of a certificate of 46371
operation, before operation of an elevator being put back into 46372
service after a repair or after an adjudication under section 46373
4105.11 of the Revised Code, or as a result of the operation of 46374
section 4105.08 of the Revised Code and is an elevator required to 46375
be inspected under this chapter is one hundred twenty dollars plus 46376
ten dollars for each floor where the elevator stops. The 46377
superintendent of ~~labor~~ industrial compliance may assess an 46378
additional fee of one hundred twenty dollars plus ten dollars for 46379
each floor where an elevator stops for the reinspection of an 46380
elevator when a previous attempt to inspect that elevator has been 46381
unsuccessful through no fault of a general inspector or the 46382
division of ~~labor~~ industrial compliance. 46383

(B) The fee for each inspection, or attempted inspection, 46384
that due to no fault of the general inspector or the division, is 46385
not successfully completed by a general inspector before operation 46386

of a permanent new escalator or moving walk prior to the issuance 46387
of a certificate of operation, before operation of an escalator or 46388
moving walk being put back in service after a repair, or as a 46389
result of the operation of section 4105.08 of the Revised Code is 46390
three hundred dollars. The superintendent may assess an additional 46391
fee of one hundred fifty dollars for the reinspection of an 46392
escalator or moving walk when a previous attempt to inspect that 46393
escalator or moving walk has been unsuccessful through no fault of 46394
the general inspector or the division. 46395

(C) The fee for issuing or renewing a certificate of 46396
operation under section 4105.15 of the Revised Code for an 46397
elevator that is inspected every six months in accordance with 46398
division (A) of section 4105.10 of the Revised Code is two hundred 46399
twenty dollars plus twelve dollars for each floor where the 46400
elevator stops, except where the elevator has been inspected by a 46401
special inspector in accordance with section 4105.07 of the 46402
Revised Code. 46403

(D) The fee for issuing or renewing a certificate of 46404
operation under section 4105.05 of the Revised Code for an 46405
elevator that is inspected every twelve months in accordance with 46406
division (A) of section 4105.10 of the Revised Code is fifty-five 46407
dollars plus ten dollars for each floor where the elevator stops, 46408
except where the elevator has been inspected by a special 46409
inspector in accordance with section 4105.07 of the Revised Code. 46410

(E) The fee for issuing or renewing a certificate of 46411
operation under section 4105.15 of the Revised Code for an 46412
escalator or moving walk is three hundred dollars, except where 46413
the escalator or moving walk has been inspected by a special 46414
inspector in accordance section 4105.07 of the Revised Code. 46415

(F) All other fees to be charged for any examination given or 46416
other service performed by the division pursuant to this chapter 46417
shall be prescribed by the director of commerce. The fees shall be 46418

reasonably related to the costs of such examination or other 46419
service. 46420

(G) The director of commerce, subject to the approval of the 46421
controlling board, may establish fees in excess of the fees 46422
provided in divisions (A), (B), (C), (D), and (E) of this section. 46423
Any moneys collected under this section shall be paid into the 46424
state treasury to the credit of the ~~labor~~ industrial compliance 46425
operating fund created in section 121.084 of the Revised Code. 46426

(H) Any person who fails to pay an inspection fee required 46427
for any inspection conducted by the division pursuant to this 46428
chapter within forty-five days after the inspection is conducted 46429
shall pay a late payment fee equal to twenty-five per cent of the 46430
inspection fee. 46431

(I) In addition to the fees assessed in divisions (A), (B), 46432
(C), (D), and (E) of this section, the board of building standards 46433
shall assess a fee of three dollars and twenty-five cents for each 46434
certificate of operation or renewal thereof issued under divisions 46435
(A), (B), (C), (D), or (E) of this section and for each permit 46436
issued under section 4105.16 of the Revised Code. The board shall 46437
adopt rules, in accordance with Chapter 119. of the Revised Code, 46438
specifying the manner by which the superintendent shall collect 46439
and remit to the board the fees assessed under this division and 46440
requiring that remittance of the fees be made at least quarterly. 46441

(J) For purposes of this section: 46442

(1) "Escalator" means a power driven, inclined, continuous 46443
stairway used for raising or lowering passengers. 46444

(2) "Moving walk" means a passenger carrying device on which 46445
passengers stand or walk, with a passenger carrying surface that 46446
is uninterrupted and remains parallel to its direction of motion. 46447

Sec. 4105.191. Any person owning or operating any elevator 46448

subject to this chapter shall file a written report with the 46449
superintendent of ~~labor~~ industrial compliance within seventy-two 46450
hours after the occurrence of any accident involving such elevator 46451
which results in death or bodily injury to any person. 46452

Sec. 4105.20. No person shall violate any law relative to the 46453
operation, construction, maintenance, and repair of elevators. All 46454
fines collected for violation of this section shall be forwarded 46455
to the superintendent of ~~labor~~ industrial compliance, who shall 46456
pay them into the state treasury to the credit of the ~~labor~~ 46457
industrial compliance operating fund created in section 121.084 of 46458
the Revised Code. 46459

Sec. 4105.21. The superintendent of ~~labor~~ industrial 46460
compliance shall enforce this chapter. If the superintendent or a 46461
general inspector of elevators finds that an elevator or a part 46462
thereof does not afford reasonable safety as required by section 46463
4105.13 of the Revised Code, the superintendent or the general 46464
inspector may seal such elevator and post a notice thereon 46465
prohibiting further use of the elevator until the changes or 46466
alterations set forth in the notice have been made to the 46467
satisfaction of the superintendent or the inspector. The notice 46468
shall contain a statement that operators or passengers are subject 46469
to injury by its continued use, a description of the alteration or 46470
other change necessary to be made in order to secure safety of 46471
operation, date of such notice, name and signature of the 46472
superintendent or inspector issuing the notice. 46473

Sec. 4115.10. (A) No person, firm, corporation, or public 46474
authority that constructs a public improvement with its own 46475
forces, the total overall project cost of which is fairly 46476
estimated to be more than the amounts set forth in division (B) of 46477
section 4115.03 of the Revised Code, adjusted biennially by the 46478

director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the ~~labor~~ industrial compliance operating fund. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing

wage in violation of this chapter. Upon receipt of a properly 46512
completed written complaint of any employee paid less than the 46513
prevailing rate of wages applicable, the director shall take an 46514
assignment of a claim in trust for the assigning employee and 46515
bring any legal action necessary to collect the claim. The 46516
employer shall pay the costs and reasonable attorney's fees 46517
allowed by the court if the employer is found in violation of 46518
sections 4115.03 to 4115.16 of the Revised Code. 46519

(C) If after investigation pursuant to section 4115.13 of the 46520
Revised Code, the director determines there is a violation of 46521
sections 4115.03 to 4115.16 of the Revised Code and a period of 46522
sixty days has elapsed from the date of the determination, and if: 46523

(1) No employee has brought suit pursuant to division (A) of 46524
this section; 46525

(2) No employee has requested that the director take an 46526
assignment of a wage claim pursuant to division (B) of this 46527
section. 46528

The director shall bring any legal action necessary to 46529
collect any amounts owed to employees and the director. The 46530
director shall pay over to the affected employees the amounts 46531
collected to which the affected employees are entitled under 46532
division (A) of this section. In any action in which the director 46533
prevails, the employer shall pay the costs and reasonable 46534
attorney's fees allowed by the court. 46535

(D) Where persons are employed and their rate of wages has 46536
been determined as provided in section 4115.04 of the Revised 46537
Code, no person, either for self or any other person, shall 46538
request, demand, or receive, either before or after the person is 46539
engaged, that the person so engaged pay back, return, donate, 46540
contribute, or give any part or all of the person's wages, salary, 46541
or thing of value, to any person, upon the statement, 46542

representation, or understanding that failure to comply with such 46543
request or demand will prevent the procuring or retaining of 46544
employment, and no person shall, directly or indirectly, aid, 46545
request, or authorize any other person to violate this section. 46546
This division does not apply to any agent or representative of a 46547
duly constituted labor organization acting in the collection of 46548
dues or assessments of such organization. 46549

(E) The director shall enforce sections 4115.03 to 4115.16 of 46550
the Revised Code. 46551

(F) For the purpose of supplementing existing resources and 46552
to assist in enforcing division (E) of this section, the director 46553
may contract with a person registered as a public accountant under 46554
Chapter 4701. of the Revised Code to conduct an audit of a person, 46555
firm, corporation, or public authority. 46556

(G) No contractor or subcontractor shall be responsible for 46557
the payment of the penalties provided in division (A) of this 46558
section resulting from a violation of sections 4115.03 to 4115.16 46559
of the Revised Code by its subcontractor, provided that the 46560
contractor or subcontractor has made a good faith effort to ensure 46561
that its subcontractor complied with the requirements of sections 46562
4115.03 to 4115.16 of the Revised Code. 46563

Sec. 4115.101. There is hereby created the prevailing wage 46564
custodial fund, which shall be in the custody of the treasurer of 46565
state but shall not be part of the state treasury. The director of 46566
commerce shall deposit to the fund all money paid by employers to 46567
the director that are held in trust for employees to whom 46568
prevailing wages are due and owing. The director shall make 46569
disbursements from the fund in accordance with this chapter to 46570
employees affected by violations of this chapter. If the director 46571
determines that any funds in the prevailing wage custodial fund 46572
are not returnable to employees as required under this section, 46573

then the director shall certify to the treasurer of state the 46574
amount of the funds that are not returnable. Upon the receipt of a 46575
certification from the director in accordance with this section, 46576
the treasurer of state shall transfer the certified amount of the 46577
funds from the prevailing wage custodial fund to the ~~labor~~ 46578
industrial compliance operating fund. 46579

Sec. 4121.123. (A) There is hereby created the workers' 46580
compensation board of directors nominating committee consisting of 46581
the following: 46582

(1) Three individuals who are members of affiliated employee 46583
organizations of the Ohio chapter of the American federation of 46584
labor-congress of industrial organizations, who are selected by 46585
the Ohio chapter of the American federation of labor-congress of 46586
industrial organizations and who, on account of their previous 46587
vocation, employment, or affiliations, can be classed as 46588
representative of employees who are members of an employee 46589
organization. Terms of office shall be for one year, with each 46590
term ending on the same day of the same month as did the term that 46591
it succeeds. 46592

(2) Two individuals who, on account of their previous 46593
vocation, employment, or affiliations, can be classed as 46594
representative of employees, one of whom shall be an injured 46595
worker with a valid, open, and active workers' compensation claim 46596
and at least one of these two representatives also shall represent 46597
employees who are not members of an employee organization. The 46598
president of the senate and the speaker of the house of 46599
representatives each shall appoint annually one of these members. 46600
The member who is an injured worker shall serve for a full term 46601
even if the member's workers' compensation claim is invalidated, 46602
closed, or inactivated during the member's term. 46603

(3) The chief executive officer, or the equivalent of the 46604

chief executive officer, of the Ohio chamber of commerce, the Ohio 46605
manufacturers' association, the Ohio self-insurers' association, 46606
the Ohio council of retail merchants, the national federation of 46607
independent business, and the Ohio farm bureau; 46608

(4) The director of development; 46609

(5) The president of the Ohio township association and the 46610
president of the Ohio county commissioners association, or, ~~in~~ if 46611
any of the following circumstances apply: 46612

(a) In the event of a vacancy in the either presidency, a 46613
designee appointed by the governing body authorized to appoint the 46614
president. A designee so appointed shall serve on the nominating 46615
committee only until the vacancy in the presidency is filled. 46616

(b) In the event that the president of the Ohio township 46617
association is unavailable, a designee selected by the president; 46618

(c) In the event that the president of the Ohio county 46619
commissioners association is unavailable, a designee selected by 46620
the president. 46621

(B) Each member appointed under divisions (A)(1) and (2) of 46622
this section shall hold office from the date of the member's 46623
appointment until the end of the term for which the member was 46624
appointed. Such members may be reappointed. Vacancies shall be 46625
filled in the manner provided for original appointments. Any such 46626
member appointed to fill a vacancy occurring prior to the 46627
expiration date of the term for which the member's predecessor was 46628
appointed shall hold office as a member for the remainder of that 46629
term. Such a member shall continue in office subsequent to the 46630
expiration date of the member's term until the member's successor 46631
takes office or until a period of sixty days has elapsed, 46632
whichever occurs first. 46633

(C) The nominating committee shall meet at the request of the 46634
governor or as the nominating committee determines appropriate in 46635

order to make recommendations to the governor for the appointment 46636
of members of the bureau of workers' compensation board of 46637
directors under section 4121.12 of the Revised Code. 46638

(D) The director of development shall serve as chairperson of 46639
the nominating committee and have no voting rights on matters 46640
coming before the nominating committee, except that the director 46641
may vote in the event of a tie vote of the nominating committee. 46642
Annually, the nominating committee shall select a secretary from 46643
among its members. The nominating committee may adopt by-laws 46644
governing its proceedings. 46645

(E) Members of the nominating committee shall be paid their 46646
reasonable and necessary expenses pursuant to section 126.31 of 46647
the Revised Code while engaged in the performance of their duties 46648
as members of the nominating committee. 46649

(F) The nominating committee shall: 46650

(1) Review and evaluate possible appointees for the board. In 46651
reviewing and evaluating possible appointees for the board, the 46652
nominating committee may accept comments from, cooperate with, and 46653
request information from any person. 46654

(2) Make recommendations to the governor for the appointment 46655
of members to the board as provided in division (C) of section 46656
4121.12 of the Revised Code. 46657

(G) The nominating committee may make recommendations to the 46658
general assembly concerning changes in legislation that will 46659
assist the nominating committee in the performance of its duties. 46660

Sec. 4121.30. (A) All rules governing the operating procedure 46661
of the bureau of workers' compensation and the industrial 46662
commission shall be adopted in accordance with Chapter 119. of the 46663
Revised Code, except that determinations of the bureau, district 46664
hearing officers, staff hearing officers, and the commission, with 46665

respect to an individual employee's claim to participate in the 46666
state insurance fund are governed only by Chapter 4123. of the 46667
Revised Code. 46668

The administrator of workers' compensation and commission 46669
shall proceed jointly, in accordance with Chapter 119. of the 46670
Revised Code, including a joint hearing, to adopt joint rules 46671
governing the operating procedures of the bureau and commission. 46672
~~The bureau shall publish the joint rules in a single publication.~~ 46673

(B) Upon submission to the bureau or the commission of a 46674
petition containing not less than fifteen hundred signatures of 46675
adult residents of the state, any individual may propose a rule 46676
for adoption, amendment, or rescission by the bureau or the 46677
commission. If, upon investigation, the bureau or commission is 46678
satisfied that the signatures upon the petition are valid, it 46679
shall proceed, in accordance with Chapter 119. of the Revised 46680
Code, to consider adoption, amendment, or rescission of the rule. 46681

(C) The administrator shall ~~publish~~ make available 46682
electronically all rules adopted by the bureau and the commission 46683
~~in a single publication~~ and shall make available in a timely 46684
manner ~~and at cost copies of~~ all rules adopted by the bureau and 46685
the commission that are currently in force. ~~For that purpose, the~~ 46686
~~administrator shall maintain a mailing list of all persons~~ 46687
~~requesting copies of the rules.~~ 46688

(D) The rule-making authority granted to the administrator 46689
under this section does not limit the commission's rule-making 46690
authority relative to its overall adjudicatory policy-making and 46691
management duties under this chapter and Chapters 4123., 4127., 46692
and 4131. of the Revised Code. The administrator shall not 46693
disregard any rule adopted by the commission, provided that the 46694
rule is within the commission's rule-making authority. 46695

Sec. 4123.20. The administrator of workers' compensation 46696

~~shall cause to be printed, in proper form for distribution make 46697
available electronically to the public, its classifications, 46698
rates, rules, and rules of procedure, and shall furnish the same 46699
to any person upon ~~application therefor, and the fact that the~~ 46700
~~classifications, rates, rules, and rules of procedure are printed~~ 46701
~~ready for distribution to all who apply for the same is a~~ 46702
~~sufficient publication of the same as required by this chapter~~ 46703
request. 46704~~

Sec. 4123.35. (A) Except as provided in this section, every 46705
employer mentioned in division (B)(2) of section 4123.01 of the 46706
Revised Code, and every publicly owned utility shall pay 46707
semiannually in the months of January and July into the state 46708
insurance fund the amount of annual premium the administrator of 46709
workers' compensation fixes for the employment or occupation of 46710
the employer, the amount of which premium to be paid by each 46711
employer to be determined by the classifications, rules, and rates 46712
made and published by the administrator. The employer shall pay 46713
semiannually a further sum of money into the state insurance fund 46714
as may be ascertained to be due from the employer by applying the 46715
rules of the administrator, and a receipt or certificate 46716
certifying that payment has been made, along with a written notice 46717
as is required in section 4123.54 of the Revised Code, shall be 46718
mailed immediately to the employer by the bureau of workers' 46719
compensation. The receipt or certificate is prima-facie evidence 46720
of the payment of the premium, and the proper posting of the 46721
notice constitutes the employer's compliance with the notice 46722
requirement mandated in section 4123.54 of the Revised Code. 46723

The bureau of workers' compensation shall verify with the 46724
secretary of state the existence of all corporations and 46725
organizations making application for workers' compensation 46726
coverage and shall require every such application to include the 46727
employer's federal identification number. 46728

An employer as defined in division (B)(2) of section 4123.01 46729
of the Revised Code who has contracted with a subcontractor is 46730
liable for the unpaid premium due from any subcontractor with 46731
respect to that part of the payroll of the subcontractor that is 46732
for work performed pursuant to the contract with the employer. 46733

Division (A) of this section providing for the payment of 46734
premiums semiannually does not apply to any employer who was a 46735
subscriber to the state insurance fund prior to January 1, 1914, 46736
or who may first become a subscriber to the fund in any month 46737
other than January or July. Instead, the semiannual premiums shall 46738
be paid by those employers from time to time upon the expiration 46739
of the respective periods for which payments into the fund have 46740
been made by them. 46741

The administrator shall adopt rules to permit employers to 46742
make periodic payments of the semiannual premium due under this 46743
division. The rules shall include provisions for the assessment of 46744
interest charges, where appropriate, and for the assessment of 46745
penalties when an employer fails to make timely premium payments. 46746
An employer who timely pays the amounts due under this division is 46747
entitled to all of the benefits and protections of this chapter. 46748
Upon receipt of payment, the bureau immediately shall mail a 46749
receipt or certificate to the employer certifying that payment has 46750
been made, which receipt is prima-facie evidence of payment. 46751
Workers' compensation coverage under this chapter continues 46752
uninterrupted upon timely receipt of payment under this division. 46753

Every public employer, except public employers that are 46754
self-insuring employers under this section, shall comply with 46755
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 46756
regard to the contribution of moneys to the public insurance fund. 46757

(B) Employers who will abide by the rules of the 46758
administrator and who may be of sufficient financial ability to 46759
render certain the payment of compensation to injured employees or 46760

the dependents of killed employees, and the furnishing of medical, 46761
surgical, nursing, and hospital attention and services and 46762
medicines, and funeral expenses, equal to or greater than is 46763
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 46764
to 4123.67 of the Revised Code, and who do not desire to insure 46765
the payment thereof or indemnify themselves against loss sustained 46766
by the direct payment thereof, upon a finding of such facts by the 46767
administrator, may be granted the privilege to pay individually 46768
compensation, and furnish medical, surgical, nursing, and hospital 46769
services and attention and funeral expenses directly to injured 46770
employees or the dependents of killed employees, thereby being 46771
granted status as a self-insuring employer. The administrator may 46772
charge employers who apply for the status as a self-insuring 46773
employer a reasonable application fee to cover the bureau's costs 46774
in connection with processing and making a determination with 46775
respect to an application. 46776

All employers granted status as self-insuring employers shall 46777
demonstrate sufficient financial and administrative ability to 46778
assure that all obligations under this section are promptly met. 46779
The administrator shall deny the privilege where the employer is 46780
unable to demonstrate the employer's ability to promptly meet all 46781
the obligations imposed on the employer by this section. 46782

(1) The administrator shall consider, but is not limited to, 46783
the following factors, where applicable, in determining the 46784
employer's ability to meet all of the obligations imposed on the 46785
employer by this section: 46786

(a) The employer employs a minimum of five hundred employees 46787
in this state; 46788

(b) The employer has operated in this state for a minimum of 46789
two years, provided that an employer who has purchased, acquired, 46790
or otherwise succeeded to the operation of a business, or any part 46791
thereof, situated in this state that has operated for at least two 46792

years in this state, also shall qualify; 46793

(c) Where the employer previously contributed to the state 46794
insurance fund or is a successor employer as defined by bureau 46795
rules, the amount of the buyout, as defined by bureau rules; 46796

(d) The sufficiency of the employer's assets located in this 46797
state to insure the employer's solvency in paying compensation 46798
directly; 46799

(e) The financial records, documents, and data, certified by 46800
a certified public accountant, necessary to provide the employer's 46801
full financial disclosure. The records, documents, and data 46802
include, but are not limited to, balance sheets and profit and 46803
loss history for the current year and previous four years. 46804

(f) The employer's organizational plan for the administration 46805
of the workers' compensation law; 46806

(g) The employer's proposed plan to inform employees of the 46807
change from a state fund insurer to a self-insuring employer, the 46808
procedures the employer will follow as a self-insuring employer, 46809
and the employees' rights to compensation and benefits; and 46810

(h) The employer has either an account in a financial 46811
institution in this state, or if the employer maintains an account 46812
with a financial institution outside this state, ensures that 46813
workers' compensation checks are drawn from the same account as 46814
payroll checks or the employer clearly indicates that payment will 46815
be honored by a financial institution in this state. 46816

The administrator may waive the requirements of divisions 46817
(B)(1)(a) and (b) of this section and the requirement of division 46818
(B)(1)(e) of this section that the financial records, documents, 46819
and data be certified by a certified public accountant. The 46820
administrator shall adopt rules establishing the criteria that an 46821
employer shall meet in order for the administrator to waive the 46822
requirement of division (B)(1)(e) of this section. Such rules may 46823

require additional security of that employer pursuant to division 46824
(E) of section 4123.351 of the Revised Code. 46825

The administrator shall not grant the status of self-insuring 46826
employer to the state, except that the administrator may grant the 46827
status of self-insuring employer to a state institution of higher 46828
education, ~~excluding~~ including its hospitals, that meets the 46829
requirements of division (B)(2) of this section. 46830

(2) When considering the application of a public employer, 46831
except for a board of county commissioners described in division 46832
(G) of section 4123.01 of the Revised Code, a board of a county 46833
hospital, or a publicly owned utility, the administrator shall 46834
verify that the public employer satisfies all of the following 46835
requirements as the requirements apply to that public employer: 46836

(a) For the two-year period preceding application under this 46837
section, the public employer has maintained an unvoted debt 46838
capacity equal to at least two times the amount of the current 46839
annual premium established by the administrator under this chapter 46840
for that public employer for the year immediately preceding the 46841
year in which the public employer makes application under this 46842
section. 46843

(b) For each of the two fiscal years preceding application 46844
under this section, the unreserved and undesignated year-end fund 46845
balance in the public employer's general fund is equal to at least 46846
five per cent of the public employer's general fund revenues for 46847
the fiscal year computed in accordance with generally accepted 46848
accounting principles. 46849

(c) For the five-year period preceding application under this 46850
section, the public employer, to the extent applicable, has 46851
complied fully with the continuing disclosure requirements 46852
established in rules adopted by the United States securities and 46853
exchange commission under 17 C.F.R. 240.15c 2-12. 46854

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria 46886
that a public employer shall satisfy in order for the 46887
administrator to waive any of the requirements listed in divisions 46888
(B)(2)(a) to (j) of this section. The rules may require additional 46889
security from that employer pursuant to division (E) of section 46890
4123.351 of the Revised Code. The administrator shall not waive 46891
any of the requirements listed in divisions (B)(2)(a) to (j) of 46892
this section for a public employer who does not satisfy the 46893
criteria established in the rules the administrator adopts. 46894

(C) A board of county commissioners described in division (G) 46895
of section 4123.01 of the Revised Code, as an employer, that will 46896
abide by the rules of the administrator and that may be of 46897
sufficient financial ability to render certain the payment of 46898
compensation to injured employees or the dependents of killed 46899
employees, and the furnishing of medical, surgical, nursing, and 46900
hospital attention and services and medicines, and funeral 46901
expenses, equal to or greater than is provided for in sections 46902
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 46903
Code, and that does not desire to insure the payment thereof or 46904
indemnify itself against loss sustained by the direct payment 46905
thereof, upon a finding of such facts by the administrator, may be 46906
granted the privilege to pay individually compensation, and 46907
furnish medical, surgical, nursing, and hospital services and 46908
attention and funeral expenses directly to injured employees or 46909
the dependents of killed employees, thereby being granted status 46910
as a self-insuring employer. The administrator may charge a board 46911
of county commissioners described in division (G) of section 46912
4123.01 of the Revised Code that applies for the status as a 46913
self-insuring employer a reasonable application fee to cover the 46914
bureau's costs in connection with processing and making a 46915
determination with respect to an application. All employers 46916
granted such status shall demonstrate sufficient financial and 46917
administrative ability to assure that all obligations under this 46918

section are promptly met. The administrator shall deny the 46919
privilege where the employer is unable to demonstrate the 46920
employer's ability to promptly meet all the obligations imposed on 46921
the employer by this section. The administrator shall consider, 46922
but is not limited to, the following factors, where applicable, in 46923
determining the employer's ability to meet all of the obligations 46924
imposed on the board as an employer by this section: 46925

(1) The board as an employer employs a minimum of five 46926
hundred employees in this state; 46927

(2) The board has operated in this state for a minimum of two 46928
years; 46929

(3) Where the board previously contributed to the state 46930
insurance fund or is a successor employer as defined by bureau 46931
rules, the amount of the buyout, as defined by bureau rules; 46932

(4) The sufficiency of the board's assets located in this 46933
state to insure the board's solvency in paying compensation 46934
directly; 46935

(5) The financial records, documents, and data, certified by 46936
a certified public accountant, necessary to provide the board's 46937
full financial disclosure. The records, documents, and data 46938
include, but are not limited to, balance sheets and profit and 46939
loss history for the current year and previous four years. 46940

(6) The board's organizational plan for the administration of 46941
the workers' compensation law; 46942

(7) The board's proposed plan to inform employees of the 46943
proposed self-insurance, the procedures the board will follow as a 46944
self-insuring employer, and the employees' rights to compensation 46945
and benefits; 46946

(8) The board has either an account in a financial 46947
institution in this state, or if the board maintains an account 46948

with a financial institution outside this state, ensures that 46949
workers' compensation checks are drawn from the same account as 46950
payroll checks or the board clearly indicates that payment will be 46951
honored by a financial institution in this state; 46952

(9) The board shall provide the administrator a surety bond 46953
in an amount equal to one hundred twenty-five per cent of the 46954
projected losses as determined by the administrator. 46955

(D) The administrator shall require a surety bond from all 46956
self-insuring employers, issued pursuant to section 4123.351 of 46957
the Revised Code, that is sufficient to compel, or secure to 46958
injured employees, or to the dependents of employees killed, the 46959
payment of compensation and expenses, which shall in no event be 46960
less than that paid or furnished out of the state insurance fund 46961
in similar cases to injured employees or to dependents of killed 46962
employees whose employers contribute to the fund, except when an 46963
employee of the employer, who has suffered the loss of a hand, 46964
arm, foot, leg, or eye prior to the injury for which compensation 46965
is to be paid, and thereafter suffers the loss of any other of the 46966
members as the result of any injury sustained in the course of and 46967
arising out of the employee's employment, the compensation to be 46968
paid by the self-insuring employer is limited to the disability 46969
suffered in the subsequent injury, additional compensation, if 46970
any, to be paid by the bureau out of the surplus created by 46971
section 4123.34 of the Revised Code. 46972

(E) In addition to the requirements of this section, the 46973
administrator shall make and publish rules governing the manner of 46974
making application and the nature and extent of the proof required 46975
to justify a finding of fact by the administrator as to granting 46976
the status of a self-insuring employer, which rules shall be 46977
general in their application, one of which rules shall provide 46978
that all self-insuring employers shall pay into the state 46979
insurance fund such amounts as are required to be credited to the 46980

surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer

and fixing time limits beyond which failure of the self-insuring 47013
employer to provide for the necessary medical examinations and 47014
evaluations may not delay a decision on a claim. 47015

(G) The administrator shall adopt rules setting forth 47016
procedures for auditing the program of self-insuring employers. 47017
The bureau shall conduct the audit upon a random basis or whenever 47018
the bureau has grounds for believing that a self-insuring employer 47019
is not in full compliance with bureau rules or this chapter. 47020

The administrator shall monitor the programs conducted by 47021
self-insuring employers, to ensure compliance with bureau 47022
requirements and for that purpose, shall develop and issue to 47023
self-insuring employers standardized forms for use by the 47024
self-insuring employer in all aspects of the self-insuring 47025
employers' direct compensation program and for reporting of 47026
information to the bureau. 47027

The bureau shall receive and transmit to the self-insuring 47028
employer all complaints concerning any self-insuring employer. In 47029
the case of a complaint against a self-insuring employer, the 47030
administrator shall handle the complaint through the 47031
self-insurance division of the bureau. The bureau shall maintain a 47032
file by employer of all complaints received that relate to the 47033
employer. The bureau shall evaluate each complaint and take 47034
appropriate action. 47035

The administrator shall adopt as a rule a prohibition against 47036
any self-insuring employer from harassing, dismissing, or 47037
otherwise disciplining any employee making a complaint, which rule 47038
shall provide for a financial penalty to be levied by the 47039
administrator payable by the offending self-insuring employer. 47040

(H) For the purpose of making determinations as to whether to 47041
grant status as a self-insuring employer, the administrator may 47042
subscribe to and pay for a credit reporting service that offers 47043

financial and other business information about individual 47044
employers. The costs in connection with the bureau's subscription 47045
or individual reports from the service about an applicant may be 47046
included in the application fee charged employers under this 47047
section. 47048

(I) The administrator, notwithstanding other provisions of 47049
this chapter, may permit a self-insuring employer to resume 47050
payment of premiums to the state insurance fund with appropriate 47051
credit modifications to the employer's basic premium rate as such 47052
rate is determined pursuant to section 4123.29 of the Revised 47053
Code. 47054

(J) On the first day of July of each year, the administrator 47055
shall calculate separately each self-insuring employer's 47056
assessments for the safety and hygiene fund, administrative costs 47057
pursuant to section 4123.342 of the Revised Code, and for the 47058
portion of the surplus fund under division (B) of section 4123.34 47059
of the Revised Code that is not used for handicapped 47060
reimbursement, on the basis of the paid compensation attributable 47061
to the individual self-insuring employer according to the 47062
following calculation: 47063

(1) The total assessment against all self-insuring employers 47064
as a class for each fund and for the administrative costs for the 47065
year that the assessment is being made, as determined by the 47066
administrator, divided by the total amount of paid compensation 47067
for the previous calendar year attributable to all amenable 47068
self-insuring employers; 47069

(2) Multiply the quotient in division (J)(1) of this section 47070
by the total amount of paid compensation for the previous calendar 47071
year that is attributable to the individual self-insuring employer 47072
for whom the assessment is being determined. Each self-insuring 47073
employer shall pay the assessment that results from this 47074
calculation, unless the assessment resulting from this calculation 47075

falls below a minimum assessment, which minimum assessment the 47076
administrator shall determine on the first day of July of each 47077
year with the advice and consent of the bureau of workers' 47078
compensation board of directors, in which event, the self-insuring 47079
employer shall pay the minimum assessment. 47080

In determining the total amount due for the total assessment 47081
against all self-insuring employers as a class for each fund and 47082
the administrative assessment, the administrator shall reduce 47083
proportionately the total for each fund and assessment by the 47084
amount of money in the self-insurance assessment fund as of the 47085
date of the computation of the assessment. 47086

The administrator shall calculate the assessment for the 47087
portion of the surplus fund under division (B) of section 4123.34 47088
of the Revised Code that is used for handicapped reimbursement in 47089
the same manner as set forth in divisions (J)(1) and (2) of this 47090
section except that the administrator shall calculate the total 47091
assessment for this portion of the surplus fund only on the basis 47092
of those self-insuring employers that retain participation in the 47093
handicapped reimbursement program and the individual self-insuring 47094
employer's proportion of paid compensation shall be calculated 47095
only for those self-insuring employers who retain participation in 47096
the handicapped reimbursement program. The administrator, as the 47097
administrator determines appropriate, may determine the total 47098
assessment for the handicapped portion of the surplus fund in 47099
accordance with sound actuarial principles. 47100

The administrator shall calculate the assessment for the 47101
portion of the surplus fund under division (B) of section 4123.34 47102
of the Revised Code that under division (D) of section 4121.66 of 47103
the Revised Code is used for rehabilitation costs in the same 47104
manner as set forth in divisions (J)(1) and (2) of this section, 47105
except that the administrator shall calculate the total assessment 47106
for this portion of the surplus fund only on the basis of those 47107

self-insuring employers who have not made the election to make 47108
payments directly under division (D) of section 4121.66 of the 47109
Revised Code and an individual self-insuring employer's proportion 47110
of paid compensation only for those self-insuring employers who 47111
have not made that election. 47112

The administrator shall calculate the assessment for the 47113
portion of the surplus fund under division (B) of section 4123.34 47114
of the Revised Code that is used for reimbursement to a 47115
self-insuring employer under division (H) of section 4123.512 of 47116
the Revised Code in the same manner as set forth in divisions 47117
(J)(1) and (2) of this section except that the administrator shall 47118
calculate the total assessment for this portion of the surplus 47119
fund only on the basis of those self-insuring employers that 47120
retain participation in reimbursement to the self-insuring 47121
employer under division (H) of section 4123.512 of the Revised 47122
Code and the individual self-insuring employer's proportion of 47123
paid compensation shall be calculated only for those self-insuring 47124
employers who retain participation in reimbursement to the 47125
self-insuring employer under division (H) of section 4123.512 of 47126
the Revised Code. 47127

An employer who no longer is a self-insuring employer in this 47128
state or who no longer is operating in this state, shall continue 47129
to pay assessments for administrative costs and for the portion of 47130
the surplus fund under division (B) of section 4123.34 of the 47131
Revised Code that is not used for handicapped reimbursement, based 47132
upon paid compensation attributable to claims that occurred while 47133
the employer was a self-insuring employer within this state. 47134

(K) There is hereby created in the state treasury the 47135
self-insurance assessment fund. All investment earnings of the 47136
fund shall be deposited in the fund. The administrator shall use 47137
the money in the self-insurance assessment fund only for 47138
administrative costs as specified in section 4123.341 of the 47139

Revised Code. 47140

(L) Every self-insuring employer shall certify, in affidavit 47141
form subject to the penalty for perjury, to the bureau the amount 47142
of the self-insuring employer's paid compensation for the previous 47143
calendar year. In reporting paid compensation paid for the 47144
previous year, a self-insuring employer shall exclude from the 47145
total amount of paid compensation any reimbursement the 47146
self-insuring employer receives in the previous calendar year from 47147
the surplus fund pursuant to section 4123.512 of the Revised Code 47148
for any paid compensation. The self-insuring employer also shall 47149
exclude from the paid compensation reported any amount recovered 47150
under section 4123.931 of the Revised Code and any amount that is 47151
determined not to have been payable to or on behalf of a claimant 47152
in any final administrative or judicial proceeding. The 47153
self-insuring employer shall exclude such amounts from the paid 47154
compensation reported in the reporting period subsequent to the 47155
date the determination is made. The administrator shall adopt 47156
rules, in accordance with Chapter 119. of the Revised Code, that 47157
provide for all of the following: 47158

(1) Establishing the date by which self-insuring employers 47159
must submit such information and the amount of the assessments 47160
provided for in division (J) of this section for employers who 47161
have been granted self-insuring status within the last calendar 47162
year; 47163

(2) If an employer fails to pay the assessment when due, the 47164
administrator may add a late fee penalty of not more than five 47165
hundred dollars to the assessment plus an additional penalty 47166
amount as follows: 47167

(a) For an assessment from sixty-one to ninety days past due, 47168
the prime interest rate, multiplied by the assessment due; 47169

(b) For an assessment from ninety-one to one hundred twenty 47170

days past due, the prime interest rate plus two per cent, 47171
multiplied by the assessment due; 47172

(c) For an assessment from one hundred twenty-one to one 47173
hundred fifty days past due, the prime interest rate plus four per 47174
cent, multiplied by the assessment due; 47175

(d) For an assessment from one hundred fifty-one to one 47176
hundred eighty days past due, the prime interest rate plus six per 47177
cent, multiplied by the assessment due; 47178

(e) For an assessment from one hundred eighty-one to two 47179
hundred ten days past due, the prime interest rate plus eight per 47180
cent, multiplied by the assessment due; 47181

(f) For each additional thirty-day period or portion thereof 47182
that an assessment remains past due after it has remained past due 47183
for more than two hundred ten days, the prime interest rate plus 47184
eight per cent, multiplied by the assessment due. 47185

(3) An employer may appeal a late fee penalty and penalty 47186
assessment to the administrator. 47187

For purposes of division (L)(2) of this section, "prime 47188
interest rate" means the average bank prime rate, and the 47189
administrator shall determine the prime interest rate in the same 47190
manner as a county auditor determines the average bank prime rate 47191
under section 929.02 of the Revised Code. 47192

The administrator shall include any assessment and penalties 47193
that remain unpaid for previous assessment periods in the 47194
calculation and collection of any assessments due under this 47195
division or division (J) of this section. 47196

(M) As used in this section, "paid compensation" means all 47197
amounts paid by a self-insuring employer for living maintenance 47198
benefits, all amounts for compensation paid pursuant to sections 47199
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 47200

4123.64 of the Revised Code, all amounts paid as wages in lieu of 47201
such compensation, all amounts paid in lieu of such compensation 47202
under a nonoccupational accident and sickness program fully funded 47203
by the self-insuring employer, and all amounts paid by a 47204
self-insuring employer for a violation of a specific safety 47205
standard pursuant to Section 35 of Article II, Ohio Constitution 47206
and section 4121.47 of the Revised Code. 47207

(N) Should any section of this chapter or Chapter 4121. of 47208
the Revised Code providing for self-insuring employers' 47209
assessments based upon compensation paid be declared 47210
unconstitutional by a final decision of any court, then that 47211
section of the Revised Code declared unconstitutional shall revert 47212
back to the section in existence prior to November 3, 1989, 47213
providing for assessments based upon payroll. 47214

(O) The administrator may grant a self-insuring employer the 47215
privilege to self-insure a construction project entered into by 47216
the self-insuring employer that is scheduled for completion within 47217
six years after the date the project begins, and the total cost of 47218
which is estimated to exceed one hundred million dollars or, for 47219
employers described in division (R) of this section, if the 47220
construction project is estimated to exceed twenty-five million 47221
dollars. The administrator may waive such cost and time criteria 47222
and grant a self-insuring employer the privilege to self-insure a 47223
construction project regardless of the time needed to complete the 47224
construction project and provided that the cost of the 47225
construction project is estimated to exceed fifty million dollars. 47226
A self-insuring employer who desires to self-insure a construction 47227
project shall submit to the administrator an application listing 47228
the dates the construction project is scheduled to begin and end, 47229
the estimated cost of the construction project, the contractors 47230
and subcontractors whose employees are to be self-insured by the 47231
self-insuring employer, the provisions of a safety program that is 47232

specifically designed for the construction project, and a 47233
statement as to whether a collective bargaining agreement 47234
governing the rights, duties, and obligations of each of the 47235
parties to the agreement with respect to the construction project 47236
exists between the self-insuring employer and a labor 47237
organization. 47238

A self-insuring employer may apply to self-insure the 47239
employees of either of the following: 47240

(1) All contractors and subcontractors who perform labor or 47241
work or provide materials for the construction project; 47242

(2) All contractors and, at the administrator's discretion, a 47243
substantial number of all the subcontractors who perform labor or 47244
work or provide materials for the construction project. 47245

Upon approval of the application, the administrator shall 47246
mail a certificate granting the privilege to self-insure the 47247
construction project to the self-insuring employer. The 47248
certificate shall contain the name of the self-insuring employer 47249
and the name, address, and telephone number of the self-insuring 47250
employer's representatives who are responsible for administering 47251
workers' compensation claims for the construction project. The 47252
self-insuring employer shall post the certificate in a conspicuous 47253
place at the site of the construction project. 47254

The administrator shall maintain a record of the contractors 47255
and subcontractors whose employees are covered under the 47256
certificate issued to the self-insured employer. A self-insuring 47257
employer immediately shall notify the administrator when any 47258
contractor or subcontractor is added or eliminated from inclusion 47259
under the certificate. 47260

Upon approval of the application, the self-insuring employer 47261
is responsible for the administration and payment of all claims 47262
under this chapter and Chapter 4121. of the Revised Code for the 47263

employees of the contractor and subcontractors covered under the 47264
certificate who receive injuries or are killed in the course of 47265
and arising out of employment on the construction project, or who 47266
contract an occupational disease in the course of employment on 47267
the construction project. For purposes of this chapter and Chapter 47268
4121. of the Revised Code, a claim that is administered and paid 47269
in accordance with this division is considered a claim against the 47270
self-insuring employer listed in the certificate. A contractor or 47271
subcontractor included under the certificate shall report to the 47272
self-insuring employer listed in the certificate, all claims that 47273
arise under this chapter and Chapter 4121. of the Revised Code in 47274
connection with the construction project for which the certificate 47275
is issued. 47276

A self-insuring employer who complies with this division is 47277
entitled to the protections provided under this chapter and 47278
Chapter 4121. of the Revised Code with respect to the employees of 47279
the contractors and subcontractors covered under a certificate 47280
issued under this division for death or injuries that arise out 47281
of, or death, injuries, or occupational diseases that arise in the 47282
course of, those employees' employment on that construction 47283
project, as if the employees were employees of the self-insuring 47284
employer, provided that the self-insuring employer also complies 47285
with this section. No employee of the contractors and 47286
subcontractors covered under a certificate issued under this 47287
division shall be considered the employee of the self-insuring 47288
employer listed in that certificate for any purposes other than 47289
this chapter and Chapter 4121. of the Revised Code. Nothing in 47290
this division gives a self-insuring employer authority to control 47291
the means, manner, or method of employment of the employees of the 47292
contractors and subcontractors covered under a certificate issued 47293
under this division. 47294

The contractors and subcontractors included under a 47295

certificate issued under this division are entitled to the 47296
protections provided under this chapter and Chapter 4121. of the 47297
Revised Code with respect to the contractor's or subcontractor's 47298
employees who are employed on the construction project which is 47299
the subject of the certificate, for death or injuries that arise 47300
out of, or death, injuries, or occupational diseases that arise in 47301
the course of, those employees' employment on that construction 47302
project. 47303

The contractors and subcontractors included under a 47304
certificate issued under this division shall identify in their 47305
payroll records the employees who are considered the employees of 47306
the self-insuring employer listed in that certificate for purposes 47307
of this chapter and Chapter 4121. of the Revised Code, and the 47308
amount that those employees earned for employment on the 47309
construction project that is the subject of that certificate. 47310
Notwithstanding any provision to the contrary under this chapter 47311
and Chapter 4121. of the Revised Code, the administrator shall 47312
exclude the payroll that is reported for employees who are 47313
considered the employees of the self-insuring employer listed in 47314
that certificate, and that the employees earned for employment on 47315
the construction project that is the subject of that certificate, 47316
when determining those contractors' or subcontractors' premiums or 47317
assessments required under this chapter and Chapter 4121. of the 47318
Revised Code. A self-insuring employer issued a certificate under 47319
this division shall include in the amount of paid compensation it 47320
reports pursuant to division (L) of this section, the amount of 47321
paid compensation the self-insuring employer paid pursuant to this 47322
division for the previous calendar year. 47323

Nothing in this division shall be construed as altering the 47324
rights of employees under this chapter and Chapter 4121. of the 47325
Revised Code as those rights existed prior to September 17, 1996. 47326
Nothing in this division shall be construed as altering the rights 47327

devolved under sections 2305.31 and 4123.82 of the Revised Code as 47328
those rights existed prior to September 17, 1996. 47329

As used in this division, "privilege to self-insure a 47330
construction project" means privilege to pay individually 47331
compensation, and to furnish medical, surgical, nursing, and 47332
hospital services and attention and funeral expenses directly to 47333
injured employees or the dependents of killed employees. 47334

(P) A self-insuring employer whose application is granted 47335
under division (O) of this section shall designate a safety 47336
professional to be responsible for the administration and 47337
enforcement of the safety program that is specifically designed 47338
for the construction project that is the subject of the 47339
application. 47340

A self-insuring employer whose application is granted under 47341
division (O) of this section shall employ an ombudsperson for the 47342
construction project that is the subject of the application. The 47343
ombudsperson shall have experience in workers' compensation or the 47344
construction industry, or both. The ombudsperson shall perform all 47345
of the following duties: 47346

(1) Communicate with and provide information to employees who 47347
are injured in the course of, or whose injury arises out of 47348
employment on the construction project, or who contract an 47349
occupational disease in the course of employment on the 47350
construction project; 47351

(2) Investigate the status of a claim upon the request of an 47352
employee to do so; 47353

(3) Provide information to claimants, third party 47354
administrators, employers, and other persons to assist those 47355
persons in protecting their rights under this chapter and Chapter 47356
4121. of the Revised Code. 47357

A self-insuring employer whose application is granted under 47358

division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they

| | |
|--|-------|
| have been granted the status of being a self-insuring employer | 47390 |
| under division (B) of this section: | 47391 |
| (1) A state institution of higher education; | 47392 |
| (2) A school district; | 47393 |
| (3) A county school financing district; | 47394 |
| (4) An educational service center; | 47395 |
| (5) A community school established under Chapter 3314. of the | 47396 |
| Revised Code; | 47397 |
| (6) A municipal power agency as defined in section 3734.058 | 47398 |
| of the Revised Code. | 47399 |
| (S) As used in this section: | 47400 |
| (1) "Unvoted debt capacity" means the amount of money that a | 47401 |
| public employer may borrow without voter approval of a tax levy; | 47402 |
| (2) "State institution of higher education" means the state | 47403 |
| universities listed in section 3345.011 of the Revised Code, | 47404 |
| community colleges created pursuant to Chapter 3354. of the | 47405 |
| Revised Code, university branches created pursuant to Chapter | 47406 |
| 3355. of the Revised Code, technical colleges created pursuant to | 47407 |
| Chapter 3357. of the Revised Code, and state community colleges | 47408 |
| created pursuant to Chapter 3358. of the Revised Code. | 47409 |
| Sec. 4123.54. (A) Except as otherwise provided in division | 47410 |
| <u>divisions</u> (I) <u>and</u> (K) of this section, every employee, who is | 47411 |
| injured or who contracts an occupational disease, and the | 47412 |
| dependents of each employee who is killed, or dies as the result | 47413 |
| of an occupational disease contracted in the course of employment, | 47414 |
| wherever such injury has occurred or occupational disease has been | 47415 |
| contracted, provided the same were not: | 47416 |
| (1) Purposely self-inflicted; or | 47417 |
| (2) Caused by the employee being intoxicated or under the | 47418 |

influence of a controlled substance not prescribed by a physician 47419
where the intoxication or being under the influence of the 47420
controlled substance not prescribed by a physician was the 47421
proximate cause of the injury, is entitled to receive, either 47422
directly from the employee's self-insuring employer as provided in 47423
section 4123.35 of the Revised Code, or from the state insurance 47424
fund, the compensation for loss sustained on account of the 47425
injury, occupational disease, or death, and the medical, nurse, 47426
and hospital services and medicines, and the amount of funeral 47427
expenses in case of death, as are provided by this chapter. 47428

(B) For the purpose of this section, provided that an 47429
employer has posted written notice to employees that the results 47430
of, or the employee's refusal to submit to, any chemical test 47431
described under this division may affect the employee's 47432
eligibility for compensation and benefits pursuant to this chapter 47433
and Chapter 4121. of the Revised Code, there is a rebuttable 47434
presumption that an employee is intoxicated or under the influence 47435
of a controlled substance not prescribed by the employee's 47436
physician and that being intoxicated or under the influence of a 47437
controlled substance not prescribed by the employee's physician is 47438
the proximate cause of an injury under either of the following 47439
conditions: 47440

(1) When any one or more of the following is true: 47441

(a) The employee, through a qualifying chemical test 47442
administered within eight hours of an injury, is determined to 47443
have an alcohol concentration level equal to or in excess of the 47444
levels established in divisions (A)(1)(b) to (i) of section 47445
4511.19 of the Revised Code; 47446

(b) The employee, through a qualifying chemical test 47447
administered within thirty-two hours of an injury, is determined 47448
to have one of the following controlled substances not prescribed 47449
by the employee's physician in the employee's system that tests 47450

above the following levels in an enzyme multiplied immunoassay 47451
technique screening test and above the levels established in 47452
division (B)(1)(c) of this section in a gas chromatography mass 47453
spectrometry test: 47454

(i) For amphetamines, one thousand nanograms per milliliter 47455
of urine; 47456

(ii) For cannabinoids, fifty nanograms per milliliter of 47457
urine; 47458

(iii) For cocaine, including crack cocaine, three hundred 47459
nanograms per milliliter of urine; 47460

(iv) For opiates, two thousand nanograms per milliliter of 47461
urine; 47462

(v) For phencyclidine, twenty-five nanograms per milliliter 47463
of urine. 47464

(c) The employee, through a qualifying chemical test 47465
administered within thirty-two hours of an injury, is determined 47466
to have one of the following controlled substances not prescribed 47467
by the employee's physician in the employee's system that tests 47468
above the following levels by a gas chromatography mass 47469
spectrometry test: 47470

(i) For amphetamines, five hundred nanograms per milliliter 47471
of urine; 47472

(ii) For cannabinoids, fifteen nanograms per milliliter of 47473
urine; 47474

(iii) For cocaine, including crack cocaine, one hundred fifty 47475
nanograms per milliliter of urine; 47476

(iv) For opiates, two thousand nanograms per milliliter of 47477
urine; 47478

(v) For phencyclidine, twenty-five nanograms per milliliter 47479
of urine. 47480

(d) The employee, through a qualifying chemical test 47481
administered within thirty-two hours of an injury, is determined 47482
to have barbiturates, benzodiazepines, methadone, or propoxyphene 47483
in the employee's system that tests above levels established by 47484
laboratories certified by the United States department of health 47485
and human services. 47486

(2) When the employee refuses to submit to a requested 47487
chemical test, on the condition that that employee is or was given 47488
notice that the refusal to submit to any chemical test described 47489
in division (B)(1) of this section may affect the employee's 47490
eligibility for compensation and benefits under this chapter and 47491
Chapter 4121. of the Revised Code. 47492

(C)(1) For purposes of division (B) of this section, a 47493
chemical test is a qualifying chemical test if it is administered 47494
to an employee after an injury under at least one of the following 47495
conditions: 47496

(a) When the employee's employer had reasonable cause to 47497
suspect that the employee may be intoxicated or under the 47498
influence of a controlled substance not prescribed by the 47499
employee's physician; 47500

(b) At the request of a police officer pursuant to section 47501
4511.191 of the Revised Code, and not at the request of the 47502
employee's employer; 47503

(c) At the request of a licensed physician who is not 47504
employed by the employee's employer, and not at the request of the 47505
employee's employer. 47506

(2) As used in division (C)(1)(a) of this section, 47507
"reasonable cause" means, but is not limited to, evidence that an 47508
employee is or was using alcohol or a controlled substance drawn 47509
from specific, objective facts and reasonable inferences drawn 47510
from these facts in light of experience and training. These facts 47511

and inferences may be based on, but are not limited to, any of the 47512
following: 47513

(a) Observable phenomena, such as direct observation of use, 47514
possession, or distribution of alcohol or a controlled substance, 47515
or of the physical symptoms of being under the influence of 47516
alcohol or a controlled substance, such as but not limited to 47517
slurred speech, dilated pupils, odor of alcohol or a controlled 47518
substance, changes in affect, or dynamic mood swings; 47519

(b) A pattern of abnormal conduct, erratic or aberrant 47520
behavior, or deteriorating work performance such as frequent 47521
absenteeism, excessive tardiness, or recurrent accidents, that 47522
appears to be related to the use of alcohol or a controlled 47523
substance, and does not appear to be attributable to other 47524
factors; 47525

(c) The identification of an employee as the focus of a 47526
criminal investigation into unauthorized possession, use, or 47527
trafficking of a controlled substance; 47528

(d) A report of use of alcohol or a controlled substance 47529
provided by a reliable and credible source; 47530

(e) Repeated or flagrant violations of the safety or work 47531
rules of the employee's employer, that are determined by the 47532
employee's supervisor to pose a substantial risk of physical 47533
injury or property damage and that appear to be related to the use 47534
of alcohol or a controlled substance and that do not appear 47535
attributable to other factors. 47536

(D) Nothing in this section shall be construed to affect the 47537
rights of an employer to test employees for alcohol or controlled 47538
substance abuse. 47539

(E) For the purpose of this section, laboratories certified 47540
by the United States department of health and human services or 47541
laboratories that meet or exceed the standards of that department 47542

for laboratory certification shall be used for processing the test 47543
results of a qualifying chemical test. 47544

(F) The written notice required by division (B) of this 47545
section shall be the same size or larger ~~then~~ than the certificate 47546
of premium payment notice furnished by the bureau of workers' 47547
compensation and shall be posted by the employer in the same 47548
location as the certificate of premium payment notice or the 47549
certificate of self-insurance. 47550

(G) If a condition that pre-existed an injury is 47551
substantially aggravated by the injury, and that substantial 47552
aggravation is documented by objective diagnostic findings, 47553
objective clinical findings, or objective test results, no 47554
compensation or benefits are payable because of the pre-existing 47555
condition once that condition has returned to a level that would 47556
have existed without the injury. 47557

(H)(1) Whenever, with respect to an employee of an employer 47558
who is subject to and has complied with this chapter, there is 47559
possibility of conflict with respect to the application of 47560
workers' compensation laws because the contract of employment is 47561
entered into and all or some portion of the work is or is to be 47562
performed in a state or states other than Ohio, the employer and 47563
the employee may agree to be bound by the laws of this state or by 47564
the laws of some other state in which all or some portion of the 47565
work of the employee is to be performed. The agreement shall be in 47566
writing and shall be filed with the bureau of workers' 47567
compensation within ten days after it is executed and shall remain 47568
in force until terminated or modified by agreement of the parties 47569
similarly filed. If the agreement is to be bound by the laws of 47570
this state and the employer has complied with this chapter, then 47571
the employee is entitled to compensation and benefits regardless 47572
of where the injury occurs or the disease is contracted and the 47573
rights of the employee and the employee's dependents under the 47574

laws of this state are the exclusive remedy against the employer 47575
on account of injury, disease, or death in the course of and 47576
arising out of the employee's employment. If the agreement is to 47577
be bound by the laws of another state and the employer has 47578
complied with the laws of that state, the rights of the employee 47579
and the employee's dependents under the laws of that state are the 47580
exclusive remedy against the employer on account of injury, 47581
disease, or death in the course of and arising out of the 47582
employee's employment without regard to the place where the injury 47583
was sustained or the disease contracted. If an employer and an 47584
employee enter into an agreement under this division, the fact 47585
that the employer and the employee entered into that agreement 47586
shall not be construed to change the status of an employee whose 47587
continued employment is subject to the will of the employer or the 47588
employee, unless the agreement contains a provision that expressly 47589
changes that status. 47590

(2) If any employee or the employee's dependents pursue 47591
workers' compensation benefits or recover damages from the 47592
employer under the laws of another state, the amount awarded or 47593
recovered, whether paid or to be paid in future installments, 47594
shall be credited on the amount of any award of compensation or 47595
benefits made to the employee or the employee's dependents by the 47596
bureau. If an employee or the employee's dependents pursue or 47597
receive an award of compensation or benefits under this chapter or 47598
Chapter 4121., 4127., or 4131. of the Revised Code for the same 47599
injury, occupational disease, or death for which the employee or 47600
the employee's dependents pursued workers' compensation benefits 47601
and received a decision on the merits as defined in section 47602
4123.542 of the Revised Code under the laws of another state or 47603
recovered damages under the laws of another state, the 47604
administrator or any employer, by any lawful means, may collect 47605
the amount of compensation or benefits paid to or on behalf of the 47606
employee or the employee's dependents by the administrator or a 47607

self-insuring employer pursuant to this chapter or Chapter 4121., 47608
4127., or 4131. of the Revised Code for that award. The 47609
administrator or any employer also may collect from the employee 47610
or the employee's dependents any costs and attorney's fees the 47611
administrator or the employer incurs in collecting that payment 47612
and any attorney's fees, penalties, interest, awards, and costs 47613
incurred by an employer in contesting or responding to any claim 47614
filed by the employee or the employee's dependents for the same 47615
injury, occupational disease, or death that was filed after the 47616
original claim for which the employee or the employee's dependents 47617
received a decision on the merits as described in section 4123.542 47618
of the Revised Code. If the employee's employer pays premiums into 47619
the state insurance fund, the administrator shall not charge the 47620
amount of compensation or benefits the administrator collects 47621
pursuant to this division to the employer's experience. If the 47622
administrator collects any costs, penalties, interest, awards, or 47623
attorney's fees incurred by a state fund employer, the 47624
administrator shall forward the amount of such costs, penalties, 47625
interest, awards, and attorney's fees the administrator collects 47626
to that employer. If the employee's employer is a self-insuring 47627
employer, the self-insuring employer shall deduct the amount of 47628
compensation or benefits the self-insuring employer collects 47629
pursuant to this division from the paid compensation the 47630
self-insuring employer reports to the administrator under division 47631
(L) of section 4123.35 of the Revised Code. 47632

(3) Except as otherwise stipulated in division (H)(4) of this 47633
section, if an employee is a resident of a state other than this 47634
state and is insured under the workers' compensation law or 47635
similar laws of a state other than this state, the employee and 47636
the employee's dependents are not entitled to receive compensation 47637
or benefits under this chapter, on account of injury, disease, or 47638
death arising out of or in the course of employment while 47639
temporarily within this state, and the rights of the employee and 47640

the employee's dependents under the laws of the other state are 47641
the exclusive remedy against the employer on account of the 47642
injury, disease, or death. 47643

(4) Division (H)(3) of this section does not apply to an 47644
employee described in that division, or the employee's dependents, 47645
unless both of the following apply: 47646

(a) The laws of the other state limit the ability of an 47647
employee who is a resident of this state and is covered by this 47648
chapter and Chapter 4123. of the Revised Code, or the employee's 47649
dependents, to receive compensation or benefits under the other 47650
state's workers' compensation law on account of injury, disease, 47651
or death incurred by the employee that arises out of or in the 47652
course of the employee's employment while temporarily within that 47653
state in the same manner as specified in division (H)(3) of this 47654
section for an employee who is a resident of a state other than 47655
this state, or the employee's dependents; 47656

(b) The laws of the other state limit the liability of the 47657
employer of the employee who is a resident of this state and who 47658
is described in division (H)(4)(a) of this section for that 47659
injury, disease, or death, in the same manner specified in 47660
division (H)(3) of this section for the employer of an employee 47661
who is a resident of the other state. 47662

(5) An employee, or the dependent of an employee, who elects 47663
to receive compensation and benefits under this chapter or Chapter 47664
4121., 4127., or 4131. of the Revised Code for a claim may not 47665
receive compensation and benefits under the workers' compensation 47666
laws of any state other than this state for that same claim. For 47667
each claim submitted by or on behalf of an employee, the 47668
administrator or, if the employee is employed by a self-insuring 47669
employer, the self-insuring employer shall request the employee or 47670
the employee's dependent to sign an election that affirms the 47671
employee's or employee's dependent's acceptance of electing to 47672

receive compensation and benefits under this chapter or Chapter 47673
4121., 4127., or 4131. of the Revised Code for that claim that 47674
also affirmatively waives and releases the employee's or the 47675
employee's dependent's right to file for and receive compensation 47676
and benefits under the laws of any state other than this state for 47677
that claim. The employee or employee's dependent shall sign the 47678
election form within twenty-eight days after the administrator or 47679
self-insuring employer submits the request or the administrator or 47680
self-insuring employer shall suspend that claim until the 47681
administrator or self-insuring employer receives the signed 47682
election form. 47683

(I) If an employee who is covered under the federal 47684
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 47685
33 U.S.C. 901 et seq., is injured or contracts an occupational 47686
disease or dies as a result of an injury or occupational disease, 47687
and if that employee's or that employee's dependents' claim for 47688
compensation or benefits for that injury, occupational disease, or 47689
death is subject to the jurisdiction of that act, the employee or 47690
the employee's dependents are not entitled to apply for and shall 47691
not receive compensation or benefits under this chapter and 47692
Chapter 4121. of the Revised Code. The rights of such an employee 47693
and the employee's dependents under the federal "Longshore and 47694
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 47695
seq., are the exclusive remedy against the employer for that 47696
injury, occupational disease, or death. 47697

(J) Compensation or benefits are not payable to a claimant 47698
during the period of confinement of the claimant in any state or 47699
federal correctional institution, or in any county jail in lieu of 47700
incarceration in a state or federal correctional institution, 47701
whether in this or any other state for conviction of violation of 47702
any state or federal criminal law. 47703

(K) An employer, upon the approval of the administrator, may 47704

provide for workers' compensation coverage for the employer's 47705
employees who are professional athletes and coaches by submitting 47706
to the administrator proof of coverage under a league policy 47707
issued under the laws of another state under either of the 47708
following circumstances: 47709

(1) The employer administers the payroll and workers' 47710
compensation insurance for a professional sports team subject to a 47711
collective bargaining agreement, and the collective bargaining 47712
agreement provides for the uniform administration of workers' 47713
compensation benefits and compensation for professional athletes. 47714

(2) The employer is a professional sports league, or is a 47715
member team of a professional sports league, and all of the 47716
following apply: 47717

(a) The professional sports league operates as a single 47718
entity, whereby all of the players and coaches of the sports 47719
league are employees of the sports league and not of the 47720
individual member teams. 47721

(b) The professional sports league at all times maintains 47722
workers' compensation insurance that provides coverage for the 47723
players and coaches of the sports league. 47724

(c) Each individual member team of the professional sports 47725
league, pursuant to the organizational or operating documents of 47726
the sports league, is obligated to the sports league to pay to the 47727
sports league any workers' compensation claims that are not 47728
covered by the workers' compensation insurance maintained by the 47729
sports league. 47730

If the administrator approves the employer's proof of 47731
coverage submitted under division (K) of this section, a 47732
professional athlete or coach who is an employee of the employer 47733
and the dependents of the professional athlete or coach are not 47734
entitled to apply for and shall not receive compensation or 47735

benefits under this chapter and Chapter 4121. of the Revised Code. 47736
The rights of such an athlete or coach and the dependents of such 47737
an athlete or coach under the laws of the state where the policy 47738
was issued are the exclusive remedy against the employer for the 47739
athlete or coach if the athlete or coach suffers an injury or 47740
contracts an occupational disease in the course of employment, or 47741
for the dependents of the athlete or the coach if the athlete or 47742
coach is killed as a result of an injury or dies as a result of an 47743
occupational disease, regardless of the location where the injury 47744
was suffered or the occupational disease was contracted. 47745

Sec. 4123.57. Partial disability compensation shall be paid 47746
as follows. 47747

Except as provided in this section, not earlier than 47748
twenty-six weeks after the date of termination of the latest 47749
period of payments under section 4123.56 of the Revised Code, or 47750
not earlier than twenty-six weeks after the date of the injury or 47751
contraction of an occupational disease in the absence of payments 47752
under section 4123.56 of the Revised Code, the employee may file 47753
an application with the bureau of workers' compensation for the 47754
determination of the percentage of the employee's permanent 47755
partial disability resulting from an injury or occupational 47756
disease. 47757

Whenever the application is filed, the bureau shall send a 47758
copy of the application to the employee's employer or the 47759
employer's representative and shall schedule the employee for a 47760
medical examination by the bureau medical section. The bureau 47761
shall send a copy of the report of the medical examination to the 47762
employee, the employer, and their representatives. Thereafter, the 47763
administrator of workers' compensation shall review the employee's 47764
claim file and make a tentative order as the evidence before the 47765
administrator at the time of the making of the order warrants. If 47766

the administrator determines that there is a conflict of evidence, 47767
the administrator shall send the application, along with the 47768
claimant's file, to the district hearing officer who shall set the 47769
application for a hearing. 47770

The administrator shall notify the employee, the employer, 47771
and their representatives, in writing, of the tentative order and 47772
of the parties' right to request a hearing. Unless the employee, 47773
the employer, or their representative notifies the administrator, 47774
in writing, of an objection to the tentative order within twenty 47775
days after receipt of the notice thereof, the tentative order 47776
shall go into effect and the employee shall receive the 47777
compensation provided in the order. In no event shall there be a 47778
reconsideration of a tentative order issued under this division. 47779

If the employee, the employer, or their representatives 47780
timely notify the administrator of an objection to the tentative 47781
order, the matter shall be referred to a district hearing officer 47782
who shall set the application for hearing with written notices to 47783
all interested persons. Upon referral to a district hearing 47784
officer, the employer may obtain a medical examination of the 47785
employee, pursuant to rules of the industrial commission. 47786

(A) The district hearing officer, upon the application, shall 47787
determine the percentage of the employee's permanent disability, 47788
except as is subject to division (B) of this section, based upon 47789
that condition of the employee resulting from the injury or 47790
occupational disease and causing permanent impairment evidenced by 47791
medical or clinical findings reasonably demonstrable. The employee 47792
shall receive sixty-six and two-thirds per cent of the employee's 47793
average weekly wage, but not more than a maximum of thirty-three 47794
and one-third per cent of the statewide average weekly wage as 47795
defined in division (C) of section 4123.62 of the Revised Code, 47796
per week regardless of the average weekly wage, for the number of 47797
weeks which equals the percentage of two hundred weeks. Except on 47798

application for reconsideration, review, or modification, which is 47799
filed within ten days after the date of receipt of the decision of 47800
the district hearing officer, in no instance shall the former 47801
award be modified unless it is found from medical or clinical 47802
findings that the condition of the claimant resulting from the 47803
injury has so progressed as to have increased the percentage of 47804
permanent partial disability. A staff hearing officer shall hear 47805
an application for reconsideration filed and the staff hearing 47806
officer's decision is final. An employee may file an application 47807
for a subsequent determination of the percentage of the employee's 47808
permanent disability. If such an application is filed, the bureau 47809
shall send a copy of the application to the employer or the 47810
employer's representative. No sooner than sixty days from the date 47811
of the mailing of the application to the employer or the 47812
employer's representative, the administrator shall review the 47813
application. The administrator may require a medical examination 47814
or medical review of the employee. The administrator shall issue a 47815
tentative order based upon the evidence before the administrator, 47816
provided that if the administrator requires a medical examination 47817
or medical review, the administrator shall not issue the tentative 47818
order until the completion of the examination or review. 47819

The employer may obtain a medical examination of the employee 47820
and may submit medical evidence at any stage of the process up to 47821
a hearing before the district hearing officer, pursuant to rules 47822
of the commission. The administrator shall notify the employee, 47823
the employer, and their representatives, in writing, of the nature 47824
and amount of any tentative order issued on an application 47825
requesting a subsequent determination of the percentage of an 47826
employee's permanent disability. An employee, employer, or their 47827
representatives may object to the tentative order within twenty 47828
days after the receipt of the notice thereof. If no timely 47829
objection is made, the tentative order shall go into effect. In no 47830
event shall there be a reconsideration of a tentative order issued 47831

under this division. If an objection is timely made, the 47832
application for a subsequent determination shall be referred to a 47833
district hearing officer who shall set the application for a 47834
hearing with written notice to all interested persons. No 47835
application for subsequent percentage determinations on the same 47836
claim for injury or occupational disease shall be accepted for 47837
review by the district hearing officer unless supported by 47838
substantial evidence of new and changed circumstances developing 47839
since the time of the hearing on the original or last 47840
determination. 47841

No award shall be made under this division based upon a 47842
percentage of disability which, when taken with all other 47843
percentages of permanent disability, exceeds one hundred per cent. 47844
If the percentage of the permanent disability of the employee 47845
equals or exceeds ninety per cent, compensation for permanent 47846
partial disability shall be paid for two hundred weeks. 47847

Compensation payable under this division accrues and is 47848
payable to the employee from the date of last payment of 47849
compensation, or, in cases where no previous compensation has been 47850
paid, from the date of the injury or the date of the diagnosis of 47851
the occupational disease. 47852

When an award under this division has been made prior to the 47853
death of an employee, all unpaid installments accrued or to accrue 47854
under the provisions of the award are payable to the surviving 47855
spouse, or if there is no surviving spouse, to the dependent 47856
children of the employee, and if there are no children surviving, 47857
then to other dependents as the administrator determines. 47858

(B) ~~In~~ For purposes of this division, "payable per week" 47859
means the seven consecutive day period in which compensation is 47860
paid in installments according to the schedule associated with the 47861
applicable injury as set forth in this division. 47862

Compensation paid in weekly installments according to the 47863
schedule described in this division may only be commuted to one or 47864
more lump-sum payments pursuant to the procedure set forth in 47865
section 4123.64 of the Revised Code. 47866

In cases included in the following schedule the compensation 47867
payable per week to the employee is the statewide average weekly 47868
wage as defined in division (C) of section 4123.62 of the Revised 47869
Code per week and shall ~~continue during the periods provided in~~ be 47870
paid in installments according to the following schedule: 47871

For the loss of a first finger, commonly known as a thumb, 47872
sixty weeks. 47873

For the loss of a second finger, commonly called index 47874
finger, thirty-five weeks. 47875

For the loss of a third finger, thirty weeks. 47876

For the loss of a fourth finger, twenty weeks. 47877

For the loss of a fifth finger, commonly known as the little 47878
finger, fifteen weeks. 47879

The loss of a second, or distal, phalange of the thumb is 47880
considered equal to the loss of one half of such thumb; the loss 47881
of more than one half of such thumb is considered equal to the 47882
loss of the whole thumb. 47883

The loss of the third, or distal, phalange of any finger is 47884
considered equal to the loss of one-third of the finger. 47885

The loss of the middle, or second, phalange of any finger is 47886
considered equal to the loss of two-thirds of the finger. 47887

The loss of more than the middle and distal phalanges of any 47888
finger is considered equal to the loss of the whole finger. In no 47889
case shall the amount received for more than one finger exceed the 47890
amount provided in this schedule for the loss of a hand. 47891

For the loss of the metacarpal bone (bones of the palm) for 47892

the corresponding thumb, or fingers, add ten weeks to the number 47893
of weeks under this division. 47894

For ankylosis (total stiffness of) or contractures (due to 47895
scars or injuries) which makes any of the fingers, thumbs, or 47896
parts of either useless, the same number of weeks apply to the 47897
members or parts thereof as given for the loss thereof. 47898

If the claimant has suffered the loss of two or more fingers 47899
by amputation or ankylosis and the nature of the claimant's 47900
employment in the course of which the claimant was working at the 47901
time of the injury or occupational disease is such that the 47902
handicap or disability resulting from the loss of fingers, or loss 47903
of use of fingers, exceeds the normal handicap or disability 47904
resulting from the loss of fingers, or loss of use of fingers, the 47905
administrator may take that fact into consideration and increase 47906
the award of compensation accordingly, but the award made shall 47907
not exceed the amount of compensation for loss of a hand. 47908

For the loss of a hand, one hundred seventy-five weeks. 47909

For the loss of an arm, two hundred twenty-five weeks. 47910

For the loss of a great toe, thirty weeks. 47911

For the loss of one of the toes other than the great toe, ten 47912
weeks. 47913

The loss of more than two-thirds of any toe is considered 47914
equal to the loss of the whole toe. 47915

The loss of less than two-thirds of any toe is considered no 47916
loss, except as to the great toe; the loss of the great toe up to 47917
the interphalangeal joint is co-equal to the loss of one-half of 47918
the great toe; the loss of the great toe beyond the 47919
interphalangeal joint is considered equal to the loss of the whole 47920
great toe. 47921

For the loss of a foot, one hundred fifty weeks. 47922

| | |
|---|---|
| For the loss of a leg, two hundred weeks. | 47923 |
| For the loss of the sight of an eye, one hundred twenty-five weeks. | 47924 47925 |
| For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease. | 47926 47927 47928 47929 47930 47931 47932 47933 |
| For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than permanent and total loss of hearing of one ear. | 47934 47935 47936 47937 |
| For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing. | 47938 47939 47940 47941 |
| In case an injury or occupational disease results in serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination. | 47942 47943 47944 47945 47946 47947 47948 47949 47950 |
| When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the | 47951 47952 47953 |

surviving spouse, or if there is no surviving spouse, to the 47954
dependent children of the employee and if there are no such 47955
children, then to such dependents as the administrator determines. 47956

When an employee has sustained the loss of a member by 47957
severance, but no award has been made on account thereof prior to 47958
the employee's death, the administrator shall make an award in 47959
accordance with this division for the loss which shall be payable 47960
to the surviving spouse, or if there is no surviving spouse, to 47961
the dependent children of the employee and if there are no such 47962
children, then to such dependents as the administrator determines. 47963

(C) Compensation for partial impairment under divisions (A) 47964
and (B) of this section is in addition to the compensation paid 47965
the employee pursuant to section 4123.56 of the Revised Code. A 47966
claimant may receive compensation under divisions (A) and (B) of 47967
this section. 47968

In all cases arising under division (B) of this section, if 47969
it is determined by any one of the following: (1) the amputee 47970
clinic at University hospital, Ohio state university; (2) the 47971
rehabilitation services commission; (3) an amputee clinic or 47972
prescribing physician approved by the administrator or the 47973
administrator's designee, that an injured or disabled employee is 47974
in need of an artificial appliance, or in need of a repair 47975
thereof, regardless of whether the appliance or its repair will be 47976
serviceable in the vocational rehabilitation of the injured 47977
employee, and regardless of whether the employee has returned to 47978
or can ever again return to any gainful employment, the bureau 47979
shall pay the cost of the artificial appliance or its repair out 47980
of the surplus created by division (B) of section 4123.34 of the 47981
Revised Code. 47982

In those cases where a rehabilitation services commission 47983
recommendation that an injured or disabled employee is in need of 47984
an artificial appliance would conflict with their state plan, 47985

adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 47986
355, 29 U.S.C.A. 701, the administrator or the administrator's 47987
designee or the bureau may obtain a recommendation from an amputee 47988
clinic or prescribing physician that they determine appropriate. 47989

(D) If an employee of a state fund employer makes application 47990
for a finding and the administrator finds that the employee has 47991
contracted silicosis as defined in division (X), or coal miners' 47992
pneumoconiosis as defined in division (Y), or asbestosis as 47993
defined in division (AA) of section 4123.68 of the Revised Code, 47994
and that a change of such employee's occupation is medically 47995
advisable in order to decrease substantially further exposure to 47996
silica dust, asbestos, or coal dust and if the employee, after the 47997
finding, has changed or shall change the employee's occupation to 47998
an occupation in which the exposure to silica dust, asbestos, or 47999
coal dust is substantially decreased, the administrator shall 48000
allow to the employee an amount equal to fifty per cent of the 48001
statewide average weekly wage per week for a period of thirty 48002
weeks, commencing as of the date of the discontinuance or change, 48003
and for a period of one hundred weeks immediately following the 48004
expiration of the period of thirty weeks, the employee shall 48005
receive sixty-six and two-thirds per cent of the loss of wages 48006
resulting directly and solely from the change of occupation but 48007
not to exceed a maximum of an amount equal to fifty per cent of 48008
the statewide average weekly wage per week. No such employee is 48009
entitled to receive more than one allowance on account of 48010
discontinuance of employment or change of occupation and benefits 48011
shall cease for any period during which the employee is employed 48012
in an occupation in which the exposure to silica dust, asbestos, 48013
or coal dust is not substantially less than the exposure in the 48014
occupation in which the employee was formerly employed or for any 48015
period during which the employee may be entitled to receive 48016
compensation or benefits under section 4123.68 of the Revised Code 48017
on account of disability from silicosis, asbestosis, or coal 48018

miners' pneumoconiosis. An award for change of occupation for a 48019
coal miner who has contracted coal miners' pneumoconiosis may be 48020
granted under this division even though the coal miner continues 48021
employment with the same employer, so long as the coal miner's 48022
employment subsequent to the change is such that the coal miner's 48023
exposure to coal dust is substantially decreased and a change of 48024
occupation is certified by the claimant as permanent. The 48025
administrator may accord to the employee medical and other 48026
benefits in accordance with section 4123.66 of the Revised Code. 48027

(E) If a firefighter or police officer makes application for 48028
a finding and the administrator finds that the firefighter or 48029
police officer has contracted a cardiovascular and pulmonary 48030
disease as defined in division (W) of section 4123.68 of the 48031
Revised Code, and that a change of the firefighter's or police 48032
officer's occupation is medically advisable in order to decrease 48033
substantially further exposure to smoke, toxic gases, chemical 48034
fumes, and other toxic vapors, and if the firefighter, or police 48035
officer, after the finding, has changed or changes occupation to 48036
an occupation in which the exposure to smoke, toxic gases, 48037
chemical fumes, and other toxic vapors is substantially decreased, 48038
the administrator shall allow to the firefighter or police officer 48039
an amount equal to fifty per cent of the statewide average weekly 48040
wage per week for a period of thirty weeks, commencing as of the 48041
date of the discontinuance or change, and for a period of 48042
seventy-five weeks immediately following the expiration of the 48043
period of thirty weeks the administrator shall allow the 48044
firefighter or police officer sixty-six and two-thirds per cent of 48045
the loss of wages resulting directly and solely from the change of 48046
occupation but not to exceed a maximum of an amount equal to fifty 48047
per cent of the statewide average weekly wage per week. No such 48048
firefighter or police officer is entitled to receive more than one 48049
allowance on account of discontinuance of employment or change of 48050
occupation and benefits shall cease for any period during which 48051

the firefighter or police officer is employed in an occupation in 48052
which the exposure to smoke, toxic gases, chemical fumes, and 48053
other toxic vapors is not substantially less than the exposure in 48054
the occupation in which the firefighter or police officer was 48055
formerly employed or for any period during which the firefighter 48056
or police officer may be entitled to receive compensation or 48057
benefits under section 4123.68 of the Revised Code on account of 48058
disability from a cardiovascular and pulmonary disease. The 48059
administrator may accord to the firefighter or police officer 48060
medical and other benefits in accordance with section 4123.66 of 48061
the Revised Code. 48062

(F) An order issued under this section is appealable pursuant 48063
to section 4123.511 of the Revised Code but is not appealable to 48064
court under section 4123.512 of the Revised Code. 48065

Sec. 4141.35. (A) If the director of job and family services 48066
finds that any fraudulent misrepresentation has been made by an 48067
applicant for or a recipient of benefits with the object of 48068
obtaining benefits to which the applicant or recipient was not 48069
entitled, and in addition to any other penalty or forfeiture under 48070
this chapter, then the director: 48071

(1) Shall within four years after the end of the benefit year 48072
in which the fraudulent misrepresentation was made reject or 48073
cancel such person's entire weekly claim for benefits that was 48074
fraudulently claimed, or the person's entire benefit rights if the 48075
misrepresentation was in connection with the filing of the 48076
claimant's application for determination of benefit rights; 48077

(2) Shall by order declare that, for each application for 48078
benefit rights and for each weekly claim canceled, such person 48079
shall be ineligible for two otherwise valid weekly claims for 48080
benefits, claimed within six years subsequent to the discovery of 48081
such misrepresentation; 48082

(3) By order shall require that the total amount of benefits 48083
rejected or canceled under division (A)(1) of this section be 48084
repaid to the director before such person may become eligible for 48085
further benefits, and shall withhold such unpaid sums from future 48086
benefit payments accruing and otherwise payable to such claimant. 48087
Effective with orders issued on or after January 1, 1993, if such 48088
benefits are not repaid within thirty days after the director's 48089
order becomes final, interest on the amount remaining unpaid shall 48090
be charged to the person at a rate and calculated in the same 48091
manner as provided under section 4141.23 of the Revised Code. When 48092
a person ordered to repay benefits has repaid all overpaid 48093
benefits according to a plan approved by the director, the 48094
director may cancel the amount of interest that accrued during the 48095
period of the repayment plan. The director may take action in ~~the~~ 48096
~~courts~~ any court of ~~this state~~ competent jurisdiction to collect 48097
benefits and interest as provided in sections 4141.23 and 4141.27 48098
of the Revised Code, in regard to the collection of unpaid 48099
contributions, using the final repayment order as the basis for 48100
such action. ~~No~~ Except as otherwise provided in this division, no 48101
administrative or legal proceedings for the collection of such 48102
benefits or interest due shall be initiated after the expiration 48103
of six years from the date on which the director's order requiring 48104
repayment became final and the amount of any benefits or interest 48105
not recovered at that time, and any liens thereon, shall be 48106
canceled as uncollectible. The time limit for instituting 48107
proceedings shall be extended by the period of any stay to the 48108
collection or by any other time period to which the parties 48109
mutually agree. 48110

(4) May take action to collect benefits fraudulently obtained 48111
under the unemployment compensation law of any other state or the 48112
United States or Canada. Such action may be initiated in the 48113
courts of this state in the same manner as provided for unpaid 48114
contributions in section 4141.41 of the Revised Code. 48115

(5) May take action to collect benefits that have been 48116
fraudulently obtained from the director, interest pursuant to 48117
division (A)(3) of this section, and court costs, through 48118
attachment proceedings under Chapter 2715. of the Revised Code and 48119
garnishment proceedings under Chapter 2716. of the Revised Code. 48120

(B) If the director finds that an applicant for benefits has 48121
been credited with a waiting period or paid benefits to which the 48122
applicant was not entitled for reasons other than fraudulent 48123
misrepresentation, the director shall: 48124

(1)(a) Within six months after the determination under which 48125
the claimant was credited with that waiting period or paid 48126
benefits becomes final pursuant to section 4141.28 of the Revised 48127
Code, or within three years after the end of the benefit year in 48128
which such benefits were claimed, whichever is later, by order 48129
cancel such waiting period and require that such benefits be 48130
repaid to the director or be withheld from any benefits to which 48131
such applicant is or may become entitled before any additional 48132
benefits are paid, provided that the repayment or withholding 48133
shall not be required where the overpayment is the result of the 48134
director's correcting a prior decision due to a typographical or 48135
clerical error in the director's prior decision, or an error in an 48136
employer's report under division (G) of section 4141.28 of the 48137
Revised Code. 48138

(b) The limitation specified in division (B)(1)(a) of this 48139
section shall not apply to cases involving the retroactive payment 48140
of remuneration covering periods for which benefits were 48141
previously paid to the claimant. However, in such cases, the 48142
director's order requiring repayment shall not be issued unless 48143
the director is notified of such retroactive payment within six 48144
months from the date the retroactive payment was made to the 48145
claimant. 48146

(2) The director may, by reciprocal agreement with the United 48147

States secretary of labor or another state, recover overpayment 48148
amounts from unemployment benefits otherwise payable to an 48149
individual under Chapter 4141. of the Revised Code. Any 48150
overpayments made to the individual that have not previously been 48151
recovered under an unemployment benefit program of the United 48152
States may be recovered in accordance with section 303(g) of the 48153
"Social Security Act" and sections 3304(a)(4) and 3306(f) of the 48154
"Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 48155
3301 to 3311. 48156

(3) If the amounts required to be repaid under division (B) 48157
of this section are not recovered within three years from the date 48158
the director's order requiring payment became final, initiate no 48159
further action to collect such benefits and the amount of any 48160
benefits not recovered at that time shall be canceled as 48161
uncollectible, provided that the time limit for collection shall 48162
be extended by the period of any stay to the collection or by any 48163
other time period to which the parties mutually agree. 48164

(C) The appeal provisions of sections 4141.281 and 4141.282 48165
of the Revised Code shall apply to all orders and determinations 48166
issued under this section, except that an individual's right of 48167
appeal under division (B)(2) of this section shall be limited to 48168
this state's authority to recover overpayment of benefits. 48169

(D) If an individual makes a full repayment or a repayment 48170
that is less than the full amount required by this section, the 48171
director shall apply the repayment to the mutualized account under 48172
division (B) of section 4141.25 of the Revised Code, except that 48173
the director shall credit the repayment to the accounts of the 48174
individual's base period employers that previously have not been 48175
credited for the amount of improperly paid benefits charged 48176
against their accounts based on the proportion of benefits charged 48177
against the accounts as determined pursuant to division (D) of 48178
section 4141.24 of the Revised Code. 48179

The director shall deposit any repayment collected under this 48180
section that the director determines to be payment of interest or 48181
court costs into the unemployment compensation special 48182
administrative fund established pursuant to section 4141.11 of the 48183
Revised Code. 48184

Sec. 4163.07. (A)(1) Prior to transporting any high-level 48185
radioactive waste, spent nuclear fuel, transuranic waste, or any 48186
quantity of special nuclear material or by-product material that 48187
meets or exceeds the highway route controlled quantity, within, 48188
into, or through the state, the shipper of the material shall 48189
notify the executive director of the emergency management agency 48190
established under section 5502.22 of the Revised Code of the 48191
shipment. The notice shall be in writing and be sent by certified 48192
mail and shall include the name of the shipper; the name of the 48193
carrier; the type and quantity of the material; the transportation 48194
mode of the shipment; the proposed date and time of shipment of 48195
the material within, into, or through the state; and the starting 48196
point, termination or exit point, scheduled route, and each 48197
alternate route, if any, of the shipment. In order to constitute 48198
effective notification under division (A)(1) of this section, 48199
notification shall be received by the executive director at least 48200
four days prior to shipment within, into, or through the state. 48201

(2) The carrier or shipper of any shipment subject to 48202
division (A)(1) of this section shall immediately notify the 48203
executive director of any change in the date and time of the 48204
shipment or in the route of the shipment within, into, or through 48205
the state. 48206

(B) Upon receipt of a notice of any shipment of material that 48207
is subject to division (A)(1) of this section within, into, or 48208
through the state, the executive director of the emergency 48209
management agency shall immediately notify the director of public 48210

safety, the director of environmental protection, the director of 48211
health, the chairperson of the public utilities commission, and 48212
the county emergency management agency and sheriff of each county 48213
along the proposed route, or any alternate route, of the shipment. 48214

(C) The executive director of the emergency management agency 48215
shall not disclose to any person other than those persons 48216
enumerated in division (B) of this section any information 48217
pertaining to any shipment of special nuclear material or 48218
by-product material prior to the time that the shipment is 48219
completed. 48220

(D) This section does not apply to radioactive materials, 48221
other than by-products, shipped by or for the United States 48222
department of defense and United States department of energy for 48223
military or national defense purposes. Nothing in this section 48224
requires the disclosure of any defense information or restricted 48225
data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 48226
42 U.S.C. 2011, as amended. 48227

(E) No person shall transport or cause to be transported 48228
within, into, or through the state any material that is subject to 48229
division (A)(1) of this section without first providing the notice 48230
required in that division. 48231

(F) Whoever violates division (E) of this section, in 48232
addition to any penalty imposed under section 4163.99 of the 48233
Revised Code, is liable for a civil penalty in an amount not to 48234
exceed the following, as applicable: 48235

(1) Twenty-five thousand dollars for a motor carrier, as 48236
defined in section 4923.01 of the Revised Code; 48237

(2) Forty-five thousand dollars for the first cask designated 48238
for transport by rail and thirty thousand dollars for each 48239
additional cask designated for transport by rail that is shipped 48240
by the same person or entity in the same shipment. 48241

The attorney general, upon the request of the executive 48242
director of the emergency management agency, shall bring a civil 48243
action to collect the penalty. Fines collected pursuant to this 48244
section shall be deposited into the state treasury to the credit 48245
of the ~~radioactive waste~~ public utilities transportation safety 48246
fund created in section ~~4905.801~~ 4921.21 of the Revised Code. 48247

Sec. 4169.02. (A) For the purposes of regulating the 48248
construction, maintenance, mechanical operation, and inspection of 48249
passenger tramways that are associated with ski areas and of 48250
registering operators of passenger tramways in this state, there 48251
is hereby established in the division of ~~labor~~ industrial 48252
compliance in the department of commerce a ski tramway board to be 48253
appointed by the governor, with the advice and consent of the 48254
senate. The board shall consist of three members, one of whom 48255
shall be a public member who is an experienced skier and familiar 48256
with ski areas in this state, one of whom shall be a ski area 48257
operator actively engaged in the business of recreational skiing 48258
in this state, and one of whom shall be a professional engineer 48259
who is knowledgeable in the design or operation of passenger 48260
tramways. 48261

Of the initial appointments, one member shall be appointed 48262
for a term of one year, one for a term of two years, and one for a 48263
term of three years. The member appointed to the term beginning on 48264
July 1, 1996, shall be appointed to a term ending on June 30, 48265
1997; the member appointed to a term beginning on July 1, 1997, 48266
shall be appointed to a term ending on June 30, 1999; and the 48267
member appointed to a term beginning on July 1, 1998, shall be 48268
appointed to a term ending on June 30, 2001. Thereafter, each of 48269
the members shall be appointed for a term of six years. Each 48270
member shall hold office from the date of appointment until the 48271
end of the term for which the member was appointed. In the event 48272
of a vacancy, the governor, with the advice and consent of the 48273

senate, shall appoint a successor who shall hold office for the 48274
remainder of the term for which the successor's predecessor was 48275
appointed. A member shall continue in office subsequent to the 48276
expiration date of the member's term until the member's successor 48277
takes office or until a period of sixty days has elapsed, 48278
whichever occurs first. The board shall elect a chairperson from 48279
its members. 48280

The governor may remove any member of the board at any time 48281
for misfeasance, nonfeasance, or malfeasance in office after 48282
giving the member a copy of the charges against the member and an 48283
opportunity to be heard publicly in person or by counsel in the 48284
member's defense. Any such act of removal by the governor is 48285
final. A statement of the findings of the governor, the reason for 48286
the governor's action, and the answer, if any, of the member shall 48287
be filed by the governor with the secretary of state and shall be 48288
open to public inspection. 48289

Members of the board shall be paid two hundred fifty dollars 48290
for each meeting that the member attends, except that no member 48291
shall be paid or receive more than seven hundred fifty dollars for 48292
attending meetings during any calendar year. Each member shall be 48293
reimbursed for the member's actual and necessary expenses incurred 48294
in the performance of official board duties. The chairperson shall 48295
be paid two hundred fifty dollars annually in addition to any 48296
compensation the chairperson receives under this division for 48297
attending meetings and any other compensation the chairperson 48298
receives for serving on the board. 48299

The division shall provide the board with such offices and 48300
such clerical, professional, and other assistance as may be 48301
reasonably necessary for the board to carry on its work. The 48302
division shall maintain accurate copies of the board's rules as 48303
promulgated in accordance with division (B) of this section and 48304
shall keep all of the board's records, including business records, 48305

and inspection reports as well as its own records and reports. The 48306
cost of administering the board and conducting inspections shall 48307
be included in the budget of the division based on revenues 48308
generated by the registration fees established under section 48309
4169.03 of the Revised Code. 48310

(B) In accordance with Chapter 119. of the Revised Code, the 48311
board shall adopt and may amend or rescind rules relating to 48312
public safety in the construction, maintenance, mechanical 48313
operation, and inspection of passenger tramways. The rules shall 48314
be in accordance with established standards in the business of ski 48315
area operation, if any, and shall not discriminate in their 48316
application to ski area operators. 48317

No person shall violate the rules of the board. 48318

(C) The authority of the board shall not extend to any matter 48319
relative to the operation of a ski area other than the 48320
construction, maintenance, mechanical operation, and inspection of 48321
passenger tramways. 48322

(D) A majority of the board constitutes a quorum and may 48323
perform and exercise all the duties and powers devolving upon the 48324
board. 48325

Sec. 4169.03. (A) Before a passenger tramway operator may 48326
operate any passenger tramway in the state, the operator shall 48327
apply to the ski tramway board, on forms prepared by it, for 48328
registration by the board. The application shall contain an 48329
inventory of the passenger tramways that the applicant intends to 48330
operate and other information as the board may reasonably require 48331
and shall be accompanied by the following annual fees: 48332

(1) Each aerial passenger tramway, five hundred dollars; 48333

(2) Each skimobile, two hundred dollars; 48334

(3) Each chair lift, two hundred dollars; 48335

- (4) Each J bar, T bar, or platter pull, one hundred dollars; 48336
(5) Each rope tow, fifty dollars; 48337
(6) Each wire rope tow, seventy-five dollars; 48338
(7) Each conveyor, one hundred dollars. 48339

When an operator operates an aerial passenger tramway, a 48340
skimobile, or a chair lift during both a winter and summer season, 48341
the annual fee shall be one and one-half the above amount for the 48342
respective passenger tramway. 48343

(B) Upon payment of the appropriate annual fees in accordance 48344
with division (A) of this section, the board shall issue a 48345
registration certificate to the operator. Each certificate shall 48346
remain in force until the thirtieth day of September next ensuing. 48347
The board shall renew an operator's certificate in accordance with 48348
the standard renewal procedure in Chapter 4745. of the Revised 48349
Code upon payment of the appropriate annual fees. 48350

(C) Money received from the registration fees and from the 48351
fines collected pursuant to section 4169.99 of the Revised Code 48352
shall be paid into the state treasury to the credit of the ~~labor~~ 48353
industrial compliance operating fund created in section 121.084 of 48354
the Revised Code. 48355

(D) No person shall operate a passenger tramway in this state 48356
unless the person has been registered by the board. 48357

Sec. 4169.04. (A) The division of ~~labor~~ industrial compliance 48358
in the department of commerce shall make such inspection of the 48359
construction, maintenance, and mechanical operation of passenger 48360
tramways as the ski tramway board may reasonably require. The 48361
division may contract with other qualified engineers to make such 48362
inspection or may accept the inspection report by any qualified 48363
inspector of an insurance company authorized to insure passenger 48364
tramways in this state. 48365

(B) If, as the result of an inspection, an employee of the 48366
division or other agent with whom the division has contracted 48367
finds that a violation of the board's rules exists or a condition 48368
in passenger tramway construction, maintenance, or mechanical 48369
operation exists that endangers public safety, the employee or 48370
agent shall make an immediate report to the board for appropriate 48371
investigation and order. 48372

Sec. 4171.04. (A) Before a person may operate any roller 48373
skating rink in the state, the person shall: 48374

(1) Apply to the superintendent of ~~labor~~ industrial 48375
compliance in the department of commerce on forms designated by 48376
the superintendent for a certificate of registration; 48377

(2) Provide an inventory of all the roller skating rinks that 48378
the applicant intends to operate, and any other information the 48379
superintendent may reasonably require on the application; 48380

(3) Include with the application a registration fee of 48381
twenty-five dollars for each roller skating rink to be operated by 48382
the applicant. 48383

(B) Upon compliance with division (A) of this section, the 48384
superintendent shall issue a certificate of registration to the 48385
operator for each roller skating rink to be operated by the 48386
applicant. Each certificate shall remain in force as follows: 48387

(1) Until the thirty-first day of December next ensuing; or 48388

(2) For sixty days after the dissolution of a partnership. 48389

(C) In case of the dissolution of a partnership by death, the 48390
surviving partner or partners may operate a roller skating rink 48391
pursuant to the certificate of registration obtained by the 48392
partnership in accordance with this chapter for a period of sixty 48393
days following dissolution. The heirs or representatives of 48394
deceased persons and receivers or trustees in bankruptcy appointed 48395

by any competent authority may operate under the certificate of registration of the person succeeded in possession. 48396
48397

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant. 48398
48399
48400
48401
48402

(E) Money received from the registration and renewal fees collected pursuant to this chapter shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code. 48403
48404
48405
48406

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township. ~~An~~ 48407
48408
48409
48410
48411
48412
48413
48414

(B)(1) ~~An~~ amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund. 48415
48416
48417
48418
48419
48420
48421
48422

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and 48423
48424
48425
48426

enforcing Title XLIII of the Revised Code and the operating 48427
expenses of the commission, the director shall credit the excess 48428
amount to the general revenue fund. 48429

(C) Twenty per cent of the undivided liquor permit fund shall 48430
be paid into the statewide treatment and prevention fund, which is 48431
hereby created in the state treasury. This amount shall be 48432
appropriated by the general assembly, together with an amount 48433
equal to one and one-half per cent of the gross profit of the 48434
division of liquor control derived under division (B)(4) of 48435
section 4301.10 of the Revised Code, to the department of alcohol 48436
and drug addiction services. In planning for the allocation of and 48437
in allocating these amounts for the purposes of Chapter 3793. of 48438
the Revised Code, the department of alcohol and drug addiction 48439
services shall comply with the nondiscrimination provisions of 48440
Title VI of the Civil Rights Act of 1964, and any rules adopted 48441
under that act. 48442

(D) Thirty-five per cent of the undivided liquor permit fund 48443
shall be distributed by the superintendent of liquor control at 48444
quarterly calendar periods as follows: 48445

~~(A)~~(1) To each municipal corporation, the aggregate amount 48446
shown by the statements to have been collected from permits in the 48447
municipal corporation, for the use of the general fund of the 48448
municipal corporation; 48449

~~(B)~~(2) To each township, the aggregate amount shown by the 48450
statements to have been collected from permits in its territory, 48451
outside the limits of any municipal corporation located in the 48452
township, for the use of the general fund of the township, or for 48453
fire protection purposes, including buildings and equipment in the 48454
township or in an established fire district within the township, 48455
to the extent that the funds are derived from liquor permits 48456
within the territory comprising such fire district. 48457

(E) For the purpose of the distribution required by this 48458
section, E, H, and D permits covering boats or vessels are deemed 48459
to have been issued in the municipal corporation or township 48460
wherein the owner or operator of the vehicle, boat, vessel, or 48461
dining car equipment to which the permit relates has the owner's 48462
or operator's principal office or place of business within the 48463
state. 48464

(F) If the liquor control commission determines that the 48465
police or other officers of any municipal corporation or township 48466
entitled to share in ~~such~~ distributions under this section are 48467
refusing or culpably neglecting to enforce this chapter and 48468
Chapter 4303. of the Revised Code, or the penal laws of this state 48469
relating to the manufacture, importation, transportation, 48470
distribution, and sale of beer and intoxicating liquors, or if the 48471
prosecuting officer of a municipal corporation or a municipal 48472
court fails to comply with the request of the commission 48473
authorized by division (A)(4) of section 4301.10 of the Revised 48474
Code, the commission, by certified mail, may notify the chief 48475
executive officer of the municipal corporation or the board of 48476
township trustees of the township of the failure and require the 48477
immediate cooperation of the responsible officers of the municipal 48478
corporation or township with the division of liquor control in the 48479
enforcement of those chapters and penal laws. Within thirty days 48480
after the notice is served, the commission shall determine whether 48481
the requirement has been complied with. If the commission 48482
determines that the requirement has not been complied with, it may 48483
issue an order to the superintendent to withhold the distributive 48484
share of the municipal corporation or township until further order 48485
of the commission. This action of the commission is reviewable 48486
within thirty days thereafter in the court of common pleas of 48487
Franklin county. 48488

(G) All fees collected by the division of liquor control from 48489

the issuance or renewal of B-2a and S permits, and paid by B-2a 48490
and S permit holders who do not also hold A-2 permits, shall be 48491
deposited in the state treasury to the credit of the state liquor 48492
~~control~~ regulatory fund. Once during each fiscal year, an amount 48493
equal to fifty per cent of the fees collected shall be paid from 48494
the state liquor ~~control~~ regulatory fund into the general revenue 48495
fund. 48496

Sec. 4303.181. (A) Permit D-5a may be issued either to the 48497
owner or operator of a hotel or motel that is required to be 48498
licensed under section 3731.03 of the Revised Code, that contains 48499
at least fifty rooms for registered transient guests or is owned 48500
by a state institution of higher education as defined in section 48501
3345.011 of the Revised Code or a private college or university, 48502
and that qualifies under the other requirements of this section, 48503
or to the owner or operator of a restaurant specified under this 48504
section, to sell beer and any intoxicating liquor at retail, only 48505
by the individual drink in glass and from the container, for 48506
consumption on the premises where sold, and to registered guests 48507
in their rooms, which may be sold by means of a controlled access 48508
alcohol and beverage cabinet in accordance with division (B) of 48509
section 4301.21 of the Revised Code; and to sell the same products 48510
in the same manner and amounts not for consumption on the premises 48511
as may be sold by holders of D-1 and D-2 permits. The premises of 48512
the hotel or motel shall include a retail food establishment or a 48513
food service operation licensed pursuant to Chapter 3717. of the 48514
Revised Code that operates as a restaurant for purposes of this 48515
chapter and that is affiliated with the hotel or motel and within 48516
or contiguous to the hotel or motel, and that serves food within 48517
the hotel or motel, but the principal business of the owner or 48518
operator of the hotel or motel shall be the accommodation of 48519
transient guests. In addition to the privileges authorized in this 48520
division, the holder of a D-5a permit may exercise the same 48521

privileges as the holder of a D-5 permit. 48522

The owner or operator of a hotel, motel, or restaurant who 48523
qualified for and held a D-5a permit on August 4, 1976, may, if 48524
the owner or operator held another permit before holding a D-5a 48525
permit, either retain a D-5a permit or apply for the permit 48526
formerly held, and the division of liquor control shall issue the 48527
permit for which the owner or operator applies and formerly held, 48528
notwithstanding any quota. 48529

A D-5a permit shall not be transferred to another location. 48530
No quota restriction shall be placed on the number of D-5a permits 48531
that may be issued. 48532

The fee for this permit is two thousand three hundred 48533
forty-four dollars. 48534

(B) Permit D-5b may be issued to the owner, operator, tenant, 48535
lessee, or occupant of an enclosed shopping center to sell beer 48536
and intoxicating liquor at retail, only by the individual drink in 48537
glass and from the container, for consumption on the premises 48538
where sold; and to sell the same products in the same manner and 48539
amount not for consumption on the premises as may be sold by 48540
holders of D-1 and D-2 permits. In addition to the privileges 48541
authorized in this division, the holder of a D-5b permit may 48542
exercise the same privileges as a holder of a D-5 permit. 48543

A D-5b permit shall not be transferred to another location. 48544

One D-5b permit may be issued at an enclosed shopping center 48545
containing at least two hundred twenty-five thousand, but less 48546
than four hundred thousand, square feet of floor area. 48547

Two D-5b permits may be issued at an enclosed shopping center 48548
containing at least four hundred thousand square feet of floor 48549
area. No more than one D-5b permit may be issued at an enclosed 48550
shopping center for each additional two hundred thousand square 48551
feet of floor area or fraction of that floor area, up to a maximum 48552

of five D-5b permits for each enclosed shopping center. The number 48553
of D-5b permits that may be issued at an enclosed shopping center 48554
shall be determined by subtracting the number of D-3 and D-5 48555
permits issued in the enclosed shopping center from the number of 48556
D-5b permits that otherwise may be issued at the enclosed shopping 48557
center under the formulas provided in this division. Except as 48558
provided in this section, no quota shall be placed on the number 48559
of D-5b permits that may be issued. Notwithstanding any quota 48560
provided in this section, the holder of any D-5b permit first 48561
issued in accordance with this section is entitled to its renewal 48562
in accordance with section 4303.271 of the Revised Code. 48563

The holder of a D-5b permit issued before April 4, 1984, 48564
whose tenancy is terminated for a cause other than nonpayment of 48565
rent, may return the D-5b permit to the division of liquor 48566
control, and the division shall cancel that permit. Upon 48567
cancellation of that permit and upon the permit holder's payment 48568
of taxes, contributions, premiums, assessments, and other debts 48569
owing or accrued upon the date of cancellation to this state and 48570
its political subdivisions and a filing with the division of a 48571
certification of that payment, the division shall issue to that 48572
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 48573
that person requests. The division shall issue the D-5 permit, or 48574
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 48575
D-3, or D-5 permits currently issued in the municipal corporation 48576
or in the unincorporated area of the township where that person's 48577
proposed premises is located equals or exceeds the maximum number 48578
of such permits that can be issued in that municipal corporation 48579
or in the unincorporated area of that township under the 48580
population quota restrictions contained in section 4303.29 of the 48581
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 48582
be transferred to another location. If a D-5b permit is canceled 48583
under the provisions of this paragraph, the number of D-5b permits 48584
that may be issued at the enclosed shopping center for which the 48585

D-5b permit was issued, under the formula provided in this 48586
division, shall be reduced by one if the enclosed shopping center 48587
was entitled to more than one D-5b permit under the formula. 48588

The fee for this permit is two thousand three hundred 48589
forty-four dollars. 48590

(C) Permit D-5c may be issued to the owner or operator of a 48591
retail food establishment or a food service operation licensed 48592
pursuant to Chapter 3717. of the Revised Code that operates as a 48593
restaurant for purposes of this chapter and that qualifies under 48594
the other requirements of this section to sell beer and any 48595
intoxicating liquor at retail, only by the individual drink in 48596
glass and from the container, for consumption on the premises 48597
where sold, and to sell the same products in the same manner and 48598
amounts not for consumption on the premises as may be sold by 48599
holders of D-1 and D-2 permits. In addition to the privileges 48600
authorized in this division, the holder of a D-5c permit may 48601
exercise the same privileges as the holder of a D-5 permit. 48602

To qualify for a D-5c permit, the owner or operator of a 48603
retail food establishment or a food service operation licensed 48604
pursuant to Chapter 3717. of the Revised Code that operates as a 48605
restaurant for purposes of this chapter, shall have operated the 48606
restaurant at the proposed premises for not less than twenty-four 48607
consecutive months immediately preceding the filing of the 48608
application for the permit, have applied for a D-5 permit no later 48609
than December 31, 1988, and appear on the division's quota waiting 48610
list for not less than six months immediately preceding the filing 48611
of the application for the permit. In addition to these 48612
requirements, the proposed D-5c permit premises shall be located 48613
within a municipal corporation and further within an election 48614
precinct that, at the time of the application, has no more than 48615
twenty-five per cent of its total land area zoned for residential 48616
use. 48617

A D-5c permit shall not be transferred to another location. 48618
No quota restriction shall be placed on the number of such permits 48619
that may be issued. 48620

Any person who has held a D-5c permit for at least two years 48621
may apply for a D-5 permit, and the division of liquor control 48622
shall issue the D-5 permit notwithstanding the quota restrictions 48623
contained in section 4303.29 of the Revised Code or in any rule of 48624
the liquor control commission. 48625

The fee for this permit is one thousand five hundred 48626
sixty-three dollars. 48627

(D) Permit D-5d may be issued to the owner or operator of a 48628
retail food establishment or a food service operation licensed 48629
pursuant to Chapter 3717. of the Revised Code that operates as a 48630
restaurant for purposes of this chapter and that is located at an 48631
airport operated by a board of county commissioners pursuant to 48632
section 307.20 of the Revised Code, at an airport operated by a 48633
port authority pursuant to Chapter 4582. of the Revised Code, or 48634
at an airport operated by a regional airport authority pursuant to 48635
Chapter 308. of the Revised Code. The holder of a D-5d permit may 48636
sell beer and any intoxicating liquor at retail, only by the 48637
individual drink in glass and from the container, for consumption 48638
on the premises where sold, and may sell the same products in the 48639
same manner and amounts not for consumption on the premises where 48640
sold as may be sold by the holders of D-1 and D-2 permits. In 48641
addition to the privileges authorized in this division, the holder 48642
of a D-5d permit may exercise the same privileges as the holder of 48643
a D-5 permit. 48644

A D-5d permit shall not be transferred to another location. 48645
No quota restrictions shall be placed on the number of such 48646
permits that may be issued. 48647

The fee for this permit is two thousand three hundred 48648

forty-four dollars. 48649

(E) Permit D-5e may be issued to any nonprofit organization 48650
that is exempt from federal income taxation under the "Internal 48651
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 48652
amended, or that is a charitable organization under any chapter of 48653
the Revised Code, and that owns or operates a riverboat that meets 48654
all of the following: 48655

(1) Is permanently docked at one location; 48656

(2) Is designated as an historical riverboat by the Ohio 48657
historical society; 48658

(3) Contains not less than fifteen hundred square feet of 48659
floor area; 48660

(4) Has a seating capacity of fifty or more persons. 48661

The holder of a D-5e permit may sell beer and intoxicating 48662
liquor at retail, only by the individual drink in glass and from 48663
the container, for consumption on the premises where sold. 48664

A D-5e permit shall not be transferred to another location. 48665
No quota restriction shall be placed on the number of such permits 48666
that may be issued. The population quota restrictions contained in 48667
section 4303.29 of the Revised Code or in any rule of the liquor 48668
control commission shall not apply to this division, and the 48669
division shall issue a D-5e permit to any applicant who meets the 48670
requirements of this division. However, the division shall not 48671
issue a D-5e permit if the permit premises or proposed permit 48672
premises are located within an area in which the sale of 48673
spirituous liquor by the glass is prohibited. 48674

The fee for this permit is one thousand two hundred nineteen 48675
dollars. 48676

(F) Permit D-5f may be issued to the owner or operator of a 48677
retail food establishment or a food service operation licensed 48678

under Chapter 3717. of the Revised Code that operates as a 48679
restaurant for purposes of this chapter and that meets all of the 48680
following: 48681

(1) It contains not less than twenty-five hundred square feet 48682
of floor area. 48683

(2) It is located on or in, or immediately adjacent to, the 48684
shoreline of, a navigable river. 48685

(3) It provides docking space for twenty-five boats. 48686

(4) It provides entertainment and recreation, provided that 48687
not less than fifty per cent of the business on the permit 48688
premises shall be preparing and serving meals for a consideration. 48689

In addition, each application for a D-5f permit shall be 48690
accompanied by a certification from the local legislative 48691
authority that the issuance of the D-5f permit is not inconsistent 48692
with that political subdivision's comprehensive development plan 48693
or other economic development goal as officially established by 48694
the local legislative authority. 48695

The holder of a D-5f permit may sell beer and intoxicating 48696
liquor at retail, only by the individual drink in glass and from 48697
the container, for consumption on the premises where sold. 48698

A D-5f permit shall not be transferred to another location. 48699

The division of liquor control shall not issue a D-5f permit 48700
if the permit premises or proposed permit premises are located 48701
within an area in which the sale of spirituous liquor by the glass 48702
is prohibited. 48703

A fee for this permit is two thousand three hundred 48704
forty-four dollars. 48705

As used in this division, "navigable river" means a river 48706
that is also a "navigable water" as defined in the "Federal Power 48707
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 48708

(G) Permit D-5g may be issued to a nonprofit corporation that 48709
is either the owner or the operator of a national professional 48710
sports museum. The holder of a D-5g permit may sell beer and any 48711
intoxicating liquor at retail, only by the individual drink in 48712
glass and from the container, for consumption on the premises 48713
where sold. The holder of a D-5g permit shall sell no beer or 48714
intoxicating liquor for consumption on the premises where sold 48715
after ~~one~~ two-thirty a.m. A D-5g permit shall not be transferred 48716
to another location. No quota restrictions shall be placed on the 48717
number of D-5g permits that may be issued. The fee for this permit 48718
is one thousand eight hundred seventy-five dollars. 48719

(H)(1) Permit D-5h may be issued to any nonprofit 48720
organization that is exempt from federal income taxation under the 48721
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 48722
501(c)(3), as amended, that owns or operates any of the following: 48723

(a) A fine arts museum, provided that the nonprofit 48724
organization has no less than one thousand five hundred bona fide 48725
members possessing full membership privileges; 48726

(b) A community arts center. As used in division (H)(1)(b) of 48727
this section, "community arts center" means a facility that 48728
provides arts programming to the community in more than one arts 48729
discipline, including, but not limited to, exhibits of works of 48730
art and performances by both professional and amateur artists. 48731

(c) A community theater, provided that the nonprofit 48732
organization is a member of the Ohio arts council and the American 48733
community theatre association and has been in existence for not 48734
less than ten years. As used in division (H)(1)(c) of this 48735
section, "community theater" means a facility that contains at 48736
least one hundred fifty seats and has a primary function of 48737
presenting live theatrical performances and providing recreational 48738
opportunities to the community. 48739

(2) The holder of a D-5h permit may sell beer and any 48740
intoxicating liquor at retail, only by the individual drink in 48741
glass and from the container, for consumption on the premises 48742
where sold. The holder of a D-5h permit shall sell no beer or 48743
intoxicating liquor for consumption on the premises where sold 48744
after one a.m. A D-5h permit shall not be transferred to another 48745
location. No quota restrictions shall be placed on the number of 48746
D-5h permits that may be issued. 48747

(3) The fee for a D-5h permit is one thousand eight hundred 48748
seventy-five dollars. 48749

(I) Permit D-5i may be issued to the owner or operator of a 48750
retail food establishment or a food service operation licensed 48751
under Chapter 3717. of the Revised Code that operates as a 48752
restaurant for purposes of this chapter and that meets all of the 48753
following requirements: 48754

(1) It is located in a municipal corporation or a township 48755
with a population of one hundred thousand or less. 48756

(2) It has inside seating capacity for at least one hundred 48757
forty persons. 48758

(3) It has at least four thousand square feet of floor area. 48759

(4) It offers full-course meals, appetizers, and sandwiches. 48760

(5) Its receipts from beer and liquor sales, excluding wine 48761
sales, do not exceed twenty-five per cent of its total gross 48762
receipts. 48763

(6) It has at least one of the following characteristics: 48764

(a) The value of its real and personal property exceeds seven 48765
hundred twenty-five thousand dollars. 48766

(b) It is located on property that is owned or leased by the 48767
state or a state agency, and its owner or operator has 48768
authorization from the state or the state agency that owns or 48769

leases the property to obtain a D-5i permit. 48770

The holder of a D-5i permit may sell beer and any 48771
intoxicating liquor at retail, only by the individual drink in 48772
glass and from the container, for consumption on the premises 48773
where sold, and may sell the same products in the same manner and 48774
amounts not for consumption on the premises where sold as may be 48775
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 48776
permit shall sell no beer or intoxicating liquor for consumption 48777
on the premises where sold after two-thirty a.m. In addition to 48778
the privileges authorized in this division, the holder of a D-5i 48779
permit may exercise the same privileges as the holder of a D-5 48780
permit. 48781

A D-5i permit shall not be transferred to another location. 48782
The division of liquor control shall not renew a D-5i permit 48783
unless the retail food establishment or food service operation for 48784
which it is issued continues to meet the requirements described in 48785
divisions (I)(1) to (6) of this section. No quota restrictions 48786
shall be placed on the number of D-5i permits that may be issued. 48787
The fee for the D-5i permit is two thousand three hundred 48788
forty-four dollars. 48789

(J) Permit D-5j may be issued to the owner or the operator of 48790
a retail food establishment or a food service operation licensed 48791
under Chapter 3717. of the Revised Code to sell beer and 48792
intoxicating liquor at retail, only by the individual drink in 48793
glass and from the container, for consumption on the premises 48794
where sold and to sell beer and intoxicating liquor in the same 48795
manner and amounts not for consumption on the premises where sold 48796
as may be sold by the holders of D-1 and D-2 permits. The holder 48797
of a D-5j permit may exercise the same privileges, and shall 48798
observe the same hours of operation, as the holder of a D-5 48799
permit. 48800

The D-5j permit shall be issued only within a community 48801

entertainment district that is designated under section 4301.80 of 48802
the Revised Code and that meets one of the following 48803
qualifications: 48804

(1) It is located in a municipal corporation with a 48805
population of at least one hundred thousand. 48806

(2) It is located in a municipal corporation with a 48807
population of at least twenty thousand, and either of the 48808
following applies: 48809

(a) It contains an amusement park the rides of which have 48810
been issued a permit by the department of agriculture under 48811
Chapter 1711. of the Revised Code. 48812

(b) Not less than fifty million dollars will be invested in 48813
development and construction in the community entertainment 48814
district's area located in the municipal corporation. 48815

(3) It is located in a township with a population of at least 48816
forty thousand. 48817

(4) It is located in a township with a population of at least 48818
twenty thousand, and not less than seventy million dollars will be 48819
invested in development and construction in the community 48820
entertainment district's area located in the township. 48821

(5) It is located in a municipal corporation with a 48822
population between ten thousand and twenty thousand, and both of 48823
the following apply: 48824

(a) The municipal corporation was incorporated as a village 48825
prior to calendar year 1840 and currently has a historic downtown 48826
business district. 48827

(b) The municipal corporation is located in the same county 48828
as another municipal corporation with at least one community 48829
entertainment district. 48830

(6) It is located in a municipal corporation with a 48831

population of at least ten thousand, and not less than seventy 48832
million dollars will be invested in development and construction 48833
in the community entertainment district's area located in the 48834
municipal corporation. 48835

(7) It is located in a municipal corporation with a 48836
population of at least five thousand, and not less than one 48837
hundred million dollars will be invested in development and 48838
construction in the community entertainment district's area 48839
located in the municipal corporation. 48840

The location of a D-5j permit may be transferred only within 48841
the geographic boundaries of the community entertainment district 48842
in which it was issued and shall not be transferred outside the 48843
geographic boundaries of that district. 48844

Not more than one D-5j permit shall be issued within each 48845
community entertainment district for each five acres of land 48846
located within the district. Not more than fifteen D-5j permits 48847
may be issued within a single community entertainment district. 48848
Except as otherwise provided in division (J)(4) of this section, 48849
no quota restrictions shall be placed upon the number of D-5j 48850
permits that may be issued. 48851

The fee for a D-5j permit is two thousand three hundred 48852
forty-four dollars. 48853

(K)(1) Permit D-5k may be issued to any nonprofit 48854
organization that is exempt from federal income taxation under the 48855
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 48856
501(c)(3), as amended, that is the owner or operator of a 48857
botanical garden recognized by the American association of 48858
botanical gardens and arboreta, and that has not less than 48859
twenty-five hundred bona fide members. 48860

(2) The holder of a D-5k permit may sell beer and any 48861
intoxicating liquor at retail, only by the individual drink in 48862

glass and from the container, on the premises where sold. 48863

(3) The holder of a D-5k permit shall sell no beer or 48864
intoxicating liquor for consumption on the premises where sold 48865
after one a.m. 48866

(4) A D-5k permit shall not be transferred to another 48867
location. 48868

(5) No quota restrictions shall be placed on the number of 48869
D-5k permits that may be issued. 48870

(6) The fee for the D-5k permit is one thousand eight hundred 48871
seventy-five dollars. 48872

(L)(1) Permit D-5l may be issued to the owner or the operator 48873
of a ~~business~~ retail food establishment or a food service 48874
operation licensed under Chapter 3717. of the Revised Code to sell 48875
beer and intoxicating liquor at retail, only by the individual 48876
drink in glass and from the container, for consumption on the 48877
premises where sold and to sell beer and intoxicating liquor in 48878
the same manner and amounts not for consumption on the premises 48879
where sold as may be sold by the holders of D-1 and D-2 permits. 48880
The holder of a D-5l permit may exercise the same privileges, and 48881
shall observe the same hours of operation, as the holder of a D-5 48882
permit. 48883

(2) The D-5l permit shall be issued only to a premises that 48884
has gross annual receipts from the sale of food and meals that 48885
constitute not less than seventy-five per cent of its total gross 48886
annual receipts, that is located within a revitalization district 48887
that is designated under section 4301.81 of the Revised Code, that 48888
is located in a municipal corporation or township in which the 48889
number of D-5 permits issued equals or exceeds the number of those 48890
permits that may be issued in that municipal corporation or 48891
township under section 4303.29 of the Revised Code, and that is 48892
located in a county with a population of one hundred twenty-five 48893

thousand or less according to the population estimates certified 48894
by the department of development for calendar year 2006. 48895

(3) The location of a D-5l permit may be transferred only 48896
within the geographic boundaries of the revitalization district in 48897
which it was issued and shall not be transferred outside the 48898
geographic boundaries of that district. 48899

(4) Not more than one D-5l permit shall be issued within each 48900
revitalization district for each five acres of land located within 48901
the district. Not more than fifteen D-5l permits may be issued 48902
within a single revitalization district. Except as otherwise 48903
provided in division (L)(4) of this section, no quota restrictions 48904
shall be placed upon the number of D-5l permits that may be 48905
issued. 48906

(5) No D-5l permit shall be issued to an adult entertainment 48907
establishment as defined in section 2907.39 of the Revised Code. 48908

(6) The fee for a D-5l permit is two thousand three hundred 48909
forty-four dollars. 48910

(M) Permit D-5m may be issued to either the owner or the 48911
operator of a retail food establishment or food service operation 48912
licensed under Chapter 3717. of the Revised Code that operates as 48913
a restaurant for purposes of this chapter and that is located in, 48914
or affiliated with, a center for the preservation of wild animals 48915
as defined in section 4301.404 of the Revised Code, to sell beer 48916
and any intoxicating liquor at retail, only by the glass and from 48917
the container, for consumption on the premises where sold, and to 48918
sell the same products in the same manner and amounts not for 48919
consumption on the premises as may be sold by the holders of D-1 48920
and D-2 permits. In addition to the privileges authorized by this 48921
division, the holder of a D-5m permit may exercise the same 48922
privileges as the holder of a D-5 permit. 48923

A D-5m permit shall not be transferred to another location. 48924

No quota restrictions shall be placed on the number of D-5m 48925
permits that may be issued. The fee for a permit D-5m is two 48926
thousand three hundred forty-four dollars. 48927

(N) Permit D-5n shall be issued to either a casino operator 48928
or a casino management company licensed under Chapter 3772. of the 48929
Revised Code that operates a casino facility under that chapter, 48930
to sell beer and any intoxicating liquor at retail, only by the 48931
individual drink in glass and from the container, for consumption 48932
on the premises where sold, and to sell the same products in the 48933
same manner and amounts not for consumption on the premises as may 48934
be sold by the holders of D-1 and D-2 permits. In addition to the 48935
privileges authorized by this division, the holder of a D-5n 48936
permit may exercise the same privileges as the holder of a D-5 48937
permit. A D-5n permit shall not be transferred to another 48938
location. Only one D-5n permit may be issued per casino facility 48939
and not more than four D-5n permits shall be issued in this state. 48940
The fee for a permit D-5n shall be twenty thousand dollars. The 48941
holder of a D-5n permit may conduct casino gaming on the permit 48942
premises notwithstanding any provision of the Revised Code or 48943
Administrative Code. 48944

(O) Permit D-5o may be issued to the owner or operator of a 48945
retail food establishment or a food service operation licensed 48946
under Chapter 3717. of the Revised Code that operates as a 48947
restaurant for purposes of this chapter and that is located within 48948
a casino facility for which a D-5n permit has been issued. The 48949
holder of a D-5o permit may sell beer and any intoxicating liquor 48950
at retail, only by the individual drink in glass and from the 48951
container, for consumption on the premises where sold, and may 48952
sell the same products in the same manner and amounts not for 48953
consumption on the premises where sold as may be sold by the 48954
holders of D-1 and D-2 permits. In addition to the privileges 48955
authorized by this division, the holder of a D-5o permit may 48956

exercise the same privileges as the holder of a D-5 permit. A D-5o 48957
permit shall not be transferred to another location. No quota 48958
restrictions shall be placed on the number of such permits that 48959
may be issued. The fee for this permit is two thousand three 48960
hundred forty-four dollars. 48961

Sec. 4303.22. Permit H may be issued for a fee of three 48962
hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who 48963
~~also~~ holds a license issued by the public utilities commission to 48964
transport beer, intoxicating liquor, and alcohol, or any of them, 48965
in this state for delivery or use in this state. This section does 48966
not prevent the division of liquor control from contracting with 48967
~~common or contract~~ for-hire motor carriers for the delivery or 48968
transportation of liquor for the division, and any ~~contract or~~ 48969
~~common~~ for-hire motor carrier so contracting with the division is 48970
eligible for an H permit. Manufacturers or wholesale distributors 48971
of beer or intoxicating liquor other than spirituous liquor who 48972
transport or deliver their own products to or from their premises 48973
licensed under this chapter and Chapter 4301. of the Revised Code 48974
by their own trucks as an incident to the purchase or sale of such 48975
beverages need not obtain an H permit. Carriers by rail shall 48976
receive an H permit upon application for it. 48977

This section does not prevent the division from issuing, upon 48978
the payment of the permit fee, an H permit to any person, 48979
partnership, firm, or corporation licensed by any other state to 48980
engage in the business of manufacturing and brewing or producing 48981
beer, wine, and mixed beverages or any person, partnership, firm, 48982
or corporation licensed by the United States or any other state to 48983
engage in the business of importing beer, wine, and mixed 48984
beverages manufactured outside the United States. The 48985
manufacturer, brewer, or importer of products manufactured outside 48986
the United States, upon the issuance of an H permit, may 48987
transport, ship, and deliver only its own products to holders of 48988

B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 48989
operated by such class H permit holder. No H permit shall be 48990
issued by the division to such applicant until the applicant files 48991
with the division a liability insurance certificate or policy 48992
satisfactory to the division, in a sum of not less than one 48993
thousand nor more than five thousand dollars for property damage 48994
and for not less than five thousand nor more than fifty thousand 48995
dollars for loss sustained by reason of injury or death and with 48996
such other terms as the division considers necessary to adequately 48997
protect the interest of the public, having due regard for the 48998
number of persons and amount of property affected. The certificate 48999
or policy shall insure the manufacturer, brewer, or importer of 49000
products manufactured outside the United States against loss 49001
sustained by reason of the death of or injury to persons, and for 49002
loss of or damage to property, from the negligence of such class H 49003
permit holder in the operation of its motor vehicles or equipment 49004
in this state. 49005

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 49006
JobsOhio may accept the transfer of, all or a portion of the 49007
enterprise acquisition project for a transfer price payable by 49008
JobsOhio to the state. Any such transfer shall be treated as an 49009
absolute conveyance and true sale of the interest in the 49010
enterprise acquisition project purported to be conveyed for all 49011
purposes, and not as a pledge or other security interest. The 49012
characterization of any such transfer as a true sale and absolute 49013
conveyance shall not be negated or adversely affected by the 49014
acquisition or retention by the state of a residual or 49015
reversionary interest in the enterprise acquisition project, the 49016
participation of any state officer or employee as a member or 49017
officer of, or contracting for staff support to, JobsOhio or any 49018
subsidiary of JobsOhio, any regulatory responsibility of an 49019
officer or employee of the state, including the authority to 49020

collect amounts to be received in connection therewith, the 49021
retention of the state of any legal title to or interest in any 49022
portion of the enterprise acquisition project for the purpose of 49023
regulatory activities, or any characterization of JobsOhio or 49024
obligations of JobsOhio under accounting, taxation, or securities 49025
regulations, or any other reason whatsoever. An absolute 49026
conveyance and true sale or lease shall exist under this section 49027
regardless of whether JobsOhio has any recourse against the state 49028
or the treatment or characterization of the transfer as a 49029
financing for any purpose. Upon and following the transfer, the 49030
state shall not have any right, title, or interest in the 49031
enterprise acquisition project so transferred other than any 49032
residual interest that may be described in the transfer agreement 49033
pursuant to the following paragraph and division (D) of this 49034
section. Any determination of the fair market value of the 49035
enterprise acquisition project reflected in the transfer agreement 49036
shall be conclusive and binding on the state and JobsOhio. 49037

Any transfer of the enterprise acquisition project that is a 49038
lease or grant of a franchise shall be for a term not to exceed 49039
twenty-five years. Any transfer of the enterprise acquisition 49040
project that is an assignment and sale, conveyance, or other 49041
transfer shall contain a provision that the state shall have the 49042
option to have conveyed or transferred back to it, at no cost, the 49043
enterprise acquisition project, as it then exists, no later than 49044
twenty-five years after the original transfer authorized in the 49045
transfer agreement on such other terms as shall be provided in the 49046
transfer agreement. 49047

The exercise of the powers granted by this section will be 49048
for the benefit of the people of the state. All or any portion of 49049
the enterprise acquisition project transferred pursuant to the 49050
transfer agreement that would be exempt from real property taxes 49051
or assessments or real property taxes or assessments in the 49052

absence of such transfer shall, as it may from time to time exist 49053
thereafter, remain exempt from real property taxes or assessments 49054
levied by the state and its subdivisions to the same extent as if 49055
not transferred. The gross receipts and income of JobsOhio derived 49056
from the enterprise acquisition project shall be exempt from 49057
taxation levied by the state and its subdivisions, including, but 49058
not limited to, the taxes levied pursuant to Chapters 718., 5739., 49059
5741., 5747., and 5751. of the Revised Code. Any transfer from the 49060
state to JobsOhio of the enterprise acquisition project, or item 49061
included or to be included in the project, shall be exempt from 49062
the taxes levied pursuant to Chapters 5739. and 5741. of the 49063
Revised Code. 49064

(B) The proceeds of any transfer under division (A) of this 49065
section may be expended as provided in the transfer agreement for 49066
any one or more of the following purposes: 49067

(1) Funding, payment, or defeasance of outstanding bonds 49068
issued pursuant to Chapters 151. and 166. of the Revised Code and 49069
secured by pledged liquor profits as defined in section 151.40 of 49070
the Revised Code; 49071

(2) Deposit into the general revenue fund; 49072

(3) Deposit into the clean Ohio revitalization fund created 49073
pursuant to section 122.658 of the Revised Code, the innovation 49074
Ohio loan fund created pursuant to section 166.16 of the Revised 49075
Code, the research and development loan fund created pursuant to 49076
section 166.20 of the Revised Code, the logistics and distribution 49077
infrastructure fund created pursuant to section 166.26 of the 49078
Revised Code, the advanced energy research and development fund 49079
created pursuant to section 3706.27 of the Revised Code, and the 49080
advanced energy research and development taxable fund created 49081
pursuant to section 3706.27 of the Revised Code; 49082

(4) Conveyance to JobsOhio for the purposes for which it was 49083

created. 49084

(C)(1) The state may covenant, pledge, and agree in the 49085
transfer agreement, with and for the benefit of JobsOhio, that it 49086
shall maintain statutory authority for the enterprise acquisition 49087
project and the revenues of the enterprise acquisition project and 49088
not otherwise materially impair any obligations supported by a 49089
pledge of revenues of the enterprise acquisition project. The 49090
transfer agreement may provide or authorize the manner for 49091
determining material impairment of the security for any such 49092
outstanding obligations, including by assessing and evaluating the 49093
revenues of the enterprise acquisition project. 49094

(2) The director of budget and management, in consultation 49095
with the director of commerce, may, without need for any other 49096
approval, negotiate terms of any documents, including the transfer 49097
agreement, necessary to effect the transfer and the acceptance of 49098
the transfer of the enterprise acquisition project. The director 49099
of budget and management and the director of commerce shall 49100
execute the transfer agreement on behalf of the state. The 49101
director of budget and management may also, without need for any 49102
other approval, retain or contract for the services of commercial 49103
appraisers, underwriters, investment bankers, and financial 49104
advisers, as are necessary in the judgment of the director of 49105
budget and management to effect the transfer agreement. Any 49106
transfer agreement may contain terms and conditions established by 49107
the state to carry out and effectuate the purposes of this 49108
section, including, without limitation, covenants binding the 49109
state in favor of JobsOhio. Any such transfer agreement shall be 49110
sufficient to effectuate the transfer without regard to any other 49111
laws governing other property sales or financial transactions by 49112
the state. The director of budget and management may create any 49113
funds or accounts, within or without the state treasury, as are 49114
needed for the transactions and activities authorized by this 49115

section. 49116

(3) The transfer agreement may authorize JobsOhio, in the 49117
ordinary course of doing business, to convey, lease, release, or 49118
otherwise dispose of any regular inventory or tangible personal 49119
property. Ownership of the interest in the enterprise acquisition 49120
project that is transferred to JobsOhio under this section and the 49121
transfer agreement shall be maintained in JobsOhio or a nonprofit 49122
entity the sole member of which is JobsOhio until the enterprise 49123
acquisition project is transferred back to the state pursuant to 49124
the second paragraph of division (A) and division (D) of this 49125
section. 49126

(D) The transfer agreement may authorize JobsOhio to fix, 49127
alter, and collect rentals and other charges for the use and 49128
occupancy of all or any portion of the enterprise acquisition 49129
project and to lease any portion of the enterprise acquisition 49130
project to the state, and shall include a contract with, or the 49131
granting of an option to, the state to have the enterprise 49132
acquisition project, as it then exists, transferred back to it 49133
without charge in accordance with the terms of the transfer 49134
agreement after retirement or redemption, or provision therefor, 49135
of all obligations supported by a pledge of spirituous liquor 49136
profits. 49137

(E) JobsOhio, the director of budget and management, and the 49138
director of commerce shall, subject to approval by the controlling 49139
board, enter into a contract, which may be part of the transfer 49140
agreement, for the continuing operation by the division of liquor 49141
control of spirituous liquor distribution and merchandising 49142
subject to standards for performance provided in that contract 49143
that may relate to or support division (C)(1) of this section. The 49144
contract shall establish other terms and conditions for the 49145
assignment of duties to, and the provision of advice, services, 49146
and other assistance by, the division of liquor control, including 49147

providing for the necessary staffing and payment by JobsOhio of 49148
appropriate compensation to the division for the performance of 49149
such duties and the provision of such advice, services, and other 49150
assistance. The division of liquor control shall manage and 49151
actively supervise the activities required or authorized under 49152
sections 4301.10 and 4301.17 of the Revised Code as those sections 49153
exist on ~~the effective date of this section~~ September 29, 2011, 49154
including, but not limited to, controlling the traffic in 49155
intoxicating liquor in this state and fixing the wholesale and 49156
retail prices at which the various classes, varieties, and brands 49157
of spirituous liquor are sold. 49158

(F) The transfer agreement shall require JobsOhio to pay for 49159
the operations of the division of liquor control with regard to 49160
the spirituous liquor merchandising operations of the division. 49161
The payments from JobsOhio shall be deposited into the state 49162
treasury to the credit of the liquor ~~control~~ operating services 49163
fund ~~created in section 4301.12 of the Revised Code, which is~~ 49164
hereby created in the state treasury. The fund shall be used to 49165
pay for the operations of the division specified in this division. 49166

(G) The transaction and transfer provided for under this 49167
section shall comply with all applicable provisions of the Ohio 49168
Constitution. 49169

Sec. 4501.01. As used in this chapter and Chapters 4503., 49170
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 49171
Revised Code, and in the penal laws, except as otherwise provided: 49172

(A) "Vehicles" means everything on wheels or runners, 49173
including motorized bicycles, but does not mean electric personal 49174
assistive mobility devices, vehicles that are operated exclusively 49175
on rails or tracks or from overhead electric trolley wires, and 49176
vehicles that belong to any police department, municipal fire 49177
department, or volunteer fire department, or that are used by such 49178

a department in the discharge of its functions. 49179

(B) "Motor vehicle" means any vehicle, including mobile homes 49180
and recreational vehicles, that is propelled or drawn by power 49181
other than muscular power or power collected from overhead 49182
electric trolley wires. "Motor vehicle" does not include utility 49183
vehicles as defined in division (VV) of this section, motorized 49184
bicycles, road rollers, traction engines, power shovels, power 49185
cranes, and other equipment used in construction work and not 49186
designed for or employed in general highway transportation, 49187
well-drilling machinery, ditch-digging machinery, farm machinery, 49188
and trailers that are designed and used exclusively to transport a 49189
boat between a place of storage and a marina, or in and around a 49190
marina, when drawn or towed on a public road or highway for a 49191
distance of no more than ten miles and at a speed of twenty-five 49192
miles per hour or less. 49193

(C) "Agricultural tractor" and "traction engine" mean any 49194
self-propelling vehicle that is designed or used for drawing other 49195
vehicles or wheeled machinery, but has no provisions for carrying 49196
loads independently of such other vehicles, and that is used 49197
principally for agricultural purposes. 49198

(D) "Commercial tractor," except as defined in division (C) 49199
of this section, means any motor vehicle that has motive power and 49200
either is designed or used for drawing other motor vehicles, or is 49201
designed or used for drawing another motor vehicle while carrying 49202
a portion of the other motor vehicle or its load, or both. 49203

(E) "Passenger car" means any motor vehicle that is designed 49204
and used for carrying not more than nine persons and includes any 49205
motor vehicle that is designed and used for carrying not more than 49206
fifteen persons in a ridesharing arrangement. 49207

(F) "Collector's vehicle" means any motor vehicle or 49208
agricultural tractor or traction engine that is of special 49209

interest, that has a fair market value of one hundred dollars or 49210
more, whether operable or not, and that is owned, operated, 49211
collected, preserved, restored, maintained, or used essentially as 49212
a collector's item, leisure pursuit, or investment, but not as the 49213
owner's principal means of transportation. "Licensed collector's 49214
vehicle" means a collector's vehicle, other than an agricultural 49215
tractor or traction engine, that displays current, valid license 49216
tags issued under section 4503.45 of the Revised Code, or a 49217
similar type of motor vehicle that displays current, valid license 49218
tags issued under substantially equivalent provisions in the laws 49219
of other states. 49220

(G) "Historical motor vehicle" means any motor vehicle that 49221
is over twenty-five years old and is owned solely as a collector's 49222
item and for participation in club activities, exhibitions, tours, 49223
parades, and similar uses, but that in no event is used for 49224
general transportation. 49225

(H) "Noncommercial motor vehicle" means any motor vehicle, 49226
including a farm truck as defined in section 4503.04 of the 49227
Revised Code, that is designed by the manufacturer to carry a load 49228
of no more than one ton and is used exclusively for purposes other 49229
than engaging in business for profit. 49230

(I) "Bus" means any motor vehicle that has motor power and is 49231
designed and used for carrying more than nine passengers, except 49232
any motor vehicle that is designed and used for carrying not more 49233
than fifteen passengers in a ridesharing arrangement. 49234

(J) "Commercial car" or "truck" means any motor vehicle that 49235
has motor power and is designed and used for carrying merchandise 49236
or freight, or that is used as a commercial tractor. 49237

(K) "Bicycle" means every device, other than a tricycle that 49238
is designed solely for use as a play vehicle by a child, that is 49239
propelled solely by human power upon which any person may ride, 49240

and that has two tandem wheels, or one wheel in front and two 49241
wheels in the rear, or two wheels in the front and one wheel in 49242
the rear, any of which is more than fourteen inches in diameter. 49243

(L) "Motorized bicycle" means any vehicle that either has two 49244
tandem wheels or one wheel in the front and two wheels in the 49245
rear, that is capable of being pedaled, and that is equipped with 49246
a helper motor of not more than fifty cubic centimeters piston 49247
displacement that produces no more than one brake horsepower and 49248
is capable of propelling the vehicle at a speed of no greater than 49249
twenty miles per hour on a level surface. 49250

(M) "Trailer" means any vehicle without motive power that is 49251
designed or used for carrying property or persons wholly on its 49252
own structure and for being drawn by a motor vehicle, and includes 49253
any such vehicle that is formed by or operated as a combination of 49254
a semitrailer and a vehicle of the dolly type such as that 49255
commonly known as a trailer dolly, a vehicle used to transport 49256
agricultural produce or agricultural production materials between 49257
a local place of storage or supply and the farm when drawn or 49258
towed on a public road or highway at a speed greater than 49259
twenty-five miles per hour, and a vehicle that is designed and 49260
used exclusively to transport a boat between a place of storage 49261
and a marina, or in and around a marina, when drawn or towed on a 49262
public road or highway for a distance of more than ten miles or at 49263
a speed of more than twenty-five miles per hour. "Trailer" does 49264
not include a manufactured home or travel trailer. 49265

(N) "Noncommercial trailer" means any trailer, except a 49266
travel trailer or trailer that is used to transport a boat as 49267
described in division (B) of this section, but, where applicable, 49268
includes a vehicle that is used to transport a boat as described 49269
in division (M) of this section, that has a gross weight of no 49270
more than ten thousand pounds, and that is used exclusively for 49271
purposes other than engaging in business for a profit, such as the 49272

transportation of personal items for personal or recreational 49273
purposes. 49274

(O) "Mobile home" means a building unit or assembly of closed 49275
construction that is fabricated in an off-site facility, is more 49276
than thirty-five body feet in length or, when erected on site, is 49277
three hundred twenty or more square feet, is built on a permanent 49278
chassis, is transportable in one or more sections, and does not 49279
qualify as a manufactured home as defined in division (C)(4) of 49280
section 3781.06 of the Revised Code or as an industrialized unit 49281
as defined in division (C)(3) of section 3781.06 of the Revised 49282
Code. 49283

(P) "Semitrailer" means any vehicle of the trailer type that 49284
does not have motive power and is so designed or used with another 49285
and separate motor vehicle that in operation a part of its own 49286
weight or that of its load, or both, rests upon and is carried by 49287
the other vehicle furnishing the motive power for propelling 49288
itself and the vehicle referred to in this division, and includes, 49289
for the purpose only of registration and taxation under those 49290
chapters, any vehicle of the dolly type, such as a trailer dolly, 49291
that is designed or used for the conversion of a semitrailer into 49292
a trailer. 49293

(Q) "Recreational vehicle" means a vehicular portable 49294
structure that meets all of the following conditions: 49295

(1) It is designed for the sole purpose of recreational 49296
travel. 49297

(2) It is not used for the purpose of engaging in business 49298
for profit. 49299

(3) It is not used for the purpose of engaging in intrastate 49300
commerce. 49301

(4) It is not used for the purpose of commerce as defined in 49302
49 C.F.R. 383.5, as amended. 49303

(5) It is not regulated by the public utilities commission 49304
pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised 49305
Code. 49306

(6) It is classed as one of the following: 49307

(a) "Travel trailer" means a nonself-propelled recreational 49308
vehicle that does not exceed an overall length of thirty-five 49309
feet, exclusive of bumper and tongue or coupling, and contains 49310
less than three hundred twenty square feet of space when erected 49311
on site. "Travel trailer" includes a tent-type fold-out camping 49312
trailer as defined in section 4517.01 of the Revised Code. 49313

(b) "Motor home" means a self-propelled recreational vehicle 49314
that has no fifth wheel and is constructed with permanently 49315
installed facilities for cold storage, cooking and consuming of 49316
food, and for sleeping. 49317

(c) "Truck camper" means a nonself-propelled recreational 49318
vehicle that does not have wheels for road use and is designed to 49319
be placed upon and attached to a motor vehicle. "Truck camper" 49320
does not include truck covers that consist of walls and a roof, 49321
but do not have floors and facilities enabling them to be used as 49322
a dwelling. 49323

(d) "Fifth wheel trailer" means a vehicle that is of such 49324
size and weight as to be movable without a special highway permit, 49325
that has a gross trailer area of four hundred square feet or less, 49326
that is constructed with a raised forward section that allows a 49327
bi-level floor plan, and that is designed to be towed by a vehicle 49328
equipped with a fifth-wheel hitch ordinarily installed in the bed 49329
of a truck. 49330

(e) "Park trailer" means a vehicle that is commonly known as 49331
a park model recreational vehicle, meets the American national 49332
standard institute standard A119.5 (1988) for park trailers, is 49333
built on a single chassis, has a gross trailer area of four 49334

hundred square feet or less when set up, is designed for seasonal 49335
or temporary living quarters, and may be connected to utilities 49336
necessary for the operation of installed features and appliances. 49337

(R) "Pneumatic tires" means tires of rubber and fabric or 49338
tires of similar material, that are inflated with air. 49339

(S) "Solid tires" means tires of rubber or similar elastic 49340
material that are not dependent upon confined air for support of 49341
the load. 49342

(T) "Solid tire vehicle" means any vehicle that is equipped 49343
with two or more solid tires. 49344

(U) "Farm machinery" means all machines and tools that are 49345
used in the production, harvesting, and care of farm products, and 49346
includes trailers that are used to transport agricultural produce 49347
or agricultural production materials between a local place of 49348
storage or supply and the farm, agricultural tractors, threshing 49349
machinery, hay-baling machinery, corn shellers, hammermills, and 49350
machinery used in the production of horticultural, agricultural, 49351
and vegetable products. 49352

(V) "Owner" includes any person or firm, other than a 49353
manufacturer or dealer, that has title to a motor vehicle, except 49354
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 49355
includes in addition manufacturers and dealers. 49356

(W) "Manufacturer" and "dealer" include all persons and firms 49357
that are regularly engaged in the business of manufacturing, 49358
selling, displaying, offering for sale, or dealing in motor 49359
vehicles, at an established place of business that is used 49360
exclusively for the purpose of manufacturing, selling, displaying, 49361
offering for sale, or dealing in motor vehicles. A place of 49362
business that is used for manufacturing, selling, displaying, 49363
offering for sale, or dealing in motor vehicles shall be deemed to 49364
be used exclusively for those purposes even though snowmobiles or 49365

all-purpose vehicles are sold or displayed for sale thereat, even 49366
though farm machinery is sold or displayed for sale thereat, or 49367
even though repair, accessory, gasoline and oil, storage, parts, 49368
service, or paint departments are maintained thereat, or, in any 49369
county having a population of less than seventy-five thousand at 49370
the last federal census, even though a department in a place of 49371
business is used to dismantle, salvage, or rebuild motor vehicles 49372
by means of used parts, if such departments are operated for the 49373
purpose of furthering and assisting in the business of 49374
manufacturing, selling, displaying, offering for sale, or dealing 49375
in motor vehicles. Places of business or departments in a place of 49376
business used to dismantle, salvage, or rebuild motor vehicles by 49377
means of using used parts are not considered as being maintained 49378
for the purpose of assisting or furthering the manufacturing, 49379
selling, displaying, and offering for sale or dealing in motor 49380
vehicles. 49381

(X) "Operator" includes any person who drives or operates a 49382
motor vehicle upon the public highways. 49383

(Y) "Chauffeur" means any operator who operates a motor 49384
vehicle, other than a taxicab, as an employee for hire; or any 49385
operator whether or not the owner of a motor vehicle, other than a 49386
taxicab, who operates such vehicle for transporting, for gain, 49387
compensation, or profit, either persons or property owned by 49388
another. Any operator of a motor vehicle who is voluntarily 49389
involved in a ridesharing arrangement is not considered an 49390
employee for hire or operating such vehicle for gain, 49391
compensation, or profit. 49392

(Z) "State" includes the territories and federal districts of 49393
the United States, and the provinces of Canada. 49394

(AA) "Public roads and highways" for vehicles includes all 49395
public thoroughfares, bridges, and culverts. 49396

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational 49427
vehicles, vehicles displaying restricted plates, city pick-up and 49428
delivery vehicles, buses used for the transportation of chartered 49429
parties, or vehicles owned and operated by the United States, this 49430
state, or any political subdivisions thereof. 49431

(GG) "Chartered party" means a group of persons who contract 49432
as a group to acquire the exclusive use of a passenger-carrying 49433
motor vehicle at a fixed charge for the vehicle in accordance with 49434
the carrier's tariff, lawfully on file with the United States 49435
department of transportation, for the purpose of group travel to a 49436
specified destination or for a particular itinerary, either agreed 49437
upon in advance or modified by the chartered group after having 49438
left the place of origin. 49439

(HH) "International registration plan" means a reciprocal 49440
agreement of member jurisdictions that is endorsed by the American 49441
association of motor vehicle administrators, and that promotes and 49442
encourages the fullest possible use of the highway system by 49443
authorizing apportioned registration of fleets of vehicles and 49444
recognizing registration of vehicles apportioned in member 49445
jurisdictions. 49446

(II) "Restricted plate" means a license plate that has a 49447
restriction of time, geographic area, mileage, or commodity, and 49448
includes license plates issued to farm trucks under division (J) 49449
of section 4503.04 of the Revised Code. 49450

(JJ) "Gross vehicle weight," with regard to any commercial 49451
car, trailer, semitrailer, or bus that is taxed at the rates 49452
established under section 4503.042 or 4503.65 of the Revised Code, 49453
means the unladen weight of the vehicle fully equipped plus the 49454
maximum weight of the load to be carried on the vehicle. 49455

(KK) "Combined gross vehicle weight" with regard to any 49456
combination of a commercial car, trailer, and semitrailer, that is 49457

taxed at the rates established under section 4503.042 or 4503.65 49458
of the Revised Code, means the total unladen weight of the 49459
combination of vehicles fully equipped plus the maximum weight of 49460
the load to be carried on that combination of vehicles. 49461

(LL) "Chauffeured limousine" means a motor vehicle that is 49462
designed to carry nine or fewer passengers and is operated for 49463
hire on an hourly basis pursuant to a prearranged contract for the 49464
transportation of passengers on public roads and highways along a 49465
route under the control of the person hiring the vehicle and not 49466
over a defined and regular route. "Prearranged contract" means an 49467
agreement, made in advance of boarding, to provide transportation 49468
from a specific location in a chauffeured limousine at a fixed 49469
rate per hour or trip. "Chauffeured limousine" does not include 49470
any vehicle that is used exclusively in the business of funeral 49471
directing. 49472

(MM) "Manufactured home" has the same meaning as in division 49473
(C)(4) of section 3781.06 of the Revised Code. 49474

(NN) "Acquired situs," with respect to a manufactured home or 49475
a mobile home, means to become located in this state by the 49476
placement of the home on real property, but does not include the 49477
placement of a manufactured home or a mobile home in the inventory 49478
of a new motor vehicle dealer or the inventory of a manufacturer, 49479
remanufacturer, or distributor of manufactured or mobile homes. 49480

(OO) "Electronic" includes electrical, digital, magnetic, 49481
optical, electromagnetic, or any other form of technology that 49482
entails capabilities similar to these technologies. 49483

(PP) "Electronic record" means a record generated, 49484
communicated, received, or stored by electronic means for use in 49485
an information system or for transmission from one information 49486
system to another. 49487

(QQ) "Electronic signature" means a signature in electronic 49488

form attached to or logically associated with an electronic 49489
record. 49490

(RR) "Financial transaction device" has the same meaning as 49491
in division (A) of section 113.40 of the Revised Code. 49492

(SS) "Electronic motor vehicle dealer" means a motor vehicle 49493
dealer licensed under Chapter 4517. of the Revised Code whom the 49494
registrar of motor vehicles determines meets the criteria 49495
designated in section 4503.035 of the Revised Code for electronic 49496
motor vehicle dealers and designates as an electronic motor 49497
vehicle dealer under that section. 49498

(TT) "Electric personal assistive mobility device" means a 49499
self-balancing two non-tandem wheeled device that is designed to 49500
transport only one person, has an electric propulsion system of an 49501
average of seven hundred fifty watts, and when ridden on a paved 49502
level surface by an operator who weighs one hundred seventy pounds 49503
has a maximum speed of less than twenty miles per hour. 49504

(UU) "Limited driving privileges" means the privilege to 49505
operate a motor vehicle that a court grants under section 4510.021 49506
of the Revised Code to a person whose driver's or commercial 49507
driver's license or permit or nonresident operating privilege has 49508
been suspended. 49509

(VV) "Utility vehicle" means a self-propelled vehicle 49510
designed with a bed, principally for the purpose of transporting 49511
material or cargo in connection with construction, agricultural, 49512
forestry, grounds maintenance, lawn and garden, materials 49513
handling, or similar activities. "Utility vehicle" includes a 49514
vehicle with a maximum attainable speed of twenty miles per hour 49515
or less that is used exclusively within the boundaries of state 49516
parks by state park employees or volunteers for the operation or 49517
maintenance of state park facilities. 49518

Sec. 4501.06. The taxes, fees, and fines levied, charged, or 49519
referred to in division (O) of section 4503.04, division (E) of 49520
section 4503.042, division (B) of section 4503.07, division (C)(1) 49521
of section 4503.10, division (D) of section 4503.182, division (A) 49522
of section 4503.19, division (D)(2) of section 4507.24, division 49523
(A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 49524
4505.111, 4506.08, 4506.09, 4507.23, 4508.05, ~~4923.12~~, and 5502.12 49525
of the Revised Code, and the taxes charged in section 4503.65 that 49526
are distributed in accordance with division (A)(2) of section 49527
4501.044 of the Revised Code unless otherwise designated by law, 49528
shall be deposited in the state treasury to the credit of the 49529
state highway safety fund, which is hereby created, and shall, 49530
after receipt of certifications from the commissioners of the 49531
sinking fund certifying that there are sufficient moneys to the 49532
credit of the highway obligations bond retirement fund created by 49533
section 5528.32 of the Revised Code to meet in full all payments 49534
of interest, principal, and charges for the retirement of highway 49535
obligations issued pursuant to Section 2i of Article VIII, Ohio 49536
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 49537
due and payable during the current calendar year, be used for the 49538
purpose of enforcing and paying the expenses of administering the 49539
law relative to the registration and operation of motor vehicles 49540
on the public roads or highways. Amounts credited to the fund may 49541
also be used to pay the expenses of administering and enforcing 49542
the laws under which such fees were collected. All investment 49543
earnings of the state highway safety fund shall be credited to the 49544
fund. 49545

Sec. 4501.271. (A)(1) A peace officer, correctional employee, 49546
or youth services employee may file a written request with the 49547
bureau of motor vehicles to do either or both of the following: 49548
49549

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, and any assistant sergeant at arms appointed under division (C)(1) of

section 101.311 of the Revised Code, the senate sergeant at arms, 49645
and an assistant senate sergeant at arms. "Peace officer" includes 49646
state highway patrol troopers but does not include the sheriff of 49647
a county or a supervisory employee who, in the absence of the 49648
sheriff, is authorized to stand in for, exercise the authority of, 49649
and perform the duties of the sheriff. 49650

(3) "Correctional employee" and "youth services employee" 49651
have the same meanings as in section 149.43 of the Revised Code. 49652

Sec. 4503.031. (A)(1) If the registrar of motor vehicles 49653
determines that space is available at a deputy registrar's office, 49654
the clerk of the court of common pleas in the county where the 49655
deputy is located shall be given the opportunity to use the space 49656
for the purpose of carrying out the clerk's duties related to the 49657
titling of motor vehicles. Each clerk of the court of common pleas 49658
using space in a deputy registrar's office shall remit to the 49659
deputy a rental fee equal to the percentage of space occupied by 49660
the clerk in the deputy's office multiplied by the rental fee or 49661
mortgage cost paid for the entire deputy registrar's office plus a 49662
pro rata share of all utility costs. 49663

(2) If the clerk of the court of common pleas determines that 49664
space is available at any location at which the clerk has an 49665
office, the clerk shall inform the registrar of that fact and 49666
shall provide the registrar with all pertinent information about 49667
the available space. After giving due consideration to the 49668
locations of deputy registrar offices existing in the county in 49669
which the clerk of the court of common pleas is located, the 49670
registrar shall inform the appropriate deputy registrars, if any, 49671
of the available space of the clerk of the court of common pleas. 49672
Each such deputy registrar shall be given the opportunity to use 49673
the space for the purpose of carrying out the deputy registrar's 49674
duties. Each deputy registrar using space in the office of the 49675

clerk of a court of common pleas shall remit to the clerk a rental 49676
fee equal to the percentage of space occupied by the deputy 49677
registrar in the clerk's office multiplied by the rental fee or 49678
mortgage cost, if any, paid for the entire clerk's office plus a 49679
pro rata share of all utility costs. 49680

If no current deputy registrar elects to utilize the 49681
available space of the clerk of the court of common pleas, the 49682
registrar shall inform all persons who express an interest to the 49683
registrar in becoming a deputy registrar in that county of the 49684
available space of the clerk if the space in fact continues to be 49685
available. 49686

(3) A clerk of the court of common pleas and a deputy 49687
registrar may elect to occupy a location at which neither the 49688
clerk nor the deputy currently is an occupant. Any such 49689
arrangement is subject to the approval of the registrar, who shall 49690
give due consideration to all issues and aspects of the proposed 49691
arrangement, including security at the location and service to the 49692
public. 49693

(B) ~~The~~ When possible, as determined by the director of 49694
public safety and the registrar and the superintendent of the 49695
~~state highway patrol shall cooperate to the fullest extent~~ 49696
~~possible in locating,~~ a driver's license examination station shall 49697
be located at or near a deputy registrar's office. For each 49698
driver's license examination station located at a deputy 49699
registrar's office, the ~~superintendent of the state highway patrol~~ 49700
director shall remit to the deputy a rental fee equal to the 49701
percentage of space occupied for the driver's license examination 49702
station multiplied by the rental fee or mortgage cost paid for the 49703
entire deputy registrar's office plus a pro rata share of all 49704
utility costs. 49705

(C) During the regular business hours of deputy registrars, 49706
the registrar shall keep the central office open and sufficiently 49707

staffed to be able to respond to the technical needs of the 49708
deputies. 49709

(D) The registrar shall adopt rules to promote public 49710
information regarding motor vehicle registration. The rules shall 49711
include: 49712

(1) The operation by the registrar, during the regular 49713
business hours of deputy registrars, of a toll-free telephone 49714
number to give information and receive complaints; 49715

(2) The listing by the registrar, of each deputy registrar, 49716
together with the toll-free telephone number required under 49717
division (D)(1) of this section, in the local business and 49718
advertising telephone directory for the area served by the deputy, 49719
under the heading of the bureau of motor vehicles. 49720

Sec. 4503.061. (A) All manufactured and mobile homes shall be 49721
listed on either the real property tax list or the manufactured 49722
home tax list of the county in which the home has situs. Each 49723
owner shall follow the procedures in this section to identify the 49724
home to the county auditor of the county containing the taxing 49725
district in which the home has situs so that the auditor may place 49726
the home on the appropriate tax list. 49727

(B) When a manufactured or mobile home first acquires situs 49728
in this state and is subject to real property taxation pursuant to 49729
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 49730
owner shall present to the auditor of the county containing the 49731
taxing district in which the home has its situs the certificate of 49732
title for the home, together with proof that all taxes due have 49733
been paid and proof that a relocation notice was obtained for the 49734
home if required under this section. Upon receiving the 49735
certificate of title and the required proofs, the auditor shall 49736
place the home on the real property tax list and proceed to treat 49737
the home as other properties on that list. After the auditor has 49738

placed the home on the tax list of real and public utility 49739
property, the auditor shall deliver the certificate of title to 49740
the clerk of the court of common pleas that issued it pursuant to 49741
section 4505.11 of the Revised Code, and the clerk shall 49742
inactivate the certificate of title. 49743

(C)(1) When a manufactured or mobile home subject to a 49744
manufactured home tax is relocated to or first acquires situs in 49745
any county that has adopted a permanent manufactured home 49746
registration system, as provided in division (F) of this section, 49747
the owner, within thirty days after the home is relocated or first 49748
acquires situs under section 4503.06 of the Revised Code, shall 49749
register the home with the county auditor of the county containing 49750
the taxing district in which the home has its situs. For the first 49751
registration in each county of situs, the owner or vendee in 49752
possession shall present to the county auditor an Ohio certificate 49753
of title, certified copy of the certificate of title, or 49754
memorandum certificate of title as such are required by law, and 49755
proof, as required by the county auditor, that the home, if it has 49756
previously been occupied and is being relocated, has been 49757
previously registered, that all taxes due and required to be paid 49758
under division (H)(1) of this section before a relocation notice 49759
may be issued have been paid, and that a relocation notice was 49760
obtained for the home if required by division (H) of this section. 49761
If the owner or vendee does not possess the Ohio certificate of 49762
title, certified copy of the certificate of title, or memorandum 49763
certificate of title at the time the owner or vendee first 49764
registers the home in a county, the county auditor shall register 49765
the home without presentation of the document, but the owner or 49766
vendee shall present the certificate of title, certified copy of 49767
the certificate of title, or memorandum certificate of title to 49768
the county auditor within fourteen days after the owner or vendee 49769
obtains possession of the document. 49770

(2) When a manufactured or mobile home is registered for the first time in a county and when the total tax due has been paid as required by division (F) of section 4503.06 of the Revised Code or divisions (E) and (H) of this section, the county treasurer shall note by writing or by a stamp on the certificate of title, certified copy of certificate of title, or memorandum certificate of title that the home has been registered and that the taxes due, if any, have been paid for the preceding five years and for the current year. The treasurer shall then issue a certificate evidencing registration and a decal to be displayed on the street side of the home. The certificate is valid in any county in this state during the year for which it is issued.

(3) For each year thereafter, the county treasurer shall issue a tax bill stating the amount of tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When the total tax due has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration that shall be valid in any county in this state during the year for which the certificate is issued.

(4) The permanent decal issued under this division is valid during the period of ownership, except that when a manufactured home is relocated in another county the owner shall apply for a new registration as required by this section and section 4503.06 of the Revised Code.

(D)(1) All owners of manufactured or mobile homes subject to the manufactured home tax being relocated to or having situs in a county that has not adopted a permanent registration system, as provided in division (F) of this section, shall register the home within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code and thereafter shall annually register the home with the county auditor of the

county containing the taxing district in which the home has its 49803
situs. 49804

(2) Upon the annual registration, the county treasurer shall 49805
issue a tax bill stating the amount of annual manufactured home 49806
tax due under section 4503.06 of the Revised Code, as provided in 49807
division (D)(6) of that section. When a manufactured or mobile 49808
home is registered and when the tax for the current one-half year 49809
has been paid as required by division (F) of that section, the 49810
county treasurer shall issue a certificate evidencing registration 49811
and a decal. The certificate and decal are valid in any county in 49812
this state during the year for which they are issued. The decal 49813
shall be displayed on the street side of the home. 49814

(3) For the first annual registration in each county of 49815
situs, the county auditor shall require the owner or vendee to 49816
present an Ohio certificate of title, certified copy of the 49817
certificate of title, or memorandum certificate of title as such 49818
are required by law, and proof, as required by the county auditor, 49819
that the manufactured or mobile home has been previously 49820
registered, if such registration was required, that all taxes due 49821
and required to be paid under division (H)(1) of this section 49822
before a relocation notice may be issued have been paid, and that 49823
a relocation notice was obtained for the home if required by 49824
division (H) of this section. If the owner or vendee does not 49825
possess the Ohio certificate of title, certified copy of the 49826
certificate of title, or memorandum certificate of title at the 49827
time the owner or vendee first registers the home in a county, the 49828
county auditor shall register the home without presentation of the 49829
document, but the owner or vendee shall present the certificate of 49830
title, certified copy of the certificate of title, or memorandum 49831
certificate of title to the county auditor within fourteen days 49832
after the owner or vendee obtains possession of the document. When 49833
the county treasurer receives the tax payment, the county 49834

treasurer shall note by writing or by a stamp on the certificate 49835
of title, certified copy of the certificate of title, or 49836
memorandum certificate of title that the home has been registered 49837
for the current year and that the manufactured home taxes due, if 49838
any, have been paid for the preceding five years and for the 49839
current year. 49840

(4) For subsequent annual registrations, the auditor may 49841
require the owner or vendee in possession to present an Ohio 49842
certificate of title, certified copy of the certificate of title, 49843
or memorandum certificate of title to the county treasurer upon 49844
payment of the manufactured home tax that is due. 49845

(E)(1) Upon the application to transfer ownership of a 49846
manufactured or mobile home for which manufactured home taxes are 49847
paid pursuant to division (C) of section 4503.06 of the Revised 49848
Code the clerk of the court of common pleas shall not issue any 49849
certificate of title that does not contain or have attached both 49850
of the following: 49851

(a) An endorsement of the county treasurer stating that the 49852
home has been registered for each year of ownership and that all 49853
manufactured home taxes imposed pursuant to section 4503.06 of the 49854
Revised Code have been paid or that no tax is due; 49855

(b) An endorsement of the county auditor that the 49856
manufactured home transfer tax imposed pursuant to section 322.06 49857
of the Revised Code and any fees imposed under division (G) of 49858
section 319.54 of the Revised Code have been paid. 49859

(2) If all the taxes have not been paid, the clerk shall 49860
notify the vendee to contact the county treasurer of the county 49861
containing the taxing district in which the home has its situs at 49862
the time of the proposed transfer. The county treasurer shall then 49863
collect all the taxes that are due for the year of the transfer 49864
and all previous years not exceeding a total of five years. The 49865

county treasurer shall distribute that part of the collection owed 49866
to the county treasurer of other counties if the home had its 49867
situs in another county during a particular year when the unpaid 49868
tax became due and payable. The burden to prove the situs of the 49869
home in the years that the taxes were not paid is on the 49870
transferor of the home. Upon payment of the taxes, the county 49871
auditor shall remove all remaining taxes from the manufactured 49872
home tax list and the delinquent manufactured home tax list, and 49873
the county treasurer shall release all liens for such taxes. The 49874
clerk of courts shall issue a certificate of title, free and clear 49875
of all liens for manufactured home taxes, to the transferee of the 49876
home. 49877

(3) Once the transfer is complete and the certificate of 49878
title has been issued, the transferee shall register the 49879
manufactured or mobile home pursuant to division (C) or (D) of 49880
this section with the county auditor of the county containing the 49881
taxing district in which the home remains after the transfer or, 49882
if the home is relocated to another county, with the county 49883
auditor of the county to which the home is relocated. The 49884
transferee need not pay the annual tax for the year of acquisition 49885
if the original owner has already paid the annual tax for that 49886
year. 49887

(F) The county auditor may adopt a permanent registration 49888
system and issue a permanent decal with the first registration as 49889
prescribed by the tax commissioner. 49890

(G) When any manufactured or mobile home required to be 49891
registered by this section is not registered, the county auditor 49892
shall impose a penalty of one hundred dollars upon the owner and 49893
deposit the amount to the credit of the county real estate 49894
assessment fund to be used to pay the costs of administering this 49895
section and section 4503.06 of the Revised Code. If unpaid, the 49896
penalty shall constitute a lien on the home and shall be added by 49897

the county auditor to the manufactured home tax list for 49898
collection. 49899

(H)(1) Except as otherwise provided in this division, before 49900
moving a manufactured or mobile home on public roads from one 49901
address within this state to another address within or outside 49902
this state, the owner of the home shall obtain a relocation 49903
notice, as provided by this section, from the auditor of the 49904
county in which the home is located if the home is currently 49905
subject to taxation pursuant to section 4503.06 of the Revised 49906
Code. The auditor shall charge five dollars for the notice, and 49907
deposit the amount to the credit of the county real estate 49908
assessment fund to be used to pay the costs of administering this 49909
section and section 4503.06 of the Revised Code. The auditor shall 49910
not issue a relocation notice unless all taxes owed on the home 49911
under section 4503.06 of the Revised Code that were first charged 49912
to the home during the period of ownership of the owner seeking 49913
the relocation notice have been paid. If the home is being moved 49914
by a new owner of the home or by a party taking repossession of 49915
the home, the auditor shall not issue a relocation notice unless 49916
all of the taxes due for the preceding five years and for the 49917
current year have been paid. A relocation notice issued by a 49918
county auditor is valid until the last day of December of the year 49919
in which it was issued. 49920

If the home is being moved by a sheriff, police officer, 49921
constable, bailiff, or manufactured home park operator, as defined 49922
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 49923
any of these persons, for purposes of removal from a manufactured 49924
home park and storage, sale, or destruction under section 1923.14 49925
of the Revised Code, the auditor shall issue a relocation notice 49926
without requiring payment of any taxes owed on the home under 49927
section 4503.06 of the Revised Code. 49928

(2) If a manufactured or mobile home is not yet subject to 49929

taxation under section 4503.06 of the Revised Code, the owner of 49930
the home shall obtain a relocation notice from the dealer of the 49931
home. Within thirty days after the manufactured or mobile home is 49932
purchased, the dealer of the home shall provide the auditor of the 49933
county in which the home is to be located written notice of the 49934
name of the purchaser of the home, the registration number or 49935
vehicle identification number of the home, and the address or 49936
location to which the home is to be moved. The county auditor 49937
shall provide to each manufactured and mobile home dealer, without 49938
charge, a supply of relocation notices to be distributed to 49939
purchasers pursuant to this section. 49940

(3) The notice shall be in the form of a one-foot square 49941
yellow sign with the words "manufactured home relocation notice" 49942
printed prominently on it. The name of the owner of the home, the 49943
home's registration number or vehicle identification number, the 49944
county and the address or location to which the home is being 49945
moved, and the county in which the notice is issued shall also be 49946
entered on the notice. 49947

(4) The relocation notice must be attached to the rear of the 49948
home when the home is being moved on a public road. Except as 49949
provided in divisions (H)(1) and (5) of this section, no person 49950
shall drive a motor vehicle moving a manufactured or mobile home 49951
on a public road from one address to another address within this 49952
state unless a relocation notice is attached to the rear of the 49953
home. 49954

(5) If the county auditor determines that a manufactured or 49955
mobile home has been moved without a relocation notice as required 49956
under this division, the auditor shall impose a penalty of one 49957
hundred dollars upon the owner of the home and upon the person who 49958
moved the home and deposit the amount to the credit of the county 49959
real estate assessment fund to pay the costs of administering this 49960
section and section 4503.06 of the Revised Code. If the home was 49961

relocated from one county in this state to another county in this state and the county auditor of the county to which the home was relocated imposes the penalty, that county auditor, upon collection of the penalty, shall cause an amount equal to the penalty to be transmitted from the county real estate assessment fund to the county auditor of the county from which the home was relocated, who shall deposit the amount to the credit of the county real estate assessment fund. If the penalty on the owner is unpaid, the penalty shall constitute a lien on the home and the auditor shall add the penalty to the manufactured home tax list for collection. If the county auditor determines that a dealer that has sold a manufactured or mobile home has failed to timely provide the information required under this division, the auditor shall impose a penalty upon the dealer in the amount of one hundred dollars. The penalty shall be credited to the county real estate assessment fund and used to pay the costs of administering this section and section 4503.06 of the Revised Code.

(I) Whoever violates division (H)(4) of this section is guilty of a minor misdemeanor.

Sec. 4503.062. (A) Every operator of a manufactured home court, or manufactured home park, as defined in section ~~3733.01~~ 4781.01 of the Revised Code, or when there is no operator, every owner of property used for such purposes on which three or more manufactured or mobile homes are located, shall keep a register of all manufactured and mobile homes that make use of the court, park, or property. The register shall contain all of the following:

- (1) The name of the owner and all inhabitants of each home;
- (2) The ages of all inhabitants of each home;
- (3) The permanent and temporary post office addresses of all inhabitants of each home;

| | |
|--|-------|
| (4) The license number of each home; | 49993 |
| (5) The state issuing each such license; | 49994 |
| (6) The date of arrival and of departure of each home; | 49995 |
| (7) The make and model of each home, if known and if either | 49996 |
| of the following applies: | 49997 |
| (a) The home enters the court, park, or property on or after | 49998 |
| January 1, 2003. | 49999 |
| (b) Ownership of the home in the court or park, or on the | 50000 |
| property, is transferred on or after January 1, 2003. | 50001 |
| (B) The register shall be open to inspection by the county | 50002 |
| auditor, the county treasurer, agents of the auditor or treasurer, | 50003 |
| and all law enforcement agencies at all times. | 50004 |
| (C) Any person who fails to comply with this section shall be | 50005 |
| fined not less than twenty-five nor more than one hundred dollars. | 50006 |
| Sec. 4503.81. As used in the bus taxation proration and | 50007 |
| reciprocity agreement authorized by section 4503.80 of the Revised | 50008 |
| Code, with reference to Ohio, "administrator" means the registrar | 50009 |
| of motor vehicles. | 50010 |
| The registrar may make such exemptions from the coverage of | 50011 |
| the agreement as may be appropriate and may make such changes in | 50012 |
| methods for the reporting of any information required to be | 50013 |
| furnished to this state pursuant to the agreement as, in his <u>the</u> | 50014 |
| <u>registrar's</u> judgment, are suitable; provided that any such | 50015 |
| exemptions or changes shall not be contrary to the purposes set | 50016 |
| forth in article I of the agreement and shall be made in order to | 50017 |
| permit the continuance of uniformity of practice among the | 50018 |
| contracting states with respect to buses. Any such exemption or | 50019 |
| change shall be made by rule adopted under Chapter 119. of the | 50020 |
| Revised Code. Unless otherwise provided in any statute withdrawing | 50021 |
| this state from participation in the agreement, the governor shall | 50022 |

be the officer to give notice of withdrawal therefrom. 50023

The fees referred to in article IV (a) of the agreement shall 50024
include the fees provided in section 4503.04 of the Revised Code 50025
and the annual tax provided in section ~~4921.18~~ 4921.19 of the 50026
Revised Code. As to the state of Ohio, article V (d) shall mean 50027
that all fleets not subject to this compact shall continue to 50028
enjoy that reciprocity and those privileges extended by virtue of 50029
other provisions of the Revised Code. 50030

Nothing contained herein shall be construed so as to permit a 50031
fleet which is prorating under the laws of another state to avoid 50032
proration under this compact. 50033

The registrar of motor vehicles shall collect a fee of two 50034
dollars per bus for every bus registered under the provisions of 50035
article IV (a) for administration of the agreement, in addition to 50036
the fees provided in article IV (a). 50037

The registrar of motor vehicles shall assess the operator of 50038
buses registered under the provisions of article IV (a) the actual 50039
cost of ~~his~~ the registrar's auditing the accuracy of the fees paid 50040
by the operator in accordance with article IV (a). 50041

The registrar of motor vehicles may renounce the 50042
participation of this state in the bus taxation proration and 50043
reciprocity agreement under article VI of section 4503.80 of the 50044
Revised Code, ~~if he finds~~ after finding that further participation 50045
in the compact is not in the best interests of the state. The 50046
registrar shall set forth ~~his~~ the registrar's reasons in writing 50047
and serve notice of intention to renounce the compact upon the 50048
owner of each registered fleet. ~~He~~ The registrar shall then 50049
certify the renunciation to the governor. 50050

Sec. 4506.01. As used in this chapter: 50051

(A) "Alcohol concentration" means the concentration of 50052

alcohol in a person's blood, breath, or urine. When expressed as a percentage, it means grams of alcohol per the following:

(1) One hundred milliliters of whole blood, blood serum, or blood plasma;

(2) Two hundred ten liters of breath;

(3) One hundred milliliters of urine.

(B) "Commercial driver's license" means a license issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.

(C) "Commercial driver's license information system" means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.

(D) Except when used in section 4506.25 of the Revised Code, "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

(1) Any combination of vehicles with a combined gross vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of ten thousand pounds;

(3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

(4) Any school bus with a gross vehicle weight rating of less than twenty-six thousand one pounds that is designed to transport

fewer than sixteen passengers including the driver; 50083

(5) Is transporting hazardous materials for which placarding 50084
is required under subpart F of 49 C.F.R. part 172, as amended; 50085

(6) Any single vehicle or combination of vehicles that is 50086
designed to be operated and to travel on a public street or 50087
highway and is considered by the federal motor carrier safety 50088
administration to be a commercial motor vehicle, including, but 50089
not limited to, a motorized crane, a vehicle whose function is to 50090
pump cement, a rig for drilling wells, and a portable crane. 50091

(E) "Controlled substance" means all of the following: 50092

(1) Any substance classified as a controlled substance under 50093
the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 50094
802(6), as amended; 50095

(2) Any substance included in schedules I through V of 21 50096
C.F.R. part 1308, as amended; 50097

(3) Any drug of abuse. 50098

(F) "Conviction" means an unvacated adjudication of guilt or 50099
a determination that a person has violated or failed to comply 50100
with the law in a court of original jurisdiction or an authorized 50101
administrative tribunal, an unvacated forfeiture of bail or 50102
collateral deposited to secure the person's appearance in court, a 50103
plea of guilty or nolo contendere accepted by the court, the 50104
payment of a fine or court cost, or violation of a condition of 50105
release without bail, regardless of whether or not the penalty is 50106
rebutted, suspended, or probated. 50107

(G) "Disqualification" means any of the following: 50108

(1) The suspension, revocation, or cancellation of a person's 50109
privileges to operate a commercial motor vehicle; 50110

(2) Any withdrawal of a person's privileges to operate a 50111
commercial motor vehicle as the result of a violation of state or 50112

local law relating to motor vehicle traffic control other than 50113
parking, vehicle weight, or vehicle defect violations; 50114

(3) A determination by the federal motor carrier safety 50115
administration that a person is not qualified to operate a 50116
commercial motor vehicle under 49 C.F.R. 391. 50117

(H) "Downgrade" means any of the following, as applicable: 50118

(1) A change in the commercial driver's license holder's 50119
self-certified status as described in division (A)(2) of section 50120
4506.10 of the Revised Code; 50121

(2) A change to a lesser class of vehicle; 50122

(3) Removal of commercial driver's license privileges from 50123
the individual's driver's license. 50124

(I) "Drive" means to drive, operate, or be in physical 50125
control of a motor vehicle. 50126

(J) "Driver" means any person who drives, operates, or is in 50127
physical control of a commercial motor vehicle or is required to 50128
have a commercial driver's license. 50129

(K) "Driver's license" means a license issued by the bureau 50130
of motor vehicles that authorizes an individual to drive. 50131

(L) "Drug of abuse" means any controlled substance, dangerous 50132
drug as defined in section 4729.01 of the Revised Code, or 50133
over-the-counter medication that, when taken in quantities 50134
exceeding the recommended dosage, can result in impairment of 50135
judgment or reflexes. 50136

(M) "Electronic device" includes a cellular telephone, a 50137
personal digital assistant, a pager, a computer, and any other 50138
device used to input, write, send, receive, or read text. 50139

(N) "Eligible unit of local government" means a village, 50140
township, or county that has a population of not more than three 50141
thousand persons according to the most recent federal census. 50142

(O) "Employer" means any person, including the federal 50143
government, any state, and a political subdivision of any state, 50144
that owns or leases a commercial motor vehicle or assigns a person 50145
to drive such a motor vehicle. 50146

(P) "Endorsement" means an authorization on a person's 50147
commercial driver's license that is required to permit the person 50148
to operate a specified type of commercial motor vehicle. 50149

(Q) "Farm truck" means a truck controlled and operated by a 50150
farmer for use in the transportation to or from a farm, for a 50151
distance of not more than one hundred fifty miles, of products of 50152
the farm, including livestock and its products, poultry and its 50153
products, floricultural and horticultural products, and in the 50154
transportation to the farm, from a distance of not more than one 50155
hundred fifty miles, of supplies for the farm, including tile, 50156
fence, and every other thing or commodity used in agricultural, 50157
floricultural, horticultural, livestock, and poultry production, 50158
and livestock, poultry, and other animals and things used for 50159
breeding, feeding, or other purposes connected with the operation 50160
of the farm, when the truck is operated in accordance with this 50161
division and is not used in the operations of a ~~motor~~ 50162
~~transportation company or private~~ motor carrier, as defined in 50163
section 4923.01 of the Revised Code. 50164

(R) "Fatality" means the death of a person as the result of a 50165
motor vehicle accident occurring not more than three hundred 50166
sixty-five days prior to the date of death. 50167

(S) "Felony" means any offense under federal or state law 50168
that is punishable by death or specifically classified as a felony 50169
under the law of this state, regardless of the penalty that may be 50170
imposed. 50171

(T) "Foreign jurisdiction" means any jurisdiction other than 50172
a state. 50173

(U) "Gross vehicle weight rating" means the value specified 50174
by the manufacturer as the maximum loaded weight of a single or a 50175
combination vehicle. The gross vehicle weight rating of a 50176
combination vehicle is the gross vehicle weight rating of the 50177
power unit plus the gross vehicle weight rating of each towed 50178
unit. 50179

(V) "Hazardous materials" means any material that has been 50180
designated as hazardous under 49 U.S.C. 5103 and is required to be 50181
placarded under subpart F of 49 C.F.R. part 172 or any quantity of 50182
a material listed as a select agent or toxin in 42 C.F.R. part 73, 50183
as amended. 50184

(W) "Imminent hazard" means the existence of a condition that 50185
presents a substantial likelihood that death, serious illness, 50186
severe personal injury, or a substantial endangerment to health, 50187
property, or the environment may occur before the reasonably 50188
foreseeable completion date of a formal proceeding begun to lessen 50189
the risk of that death, illness, injury, or endangerment. 50190

(X) "Medical variance" means one of the following received by 50191
a driver from the federal motor carrier safety administration that 50192
allows the driver to be issued a medical certificate: 50193

(1) An exemption letter permitting operation of a commercial 50194
motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64; 50195

(2) A skill performance evaluation certificate permitting 50196
operation of a commercial motor vehicle pursuant to 49 C.F.R. 50197
391.49. 50198

(Y) "Motor vehicle" means a vehicle, machine, tractor, 50199
trailer, or semitrailer propelled or drawn by mechanical power 50200
used on highways, except that such term does not include a 50201
vehicle, machine, tractor, trailer, or semitrailer operated 50202
exclusively on a rail. 50203

(Z) "Out-of-service order" means a declaration by an 50204

authorized enforcement officer of a federal, state, local, 50205
Canadian, or Mexican jurisdiction declaring that a driver, 50206
commercial motor vehicle, or commercial motor carrier operation is 50207
out of service as defined in 49 C.F.R. 390.5. 50208

(AA) "Peace officer" has the same meaning as in section 50209
2935.01 of the Revised Code. 50210

(BB) "Portable tank" means a liquid or gaseous packaging 50211
designed primarily to be loaded onto or temporarily attached to a 50212
vehicle and equipped with skids, mountings, or accessories to 50213
facilitate handling of the tank by mechanical means. 50214

(CC) "Public safety vehicle" has the same meaning as in 50215
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 50216

(DD) "Recreational vehicle" includes every vehicle that is 50217
defined as a recreational vehicle in section 4501.01 of the 50218
Revised Code and is used exclusively for purposes other than 50219
engaging in business for profit. 50220

(EE) "Residence" means any person's residence determined in 50221
accordance with standards prescribed in rules adopted by the 50222
registrar. 50223

(FF) "School bus" has the same meaning as in section 4511.01 50224
of the Revised Code. 50225

(GG) "Serious traffic violation" means any of the following: 50226

(1) A conviction arising from a single charge of operating a 50227
commercial motor vehicle in violation of any provision of section 50228
4506.03 of the Revised Code; 50229

(2) A violation while operating a commercial motor vehicle of 50230
a law of this state, or any municipal ordinance or county or 50231
township resolution prohibiting texting while driving, or any 50232
other substantially similar law of another state or political 50233
subdivision of another state; 50234

| | |
|--|--|
| (3) A conviction arising from the operation of any motor vehicle that involves any of the following: | 50235 50236 |
| (a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more; | 50237 50238 |
| (b) Violation of section 4511.20 or 4511.201 of the Revised Code or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state; | 50239 50240 50241 |
| (c) Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident; | 50242 50243 50244 50245 |
| (d) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported; | 50246 50247 50248 50249 50250 50251 50252 50253 |
| (e) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession; | 50254 50255 50256 50257 50258 50259 |
| (f) Violation of section 4511.33 or 4511.34 of the Revised Code, or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state; | 50260 50261 50262 50263 50264 |
| (g) Violation of any other law of this state or an ordinance | 50265 |

or resolution relating to traffic control, other than a parking 50266
violation, that is determined to be a serious traffic violation by 50267
the United States secretary of transportation and the director 50268
designates as such by rule. 50269

(HH) "State" means a state of the United States and includes 50270
the District of Columbia. 50271

(II) "Tank vehicle" means any commercial motor vehicle that 50272
is designed to transport any liquid and has a maximum capacity 50273
greater than one hundred nineteen gallons or is designed to 50274
transport gaseous materials and has a water capacity greater than 50275
one thousand pounds within a tank that is either permanently or 50276
temporarily attached to the vehicle or its chassis. "Tank vehicle" 50277
does not include any of the following: 50278

(1) Any portable tank having a rated capacity of less than 50279
one thousand gallons; 50280

(2) Tanks used exclusively as a fuel tank for the motor 50281
vehicle to which it is attached; 50282

(3) An empty storage container tank that is not designed for 50283
transportation and that is readily distinguishable from a 50284
transportation tank; 50285

(4) Ready-mix concrete mixers. 50286

(JJ) "Tester" means a person or entity acting pursuant to a 50287
valid agreement entered into pursuant to division (B) of section 50288
4506.09 of the Revised Code. 50289

(KK) "Texting" means manually entering alphanumeric text 50290
into, or reading text from, an electronic device. Texting includes 50291
short message service, e-mail, instant messaging, a command or 50292
request to access a world wide web page, or engaging in any other 50293
form of electronic text retrieval or entry, for present or future 50294
communication. Texting does not include the following: 50295

(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;

(2) Inputting, selecting, or reading information on a global positioning system or navigation system.

(LL) "Texting while driving" means texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(MM) "United States" means the fifty states and the District of Columbia.

(NN) "Upgrade" means a change in the class of vehicles, endorsements, or self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code, that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter;

(OO) "Vehicle" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by

the registrar of motor vehicles, a valid examiner's commercial 50326
driving permit issued under section 4506.13 of the Revised Code, a 50327
valid restricted commercial driver's license and waiver for 50328
farm-related service industries issued under section 4506.24 of 50329
the Revised Code, or a valid commercial driver's license temporary 50330
instruction permit issued by the registrar and is accompanied by 50331
an authorized state driver's license examiner or tester or a 50332
person who has been issued and has in the person's immediate 50333
possession a current, valid commercial driver's license with 50334
proper endorsements for the motor vehicle being driven. 50335

(2) No person shall be issued a commercial driver's license 50336
until the person surrenders to the registrar of motor vehicles all 50337
valid licenses issued to the person by another jurisdiction 50338
recognized by this state. The registrar shall report the surrender 50339
of a license to the issuing authority, together with information 50340
that a license is now issued in this state. The registrar shall 50341
destroy any such license that is not returned to the issuing 50342
authority. 50343

(3) No person who has been a resident of this state for 50344
thirty days or longer shall drive a commercial motor vehicle under 50345
the authority of a commercial driver's license issued by another 50346
jurisdiction. 50347

(B) Nothing in division (A) of this section applies to any 50348
qualified person when engaged in the operation of any of the 50349
following: 50350

(1) A farm truck; 50351

(2) Fire equipment for a fire department, volunteer or 50352
nonvolunteer fire company, fire district, or joint fire district; 50353

(3) A public safety vehicle used to provide transportation or 50354
emergency medical service for ill or injured persons; 50355

(4) A recreational vehicle; 50356

(5) A commercial motor vehicle within the boundaries of an 50357
eligible unit of local government, if the person is employed by 50358
the eligible unit of local government and is operating the 50359
commercial motor vehicle for the purpose of removing snow or ice 50360
from a roadway by plowing, sanding, or salting, but only if either 50361
the employee who holds a commercial driver's license issued under 50362
this chapter and ordinarily operates a commercial motor vehicle 50363
for these purposes is unable to operate the vehicle, or the 50364
employing eligible unit of local government determines that a snow 50365
or ice emergency exists that requires additional assistance; 50366

(6) A vehicle operated for military purposes by any member or 50367
uniformed employee of the armed forces of the United States or 50368
their reserve components, including the Ohio national guard. This 50369
exception does not apply to United States reserve technicians. 50370

(7) A commercial motor vehicle that is operated for 50371
nonbusiness purposes. "Operated for nonbusiness purposes" means 50372
that the commercial motor vehicle is not used in commerce as 50373
"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not 50374
regulated by the public utilities commission pursuant to Chapter 50375
~~4919~~ 4905., 4921., or 4923. of the Revised Code. 50376

(8) A motor vehicle that is designed primarily for the 50377
transportation of goods and not persons, while that motor vehicle 50378
is being used for the occasional transportation of personal 50379
property by individuals not for compensation and not in the 50380
furtherance of a commercial enterprise; 50381

(9) A police SWAT team vehicle; 50382

(10) A police vehicle used to transport prisoners. 50383

(C) Nothing contained in division (B)(5) of this section 50384
shall be construed as preempting or superseding any law, rule, or 50385
regulation of this state concerning the safe operation of 50386
commercial motor vehicles. 50387

(D) Whoever violates this section is guilty of a misdemeanor 50388
of the first degree. 50389

Sec. 4506.22. (A) The director of public safety and the 50390
registrar of motor vehicles, subject to approval by the director, 50391
may, in accordance with Chapter 119. of the Revised Code, adopt 50392
any rules necessary to carry out this chapter. 50393

(B) The department of public safety may do all of the 50394
following: 50395

(1) Enter into or make any agreements, arrangements, or 50396
declarations necessary to carry out this chapter; 50397

(2) Charge a fee for all publications that is equal to the 50398
cost of printing the publications. 50399

(C) Nothing in this chapter shall be construed to restrict 50400
the authority of the public utilities commission specified in 50401
Chapters 4905., 4921. and 4923. of the Revised Code regarding 50402
safety rules applicable to motor carriers. 50403

Sec. 4506.25. (A) As used in this section, "commercial motor 50404
vehicle" means any self-propelled or towed vehicle used on public 50405
highways in intrastate or interstate commerce to transport 50406
passengers or property that meets any of the following 50407
specifications: 50408

(1) The vehicle has a gross vehicle weight rating or gross 50409
combination weight rating of ten thousand one pounds or more. 50410

(2) The vehicle is designed to transport sixteen or more 50411
passengers, including the driver. 50412

(3) The vehicle is used in the transportation of hazardous 50413
materials in a quantity requiring placarding under the regulations 50414
issued by the United States secretary of transportation under the 50415
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 50416

U.S.C.A. 1801, as amended. 50417

(B) The registrar of motor vehicles shall disqualify any 50418
person from operating a commercial motor vehicle who receives a 50419
notice of a conviction for violation of an out-of-service order 50420
issued under rules of the public utilities commission adopted 50421
pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or 50422
~~4923.20~~ 4923. of the Revised Code, or a conviction for a violation 50423
of the same or similar laws of another state or jurisdiction 50424
applicable to vehicles in regulated commerce. 50425

Sec. 4507.01. (A) As used in this chapter, "motor vehicle," 50426
"motorized bicycle," "state," "owner," "operator," "chauffeur," 50427
and "highways" have the same meanings as in section 4501.01 of the 50428
Revised Code. 50429

"Driver's license" means a class D license issued to any 50430
person to operate a motor vehicle or motor-driven cycle, other 50431
than a commercial motor vehicle, and includes "probationary 50432
license," "restricted license," and any operator's or chauffeur's 50433
license issued before January 1, 1990. 50434

"Probationary license" means the license issued to any person 50435
between sixteen and eighteen years of age to operate a motor 50436
vehicle. 50437

"Restricted license" means the license issued to any person 50438
to operate a motor vehicle subject to conditions or restrictions 50439
imposed by the registrar of motor vehicles. 50440

"Commercial driver's license" means the license issued to a 50441
person under Chapter 4506. of the Revised Code to operate a 50442
commercial motor vehicle. 50443

"Commercial motor vehicle" has the same meaning as in section 50444
4506.01 of the Revised Code. 50445

"Motorized bicycle license" means the license issued under 50446

section 4511.521 of the Revised Code to any person to operate a motorized bicycle including a "probationary motorized bicycle license."

"Probationary motorized bicycle license" means the license issued under section 4511.521 of the Revised Code to any person between fourteen and sixteen years of age to operate a motorized bicycle.

"Identification card" means a card issued under sections 4507.50 and 4507.51 of the Revised Code.

"Resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a permanent basis.

"Temporary resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a temporary basis.

(B) In the administration of this chapter and Chapter 4506. of the Revised Code, the registrar has the same authority as is conferred on the registrar by section 4501.02 of the Revised Code. Any act of an authorized deputy registrar of motor vehicles under direction of the registrar is deemed the act of the registrar.

To carry out this chapter, the registrar shall appoint such deputy registrars in each county as are necessary.

The registrar also shall provide at each place where an application for a driver's or commercial driver's license or identification card may be made the necessary equipment to take a color photograph of the applicant for such license or card as required under section 4506.11 or 4507.06 of the Revised Code, and to conduct the vision screenings required by section 4507.12 of the Revised Code, and equipment to laminate licenses, motorized bicycle licenses, and identification cards as required by sections 4507.13, 4507.52, and 4511.521 of the Revised Code.

The registrar shall assign one or more deputy registrars to any driver's license examining station operated under the supervision of the ~~state highway patrol~~ director of public safety, whenever the registrar considers such assignment possible. Space shall be provided in the driver's license examining station for any such deputy registrar so assigned. The deputy registrars shall not exercise the powers conferred by such sections upon the registrar, unless they are specifically authorized to exercise such powers by such sections.

(C) No agent for any insurance company, writing automobile insurance, shall be appointed deputy registrar, and any such appointment is void. No deputy registrar shall in any manner solicit any form of automobile insurance, nor in any manner advise, suggest, or influence any licensee or applicant for license for or against any kind or type of automobile insurance, insurance company, or agent, nor have the deputy registrar's office directly connected with the office of any automobile insurance agent, nor impart any information furnished by any applicant for a license or identification card to any person, except the registrar. This division shall not apply to any nonprofit corporation appointed deputy registrar.

(D) The registrar shall immediately remove a deputy registrar who violates the requirements of this chapter.

(E) The registrar shall periodically solicit bids and enter into a contract for the provision of laminating equipment and laminating materials to the registrar and all deputy registrars. The registrar shall not consider any bid that does not provide for the supplying of both laminating equipment and laminating materials. The laminating materials selected shall contain a security feature so that any tampering with the laminating material covering a license or identification card is readily apparent. In soliciting bids and entering into a contract for the

provision of laminating equipment and laminating materials, the 50510
registrar shall observe all procedures required by law. 50511

Sec. 4507.011. (A) Each deputy registrar assigned to a 50512
driver's license examining station by the registrar of motor 50513
vehicles as provided in section 4507.01 of the Revised Code shall 50514
remit to the ~~superintendent~~ director of the ~~state highway patrol~~ 50515
public safety a rental fee equal to the percentage of space 50516
occupied by the deputy registrar in the driver's license examining 50517
station multiplied by the rental fee paid for the entire driver's 50518
license examining station plus a pro rata share of all utility 50519
costs. All such moneys received by the ~~superintendent~~ director 50520
shall be deposited in the state treasury to the credit of the 50521
registrar rental fund, which is hereby created. The moneys in the 50522
fund shall be used by the ~~state highway patrol~~ department of 50523
public safety only to pay the rent and expenses of the driver's 50524
license examining stations. All investment earnings of the fund 50525
shall be credited to the fund. 50526

(B) Each deputy registrar assigned to a bureau of motor 50527
vehicles' location shall reimburse the registrar a monthly 50528
building rental fee, including applicable utility charges. All 50529
such moneys received by the registrar shall be deposited into the 50530
state bureau of motor vehicles fund created in section 4501.25 of 50531
the Revised Code. 50532

Sec. 4507.12. (A) Except as provided in division (C) of 50533
section 4507.10 of the Revised Code, each person applying for the 50534
renewal of a driver's license shall submit to a screening of the 50535
person's vision before the license may be renewed. The vision 50536
screening shall be conducted at the office of the deputy registrar 50537
receiving the application for license renewal. 50538

(B) When the results of a vision screening given under 50539

division (A) of this section indicate that the vision of the 50540
person examined meets the standards required for licensing, the 50541
deputy registrar may renew the person's driver's license at that 50542
time. 50543

(C) When the results of a vision screening given under 50544
division (A) of this section indicate that the vision of the 50545
person screened may not meet the standards required for licensing, 50546
the deputy registrar shall not renew the person's driver's license 50547
at that time but shall refer the person to a driver's license 50548
examiner appointed by the ~~superintendent~~ director of the ~~state~~ 50549
~~highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the 50550
Revised Code for a further examination of the person's vision. 50551
When a person referred to a driver's license examiner by a deputy 50552
registrar does not meet the vision standards required for 50553
licensing, the driver's license examiner shall retain the person's 50554
operator's or chauffeur's license and shall immediately notify the 50555
registrar of motor vehicles of that fact. No driver's license 50556
shall be issued to any such person, until the person's vision is 50557
corrected to meet the standards required for licensing and the 50558
person passes the vision screening required by this section. Any 50559
person who operates a motor vehicle on a highway, or on any public 50560
or private property used by the public for purposes of vehicular 50561
travel or parking, during the time the person's driver's license 50562
is held by a driver's license examiner under this division, shall 50563
be deemed to be operating a motor vehicle in violation of division 50564
(A) of section 4510.12 of the Revised Code. 50565

(D) The registrar shall adopt rules and shall provide any 50566
forms necessary to properly conduct vision screenings at the 50567
office of a deputy registrar. 50568

(E) No person conducting vision screenings under this section 50569
shall be personally liable for damages for injury or loss to 50570
persons or property and for death caused by the operation of a 50571

motor vehicle by any person whose driver's license was renewed by 50572
the deputy registrar under division (B) of this section. 50573

Sec. 4507.51. (A)(1) Every application for an identification 50574
card or duplicate shall be made on a form furnished by the 50575
registrar of motor vehicles, shall be signed by the applicant, and 50576
by the applicant's parent or guardian if the applicant is under 50577
eighteen years of age, and shall contain the following information 50578
pertaining to the applicant: name, date of birth, sex, general 50579
description including the applicant's height, weight, hair color, 50580
and eye color, address, and social security number. The 50581
application also shall state whether an applicant wishes to 50582
certify willingness to make an anatomical gift under section 50583
2108.05 of the Revised Code and shall include information about 50584
the requirements of sections 2108.01 to 2108.29 of the Revised 50585
Code that apply to persons who are less than eighteen years of 50586
age. The statement regarding willingness to make such a donation 50587
shall be given no consideration in the decision of whether to 50588
issue an identification card. Each applicant shall be photographed 50589
in color at the time of making application. 50590

(2)(a) The application also shall state whether the applicant 50591
has executed a valid durable power of attorney for health care 50592
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 50593
executed a declaration governing the use or continuation, or the 50594
withholding or withdrawal, of life-sustaining treatment pursuant 50595
to sections 2133.01 to 2133.15 of the Revised Code and, if the 50596
applicant has executed either type of instrument, whether the 50597
applicant wishes the identification card issued to indicate that 50598
the applicant has executed the instrument. 50599

(b) On and after October 7, 2009, the application also shall 50600
state whether the applicant is a veteran, active duty, or 50601
reservist of the armed forces of the United States and, if the 50602

applicant is such, whether the applicant wishes the identification 50603
card issued to indicate that the applicant is a veteran, active 50604
duty, or reservist of the armed forces of the United States by a 50605
military designation on the identification card. 50606

(3) The registrar or deputy registrar, in accordance with 50607
section 3503.11 of the Revised Code, shall register as an elector 50608
any person who applies for an identification card or duplicate if 50609
the applicant is eligible and wishes to be registered as an 50610
elector. The decision of an applicant whether to register as an 50611
elector shall be given no consideration in the decision of whether 50612
to issue the applicant an identification card or duplicate. 50613

(B) The application for an identification card or duplicate 50614
shall be filed in the office of the registrar or deputy registrar. 50615
Each applicant shall present documentary evidence as required by 50616
the registrar of the applicant's age and identity, and the 50617
applicant shall swear that all information given is true. An 50618
identification card issued by the department of rehabilitation and 50619
correction under section 5120.59 of the Revised Code or an 50620
identification card issued by the department of youth services 50621
under section 5139.511 of the Revised Code shall be sufficient 50622
documentary evidence under this division upon verification of the 50623
applicant's social security number by the registrar or a deputy 50624
registrar. Upon issuing an identification card under this section 50625
for a person who has been issued an identification card under 50626
section 5120.59 or section 5139.511 of the Revised Code, the 50627
registrar or deputy registrar shall destroy the identification 50628
card issued under section 5120.59 or section 5139.511 of the 50629
Revised Code. 50630

All applications for an identification card or duplicate 50631
shall be filed in duplicate, and if submitted to a deputy 50632
registrar, a copy shall be forwarded to the registrar. The 50633
registrar shall prescribe rules for the manner in which a deputy 50634

registrar is to file and maintain applications and other records. 50635
The registrar shall maintain a suitable, indexed record of all 50636
applications denied and cards issued or canceled. 50637

(C) In addition to any other information it contains, on and 50638
after the date that is fifteen months after ~~the effective date of~~ 50639
~~this amendment~~ April 7, 2009, the form furnished by the registrar 50640
of motor vehicles for an application for an identification card or 50641
duplicate shall inform applicants that the applicant must present 50642
a copy of the applicant's DD-214 or an equivalent document in 50643
order to qualify to have the card or duplicate indicate that the 50644
applicant is an honorably discharged veteran of the armed forces 50645
of the United States based on a request made pursuant to division 50646
(A)(2)(b) of this section. 50647

Sec. 4508.02. (A)(1) The director of public safety, subject 50648
to Chapter 119. of the Revised Code, shall adopt and prescribe 50649
such rules concerning the administration and enforcement of this 50650
chapter as are necessary to protect the public. The director shall 50651
inspect the school facilities and equipment of applicants and 50652
licensees and examine applicants for instructor's licenses. 50653

(2) The director shall adopt rules governing online driver 50654
education courses that may be completed via the internet to 50655
satisfy the classroom instruction under division (C) of this 50656
section. The rules shall do all of the following: 50657

(a) Establish standards that an online driver training 50658
enterprise must satisfy to be licensed to offer an online driver 50659
education course via the internet, including, at a minimum, proven 50660
expertise in providing driver education and an acceptable 50661
infrastructure capable of providing secure online driver education 50662
in accord with advances in internet technology. The rules shall 50663
allow an online driver training enterprise to be affiliated with a 50664
licensed driver training school offering in-person classroom 50665

instruction, but shall not require such an affiliation. 50666

(b) Establish content requirements that an online driver education course must satisfy to be approved as equivalent to twenty-four hours of in-person classroom instruction; 50667
50668
50669

(c) Establish attendance standards, including a maximum number of course hours that may be completed in a twenty-four-hour period; 50670
50671
50672

(d) Allow an enrolled applicant to begin the required eight hours of actual behind-the-wheel instruction upon completing at least two hours of course instruction and being issued a certificate of enrollment by a licensed online driver training enterprise; 50673
50674
50675
50676
50677

(e) Establish any other requirements necessary to regulate online driver education. 50678
50679

(B) The director shall administer and enforce this chapter. 50680

(C) The rules shall require twenty-four hours of in-person classroom instruction or completion of an approved, equivalent online driver education course offered via the internet by a licensed online driver training enterprise, and eight hours of actual behind-the-wheel instruction conducted on public streets and highways of this state for all beginning drivers of noncommercial motor vehicles who are under age eighteen. 50681
50682
50683
50684
50685
50686
50687

(D) The rules shall state the minimum hours for classroom and behind-the-wheel instruction required for beginning drivers of commercial trucks, commercial cars, buses, and commercial tractors, trailers, and ~~semi-trailers~~ semitrailers. 50688
50689
50690
50691

(E)(1) The department of public safety may charge a fee to each online driver training enterprise in an amount sufficient to pay the actual expenses the department incurs in the regulation of online driver education courses. 50692
50693
50694
50695

(2) The department shall supply to each licensed online driver training enterprise certificates to be used for certifying an applicant's enrollment in an approved online driver education course and a separate certificate to be issued upon successful completion of an approved online driver education course. The certificates shall be numbered serially. The department may charge a fee to each online driver training enterprise per certificate supplied to pay the actual expenses the department incurs in supplying the certificates.

Sec. 4510.037. (A) When the registrar of motor vehicles determines that the total points charged against any person under section 4510.036 of the Revised Code exceed five, the registrar shall send a warning letter to the person at the person's last known address by regular mail. The warning letter shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and outline the suspension provisions of this section.

(B) When the registrar determines that the total points charged against any person under section 4510.036 of the Revised Code within any two-year period beginning on the date of the first conviction within the two-year period is equal to twelve or more, the registrar shall send a written notice to the person at the person's last known address by regular mail. The notice shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and state that, because the total number of points charged against the person within the applicable two-year period is equal to twelve or more, the registrar is imposing a class D suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code. The notice also shall state that the suspension is effective on the

twentieth day after the mailing of the notice, unless the person 50728
files a petition appealing the determination and suspension in the 50729
municipal court, county court, or, if the person is under the age 50730
of eighteen, the juvenile division of the court of common pleas in 50731
whose jurisdiction the person resides or, if the person is not a 50732
resident of this state, in the Franklin county municipal court or 50733
juvenile division of the Franklin county court of common pleas. By 50734
filing the appeal of the determination and suspension, the person 50735
agrees to pay the cost of the proceedings in the appeal of the 50736
determination and suspension and alleges that the person can show 50737
cause why the person's driver's or commercial driver's license or 50738
permit or nonresident operating privileges should not be 50739
suspended. 50740

(C)(1) Any person against whom at least two but less than 50741
twelve points have been charged under section 4510.036 of the 50742
Revised Code may enroll in a course of remedial driving 50743
instruction that is approved by the director of public safety. 50744
Upon the person's completion of an approved course of remedial 50745
driving instruction, the person may apply to the registrar on a 50746
form prescribed by the registrar for a credit of two points on the 50747
person's driving record. Upon receipt of the application and proof 50748
of completion of the approved remedial driving course, the 50749
registrar shall approve the two-point credit. The registrar shall 50750
not approve any credits for a person who completes an approved 50751
course of remedial driving instruction pursuant to a judge's order 50752
under section 4510.02 of the Revised Code. 50753

(2) In any three-year period, the registrar shall approve 50754
only one two-point credit on a person's driving record under 50755
division (C)(1) of this section. The registrar shall approve not 50756
more than five two-point credits on a person's driving record 50757
under division (C)(1) of this section during that person's 50758
lifetime. 50759

(D) When a judge of a court of record suspends a person's driver's or commercial driver's license or permit or nonresident operating privilege and charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit that period of suspension against the time of any subsequent suspension imposed under this section for which those points were used to impose the subsequent suspension. When a United States district court that has jurisdiction within this state suspends a person's driver's or commercial driver's license or permit or nonresident operating privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 4381 (1988), 18 U.S.C.A. 13, as amended, the district court prepares an abstract pursuant to section 4510.031 of the Revised Code, and the district court charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit the period of suspension imposed by the district court against the time of any subsequent suspension imposed under this section for which the points were used to impose the subsequent suspension.

(E) The registrar, upon the written request of a licensee who files a petition under division (B) of this section, shall furnish the licensee a certified copy of the registrar's record of the convictions and bond forfeitures of the person. This record shall include the name, address, and date of birth of the licensee; the name of the court in which each conviction or bail forfeiture took place; the nature of the offense that was the basis of the conviction or bond forfeiture; and any other information that the registrar considers necessary. If the record indicates that twelve points or more have been charged against the person within a two-year period, it is prima-facie evidence that the person is a repeat traffic offender, and the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege pursuant to division (B) of this

section. 50793

In hearing the petition and determining whether the person 50794
filing the petition has shown cause why the person's driver's or 50795
commercial driver's license or permit or nonresident operating 50796
privilege should not be suspended, the court shall decide the 50797
issue on the record certified by the registrar and any additional 50798
relevant, competent, and material evidence that either the 50799
registrar or the person whose license is sought to be suspended 50800
submits. 50801

(F) If a petition is filed under division (B) of this section 50802
in a county court, the prosecuting attorney of the county in which 50803
the case is pending shall represent the registrar in the 50804
proceedings, except that, if the petitioner resides in a municipal 50805
corporation within the jurisdiction of the county court, the city 50806
director of law, village solicitor, or other chief legal officer 50807
of the municipal corporation shall represent the registrar in the 50808
proceedings. If a petition is filed under division (B) of this 50809
section in a municipal court, the registrar shall be represented 50810
in the resulting proceedings as provided in section 1901.34 of the 50811
Revised Code. 50812

(G) If the court determines from the evidence submitted that 50813
a person who filed a petition under division (B) of this section 50814
has failed to show cause why the person's driver's or commercial 50815
driver's license or permit or nonresident operating privileges 50816
should not be suspended, the court shall assess against the person 50817
the cost of the proceedings in the appeal of the determination and 50818
suspension and shall impose the applicable suspension under this 50819
section or suspend all or a portion of the suspension and impose 50820
any conditions upon the person that the court considers proper or 50821
impose upon the person a community control sanction pursuant to 50822
section 2929.15 or 2929.25 of the Revised Code. If the court 50823
determines from the evidence submitted that a person who filed a 50824

petition under division (B) of this section has shown cause why 50825
the person's driver's or commercial driver's license or permit or 50826
nonresident operating privileges should not be suspended, the 50827
costs of the appeal proceeding shall be paid out of the county 50828
treasury of the county in which the proceedings were held. 50829

(H) Any person whose driver's or commercial driver's license 50830
or permit or nonresident operating privileges are suspended under 50831
this section is not entitled to apply for or receive a new 50832
driver's or commercial driver's license or permit or to request or 50833
be granted nonresident operating privileges during the effective 50834
period of the suspension. 50835

(I) Upon the termination of any suspension or other penalty 50836
imposed under this section involving the surrender of license or 50837
permit and upon the request of the person whose license or permit 50838
was suspended or surrendered, the registrar shall return the 50839
license or permit to the person upon determining that the person 50840
has complied with all provisions of section 4510.038 of the 50841
Revised Code or, if the registrar destroyed the license or permit 50842
pursuant to section 4510.52 of the Revised Code, shall reissue the 50843
person's license or permit. 50844

(J) Any person whose driver's or commercial driver's license 50845
or permit or nonresident operating privileges are suspended as a 50846
repeat traffic offender under this section and who, during the 50847
suspension, operates any motor vehicle upon any public roads and 50848
highways is guilty of driving under a twelve-point suspension, a 50849
misdemeanor of the first degree. The court shall sentence the 50850
offender to a minimum term of three days in jail. No court shall 50851
suspend the first three days of jail time imposed pursuant to this 50852
division. 50853

(K) The registrar, in accordance with specific statutory 50854
authority, may suspend the privilege of driving a motor vehicle on 50855
the public roads and highways of this state that is granted to 50856

nonresidents by section 4507.04 of the Revised Code. 50857

(L) Any (1) Except as provided in division (L)(2) of this 50858
section, any course of remedial driving instruction the director 50859
of public safety approves under this section shall require its 50860
students to attend at least fifty per cent of the course in 50861
person. ~~The~~ and the director shall not approve any course of 50862
remedial driving instruction that permits its students to take 50863
more than fifty per cent of the course in any other manner, 50864
including via video teleconferencing or the internet. 50865

(2) The director may approve a course of remedial instruction 50866
that permits students to take the entire course via video 50867
teleconferencing or the internet. In accordance with division (C) 50868
of this section, upon receiving an application with a certificate 50869
or other proof of completion of a course approved under this 50870
division, the registrar shall approve the two-point reduction. 50871

Sec. 4510.038. (A) Any person whose driver's or commercial 50872
driver's license or permit is suspended or who is granted limited 50873
driving privileges under section 4510.037, under division (H) of 50874
section 4511.19, or under section 4510.07 of the Revised Code for 50875
a violation of a municipal ordinance that is substantially 50876
equivalent to division (B) of section 4511.19 of the Revised Code 50877
is not eligible to retain the license, or to have the driving 50878
privileges reinstated, until each of the following has occurred: 50879

(1) The person successfully completes a course of remedial 50880
driving instruction approved by the director of public safety. A 50881
minimum of twenty-five per cent of the number of hours of 50882
instruction included in the course shall be devoted to instruction 50883
on driver attitude. 50884

The course also shall devote a number of hours to instruction 50885
in the area of alcohol and drugs and the operation of vehicles. 50886
The instruction shall include, but not be limited to, a review of 50887

the laws governing the operation of a vehicle while under the 50888
influence of alcohol, drugs, or a combination of them, the dangers 50889
of operating a vehicle while under the influence of alcohol, 50890
drugs, or a combination of them, and other information relating to 50891
the operation of vehicles and the consumption of alcoholic 50892
beverages and use of drugs. The director, in consultation with the 50893
director of alcohol and drug addiction services, shall prescribe 50894
the content of the instruction. The number of hours devoted to the 50895
area of alcohol and drugs and the operation of vehicles shall 50896
comprise a minimum of twenty-five per cent of the number of hours 50897
of instruction included in the course. 50898

(2) The person is examined in the manner provided for in 50899
section 4507.20 of the Revised Code, and found by the registrar of 50900
motor vehicles to be qualified to operate a motor vehicle; 50901

(3) The person gives and maintains proof of financial 50902
responsibility, in accordance with section 4509.45 of the Revised 50903
Code. 50904

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this 50905
section, any course of remedial driving instruction the director 50906
of public safety approves under this section shall require its 50907
students to attend at least fifty per cent of the course in 50908
person. ~~The~~ and the director shall not approve any course of 50909
remedial driving instruction that permits its students to take 50910
more than fifty per cent of the course in any other manner, 50911
including via video teleconferencing or the internet. 50912

(2) The director may approve a course of remedial instruction 50913
that permits students to take the entire course via video 50914
teleconferencing or the internet. 50915

Sec. 4511.191. (A)(1) As used in this section: 50916

(a) "Physical control" has the same meaning as in section 50917

4511.194 of the Revised Code. 50918

(b) "Alcohol monitoring device" means any device that 50919
provides for continuous alcohol monitoring, any ignition interlock 50920
device, any immobilizing or disabling device other than an 50921
ignition interlock device that is constantly available to monitor 50922
the concentration of alcohol in a person's system, or any other 50923
device that provides for the automatic testing and periodic 50924
reporting of alcohol consumption by a person and that a court 50925
orders a person to use as a sanction imposed as a result of the 50926
person's conviction of or plea of guilty to an offense. 50927

(2) Any person who operates a vehicle, streetcar, or 50928
trackless trolley upon a highway or any public or private property 50929
used by the public for vehicular travel or parking within this 50930
state or who is in physical control of a vehicle, streetcar, or 50931
trackless trolley shall be deemed to have given consent to a 50932
chemical test or tests of the person's whole blood, blood serum or 50933
plasma, breath, or urine to determine the alcohol, drug of abuse, 50934
controlled substance, metabolite of a controlled substance, or 50935
combination content of the person's whole blood, blood serum or 50936
plasma, breath, or urine if arrested for a violation of division 50937
(A) or (B) of section 4511.19 of the Revised Code, section 50938
4511.194 of the Revised Code or a substantially equivalent 50939
municipal ordinance, or a municipal OVI ordinance. 50940

(3) The chemical test or tests under division (A)(2) of this 50941
section shall be administered at the request of a law enforcement 50942
officer having reasonable grounds to believe the person was 50943
operating or in physical control of a vehicle, streetcar, or 50944
trackless trolley in violation of a division, section, or 50945
ordinance identified in division (A)(2) of this section. The law 50946
enforcement agency by which the officer is employed shall 50947
designate which of the tests shall be administered. 50948

(4) Any person who is dead or unconscious, or who otherwise 50949

is in a condition rendering the person incapable of refusal, shall 50950
be deemed to have consented as provided in division (A)(2) of this 50951
section, and the test or tests may be administered, subject to 50952
sections 313.12 to 313.16 of the Revised Code. 50953

(5)(a) If a law enforcement officer arrests a person for a 50954
violation of division (A) or (B) of section 4511.19 of the Revised 50955
Code, section 4511.194 of the Revised Code or a substantially 50956
equivalent municipal ordinance, or a municipal OVI ordinance and 50957
if the person if convicted would be required to be sentenced under 50958
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 50959
Code, the law enforcement officer shall request the person to 50960
submit, and the person shall submit, to a chemical test or tests 50961
of the person's whole blood, blood serum or plasma, breath, or 50962
urine for the purpose of determining the alcohol, drug of abuse, 50963
controlled substance, metabolite of a controlled substance, or 50964
combination content of the person's whole blood, blood serum or 50965
plasma, breath, or urine. A law enforcement officer who makes a 50966
request pursuant to this division that a person submit to a 50967
chemical test or tests is not required to advise the person of the 50968
consequences of submitting to, or refusing to submit to, the test 50969
or tests and is not required to give the person the form described 50970
in division (B) of section 4511.192 of the Revised Code, but the 50971
officer shall advise the person at the time of the arrest that if 50972
the person refuses to take a chemical test the officer may employ 50973
whatever reasonable means are necessary to ensure that the person 50974
submits to a chemical test of the person's whole blood or blood 50975
serum or plasma. The officer shall also advise the person at the 50976
time of the arrest that the person may have an independent 50977
chemical test taken at the person's own expense. Divisions (A)(3) 50978
and (4) of this section apply to the administration of a chemical 50979
test or tests pursuant to this division. 50980

(b) If a person refuses to submit to a chemical test upon a 50981

request made pursuant to division (A)(5)(a) of this section, the 50982
law enforcement officer who made the request may employ whatever 50983
reasonable means are necessary to ensure that the person submits 50984
to a chemical test of the person's whole blood or blood serum or 50985
plasma. A law enforcement officer who acts pursuant to this 50986
division to ensure that a person submits to a chemical test of the 50987
person's whole blood or blood serum or plasma is immune from 50988
criminal and civil liability based upon a claim for assault and 50989
battery or any other claim for the acts, unless the officer so 50990
acted with malicious purpose, in bad faith, or in a wanton or 50991
reckless manner. 50992

(B)(1) Upon receipt of the sworn report of a law enforcement 50993
officer who arrested a person for a violation of division (A) or 50994
(B) of section 4511.19 of the Revised Code, section 4511.194 of 50995
the Revised Code or a substantially equivalent municipal 50996
ordinance, or a municipal OVI ordinance that was completed and 50997
sent to the registrar of motor vehicles and a court pursuant to 50998
section 4511.192 of the Revised Code in regard to a person who 50999
refused to take the designated chemical test, the registrar shall 51000
enter into the registrar's records the fact that the person's 51001
driver's or commercial driver's license or permit or nonresident 51002
operating privilege was suspended by the arresting officer under 51003
this division and that section and the period of the suspension, 51004
as determined under this section. The suspension shall be subject 51005
to appeal as provided in section 4511.197 of the Revised Code. The 51006
suspension shall be for whichever of the following periods 51007
applies: 51008

(a) Except when division (B)(1)(b), (c), or (d) of this 51009
section applies and specifies a different class or length of 51010
suspension, the suspension shall be a class C suspension for the 51011
period of time specified in division (B)(3) of section 4510.02 of 51012
the Revised Code. 51013

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall

be for five years. 51046

(2) The registrar shall terminate a suspension of the 51047
driver's or commercial driver's license or permit of a resident or 51048
of the operating privilege of a nonresident, or a denial of a 51049
driver's or commercial driver's license or permit, imposed 51050
pursuant to division (B)(1) of this section upon receipt of notice 51051
that the person has entered a plea of guilty to, or that the 51052
person has been convicted after entering a plea of no contest to, 51053
operating a vehicle in violation of section 4511.19 of the Revised 51054
Code or in violation of a municipal OVI ordinance, if the offense 51055
for which the conviction is had or the plea is entered arose from 51056
the same incident that led to the suspension or denial. 51057

The registrar shall credit against any judicial suspension of 51058
a person's driver's or commercial driver's license or permit or 51059
nonresident operating privilege imposed pursuant to section 51060
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 51061
Revised Code for a violation of a municipal OVI ordinance, any 51062
time during which the person serves a related suspension imposed 51063
pursuant to division (B)(1) of this section. 51064

(C)(1) Upon receipt of the sworn report of the law 51065
enforcement officer who arrested a person for a violation of 51066
division (A) or (B) of section 4511.19 of the Revised Code or a 51067
municipal OVI ordinance that was completed and sent to the 51068
registrar and a court pursuant to section 4511.192 of the Revised 51069
Code in regard to a person whose test results indicate that the 51070
person's whole blood, blood serum or plasma, breath, or urine 51071
contained at least the concentration of alcohol specified in 51072
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 51073
Revised Code or at least the concentration of a listed controlled 51074
substance or a listed metabolite of a controlled substance 51075
specified in division (A)(1)(j) of section 4511.19 of the Revised 51076
Code, the registrar shall enter into the registrar's records the 51077

fact that the person's driver's or commercial driver's license or 51078
permit or nonresident operating privilege was suspended by the 51079
arresting officer under this division and section 4511.192 of the 51080
Revised Code and the period of the suspension, as determined under 51081
divisions (C)(1)(a) to (d) of this section. The suspension shall 51082
be subject to appeal as provided in section 4511.197 of the 51083
Revised Code. The suspension described in this division does not 51084
apply to, and shall not be imposed upon, a person arrested for a 51085
violation of section 4511.194 of the Revised Code or a 51086
substantially equivalent municipal ordinance who submits to a 51087
designated chemical test. The suspension shall be for whichever of 51088
the following periods applies: 51089

(a) Except when division (C)(1)(b), (c), or (d) of this 51090
section applies and specifies a different period, the suspension 51091
shall be a class E suspension imposed for the period of time 51092
specified in division (B)(5) of section 4510.02 of the Revised 51093
Code. 51094

(b) The suspension shall be a class C suspension for the 51095
period of time specified in division (B)(3) of section 4510.02 of 51096
the Revised Code if the person has been convicted of or pleaded 51097
guilty to, within six years of the date the test was conducted, 51098
one violation of division (A) or (B) of section 4511.19 of the 51099
Revised Code or one other equivalent offense. 51100

(c) If, within six years of the date the test was conducted, 51101
the person has been convicted of or pleaded guilty to two 51102
violations of a statute or ordinance described in division 51103
(C)(1)(b) of this section, the suspension shall be a class B 51104
suspension imposed for the period of time specified in division 51105
(B)(2) of section 4510.02 of the Revised Code. 51106

(d) If, within six years of the date the test was conducted, 51107
the person has been convicted of or pleaded guilty to more than 51108
two violations of a statute or ordinance described in division 51109

(C)(1)(b) of this section, the suspension shall be a class A 51110
suspension imposed for the period of time specified in division 51111
(B)(1) of section 4510.02 of the Revised Code. 51112

(2) The registrar shall terminate a suspension of the 51113
driver's or commercial driver's license or permit of a resident or 51114
of the operating privilege of a nonresident, or a denial of a 51115
driver's or commercial driver's license or permit, imposed 51116
pursuant to division (C)(1) of this section upon receipt of notice 51117
that the person has entered a plea of guilty to, or that the 51118
person has been convicted after entering a plea of no contest to, 51119
operating a vehicle in violation of section 4511.19 of the Revised 51120
Code or in violation of a municipal OVI ordinance, if the offense 51121
for which the conviction is had or the plea is entered arose from 51122
the same incident that led to the suspension or denial. 51123

The registrar shall credit against any judicial suspension of 51124
a person's driver's or commercial driver's license or permit or 51125
nonresident operating privilege imposed pursuant to section 51126
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 51127
Revised Code for a violation of a municipal OVI ordinance, any 51128
time during which the person serves a related suspension imposed 51129
pursuant to division (C)(1) of this section. 51130

(D)(1) A suspension of a person's driver's or commercial 51131
driver's license or permit or nonresident operating privilege 51132
under this section for the time described in division (B) or (C) 51133
of this section is effective immediately from the time at which 51134
the arresting officer serves the notice of suspension upon the 51135
arrested person. Any subsequent finding that the person is not 51136
guilty of the charge that resulted in the person being requested 51137
to take the chemical test or tests under division (A) of this 51138
section does not affect the suspension. 51139

(2) If a person is arrested for operating a vehicle, 51140
streetcar, or trackless trolley in violation of division (A) or 51141

(B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that

meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is

determined by the county, juvenile, or municipal court judge not 51206
to have the means to pay for the person's attendance at the 51207
program or to pay the costs specified in division (H)(4) of this 51208
section in accordance with that division. In addition, a county, 51209
juvenile, or municipal court judge may use moneys in the county 51210
indigent drivers alcohol treatment fund, county juvenile indigent 51211
drivers alcohol treatment fund, or municipal indigent drivers 51212
alcohol treatment fund to pay for the cost of the continued use of 51213
an alcohol monitoring device as described in divisions (H)(3) and 51214
(4) of this section. Moneys in the fund that are not distributed 51215
to a county indigent drivers alcohol treatment fund, a county 51216
juvenile indigent drivers alcohol treatment fund, or a municipal 51217
indigent drivers alcohol treatment fund under division (H) of this 51218
section because the director of alcohol and drug addiction 51219
services does not have the information necessary to identify the 51220
county or municipal corporation where the offender or juvenile 51221
offender was arrested may be transferred by the director of budget 51222
and management to the statewide treatment and prevention fund 51223
created by section 4301.30 of the Revised Code, upon certification 51224
of the amount by the director of alcohol and drug addiction 51225
services. 51226

(d) Seventy-five dollars shall be credited to the Ohio 51227
rehabilitation services commission established by section 3304.12 51228
of the Revised Code, to the services for rehabilitation fund, 51229
which is hereby established. The fund shall be used to match 51230
available federal matching funds where appropriate, and for any 51231
other purpose or program of the commission to rehabilitate people 51232
with disabilities to help them become employed and independent. 51233

(e) Seventy-five dollars shall be deposited into the state 51234
treasury and credited to the drug abuse resistance education 51235
programs fund, which is hereby established, to be used by the 51236
attorney general for the purposes specified in division (F)(4) of 51237

this section. 51238

(f) Thirty dollars shall be credited to the state bureau of 51239
motor vehicles fund created by section 4501.25 of the Revised 51240
Code. 51241

(g) Twenty dollars shall be credited to the trauma and 51242
emergency medical services ~~grants~~ fund created by section 4513.263 51243
of the Revised Code. 51244

(h) Fifty dollars shall be credited to the indigent drivers 51245
interlock and alcohol monitoring fund, which is hereby established 51246
in the state treasury. Moneys in the fund shall be distributed by 51247
the department of public safety to the county indigent drivers 51248
interlock and alcohol monitoring funds, the county juvenile 51249
indigent drivers interlock and alcohol monitoring funds, and the 51250
municipal indigent drivers interlock and alcohol monitoring funds 51251
that are required to be established by counties and municipal 51252
corporations pursuant to this section, and shall be used only to 51253
pay the cost of an immobilizing or disabling device, including a 51254
certified ignition interlock device, or an alcohol monitoring 51255
device used by an offender or juvenile offender who is ordered to 51256
use the device by a county, juvenile, or municipal court judge and 51257
who is determined by the county, juvenile, or municipal court 51258
judge not to have the means to pay for the person's use of the 51259
device. 51260

(3) If a person's driver's or commercial driver's license or 51261
permit is suspended under this section, under section 4511.196 or 51262
division (G) of section 4511.19 of the Revised Code, under section 51263
4510.07 of the Revised Code for a violation of a municipal OVI 51264
ordinance or under any combination of the suspensions described in 51265
division (F)(3) of this section, and if the suspensions arise from 51266
a single incident or a single set of facts and circumstances, the 51267
person is liable for payment of, and shall be required to pay to 51268
the registrar or an eligible deputy registrar, only one 51269

reinstatement fee of four hundred seventy-five dollars. The 51270
reinstatement fee shall be distributed by the bureau in accordance 51271
with division (F)(2) of this section. 51272

(4) The attorney general shall use amounts in the drug abuse 51273
resistance education programs fund to award grants to law 51274
enforcement agencies to establish and implement drug abuse 51275
resistance education programs in public schools. Grants awarded to 51276
a law enforcement agency under this section shall be used by the 51277
agency to pay for not more than fifty per cent of the amount of 51278
the salaries of law enforcement officers who conduct drug abuse 51279
resistance education programs in public schools. The attorney 51280
general shall not use more than six per cent of the amounts the 51281
attorney general's office receives under division (F)(2)(e) of 51282
this section to pay the costs it incurs in administering the grant 51283
program established by division (F)(2)(e) of this section and in 51284
providing training and materials relating to drug abuse resistance 51285
education programs. 51286

The attorney general shall report to the governor and the 51287
general assembly each fiscal year on the progress made in 51288
establishing and implementing drug abuse resistance education 51289
programs. These reports shall include an evaluation of the 51290
effectiveness of these programs. 51291

(5) In addition to the reinstatement fee under this section, 51292
if the person pays the reinstatement fee to a deputy registrar, 51293
the deputy registrar shall collect a service fee of ten dollars to 51294
compensate the deputy registrar for services performed under this 51295
section. The deputy registrar shall retain eight dollars of the 51296
service fee and shall transmit the reinstatement fee, plus two 51297
dollars of the service fee, to the registrar in the manner the 51298
registrar shall determine. 51299

(G) Suspension of a commercial driver's license under 51300
division (B) or (C) of this section shall be concurrent with any 51301

period of disqualification under section 3123.611 or 4506.16 of 51302
the Revised Code or any period of suspension under section 3123.58 51303
of the Revised Code. No person who is disqualified for life from 51304
holding a commercial driver's license under section 4506.16 of the 51305
Revised Code shall be issued a driver's license under Chapter 51306
4507. of the Revised Code during the period for which the 51307
commercial driver's license was suspended under division (B) or 51308
(C) of this section. No person whose commercial driver's license 51309
is suspended under division (B) or (C) of this section shall be 51310
issued a driver's license under Chapter 4507. of the Revised Code 51311
during the period of the suspension. 51312

(H)(1) Each county shall establish an indigent drivers 51313
alcohol treatment fund, each county shall establish a juvenile 51314
indigent drivers alcohol treatment fund, and each municipal 51315
corporation in which there is a municipal court shall establish an 51316
indigent drivers alcohol treatment fund. All revenue that the 51317
general assembly appropriates to the indigent drivers alcohol 51318
treatment fund for transfer to a county indigent drivers alcohol 51319
treatment fund, a county juvenile indigent drivers alcohol 51320
treatment fund, or a municipal indigent drivers alcohol treatment 51321
fund, all portions of fees that are paid under division (F) of 51322
this section and that are credited under that division to the 51323
indigent drivers alcohol treatment fund in the state treasury for 51324
a county indigent drivers alcohol treatment fund, a county 51325
juvenile indigent drivers alcohol treatment fund, or a municipal 51326
indigent drivers alcohol treatment fund, all portions of 51327
additional costs imposed under section 2949.094 of the Revised 51328
Code that are specified for deposit into a county, county 51329
juvenile, or municipal indigent drivers alcohol treatment fund by 51330
that section, and all portions of fines that are specified for 51331
deposit into a county or municipal indigent drivers alcohol 51332
treatment fund by section 4511.193 of the Revised Code shall be 51333
deposited into that county indigent drivers alcohol treatment 51334

fund, county juvenile indigent drivers alcohol treatment fund, or 51335
municipal indigent drivers alcohol treatment fund. The portions of 51336
the fees paid under division (F) of this section that are to be so 51337
deposited shall be determined in accordance with division (H)(2) 51338
of this section. Additionally, all portions of fines that are paid 51339
for a violation of section 4511.19 of the Revised Code or of any 51340
prohibition contained in Chapter 4510. of the Revised Code, and 51341
that are required under section 4511.19 or any provision of 51342
Chapter 4510. of the Revised Code to be deposited into a county 51343
indigent drivers alcohol treatment fund or municipal indigent 51344
drivers alcohol treatment fund shall be deposited into the 51345
appropriate fund in accordance with the applicable division of the 51346
section or provision. 51347

(2) That portion of the license reinstatement fee that is 51348
paid under division (F) of this section and that is credited under 51349
that division to the indigent drivers alcohol treatment fund shall 51350
be deposited into a county indigent drivers alcohol treatment 51351
fund, a county juvenile indigent drivers alcohol treatment fund, 51352
or a municipal indigent drivers alcohol treatment fund as follows: 51353

(a) Regarding a suspension imposed under this section, that 51354
portion of the fee shall be deposited as follows: 51355

(i) If the fee is paid by a person who was charged in a 51356
county court with the violation that resulted in the suspension or 51357
in the imposition of the court costs, the portion shall be 51358
deposited into the county indigent drivers alcohol treatment fund 51359
under the control of that court; 51360

(ii) If the fee is paid by a person who was charged in a 51361
juvenile court with the violation that resulted in the suspension 51362
or in the imposition of the court costs, the portion shall be 51363
deposited into the county juvenile indigent drivers alcohol 51364
treatment fund established in the county served by the court; 51365

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug

addiction services board or the board of alcohol, drug addiction, 51398
and mental health services established pursuant to section 340.02 51399
or 340.021 of the Revised Code and serving the alcohol, drug 51400
addiction, and mental health service district in which the court 51401
is located shall administer the indigent drivers alcohol treatment 51402
program of the court. When a court orders an offender or juvenile 51403
traffic offender to obtain an assessment or attend an alcohol and 51404
drug addiction treatment program, the board shall determine which 51405
program is suitable to meet the needs of the offender or juvenile 51406
traffic offender, and when a suitable program is located and space 51407
is available at the program, the offender or juvenile traffic 51408
offender shall attend the program designated by the board. A 51409
reasonable amount not to exceed five per cent of the amounts 51410
credited to and deposited into the county indigent drivers alcohol 51411
treatment fund, the county juvenile indigent drivers alcohol 51412
treatment fund, or the municipal indigent drivers alcohol 51413
treatment fund serving every court whose program is administered 51414
by that board shall be paid to the board to cover the costs it 51415
incurs in administering those indigent drivers alcohol treatment 51416
programs. 51417

In addition, upon exhaustion of moneys in the indigent 51418
drivers interlock and alcohol monitoring fund for the use of an 51419
alcohol monitoring device, a county, juvenile, or municipal court 51420
judge may use moneys in the county indigent drivers alcohol 51421
treatment fund, county juvenile indigent drivers alcohol treatment 51422
fund, or municipal indigent drivers alcohol treatment fund in the 51423
following manners: 51424

(a) If the source of the moneys was an appropriation of the 51425
general assembly, a portion of a fee that was paid under division 51426
(F) of this section, a portion of a fine that was specified for 51427
deposit into the fund by section 4511.193 of the Revised Code, or 51428
a portion of a fine that was paid for a violation of section 51429

4511.19 of the Revised Code or of a provision contained in Chapter 51430
4510. of the Revised Code that was required to be deposited into 51431
the fund, to pay for the continued use of an alcohol monitoring 51432
device by an offender or juvenile traffic offender, in conjunction 51433
with a treatment program approved by the department of alcohol and 51434
drug addiction services, when such use is determined clinically 51435
necessary by the treatment program and when the court determines 51436
that the offender or juvenile traffic offender is unable to pay 51437
all or part of the daily monitoring or cost of the device; 51438

(b) If the source of the moneys was a portion of an 51439
additional court cost imposed under section 2949.094 of the 51440
Revised Code, to pay for the continued use of an alcohol 51441
monitoring device by an offender or juvenile traffic offender when 51442
the court determines that the offender or juvenile traffic 51443
offender is unable to pay all or part of the daily monitoring or 51444
cost of the device. The moneys may be used for a device as 51445
described in this division if the use of the device is in 51446
conjunction with a treatment program approved by the department of 51447
alcohol and drug addiction services, when the use of the device is 51448
determined clinically necessary by the treatment program, but the 51449
use of a device is not required to be in conjunction with a 51450
treatment program approved by the department in order for the 51451
moneys to be used for the device as described in this division. 51452

(4) If a county, juvenile, or municipal court determines, in 51453
consultation with the alcohol and drug addiction services board or 51454
the board of alcohol, drug addiction, and mental health services 51455
established pursuant to section 340.02 or 340.021 of the Revised 51456
Code and serving the alcohol, drug addiction, and mental health 51457
district in which the court is located, that the funds in the 51458
county indigent drivers alcohol treatment fund, the county 51459
juvenile indigent drivers alcohol treatment fund, or the municipal 51460
indigent drivers alcohol treatment fund under the control of the 51461

court are more than sufficient to satisfy the purpose for which 51462
the fund was established, as specified in divisions (H)(1) to (3) 51463
of this section, the court may declare a surplus in the fund. If 51464
the court declares a surplus in the fund, the court may expend the 51465
amount of the surplus in the fund for: 51466

(a) Alcohol and drug abuse assessment and treatment of 51467
persons who are charged in the court with committing a criminal 51468
offense or with being a delinquent child or juvenile traffic 51469
offender and in relation to whom both of the following apply: 51470

(i) The court determines that substance abuse was a 51471
contributing factor leading to the criminal or delinquent activity 51472
or the juvenile traffic offense with which the person is charged. 51473

(ii) The court determines that the person is unable to pay 51474
the cost of the alcohol and drug abuse assessment and treatment 51475
for which the surplus money will be used. 51476

(b) All or part of the cost of purchasing alcohol monitoring 51477
devices to be used in conjunction with division (H)(3) of this 51478
section, upon exhaustion of moneys in the indigent drivers 51479
interlock and alcohol monitoring fund for the use of an alcohol 51480
monitoring device. 51481

(5) For the purpose of determining as described in division 51482
(F)(2)(c) of this section whether an offender does not have the 51483
means to pay for the offender's attendance at an alcohol and drug 51484
addiction treatment program or whether an alleged offender or 51485
delinquent child is unable to pay the costs specified in division 51486
(H)(4) of this section, the court shall use the indigent client 51487
eligibility guidelines and the standards of indigency established 51488
by the state public defender to make the determination. 51489

(6) The court shall identify and refer any alcohol and drug 51490
addiction program that is not certified under section 3793.06 of 51491
the Revised Code and that is interested in receiving amounts from 51492

the surplus in the fund declared under division (H)(4) of this 51493
section to the department of alcohol and drug addiction services 51494
in order for the program to become a certified alcohol and drug 51495
addiction program. The department shall keep a record of applicant 51496
referrals received pursuant to this division and shall submit a 51497
report on the referrals each year to the general assembly. If a 51498
program interested in becoming certified makes an application to 51499
become certified pursuant to section 3793.06 of the Revised Code, 51500
the program is eligible to receive surplus funds as long as the 51501
application is pending with the department. The department of 51502
alcohol and drug addiction services must offer technical 51503
assistance to the applicant. If the interested program withdraws 51504
the certification application, the department must notify the 51505
court, and the court shall not provide the interested program with 51506
any further surplus funds. 51507

(7)(a) Each alcohol and drug addiction services board and 51508
board of alcohol, drug addiction, and mental health services 51509
established pursuant to section 340.02 or 340.021 of the Revised 51510
Code shall submit to the department of alcohol and drug addiction 51511
services an annual report for each indigent drivers alcohol 51512
treatment fund in that board's area. 51513

(b) The report, which shall be submitted not later than sixty 51514
days after the end of the state fiscal year, shall provide the 51515
total payment that was made from the fund, including the number of 51516
indigent consumers that received treatment services and the number 51517
of indigent consumers that received an alcohol monitoring device. 51518
The report shall identify the treatment program and expenditure 51519
for an alcohol monitoring device for which that payment was made. 51520
The report shall include the fiscal year balance of each indigent 51521
drivers alcohol treatment fund located in that board's area. In 51522
the event that a surplus is declared in the fund pursuant to 51523
division (H)(4) of this section, the report also shall provide the 51524

total payment that was made from the surplus moneys and identify 51525
the treatment program and expenditure for an alcohol monitoring 51526
device for which that payment was made. The department may require 51527
additional information necessary to complete the comprehensive 51528
statewide alcohol and drug addiction services plan as required by 51529
section 3793.04 of the Revised Code. 51530

(c) If a board is unable to obtain adequate information to 51531
develop the report to submit to the department for a particular 51532
indigent drivers alcohol treatment fund, the board shall submit a 51533
report detailing the effort made in obtaining the information. 51534

(I)(1) Each county shall establish an indigent drivers 51535
interlock and alcohol monitoring fund and a juvenile indigent 51536
drivers interlock and alcohol treatment fund, and each municipal 51537
corporation in which there is a municipal court shall establish an 51538
indigent drivers interlock and alcohol monitoring fund. All 51539
revenue that the general assembly appropriates to the indigent 51540
drivers interlock and alcohol monitoring fund for transfer to a 51541
county indigent drivers interlock and alcohol monitoring fund, a 51542
county juvenile indigent drivers interlock and alcohol monitoring 51543
fund, or a municipal indigent drivers interlock and alcohol 51544
monitoring fund, all portions of license reinstatement fees that 51545
are paid under division (F)(2) of this section and that are 51546
credited under that division to the indigent drivers interlock and 51547
alcohol monitoring fund in the state treasury, and all portions of 51548
fines that are paid under division (G) of section 4511.19 of the 51549
Revised Code and that are credited by division (G)(5)(e) of that 51550
section to the indigent drivers interlock and alcohol monitoring 51551
fund in the state treasury shall be deposited in the appropriate 51552
fund in accordance with division (I)(2) of this section. 51553

(2) That portion of the license reinstatement fee that is 51554
paid under division (F) of this section and that portion of the 51555
fine paid under division (G) of section 4511.19 of the Revised 51556

Code and that is credited under either division to the indigent 51557
drivers interlock and alcohol monitoring fund shall be deposited 51558
into a county indigent drivers interlock and alcohol monitoring 51559
fund, a county juvenile indigent drivers interlock and alcohol 51560
monitoring fund, or a municipal indigent drivers interlock and 51561
alcohol monitoring fund as follows: 51562

(a) If the fee or fine is paid by a person who was charged in 51563
a county court with the violation that resulted in the suspension 51564
or fine, the portion shall be deposited into the county indigent 51565
drivers interlock and alcohol monitoring fund under the control of 51566
that court. 51567

(b) If the fee or fine is paid by a person who was charged in 51568
a juvenile court with the violation that resulted in the 51569
suspension or fine, the portion shall be deposited into the county 51570
juvenile indigent drivers interlock and alcohol monitoring fund 51571
established in the county served by the court. 51572

(c) If the fee or fine is paid by a person who was charged in 51573
a municipal court with the violation that resulted in the 51574
suspension, the portion shall be deposited into the municipal 51575
indigent drivers interlock and alcohol monitoring fund under the 51576
control of that court. 51577

Sec. 4511.78. (A) As used in this section: 51578

(1) "Mass transit system" means any county transit system, 51579
regional transit authority, regional transit commission, 51580
municipally owned transportation system, mass transit company 51581
operating exclusively within the territorial limits of a municipal 51582
corporation, or within such limits and the territorial limits of 51583
municipal corporations immediately contiguous to such municipal 51584
corporation, and any common passenger carrier ~~certified by the~~ 51585
~~public utilities commission~~, that provides transportation for 51586
children to or from a school session or a school function. 51587

(2) "Bus" means every motor vehicle designed for carrying 51588
more than nine passengers and used for the transportation of 51589
persons, but does not mean any school bus as defined in section 51590
4511.01 of the Revised Code. 51591

(B) Whenever a mass transit system transports children to or 51592
from a school session or school function, the mass transit system 51593
shall provide for: 51594

(1) Periodic safety inspections of all buses used to provide 51595
transportation service. The inspections shall be based on rules 51596
adopted by the public utilities commission under Chapters 4921. 51597
and 4923. of the Revised Code to ensure the safety of operation of 51598
~~motor transportation companies and private~~ motor carriers. 51599

(2) The safety training of all drivers operating buses used 51600
to provide transportation service; 51601

(3) The equipping of every bus with outside rear-view mirrors 51602
meeting the motor carrier regulations for bus equipment adopted by 51603
the federal highway administration. No exclusions from this 51604
requirement granted under the federal regulations shall be 51605
considered exclusions for the purposes of this division. 51606

(C) Except as otherwise provided in this division, whoever 51607
violates this section is guilty of a minor misdemeanor. If, within 51608
one year of the offense, the offender previously has been 51609
convicted of or pleaded guilty to one predicate motor vehicle or 51610
traffic offense, whoever violates this section is guilty of a 51611
misdemeanor of the fourth degree. If, within one year of the 51612
offense, the offender previously has been convicted of two or more 51613
predicate motor vehicle or traffic offenses, whoever violates this 51614
section is guilty of a misdemeanor of the third degree. 51615

Sec. 4511.98. The director of transportation may establish 51616
speed limits within construction zones that vary based on the type 51617

of work being conducted, the time of day, or any other criteria 51618
the director may consider appropriate. The director, board of 51619
county commissioners, or board of township trustees shall cause 51620
signs to be erected advising motorists that increased penalties 51621
apply for certain traffic violations occurring on streets or 51622
highways in a construction zone. The increased penalties shall be 51623
effective only when signs are erected in accordance with the 51624
guidelines and design specifications established by the director 51625
under section 5501.27 of the Revised Code, and when a violation 51626
occurs during hours of actual work within the construction zone. 51627

Sec. 4513.18. (A) The director of transportation shall adopt 51628
standards and specifications applicable to headlights, clearance 51629
lights, identification, and other lights, on snow removal 51630
equipment when operated on the highways, and on vehicles operating 51631
under special permits pursuant to section 4513.34 of the Revised 51632
Code, in lieu of the lights otherwise required on motor vehicles. 51633
Such standards and specifications may permit the use of flashing 51634
colored lights, other than blue or red in color, for purposes of 51635
identification on snow removal equipment, and oversize vehicles 51636
when in service upon the highways. The standards and 51637
specifications for lights referred to in this section shall 51638
correlate with and, so far as possible, conform with those 51639
approved by the American association of state highway officials. 51640

It is unlawful to operate snow removal equipment on a highway 51641
unless the lights thereon comply with and are lighted when and as 51642
required by the standards and specifications adopted as provided 51643
in this section. 51644

(B) Whoever violates this section is guilty of a minor 51645
misdemeanor. 51646

Sec. 4513.263. (A) As used in this section and in section 51647

4513.99 of the Revised Code: 51648

(1) "Automobile" means any commercial tractor, passenger car, 51649
commercial car, or truck that is required to be factory-equipped 51650
with an occupant restraining device for the operator or any 51651
passenger by regulations adopted by the United States secretary of 51652
transportation pursuant to the "National Traffic and Motor Vehicle 51653
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 51654

(2) "Occupant restraining device" means a seat safety belt, 51655
shoulder belt, harness, or other safety device for restraining a 51656
person who is an operator of or passenger in an automobile and 51657
that satisfies the minimum federal vehicle safety standards 51658
established by the United States department of transportation. 51659

(3) "Passenger" means any person in an automobile, other than 51660
its operator, who is occupying a seating position for which an 51661
occupant restraining device is provided. 51662

(4) "Commercial tractor," "passenger car," and "commercial 51663
car" have the same meanings as in section 4501.01 of the Revised 51664
Code. 51665

(5) "Vehicle" and "motor vehicle," as used in the definitions 51666
of the terms set forth in division (A)(4) of this section, have 51667
the same meanings as in section 4511.01 of the Revised Code. 51668

(6) "Tort action" means a civil action for damages for 51669
injury, death, or loss to person or property. "Tort action" 51670
includes a product liability claim, as defined in section 2307.71 51671
of the Revised Code, and an asbestos claim, as defined in section 51672
2307.91 of the Revised Code, but does not include a civil action 51673
for damages for breach of contract or another agreement between 51674
persons. 51675

(B) No person shall do any of the following: 51676

(1) Operate an automobile on any street or highway unless 51677

that person is wearing all of the available elements of a properly 51678
adjusted occupant restraining device, or operate a school bus that 51679
has an occupant restraining device installed for use in its 51680
operator's seat unless that person is wearing all of the available 51681
elements of the device, as properly adjusted; 51682

(2) Operate an automobile on any street or highway unless 51683
each passenger in the automobile who is subject to the requirement 51684
set forth in division (B)(3) of this section is wearing all of the 51685
available elements of a properly adjusted occupant restraining 51686
device; 51687

(3) Occupy, as a passenger, a seating position on the front 51688
seat of an automobile being operated on any street or highway 51689
unless that person is wearing all of the available elements of a 51690
properly adjusted occupant restraining device; 51691

(4) Operate a taxicab on any street or highway unless all 51692
factory-equipped occupant restraining devices in the taxicab are 51693
maintained in usable form. 51694

(C) Division (B)(3) of this section does not apply to a 51695
person who is required by section 4511.81 of the Revised Code to 51696
be secured in a child restraint device or booster seat. Division 51697
(B)(1) of this section does not apply to a person who is an 51698
employee of the United States postal service or of a newspaper 51699
home delivery service, during any period in which the person is 51700
engaged in the operation of an automobile to deliver mail or 51701
newspapers to addressees. Divisions (B)(1) and (3) of this section 51702
do not apply to a person who has an affidavit signed by a 51703
physician licensed to practice in this state under Chapter 4731. 51704
of the Revised Code or a chiropractor licensed to practice in this 51705
state under Chapter 4734. of the Revised Code that states that the 51706
person has a physical impairment that makes use of an occupant 51707
restraining device impossible or impractical. 51708

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

~~(1) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.~~

~~(2) Two per cent shall be deposited into the occupational licensing and regulatory fund created by section 4743.05 of the Revised Code.~~

~~(3) Thirty six per cent, plus into the state treasury to the credit of the trauma and emergency medical services fund, which is hereby created. In addition, sixty cents of each fee collected under sections 4501.34, 4503.26, 4505.14, 4506.08, and 4509.05, plus on and after October 1, 2009, sixty cents of each fee collected under sections 4505.14 and 4519.63 of the Revised Code as specified in those sections, plus the portion of the driver's~~

license reinstatement fee described in division (F)(2)(g) of 51741
section 4511.191 of the Revised Code, plus all fees collected 51742
under section 4765.11 of the Revised Code, plus all fines imposed 51743
under section 4765.55 of the Revised Code, and plus five per cent 51744
of fines and moneys arising from bail forfeitures as directed by 51745
section 5503.04 of the Revised Code, also shall be deposited into 51746
the trauma and emergency medical services fund, which is hereby 51747
created in the state treasury, and. All money deposited into the 51748
trauma and emergency medical services fund shall be used by the 51749
department of public safety for the administration and operation 51750
of the division of emergency medical services and the state board 51751
of emergency medical services, except that the and by the state 51752
board of emergency medical services to make grants, in accordance 51753
with section 4765.07 of the Revised Code and rules the board 51754
adopts under section 4765.11 of the Revised Code. The director of 51755
budget and management may transfer excess money from the trauma 51756
and emergency medical services fund to the state highway safety 51757
fund if the director of public safety determines that the amount 51758
of money in the trauma and emergency medical services fund exceeds 51759
the amount required to cover such costs incurred by the emergency 51760
medical services agency and the grants made by the state board of 51761
emergency medical services and requests the director of budget and 51762
management to make the transfer. 51763

~~(4) Fifty four per cent shall be deposited into the trauma~~ 51764
~~and emergency medical services grants fund, which is hereby~~ 51765
~~created in the state treasury, and shall be used by the state~~ 51766
~~board of emergency medical services to make grants, in accordance~~ 51767
~~with section 4765.07 of the Revised Code and rules the board~~ 51768
~~adopts under section 4765.11 of the Revised Code.~~ 51769

(F)(1) Subject to division (F)(2) of this section, the 51770
failure of a person to wear all of the available elements of a 51771
properly adjusted occupant restraining device in violation of 51772

division (B)(1) or (3) of this section or the failure of a person 51773
to ensure that each minor who is a passenger of an automobile 51774
being operated by that person is wearing all of the available 51775
elements of a properly adjusted occupant restraining device in 51776
violation of division (B)(2) of this section shall not be 51777
considered or used by the trier of fact in a tort action as 51778
evidence of negligence or contributory negligence. But, the trier 51779
of fact may determine based on evidence admitted consistent with 51780
the Ohio Rules of Evidence that the failure contributed to the 51781
harm alleged in the tort action and may diminish a recovery of 51782
compensatory damages that represents noneconomic loss, as defined 51783
in section 2307.011 of the Revised Code, in a tort action that 51784
could have been recovered but for the plaintiff's failure to wear 51785
all of the available elements of a properly adjusted occupant 51786
restraining device. Evidence of that failure shall not be used as 51787
a basis for a criminal prosecution of the person other than a 51788
prosecution for a violation of this section; and shall not be 51789
admissible as evidence in a criminal action involving the person 51790
other than a prosecution for a violation of this section. 51791

(2) If, at the time of an accident involving a passenger car 51792
equipped with occupant restraining devices, any occupant of the 51793
passenger car who sustained injury or death was not wearing an 51794
available occupant restraining device, was not wearing all of the 51795
available elements of such a device, or was not wearing such a 51796
device as properly adjusted, then, consistent with the Rules of 51797
Evidence, the fact that the occupant was not wearing the available 51798
occupant restraining device, was not wearing all of the available 51799
elements of such a device, or was not wearing such a device as 51800
properly adjusted is admissible in evidence in relation to any 51801
claim for relief in a tort action to the extent that the claim for 51802
relief satisfies all of the following: 51803

(a) It seeks to recover damages for injury or death to the 51804

occupant. 51805

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car. 51806
51807

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy. 51808
51809
51810
51811

(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars. 51812
51813

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars. 51814
51815

(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree. 51816
51817
51818
51819
51820
51821

Sec. 4513.50. As used in sections 4513.50 to 4513.53 of the Revised Code: 51822
51823

(A)(1) "Bus" means any vehicle used for the transportation of passengers that meets at least one of the following: 51824
51825

(a) Was originally designed by the manufacturer to transport more than fifteen passengers, including the driver; 51826
51827

(b) Either the gross vehicle weight rating or the gross vehicle weight exceeds ten thousand pounds. 51828
51829

(2) "Bus" does not include a church bus as defined in section 4503.07 of the Revised Code or a school bus unless the church bus or school bus is used in the transportation of passengers ~~for hire~~ by a motor ~~transportation company or a common~~ carrier ~~by motor~~ 51830
51831
51832
51833

~~vehicle or by a private motor carrier or contract carrier by motor~~ 51834
~~vehicle.~~ 51835

(3) "Bus" also does not include any of the following: 51836

(a) Any vehicle operated exclusively on a rail or rails; 51837

(b) A trolley bus operated by electric power derived from a 51838
fixed overhead wire furnishing local passenger transportation 51839
similar to street-railway service; 51840

(c) Vehicles owned or leased by government agencies or 51841
political subdivisions. 51842

(B)(1) ~~"Motor transportation company" and "common carrier by~~ 51843
~~motor vehicle" have~~ has the same ~~meanings~~ meaning as in section 51844
~~4921.02~~ 4923.01 of the Revised Code. 51845

~~(2) "Private motor carrier" and "contract carrier by motor~~ 51846
~~vehicle" have the same meanings as in section 4923.02 of the~~ 51847
~~Revised Code.~~ 51848

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the 51849
Revised Code: 51850

(A) "Buyer" means an individual who is solicited to purchase 51851
or who purchases the services of a credit services organization 51852
for purposes other than obtaining a business loan as described in 51853
division (B)(6) of section 1343.01 of the Revised Code. 51854

(B) "Consumer reporting agency" has the same meaning as in 51855
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 51856
as amended. 51857

(C)(1) "Credit services organization" means any person that, 51858
in return for the payment of money or other valuable consideration 51859
readily convertible into money for the following services, sells, 51860
provides, or performs, or represents that the person can or will 51861
sell, provide, or perform, one or more of the following services: 51862

| | |
|--|---|
| (a) Improving a buyer's credit record, history, or rating; | 51863 |
| (b) Obtaining an extension of credit by others for a buyer; | 51864 |
| (c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section; | 51865 51866 |
| (d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating; | 51867 51868 |
| (e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating. | 51869 51870 |
| (2) "Credit services organization" does not include any of the following: | 51871 51872 |
| (a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state; | 51873 51874 51875 |
| (b) A mortgage broker, as defined in section 1322.01 of the Revised Code, that holds a valid certificate of registration under sections 1322.01 to 1322.12 of the Revised Code; | 51876 51877 51878 |
| (c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended; | 51879 51880 51881 51882 |
| (d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association. | 51883 51884 51885 51886 51887 51888 51889 |
| (e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; | 51890 51891 51892 |

(f) A budget and debt counseling service, as defined in 51893
division (D) of section 2716.03 of the Revised Code, provided that 51894
the service is a nonprofit organization exempt from taxation under 51895
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 51896
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 51897
in compliance with Chapter 4710. of the Revised Code; 51898

(g) A consumer reporting agency that is in substantial 51899
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 51900
U.S.C.A. 1681a, as amended. 51901

(h) A mortgage banker; 51902

(i) Any political subdivision, or any governmental or other 51903
public entity, corporation, or agency, in or of the United States 51904
or any state of the United States; 51905

(j) A college or university, or controlled entity of a 51906
college or university, as defined in section 1713.05 of the 51907
Revised Code; 51908

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. 51909
of the Revised Code acting within the scope and authority of that 51910
license or a motor vehicle auction owner licensed pursuant to 51911
Chapters 4517. and 4707. of the Revised Code acting within the 51912
scope and authority of that license; 51913

(l) An attorney at law admitted to the practice of law in 51914
this state who offers, provides, or performs a legal service that 51915
is privileged by reason of the attorney-client relationship, 51916
provided that the service is not a service described in division 51917
(C)(1)(b) or (e) of this section. 51918

(D) "Extension of credit" means the right to defer payment of 51919
debt, or to incur debt and defer its payment, offered or granted 51920
primarily for personal, family, or household purposes. "Extension 51921
of credit" does not include a mortgage. 51922

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property. 51923
51924

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation. 51925
51926
51927
51928
51929
51930

(G) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 51931
51932
51933

Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section 4723.481 of the Revised Code. 51934
51935
51936
51937
51938

(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code. 51939
51940
51941
51942
51943

(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code. 51944
51945
51946
51947
51948
51949
51950

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or 51951
51952

certified nurse practitioner may prescribe to a patient a schedule 51953
II controlled substance only if all of the following are the case: 51954

(a) The patient has a terminal condition, as defined in 51955
section 2133.01 of the Revised Code. 51956

(b) The collaborating physician of the clinical nurse 51957
specialist, certified nurse-midwife, or certified nurse 51958
practitioner initially prescribed the substance for the patient. 51959

(c) The prescription is for an amount that does not exceed 51960
the amount necessary for the patient's use in a single, 51961
twenty-four hour period. 51962

(2) The restrictions on prescriptive authority in division 51963
(C)(1) of this section do not apply if a clinical nurse 51964
specialist, certified nurse-midwife, or certified nurse 51965
practitioner issues the prescription to the patient from any of 51966
the following locations: 51967

(a) A hospital registered under section 3701.07 of the 51968
Revised Code; 51969

(b) An entity owned or controlled, in whole or in part, by a 51970
hospital or by an entity that owns or controls, in whole or in 51971
part, one or more hospitals; 51972

(c) A health care facility operated by the department of 51973
mental health or the department of developmental disabilities; 51974

(d) A nursing home licensed under section 3721.02 of the 51975
Revised Code or by a political subdivision certified under section 51976
3721.09 of the Revised Code; 51977

(e) A county home or district home operated under Chapter 51978
5155. of the Revised Code that is certified under the medicare or 51979
medicaid program; 51980

(f) A hospice care program, as defined in section 3712.01 of 51981
the Revised Code; 51982

| | |
|---|--|
| (g) A community mental health agency, as defined in section 5122.01 of the Revised Code; | 51983 51984 |
| (h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code; | 51985 51986 |
| (i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code; | 51987 51988 |
| (j) A federally qualified health center, as defined in section 3701.047 of the Revised Code; | 51989 51990 |
| (k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code; | 51991 51992 |
| (l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; | 51993 51994 51995 51996 |
| (m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site. | 51997 51998 51999 52000 52001 52002 52003 52004 |
| (3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section. | 52005 52006 52007 52008 52009 |
| (D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division | 52010 52011 52012 |

(C)(2) of this section is not liable for or subject to any of the 52013
following for relying on the prescription: damages in any civil 52014
action, prosecution in any criminal proceeding, or professional 52015
disciplinary action by the state board of pharmacy under Chapter 52016
4729. of the Revised Code. 52017

(E) A clinical nurse specialist, certified nurse-midwife, or 52018
certified nurse practitioner may personally furnish to a patient a 52019
sample of any drug or therapeutic device included in the types of 52020
drugs and devices listed on the formulary, except that all of the 52021
following conditions apply: 52022

(1) The amount of the sample furnished shall not exceed a 52023
seventy-two-hour supply, except when the minimum available 52024
quantity of the sample is packaged in an amount that is greater 52025
than a seventy-two-hour supply, in which case the packaged amount 52026
may be furnished. 52027

(2) No charge may be imposed for the sample or for furnishing 52028
it. 52029

(3) Samples of controlled substances may not be personally 52030
furnished. 52031

(F) A clinical nurse specialist, certified nurse-midwife, or 52032
certified nurse practitioner may personally furnish to a patient a 52033
complete or partial supply of a drug or therapeutic device 52034
included in the types of drugs and devices listed on the 52035
formulary, except that all of the following conditions apply: 52036

(1) The clinical nurse specialist, certified nurse-midwife, 52037
or certified nurse practitioner shall personally furnish only 52038
antibiotics, antifungals, scabicides, contraceptives, prenatal 52039
vitamins, antihypertensives, drugs and devices used in the 52040
treatment of diabetes, drugs and devices used in the treatment of 52041
asthma, and drugs used in the treatment of dyslipidemia. 52042

(2) The clinical nurse specialist, certified nurse-midwife, 52043

or certified nurse practitioner shall not furnish the drugs and 52044
devices in locations other than a health department operated by 52045
the board of health of a city or general health district or the 52046
authority having the duties of a board of health under section 52047
3709.05 of the Revised Code, a federally funded comprehensive 52048
primary care clinic, or a nonprofit health care clinic or program. 52049

(3) The clinical nurse specialist, certified nurse-midwife, 52050
or certified nurse practitioner shall comply with all safety 52051
standards for personally furnishing supplies of drugs and devices, 52052
as established in rules adopted under section 4723.50 of the 52053
Revised Code. 52054

Sec. 4730.42. (A) In granting physician-delegated 52055
prescriptive authority to a particular physician assistant who 52056
holds a certificate to prescribe issued under this chapter, the 52057
supervising physician is subject to all of the following: 52058

(1) The supervising physician shall not grant 52059
physician-delegated prescriptive authority for any drug or 52060
therapeutic device that is not listed on the formulary established 52061
in rules adopted under section 4730.39 of the Revised Code as a 52062
drug or therapeutic device that may be included in the 52063
physician-delegated prescriptive authority granted to a physician 52064
assistant. 52065

(2) The supervising physician shall not grant 52066
physician-delegated prescriptive authority for any drug or device 52067
that may be used to perform or induce an abortion. 52068

(3) The supervising physician shall not grant 52069
physician-delegated prescriptive authority in a manner that 52070
exceeds the supervising physician's prescriptive authority, 52071
including the physician's authority to treat chronic pain with 52072
controlled substances and products containing tramadol as 52073
described in section 4731.052 of the Revised Code. 52074

| | |
|---|--|
| (4) The supervising physician shall supervise the physician assistant in accordance with all of the following: | 52075 52076 |
| (a) The supervision requirements specified in section 4730.21 of the Revised Code and, in the case of supervision provided during a provisional period of physician-delegated prescriptive authority, the supervision requirements specified in section 4730.45 of the Revised Code; | 52077 52078 52079 52080 52081 |
| (b) The physician supervisory plan approved for the supervising physician or the policies of the health care facility in which the physician and physician assistant are practicing; | 52082 52083 52084 |
| (c) The supervision agreement approved under section 4730.19 of the Revised Code that applies to the supervising physician and the physician assistant. | 52085 52086 52087 |
| (B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request. | 52088 52089 52090 52091 52092 52093 |
| (2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following: | 52094 52095 52096 |
| (a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe; | 52097 52098 52099 |
| (b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe; | 52100 52101 |
| (c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated | 52102 52103 52104 |

| | |
|--|---|
| prescriptive authority; | 52105 |
| (d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the physician supervisory plan or otherwise required by this chapter. | 52106 52107 52108 52109 |
| Sec. 4731.052. (A) As used in this section: | 52110 |
| (1) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code. | 52111 52112 |
| (2) "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition. | 52113 52114 52115 52116 52117 52118 52119 52120 |
| (2) <u>"Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.</u> | 52121 52122 |
| (3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery. | 52123 52124 52125 |
| (B) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by physicians in the diagnosis and treatment of chronic pain, including standards for <u>a physician's consultation with one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of pain and</u> managing chronic pain by prescribing, personally furnishing, or administering dangerous drugs in amounts or combinations that may not be appropriate when treating other | 52126 52127 52128 52129 52130 52131 52132 52133 52134 |

~~medical conditions. In developing the rules, the board shall~~ 52135
~~consult with and permit review by physicians who are experienced~~ 52136
~~in the diagnosis and treatment of chronic pain controlled~~ 52137
~~substances or products containing tramadol.~~ 52138

(C) When a physician diagnoses ~~an individual~~ a patient as 52139
having chronic pain, the physician may, subject to division (D) of 52140
this section, treat the pain by managing it with ~~dangerous drugs~~ 52141
~~in amounts or combinations that may not be appropriate when~~ 52142
~~treating other medical conditions controlled substances and~~ 52143
~~products containing tramadol.~~ The physician's diagnosis and 52144
treatment decisions shall be made ~~after having the individual~~ 52145
according to accepted and prevailing standards for medical care. 52146
For the purpose of assisting with the diagnosis of chronic pain, 52147
the physician shall obtain and review all available medical 52148
records or detailed written summaries of the patient's treatment 52149
for chronic pain or the condition causing the chronic pain. It is 52150
recommended that the physician also consider having the patient 52151
evaluated by one or more other physicians who specialize in the 52152
treatment of the area, system, or organ of the body perceived as 52153
the source of the pain. ~~The physician's diagnosis and treatment~~ 52154
~~decisions shall be made according to accepted and prevailing~~ 52155
~~standards for medical care. The~~ 52156

(D) For each patient a physician diagnoses as having chronic 52157
pain, the physician shall maintain a written record of all of the 52158
following: 52159

(1) Medical history and physical examination of the 52160
individual patient; 52161

(2) The diagnosis of chronic pain, including signs, symptoms, 52162
and causes; 52163

(3) The plan of treatment proposed, the patient's response to 52164
treatment, and any modification to the plan of treatment~~+~~ 52165

| | |
|---|--|
| <u>including all of the following:</u> | 52166 |
| <u>(a) Documentation that other medically reasonable treatments for relief of the patient's chronic pain have been offered or attempted without adequate or reasonable success;</u> | 52167 52168 52169 |
| <u>(b) Periodic assessment and documentation of the patient's functional status, including the ability to engage in work or other purposeful activities, the pain intensity and its interference with activities of daily living, quality of family life and social activities, and physical activity of the patient;</u> | 52170 52171 52172 52173 52174 |
| <u>(c) Periodic assessment and documentation of the patient's progress toward treatment objectives, including the intended role of controlled substances or products containing tramadol within the overall plan of treatment;</u> | 52175 52176 52177 52178 |
| <u>(d) Periodic assessment and documentation for indicators of possible addiction, drug abuse, or drug diversion;</u> | 52179 52180 |
| <u>(e) Notation of any adverse drug effects.</u> | 52181 |
| <u>(4) The dates on which dangerous drugs controlled substances or products containing tramadol were prescribed, furnished, or administered, the name and address of the individual patient to or for whom the dangerous drugs controlled substances or products containing tramadol were prescribed, dispensed furnished, or administered, and the amounts and dosage forms for the dangerous drugs controlled substances or products containing tramadol prescribed, furnished, or administered;</u> | 52182 52183 52184 52185 52186 52187 52188 52189 |
| <u>(5) A copy of the any record or report made by the another physician or the physician to whom referral for evaluation was made under this division that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain.</u> | 52190 52191 52192 52193 52194 |
| <u>(E) A physician shall not prescribe, personally furnish, or</u> | 52195 |

administer to a patient a controlled substance or product 52196
containing tramadol without taking into account the potential for 52197
abuse of the controlled substance or product, the possibility the 52198
controlled substance or product may lead to dependence, the 52199
possibility the patient will obtain the controlled substance or 52200
product for a nontherapeutic use or distribute it to other 52201
persons, and the potential existence of an illicit market for the 52202
controlled substance or product. In addition, the physician shall 52203
address with the patient the risks associated with protracted 52204
treatment with controlled substances or products containing 52205
tramadol, including informing the patient of the potential for 52206
dependence, tolerance, and addiction and the clinical or 52207
monitoring tools the physician may use if signs of addiction, drug 52208
abuse, or drug diversion are present. 52209

~~(D)~~(F) A physician who treats chronic pain by managing it 52210
with ~~dangerous drugs~~ controlled substances or products containing 52211
tramadol is not subject to disciplinary action by the board under 52212
section 4731.22 of the Revised Code solely because the physician 52213
treated the chronic pain with ~~dangerous drugs~~ controlled 52214
substances or products containing tramadol. 52215

Sec. 4731.22. (A) The state medical board, by an affirmative 52216
vote of not fewer than six of its members, may revoke or may 52217
refuse to grant a certificate to a person found by the board to 52218
have committed fraud during the administration of the examination 52219
for a certificate to practice or to have committed fraud, 52220
misrepresentation, or deception in applying for or securing any 52221
certificate to practice or certificate of registration issued by 52222
the board. 52223

(B) The board, by an affirmative vote of not fewer than six 52224
members, shall, to the extent permitted by law, limit, revoke, or 52225
suspend an individual's certificate to practice, refuse to 52226

register an individual, refuse to reinstate a certificate, or 52227
reprimand or place on probation the holder of a certificate for 52228
one or more of the following reasons: 52229

(1) Permitting one's name or one's certificate to practice or 52230
certificate of registration to be used by a person, group, or 52231
corporation when the individual concerned is not actually 52232
directing the treatment given; 52233

(2) Failure to maintain minimal standards applicable to the 52234
selection or administration of drugs, or failure to employ 52235
acceptable scientific methods in the selection of drugs or other 52236
modalities for treatment of disease; 52237

(3) Selling, giving away, personally furnishing, prescribing, 52238
or administering drugs for other than legal and legitimate 52239
therapeutic purposes or a plea of guilty to, a judicial finding of 52240
guilt of, or a judicial finding of eligibility for intervention in 52241
lieu of conviction of, a violation of any federal or state law 52242
regulating the possession, distribution, or use of any drug; 52243

(4) Willfully betraying a professional confidence. 52244

For purposes of this division, "willfully betraying a 52245
professional confidence" does not include providing any 52246
information, documents, or reports to a child fatality review 52247
board under sections 307.621 to 307.629 of the Revised Code and 52248
does not include the making of a report of an employee's use of a 52249
drug of abuse, or a report of a condition of an employee other 52250
than one involving the use of a drug of abuse, to the employer of 52251
the employee as described in division (B) of section 2305.33 of 52252
the Revised Code. Nothing in this division affects the immunity 52253
from civil liability conferred by that section upon a physician 52254
who makes either type of report in accordance with division (B) of 52255
that section. As used in this division, "employee," "employer," 52256
and "physician" have the same meanings as in section 2305.33 of 52257

| | |
|--|--|
| the Revised Code. | 52258 |
| (5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board. | 52259 52260 52261 52262 52263 52264 52265 |
| As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived. | 52266 52267 52268 52269 52270 52271 52272 52273 |
| (6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established; | 52274 52275 52276 52277 |
| (7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured; | 52278 52279 52280 52281 |
| (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; | 52282 52283 52284 |
| (9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; | 52285 52286 52287 |
| (10) Commission of an act that constitutes a felony in this | 52288 |

| | |
|--|-------|
| state, regardless of the jurisdiction in which the act was committed; | 52289 |
| | 52290 |
| (11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; | 52291 |
| | 52292 |
| | 52293 |
| (12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; | 52294 |
| | 52295 |
| | 52296 |
| (13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; | 52297 |
| | 52298 |
| | 52299 |
| (14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; | 52300 |
| | 52301 |
| | 52302 |
| (15) Violation of the conditions of limitation placed by the board upon a certificate to practice; | 52303 |
| | 52304 |
| (16) Failure to pay license renewal fees specified in this chapter; | 52305 |
| | 52306 |
| (17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business; | 52307 |
| | 52308 |
| | 52309 |
| | 52310 |
| (18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended | 52311 |
| | 52312 |
| | 52313 |
| | 52314 |
| | 52315 |
| | 52316 |
| | 52317 |
| | 52318 |

or revoked shall not be found to have violated any provision of a 52319
code of ethics of an organization not appropriate to the 52320
individual's profession. 52321

For purposes of this division, a "provision of a code of 52322
ethics of a national professional organization" does not include 52323
any provision that would preclude the making of a report by a 52324
physician of an employee's use of a drug of abuse, or of a 52325
condition of an employee other than one involving the use of a 52326
drug of abuse, to the employer of the employee as described in 52327
division (B) of section 2305.33 of the Revised Code. Nothing in 52328
this division affects the immunity from civil liability conferred 52329
by that section upon a physician who makes either type of report 52330
in accordance with division (B) of that section. As used in this 52331
division, "employee," "employer," and "physician" have the same 52332
meanings as in section 2305.33 of the Revised Code. 52333

(19) Inability to practice according to acceptable and 52334
prevailing standards of care by reason of mental illness or 52335
physical illness, including, but not limited to, physical 52336
deterioration that adversely affects cognitive, motor, or 52337
perceptive skills. 52338

In enforcing this division, the board, upon a showing of a 52339
possible violation, may compel any individual authorized to 52340
practice by this chapter or who has submitted an application 52341
pursuant to this chapter to submit to a mental examination, 52342
physical examination, including an HIV test, or both a mental and 52343
a physical examination. The expense of the examination is the 52344
responsibility of the individual compelled to be examined. Failure 52345
to submit to a mental or physical examination or consent to an HIV 52346
test ordered by the board constitutes an admission of the 52347
allegations against the individual unless the failure is due to 52348
circumstances beyond the individual's control, and a default and 52349
final order may be entered without the taking of testimony or 52350

presentation of evidence. If the board finds an individual unable 52351
to practice because of the reasons set forth in this division, the 52352
board shall require the individual to submit to care, counseling, 52353
or treatment by physicians approved or designated by the board, as 52354
a condition for initial, continued, reinstated, or renewed 52355
authority to practice. An individual affected under this division 52356
shall be afforded an opportunity to demonstrate to the board the 52357
ability to resume practice in compliance with acceptable and 52358
prevailing standards under the provisions of the individual's 52359
certificate. For the purpose of this division, any individual who 52360
applies for or receives a certificate to practice under this 52361
chapter accepts the privilege of practicing in this state and, by 52362
so doing, shall be deemed to have given consent to submit to a 52363
mental or physical examination when directed to do so in writing 52364
by the board, and to have waived all objections to the 52365
admissibility of testimony or examination reports that constitute 52366
a privileged communication. 52367

(20) Except when civil penalties are imposed under section 52368
4731.225 or 4731.281 of the Revised Code, and subject to section 52369
4731.226 of the Revised Code, violating or attempting to violate, 52370
directly or indirectly, or assisting in or abetting the violation 52371
of, or conspiring to violate, any provisions of this chapter or 52372
any rule promulgated by the board. 52373

This division does not apply to a violation or attempted 52374
violation of, assisting in or abetting the violation of, or a 52375
conspiracy to violate, any provision of this chapter or any rule 52376
adopted by the board that would preclude the making of a report by 52377
a physician of an employee's use of a drug of abuse, or of a 52378
condition of an employee other than one involving the use of a 52379
drug of abuse, to the employer of the employee as described in 52380
division (B) of section 2305.33 of the Revised Code. Nothing in 52381
this division affects the immunity from civil liability conferred 52382

by that section upon a physician who makes either type of report 52383
in accordance with division (B) of that section. As used in this 52384
division, "employee," "employer," and "physician" have the same 52385
meanings as in section 2305.33 of the Revised Code. 52386

(21) The violation of section 3701.79 of the Revised Code or 52387
of any abortion rule adopted by the ~~public~~ director of health 52388
~~council~~ pursuant to section 3701.341 of the Revised Code; 52389

(22) Any of the following actions taken by an agency 52390
responsible for authorizing, certifying, or regulating an 52391
individual to practice a health care occupation or provide health 52392
care services in this state or another jurisdiction, for any 52393
reason other than the nonpayment of fees: the limitation, 52394
revocation, or suspension of an individual's license to practice; 52395
acceptance of an individual's license surrender; denial of a 52396
license; refusal to renew or reinstate a license; imposition of 52397
probation; or issuance of an order of censure or other reprimand; 52398

(23) The violation of section 2919.12 of the Revised Code or 52399
the performance or inducement of an abortion upon a pregnant woman 52400
with actual knowledge that the conditions specified in division 52401
(B) of section 2317.56 of the Revised Code have not been satisfied 52402
or with a heedless indifference as to whether those conditions 52403
have been satisfied, unless an affirmative defense as specified in 52404
division (H)(2) of that section would apply in a civil action 52405
authorized by division (H)(1) of that section; 52406

(24) The revocation, suspension, restriction, reduction, or 52407
termination of clinical privileges by the United States department 52408
of defense or department of veterans affairs or the termination or 52409
suspension of a certificate of registration to prescribe drugs by 52410
the drug enforcement administration of the United States 52411
department of justice; 52412

(25) Termination or suspension from participation in the 52413

medicare or medicaid programs by the department of health and 52414
human services or other responsible agency for any act or acts 52415
that also would constitute a violation of division (B)(2), (3), 52416
(6), (8), or (19) of this section; 52417

(26) Impairment of ability to practice according to 52418
acceptable and prevailing standards of care because of habitual or 52419
excessive use or abuse of drugs, alcohol, or other substances that 52420
impair ability to practice. 52421

For the purposes of this division, any individual authorized 52422
to practice by this chapter accepts the privilege of practicing in 52423
this state subject to supervision by the board. By filing an 52424
application for or holding a certificate to practice under this 52425
chapter, an individual shall be deemed to have given consent to 52426
submit to a mental or physical examination when ordered to do so 52427
by the board in writing, and to have waived all objections to the 52428
admissibility of testimony or examination reports that constitute 52429
privileged communications. 52430

If it has reason to believe that any individual authorized to 52431
practice by this chapter or any applicant for certification to 52432
practice suffers such impairment, the board may compel the 52433
individual to submit to a mental or physical examination, or both. 52434
The expense of the examination is the responsibility of the 52435
individual compelled to be examined. Any mental or physical 52436
examination required under this division shall be undertaken by a 52437
treatment provider or physician who is qualified to conduct the 52438
examination and who is chosen by the board. 52439

Failure to submit to a mental or physical examination ordered 52440
by the board constitutes an admission of the allegations against 52441
the individual unless the failure is due to circumstances beyond 52442
the individual's control, and a default and final order may be 52443
entered without the taking of testimony or presentation of 52444
evidence. If the board determines that the individual's ability to 52445

practice is impaired, the board shall suspend the individual's 52446
certificate or deny the individual's application and shall require 52447
the individual, as a condition for initial, continued, reinstated, 52448
or renewed certification to practice, to submit to treatment. 52449

Before being eligible to apply for reinstatement of a 52450
certificate suspended under this division, the impaired 52451
practitioner shall demonstrate to the board the ability to resume 52452
practice in compliance with acceptable and prevailing standards of 52453
care under the provisions of the practitioner's certificate. The 52454
demonstration shall include, but shall not be limited to, the 52455
following: 52456

(a) Certification from a treatment provider approved under 52457
section 4731.25 of the Revised Code that the individual has 52458
successfully completed any required inpatient treatment; 52459

(b) Evidence of continuing full compliance with an aftercare 52460
contract or consent agreement; 52461

(c) Two written reports indicating that the individual's 52462
ability to practice has been assessed and that the individual has 52463
been found capable of practicing according to acceptable and 52464
prevailing standards of care. The reports shall be made by 52465
individuals or providers approved by the board for making the 52466
assessments and shall describe the basis for their determination. 52467

The board may reinstate a certificate suspended under this 52468
division after that demonstration and after the individual has 52469
entered into a written consent agreement. 52470

When the impaired practitioner resumes practice, the board 52471
shall require continued monitoring of the individual. The 52472
monitoring shall include, but not be limited to, compliance with 52473
the written consent agreement entered into before reinstatement or 52474
with conditions imposed by board order after a hearing, and, upon 52475
termination of the consent agreement, submission to the board for 52476

| | |
|--|-------|
| at least two years of annual written progress reports made under | 52477 |
| penalty of perjury stating whether the individual has maintained | 52478 |
| sobriety. | 52479 |
| (27) A second or subsequent violation of section 4731.66 or | 52480 |
| 4731.69 of the Revised Code; | 52481 |
| (28) Except as provided in division (N) of this section: | 52482 |
| (a) Waiving the payment of all or any part of a deductible or | 52483 |
| copayment that a patient, pursuant to a health insurance or health | 52484 |
| care policy, contract, or plan that covers the individual's | 52485 |
| services, otherwise would be required to pay if the waiver is used | 52486 |
| as an enticement to a patient or group of patients to receive | 52487 |
| health care services from that individual; | 52488 |
| (b) Advertising that the individual will waive the payment of | 52489 |
| all or any part of a deductible or copayment that a patient, | 52490 |
| pursuant to a health insurance or health care policy, contract, or | 52491 |
| plan that covers the individual's services, otherwise would be | 52492 |
| required to pay. | 52493 |
| (29) Failure to use universal blood and body fluid | 52494 |
| precautions established by rules adopted under section 4731.051 of | 52495 |
| the Revised Code; | 52496 |
| (30) Failure to provide notice to, and receive acknowledgment | 52497 |
| of the notice from, a patient when required by section 4731.143 of | 52498 |
| the Revised Code prior to providing nonemergency professional | 52499 |
| services, or failure to maintain that notice in the patient's | 52500 |
| file; | 52501 |
| (31) Failure of a physician supervising a physician assistant | 52502 |
| to maintain supervision in accordance with the requirements of | 52503 |
| Chapter 4730. of the Revised Code and the rules adopted under that | 52504 |
| chapter; | 52505 |
| (32) Failure of a physician or podiatrist to enter into a | 52506 |

standard care arrangement with a clinical nurse specialist, 52507
certified nurse-midwife, or certified nurse practitioner with whom 52508
the physician or podiatrist is in collaboration pursuant to 52509
section 4731.27 of the Revised Code or failure to fulfill the 52510
responsibilities of collaboration after entering into a standard 52511
care arrangement; 52512

(33) Failure to comply with the terms of a consult agreement 52513
entered into with a pharmacist pursuant to section 4729.39 of the 52514
Revised Code; 52515

(34) Failure to cooperate in an investigation conducted by 52516
the board under division (F) of this section, including failure to 52517
comply with a subpoena or order issued by the board or failure to 52518
answer truthfully a question presented by the board at a 52519
deposition or in written interrogatories, except that failure to 52520
cooperate with an investigation shall not constitute grounds for 52521
discipline under this section if a court of competent jurisdiction 52522
has issued an order that either quashes a subpoena or permits the 52523
individual to withhold the testimony or evidence in issue; 52524

(35) Failure to supervise an acupuncturist in accordance with 52525
Chapter 4762. of the Revised Code and the board's rules for 52526
supervision of an acupuncturist; 52527

(36) Failure to supervise an anesthesiologist assistant in 52528
accordance with Chapter 4760. of the Revised Code and the board's 52529
rules for supervision of an anesthesiologist assistant; 52530

(37) Assisting suicide as defined in section 3795.01 of the 52531
Revised Code; 52532

(38) Failure to comply with the requirements of section 52533
2317.561 of the Revised Code; 52534

(39) Failure to supervise a radiologist assistant in 52535
accordance with Chapter 4774. of the Revised Code and the board's 52536
rules for supervision of radiologist assistants; 52537

| | |
|---|--|
| (40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code; | 52538 52539 52540 |
| (41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic; | 52541 52542 52543 52544 |
| (42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic; | 52545 52546 52547 52548 |
| (43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code; | 52549 52550 52551 52552 |
| (41) (44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code. | 52553 52554 52555 52556 |
| (C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect. | 52557 52558 52559 52560 52561 52562 52563 52564 52565 52566 52567 52568 |

A telephone conference call may be utilized for ratification 52569
of a consent agreement that revokes or suspends an individual's 52570
certificate to practice. The telephone conference call shall be 52571
considered a special meeting under division (F) of section 121.22 52572
of the Revised Code. 52573

If the board takes disciplinary action against an individual 52574
under division (B) of this section for a second or subsequent plea 52575
of guilty to, or judicial finding of guilt of, a violation of 52576
section 2919.123 of the Revised Code, the disciplinary action 52577
shall consist of a suspension of the individual's certificate to 52578
practice for a period of at least one year or, if determined 52579
appropriate by the board, a more serious sanction involving the 52580
individual's certificate to practice. Any consent agreement 52581
entered into under this division with an individual that pertains 52582
to a second or subsequent plea of guilty to, or judicial finding 52583
of guilt of, a violation of that section shall provide for a 52584
suspension of the individual's certificate to practice for a 52585
period of at least one year or, if determined appropriate by the 52586
board, a more serious sanction involving the individual's 52587
certificate to practice. 52588

(D) For purposes of divisions (B)(10), (12), and (14) of this 52589
section, the commission of the act may be established by a finding 52590
by the board, pursuant to an adjudication under Chapter 119. of 52591
the Revised Code, that the individual committed the act. The board 52592
does not have jurisdiction under those divisions if the trial 52593
court renders a final judgment in the individual's favor and that 52594
judgment is based upon an adjudication on the merits. The board 52595
has jurisdiction under those divisions if the trial court issues 52596
an order of dismissal upon technical or procedural grounds. 52597

(E) The sealing of conviction records by any court shall have 52598
no effect upon a prior board order entered under this section or 52599
upon the board's jurisdiction to take action under this section 52600

if, based upon a plea of guilty, a judicial finding of guilt, or a 52601
judicial finding of eligibility for intervention in lieu of 52602
conviction, the board issued a notice of opportunity for a hearing 52603
prior to the court's order to seal the records. The board shall 52604
not be required to seal, destroy, redact, or otherwise modify its 52605
records to reflect the court's sealing of conviction records. 52606

(F)(1) The board shall investigate evidence that appears to 52607
show that a person has violated any provision of this chapter or 52608
any rule adopted under it. Any person may report to the board in a 52609
signed writing any information that the person may have that 52610
appears to show a violation of any provision of this chapter or 52611
any rule adopted under it. In the absence of bad faith, any person 52612
who reports information of that nature or who testifies before the 52613
board in any adjudication conducted under Chapter 119. of the 52614
Revised Code shall not be liable in damages in a civil action as a 52615
result of the report or testimony. Each complaint or allegation of 52616
a violation received by the board shall be assigned a case number 52617
and shall be recorded by the board. 52618

(2) Investigations of alleged violations of this chapter or 52619
any rule adopted under it shall be supervised by the supervising 52620
member elected by the board in accordance with section 4731.02 of 52621
the Revised Code and by the secretary as provided in section 52622
4731.39 of the Revised Code. The president may designate another 52623
member of the board to supervise the investigation in place of the 52624
supervising member. No member of the board who supervises the 52625
investigation of a case shall participate in further adjudication 52626
of the case. 52627

(3) In investigating a possible violation of this chapter or 52628
any rule adopted under this chapter, the board may administer 52629
oaths, order the taking of depositions, inspect and copy any 52630
books, accounts, papers, records, or documents, issue subpoenas, 52631
and compel the attendance of witnesses and production of books, 52632

accounts, papers, records, documents, and testimony, except that a 52633
subpoena for patient record information shall not be issued 52634
without consultation with the attorney general's office and 52635
approval of the secretary and supervising member of the board. 52636
Before issuance of a subpoena for patient record information, the 52637
secretary and supervising member shall determine whether there is 52638
probable cause to believe that the complaint filed alleges a 52639
violation of this chapter or any rule adopted under it and that 52640
the records sought are relevant to the alleged violation and 52641
material to the investigation. The subpoena may apply only to 52642
records that cover a reasonable period of time surrounding the 52643
alleged violation. 52644

On failure to comply with any subpoena issued by the board 52645
and after reasonable notice to the person being subpoenaed, the 52646
board may move for an order compelling the production of persons 52647
or records pursuant to the Rules of Civil Procedure. 52648

A subpoena issued by the board may be served by a sheriff, 52649
the sheriff's deputy, or a board employee designated by the board. 52650
Service of a subpoena issued by the board may be made by 52651
delivering a copy of the subpoena to the person named therein, 52652
reading it to the person, or leaving it at the person's usual 52653
place of residence. When the person being served is a person whose 52654
practice is authorized by this chapter, service of the subpoena 52655
may be made by certified mail, restricted delivery, return receipt 52656
requested, and the subpoena shall be deemed served on the date 52657
delivery is made or the date the person refuses to accept 52658
delivery. 52659

A sheriff's deputy who serves a subpoena shall receive the 52660
same fees as a sheriff. Each witness who appears before the board 52661
in obedience to a subpoena shall receive the fees and mileage 52662
provided for under section 119.094 of the Revised Code. 52663

(4) All hearings and investigations of the board shall be 52664

considered civil actions for the purposes of section 2305.252 of 52665
the Revised Code. 52666

(5) Information received by the board pursuant to an 52667
investigation is confidential and not subject to discovery in any 52668
civil action. 52669

The board shall conduct all investigations and proceedings in 52670
a manner that protects the confidentiality of patients and persons 52671
who file complaints with the board. The board shall not make 52672
public the names or any other identifying information about 52673
patients or complainants unless proper consent is given or, in the 52674
case of a patient, a waiver of the patient privilege exists under 52675
division (B) of section 2317.02 of the Revised Code, except that 52676
consent or a waiver of that nature is not required if the board 52677
possesses reliable and substantial evidence that no bona fide 52678
physician-patient relationship exists. 52679

The board may share any information it receives pursuant to 52680
an investigation, including patient records and patient record 52681
information, with law enforcement agencies, other licensing 52682
boards, and other governmental agencies that are prosecuting, 52683
adjudicating, or investigating alleged violations of statutes or 52684
administrative rules. An agency or board that receives the 52685
information shall comply with the same requirements regarding 52686
confidentiality as those with which the state medical board must 52687
comply, notwithstanding any conflicting provision of the Revised 52688
Code or procedure of the agency or board that applies when it is 52689
dealing with other information in its possession. In a judicial 52690
proceeding, the information may be admitted into evidence only in 52691
accordance with the Rules of Evidence, but the court shall require 52692
that appropriate measures are taken to ensure that confidentiality 52693
is maintained with respect to any part of the information that 52694
contains names or other identifying information about patients or 52695
complainants whose confidentiality was protected by the state 52696

medical board when the information was in the board's possession. 52697
Measures to ensure confidentiality that may be taken by the court 52698
include sealing its records or deleting specific information from 52699
its records. 52700

(6) On a quarterly basis, the board shall prepare a report 52701
that documents the disposition of all cases during the preceding 52702
three months. The report shall contain the following information 52703
for each case with which the board has completed its activities: 52704

(a) The case number assigned to the complaint or alleged 52705
violation; 52706

(b) The type of certificate to practice, if any, held by the 52707
individual against whom the complaint is directed; 52708

(c) A description of the allegations contained in the 52709
complaint; 52710

(d) The disposition of the case. 52711

The report shall state how many cases are still pending and 52712
shall be prepared in a manner that protects the identity of each 52713
person involved in each case. The report shall be a public record 52714
under section 149.43 of the Revised Code. 52715

(G) If the secretary and supervising member determine both of 52716
the following, they may recommend that the board suspend an 52717
individual's certificate to practice without a prior hearing: 52718

(1) That there is clear and convincing evidence that an 52719
individual has violated division (B) of this section; 52720

(2) That the individual's continued practice presents a 52721
danger of immediate and serious harm to the public. 52722

Written allegations shall be prepared for consideration by 52723
the board. The board, upon review of those allegations and by an 52724
affirmative vote of not fewer than six of its members, excluding 52725
the secretary and supervising member, may suspend a certificate 52726

without a prior hearing. A telephone conference call may be 52727
utilized for reviewing the allegations and taking the vote on the 52728
summary suspension. 52729

The board shall issue a written order of suspension by 52730
certified mail or in person in accordance with section 119.07 of 52731
the Revised Code. The order shall not be subject to suspension by 52732
the court during pendency of any appeal filed under section 119.12 52733
of the Revised Code. If the individual subject to the summary 52734
suspension requests an adjudicatory hearing by the board, the date 52735
set for the hearing shall be within fifteen days, but not earlier 52736
than seven days, after the individual requests the hearing, unless 52737
otherwise agreed to by both the board and the individual. 52738

Any summary suspension imposed under this division shall 52739
remain in effect, unless reversed on appeal, until a final 52740
adjudicative order issued by the board pursuant to this section 52741
and Chapter 119. of the Revised Code becomes effective. The board 52742
shall issue its final adjudicative order within seventy-five days 52743
after completion of its hearing. A failure to issue the order 52744
within seventy-five days shall result in dissolution of the 52745
summary suspension order but shall not invalidate any subsequent, 52746
final adjudicative order. 52747

(H) If the board takes action under division (B)(9), (11), or 52748
(13) of this section and the judicial finding of guilt, guilty 52749
plea, or judicial finding of eligibility for intervention in lieu 52750
of conviction is overturned on appeal, upon exhaustion of the 52751
criminal appeal, a petition for reconsideration of the order may 52752
be filed with the board along with appropriate court documents. 52753
Upon receipt of a petition of that nature and supporting court 52754
documents, the board shall reinstate the individual's certificate 52755
to practice. The board may then hold an adjudication under Chapter 52756
119. of the Revised Code to determine whether the individual 52757
committed the act in question. Notice of an opportunity for a 52758

hearing shall be given in accordance with Chapter 119. of the 52759
Revised Code. If the board finds, pursuant to an adjudication held 52760
under this division, that the individual committed the act or if 52761
no hearing is requested, the board may order any of the sanctions 52762
identified under division (B) of this section. 52763

(I) The certificate to practice issued to an individual under 52764
this chapter and the individual's practice in this state are 52765
automatically suspended as of the date of the individual's second 52766
or subsequent plea of guilty to, or judicial finding of guilt of, 52767
a violation of section 2919.123 of the Revised Code, or the date 52768
the individual pleads guilty to, is found by a judge or jury to be 52769
guilty of, or is subject to a judicial finding of eligibility for 52770
intervention in lieu of conviction in this state or treatment or 52771
intervention in lieu of conviction in another jurisdiction for any 52772
of the following criminal offenses in this state or a 52773
substantially equivalent criminal offense in another jurisdiction: 52774
aggravated murder, murder, voluntary manslaughter, felonious 52775
assault, kidnapping, rape, sexual battery, gross sexual 52776
imposition, aggravated arson, aggravated robbery, or aggravated 52777
burglary. Continued practice after suspension shall be considered 52778
practicing without a certificate. 52779

The board shall notify the individual subject to the 52780
suspension by certified mail or in person in accordance with 52781
section 119.07 of the Revised Code. If an individual whose 52782
certificate is automatically suspended under this division fails 52783
to make a timely request for an adjudication under Chapter 119. of 52784
the Revised Code, the board shall do whichever of the following is 52785
applicable: 52786

(1) If the automatic suspension under this division is for a 52787
second or subsequent plea of guilty to, or judicial finding of 52788
guilt of, a violation of section 2919.123 of the Revised Code, the 52789
board shall enter an order suspending the individual's certificate 52790

to practice for a period of at least one year or, if determined 52791
appropriate by the board, imposing a more serious sanction 52792
involving the individual's certificate to practice. 52793

(2) In all circumstances in which division (I)(1) of this 52794
section does not apply, enter a final order permanently revoking 52795
the individual's certificate to practice. 52796

(J) If the board is required by Chapter 119. of the Revised 52797
Code to give notice of an opportunity for a hearing and if the 52798
individual subject to the notice does not timely request a hearing 52799
in accordance with section 119.07 of the Revised Code, the board 52800
is not required to hold a hearing, but may adopt, by an 52801
affirmative vote of not fewer than six of its members, a final 52802
order that contains the board's findings. In that final order, the 52803
board may order any of the sanctions identified under division (A) 52804
or (B) of this section. 52805

(K) Any action taken by the board under division (B) of this 52806
section resulting in a suspension from practice shall be 52807
accompanied by a written statement of the conditions under which 52808
the individual's certificate to practice may be reinstated. The 52809
board shall adopt rules governing conditions to be imposed for 52810
reinstatement. Reinstatement of a certificate suspended pursuant 52811
to division (B) of this section requires an affirmative vote of 52812
not fewer than six members of the board. 52813

(L) When the board refuses to grant a certificate to an 52814
applicant, revokes an individual's certificate to practice, 52815
refuses to register an applicant, or refuses to reinstate an 52816
individual's certificate to practice, the board may specify that 52817
its action is permanent. An individual subject to a permanent 52818
action taken by the board is forever thereafter ineligible to hold 52819
a certificate to practice and the board shall not accept an 52820
application for reinstatement of the certificate or for issuance 52821
of a new certificate. 52822

(M) Notwithstanding any other provision of the Revised Code, 52823
all of the following apply: 52824

(1) The surrender of a certificate issued under this chapter 52825
shall not be effective unless or until accepted by the board. A 52826
telephone conference call may be utilized for acceptance of the 52827
surrender of an individual's certificate to practice. The 52828
telephone conference call shall be considered a special meeting 52829
under division (F) of section 121.22 of the Revised Code. 52830
Reinstatement of a certificate surrendered to the board requires 52831
an affirmative vote of not fewer than six members of the board. 52832

(2) An application for a certificate made under the 52833
provisions of this chapter may not be withdrawn without approval 52834
of the board. 52835

(3) Failure by an individual to renew a certificate of 52836
registration in accordance with this chapter shall not remove or 52837
limit the board's jurisdiction to take any disciplinary action 52838
under this section against the individual. 52839

(N) Sanctions shall not be imposed under division (B)(28) of 52840
this section against any person who waives deductibles and 52841
copayments as follows: 52842

(1) In compliance with the health benefit plan that expressly 52843
allows such a practice. Waiver of the deductibles or copayments 52844
shall be made only with the full knowledge and consent of the plan 52845
purchaser, payer, and third-party administrator. Documentation of 52846
the consent shall be made available to the board upon request. 52847

(2) For professional services rendered to any other person 52848
authorized to practice pursuant to this chapter, to the extent 52849
allowed by this chapter and rules adopted by the board. 52850

(O) Under the board's investigative duties described in this 52851
section and subject to division (F) of this section, the board 52852
shall develop and implement a quality intervention program 52853

designed to improve through remedial education the clinical and 52854
communication skills of individuals authorized under this chapter 52855
to practice medicine and surgery, osteopathic medicine and 52856
surgery, and podiatric medicine and surgery. In developing and 52857
implementing the quality intervention program, the board may do 52858
all of the following: 52859

(1) Offer in appropriate cases as determined by the board an 52860
educational and assessment program pursuant to an investigation 52861
the board conducts under this section; 52862

(2) Select providers of educational and assessment services, 52863
including a quality intervention program panel of case reviewers; 52864

(3) Make referrals to educational and assessment service 52865
providers and approve individual educational programs recommended 52866
by those providers. The board shall monitor the progress of each 52867
individual undertaking a recommended individual educational 52868
program. 52869

(4) Determine what constitutes successful completion of an 52870
individual educational program and require further monitoring of 52871
the individual who completed the program or other action that the 52872
board determines to be appropriate; 52873

(5) Adopt rules in accordance with Chapter 119. of the 52874
Revised Code to further implement the quality intervention 52875
program. 52876

An individual who participates in an individual educational 52877
program pursuant to this division shall pay the financial 52878
obligations arising from that educational program. 52879

Sec. 4731.297. (A) As used in this section: 52880

(1) "Academic medical center" means a medical school and its 52881
affiliated teaching hospitals and clinics partnering to do all of 52882
the following: 52883

| | |
|---|-------|
| <u>(a) Provide the highest quality of patient care from expert</u> | 52884 |
| <u>physicians;</u> | 52885 |
| <u>(b) Conduct groundbreaking research leading to medical</u> | 52886 |
| <u>advancements for current and future patients;</u> | 52887 |
| <u>(c) Provide medical education and graduate medical education</u> | 52888 |
| <u>to educate and train physicians.</u> | 52889 |
| <u>(2) "Affiliated physician group practice" means a medical</u> | 52890 |
| <u>practice that consists of one or more physicians authorized under</u> | 52891 |
| <u>this chapter to practice medicine and surgery or osteopathic</u> | 52892 |
| <u>medicine and surgery and that is affiliated with an academic</u> | 52893 |
| <u>medical center to further the objectives described in divisions</u> | 52894 |
| <u>(A)(1)(a) to (c) of this section.</u> | 52895 |
| <u>(B) The state medical board shall issue, without examination,</u> | 52896 |
| <u>to an applicant who meets the requirements of this section a</u> | 52897 |
| <u>certificate of conceded eminence authorizing the practice of</u> | 52898 |
| <u>medicine and surgery or osteopathic medicine and surgery as part</u> | 52899 |
| <u>of the applicant's employment with an academic medical center in</u> | 52900 |
| <u>this state or affiliated physician group practice in this state.</u> | 52901 |
| <u>(C) To be eligible for a certificate of conceded eminence, an</u> | 52902 |
| <u>applicant shall provide to the board all of the following:</u> | 52903 |
| <u>(1) Evidence satisfactory to the board of all of the</u> | 52904 |
| <u>following:</u> | 52905 |
| <u>(a) That the applicant is an international medical graduate</u> | 52906 |
| <u>who holds a medical degree from an educational institution listed</u> | 52907 |
| <u>in the international medical education directory;</u> | 52908 |
| <u>(b) That the applicant has been appointed to serve in this</u> | 52909 |
| <u>state as a full-time faculty member of a medical school accredited</u> | 52910 |
| <u>by the liaison committee on medical education or an osteopathic</u> | 52911 |
| <u>medical school accredited by the American osteopathic association;</u> | 52912 |
| <u>(c) That the applicant has accepted an offer of employment</u> | 52913 |

with an academic medical center in this state or affiliated 52914
physician group practice in this state; 52915

(d) That the applicant holds a license in good standing in 52916
another state or country authorizing the practice of medicine and 52917
surgery or osteopathic medicine and surgery; 52918

(e) That the applicant has unique talents and extraordinary 52919
abilities not generally found within the applicant's specialty, as 52920
demonstrated by satisfying at least four of the following: 52921

(i) The applicant has achieved educational qualifications 52922
beyond those that are required for entry into the applicant's 52923
specialty, including advanced degrees, special certifications, or 52924
other academic credentials. 52925

(ii) The applicant has written multiple articles in journals 52926
listed in the index medicus or an equivalent scholarly publication 52927
acceptable to the board. 52928

(iii) The applicant has a sustained record of excellence in 52929
original research, at least some of which involves serving as the 52930
principal investigator or co-principal investigator for a research 52931
project. 52932

(iv) The applicant has received nationally or internationally 52933
recognized prizes or awards for excellence. 52934

(v) The applicant has participated in peer review in a field 52935
of specialization that is the same as or similar to the 52936
applicant's specialty. 52937

(vi) The applicant has developed new procedures or treatments 52938
for complex medical problems that are recognized by peers as a 52939
significant advancement in the applicable field of medicine. 52940

(vii) The applicant has held previous academic appointments 52941
with or been employed by a health care organization that has a 52942
distinguished national or international reputation. 52943

| | |
|---|-------|
| <u>(viii) The applicant has been the recipient of a national</u> | 52944 |
| <u>institutes of health or other competitive grant award.</u> | 52945 |
| <u>(f) That the applicant has received staff membership or</u> | 52946 |
| <u>professional privileges from the academic medical center pursuant</u> | 52947 |
| <u>to standards adopted under section 3701.351 of the Revised Code on</u> | 52948 |
| <u>a basis that requires the applicant's medical education and</u> | 52949 |
| <u>graduate medical education to be at least equivalent to that of a</u> | 52950 |
| <u>physician educated and trained in the United States;</u> | 52951 |
| <u>(g) That the applicant has sufficient written and oral</u> | 52952 |
| <u>English skills to communicate effectively and reliably with</u> | 52953 |
| <u>patients, their families, and other medical professionals;</u> | 52954 |
| <u>(h) That the applicant will have professional liability</u> | 52955 |
| <u>insurance through the applicant's employment with the academic</u> | 52956 |
| <u>medical center or affiliated physician group practice.</u> | 52957 |
| <u>(2) An affidavit from the applicant agreeing to practice only</u> | 52958 |
| <u>within the clinical setting of the academic medical center or for</u> | 52959 |
| <u>the affiliated physician group practice;</u> | 52960 |
| <u>(3) Three letters of reference from distinguished experts in</u> | 52961 |
| <u>the applicant's specialty attesting to the unique capabilities of</u> | 52962 |
| <u>the applicant, at least one of which must be from outside the</u> | 52963 |
| <u>academic medical center or affiliated physician group practice;</u> | 52964 |
| <u>(4) An affidavit from the dean of the medical school where</u> | 52965 |
| <u>the applicant has been appointed to serve as a faculty member</u> | 52966 |
| <u>stating that the applicant meets all of the requirements of</u> | 52967 |
| <u>division (C)(1) of this section and that the letters of reference</u> | 52968 |
| <u>submitted under division (C)(3) of this section are from</u> | 52969 |
| <u>distinguished experts in the applicant's specialty, and</u> | 52970 |
| <u>documentation to support the affidavit;</u> | 52971 |
| <u>(5) A fee of one thousand dollars for the certificate.</u> | 52972 |
| <u>(D)(1) The holder of a certificate of conceded eminence may</u> | 52973 |

practice medicine and surgery or osteopathic medicine and surgery 52974
only within the clinical setting of the academic medical center 52975
with which the certificate holder is employed or for the 52976
affiliated physician group practice with which the certificate 52977
holder is employed. 52978

(2) A certificate holder may supervise medical students, 52979
physicians participating in graduate medical education, advanced 52980
practice nurses, and physician assistants when performing clinical 52981
services in the certificate holder's area of specialty. 52982

(E) The board may revoke a certificate issued under this 52983
section on receiving proof satisfactory to the board that the 52984
certificate holder has engaged in practice in this state outside 52985
the scope of the certificate or that there are grounds for action 52986
against the certificate holder under section 4731.22 of the 52987
Revised Code. 52988

(F) A certificate of conceded eminence is valid for the 52989
shorter of two years or the duration of the certificate holder's 52990
employment with the academic medical center or affiliated 52991
physician group practice. The certificate ceases to be valid if 52992
the holder resigns or is otherwise terminated from the academic 52993
medical center or affiliated physician group practice. 52994

(G) A certificate of conceded eminence may be renewed for an 52995
additional two-year period. There is no limit on the number of 52996
times a certificate may be renewed. A person seeking renewal of a 52997
certificate shall apply to the board and is eligible for renewal 52998
if the applicant does all of the following: 52999

(1) Pays the renewal fee of one thousand dollars; 53000

(2) Provides to the board an affidavit and supporting 53001
documentation from the academic medical center or affiliated 53002
physician group practice of all of the following: 53003

(a) That the applicant's initial appointment to the medical 53004

| | |
|--|-------|
| <u>faculty is still valid or has been renewed;</u> | 53005 |
| <u>(b) That the applicant's clinical practice is consistent with the established standards in the field;</u> | 53006 |
| <u>(c) That the applicant has demonstrated continued scholarly achievement;</u> | 53008 |
| <u>(d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.</u> | 53009 |
| <u>(3) Satisfies the same continuing medical education requirements set forth in section 4731.281 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.</u> | 53010 |
| <u>(4) Complies with any other requirements established by the board.</u> | 53011 |
| <u>(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u> | 53012 |
| Sec. 4735.01. As used in this chapter: | 53013 |
| (A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following: | 53014 |
| | 53015 |
| | 53016 |
| | 53017 |
| | 53018 |
| | 53019 |
| | 53020 |
| | 53021 |
| | 53022 |
| | 53023 |
| | 53024 |
| | 53025 |
| | 53026 |
| | 53027 |
| | 53028 |
| | 53029 |
| | 53030 |
| | 53031 |
| | 53032 |
| | 53033 |
| | 53034 |

| | |
|--|---|
| (1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate; | 53035 53036 53037 |
| (2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate; | 53038 53039 |
| (3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate; | 53040 53041 53042 |
| (4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate; | 53043 53044 |
| (5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants; | 53045 53046 53047 53048 |
| (6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate; | 53049 53050 53051 |
| (7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate; | 53052 53053 53054 53055 |
| (8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners; | 53056 53057 53058 53059 53060 53061 53062 53063 53064 |

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or

with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(a) With reference to real estate situated in this state owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or

acquired on its own account in the regular course of, or as an 53128
incident to the management of the property and the investment in 53129
it; 53130

(b) As receiver or trustee in bankruptcy, as guardian, 53131
executor, administrator, trustee, assignee, commissioner, or any 53132
person doing the things mentioned in this section, under authority 53133
or appointment of, or incident to a proceeding in, any court, or 53134
as a bona fide public officer, or as executor, trustee, or other 53135
bona fide fiduciary under any trust agreement, deed of trust, 53136
will, or other instrument that has been executed in good faith 53137
creating a like bona fide fiduciary obligation; 53138

(c) As a public officer while performing the officer's 53139
official duties; 53140

(d) As an attorney at law in the performance of the 53141
attorney's duties; 53142

(e) As a person who engages in the brokering of the sale of 53143
business assets, not including the sale, lease, exchange, or 53144
assignment of any interest in real estate; 53145

(f) As a person who engages in the sale of manufactured homes 53146
as defined in division (C)(4) of section 3781.06 of the Revised 53147
Code, or of mobile homes as defined in division (O) of section 53148
4501.01 of the Revised Code, provided the sale does not include 53149
the negotiation, sale, lease, exchange, or assignment of any 53150
interest in real estate; 53151

(g) As a person who engages in the sale of commercial real 53152
estate pursuant to the requirements of section 4735.022 of the 53153
Revised Code. 53154

(2) A person, partnership, association, limited liability 53155
company, limited liability partnership, or corporation exempt 53156
under division (I)(1)(a) of this section shall be limited by the 53157
legal interest in the real estate held by that person or entity to 53158

performing any of the acts or transactions specified in or 53159
comprehended by division (A) of this section. 53160

(J) "Disabled licensee" means a person licensed pursuant to 53161
this chapter who is under a severe disability which is of such a 53162
nature as to prevent the person from being able to attend any 53163
instruction lasting at least three hours in duration. 53164

(K) "Division of real estate" may be used interchangeably 53165
with, and for all purposes has the same meaning as, "division of 53166
real estate and professional licensing." 53167

(L) "Superintendent" or "superintendent of real estate" means 53168
the superintendent of the division of real estate and professional 53169
licensing of this state. Whenever the division or superintendent 53170
of real estate is referred to or designated in any statute, rule, 53171
contract, or other document, the reference or designation shall be 53172
deemed to refer to the division or superintendent of real estate 53173
and professional licensing, as the case may be. 53174

(M) "Inactive license" means the license status in which a 53175
salesperson's license is in the possession of the division, 53176
renewed as required under this chapter or rules adopted under this 53177
chapter, and not associated with a real estate broker. 53178

(N) "Broker's license on deposit" means the license status in 53179
which a broker's license is in the possession of the division of 53180
real estate and professional licensing and renewed as required 53181
under this chapter or rules adopted under this chapter. 53182

(O) "Suspended license" means the license status that 53183
prohibits a licensee from providing services that require a 53184
license under this chapter for a specified interval of time. 53185

(P) "Reactivate" means the process prescribed by the 53186
superintendent of real estate and professional licensing to remove 53187
a license from an inactive, ~~voluntary hold,~~ suspended, or broker's 53188
license on deposit status to allow a licensee to provide services 53189

that require a license under this chapter. 53190

(Q) "Revoked" means the license status in which the license 53191
is void and not eligible for reactivation. 53192

(R) "Commercial real estate" means any parcel of real estate 53193
in this state other than real estate containing one to four 53194
residential units. "Commercial real estate" does not include 53195
single-family residential units such as condominiums, townhouses, 53196
manufactured homes, or homes in a subdivision when sold, leased, 53197
or otherwise conveyed on a unit-by-unit basis, even when those 53198
units are a part of a larger building or parcel of real estate 53199
containing more than four residential units. 53200

(S) "Out-of-state commercial broker" includes any person, 53201
partnership, association, limited liability company, limited 53202
liability partnership, or corporation that is licensed to do 53203
business as a real estate broker in a jurisdiction other than 53204
Ohio. 53205

(T) "Out-of-state commercial salesperson" includes any person 53206
affiliated with an out-of-state commercial broker who is not 53207
licensed as a real estate salesperson in Ohio. 53208

(U) "Exclusive right to sell or lease listing agreement" 53209
means an agency agreement between a seller and broker that meets 53210
the requirements of section 4735.55 of the Revised Code and does 53211
both of the following: 53212

(1) Grants the broker the exclusive right to represent the 53213
seller in the sale or lease of the seller's property; 53214

(2) Provides the broker will be compensated if the broker, 53215
the seller, or any other person or entity produces a purchaser or 53216
tenant in accordance with the terms specified in the listing 53217
agreement or if the property is sold or leased during the term of 53218
the listing agreement to anyone other than to specifically 53219
exempted persons or entities. 53220

(V) "Exclusive agency agreement" means an agency agreement 53221
between a seller and broker that meets the requirements of section 53222
4735.55 of the Revised Code and does both of the following: 53223

(1) Grants the broker the exclusive right to represent the 53224
seller in the sale or lease of the seller's property; 53225

(2) Provides the broker will be compensated if the broker or 53226
any other person or entity produces a purchaser or tenant in 53227
accordance with the terms specified in the listing agreement or if 53228
the property is sold or leased during the term of the listing 53229
agreement, unless the property is sold or leased solely through 53230
the efforts of the seller or to the specifically exempted persons 53231
or entities. 53232

(W) "Exclusive purchaser agency agreement" means an agency 53233
agreement between a purchaser and broker that meets the 53234
requirements of section 4735.55 of the Revised Code and does both 53235
of the following: 53236

(1) Grants the broker the exclusive right to represent the 53237
purchaser in the purchase or lease of property; 53238

(2) Provides the broker will be compensated in accordance 53239
with the terms specified in the exclusive agency agreement or if a 53240
property is purchased or leased by the purchaser during the term 53241
of the agency agreement unless the property is specifically 53242
exempted in the agency agreement. 53243

The agreement may authorize the broker to receive 53244
compensation from the seller or the seller's agent and may provide 53245
that the purchaser is not obligated to compensate the broker if 53246
the property is purchased or leased solely through the efforts of 53247
the purchaser. 53248

(X) "Seller" means a party in a real estate transaction who 53249
is the potential transferor of property. "Seller" includes an 53250
owner of property who is seeking to sell the property and a 53251

landlord who is seeking to rent or lease property to another person. 53252
53253

(Y) ~~"Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.~~ 53254
53255
53256
53257
53258
53259
53260

~~(Z)~~ "Resigned" means the license status in which a license has been voluntarily and permanently surrendered to or is otherwise in the possession of the division of real estate and professional licensing, ~~is~~ may not be renewed or reactivated in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker. 53261
53262
53263
53264
53265
53266
53267

~~(AA)~~(Z) "Bona fide" means made in good faith or without purpose of circumventing license law. 53268
53269

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, ~~placed on voluntary hold~~, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the 53270
53271
53272
53273
53274
53275
53276
53277
53278
53279
53280
53281
53282

practice of law. 53283

(B) No partnership, association, limited liability company, 53284
limited liability partnership, or corporation holding a real 53285
estate license shall employ as an officer, director, manager, or 53286
principal employee any person previously holding a license as a 53287
real estate broker, real estate salesperson, foreign real estate 53288
dealer, or foreign real estate salesperson, whose license has been 53289
placed in inactive, ~~voluntary hold~~, or resigned status, or is 53290
suspended, or revoked and who has not thereafter reactivated the 53291
license or received a new license. 53292

Sec. 4735.052. (A) Upon receipt of a written complaint or 53293
upon the superintendent's own motion, the superintendent may 53294
investigate any person that has allegedly violated section 4735.02 53295
or 4735.25 of the Revised Code, except that the superintendent 53296
shall not initiate an investigation, pursuant to this section, of 53297
any person who held a ~~license on voluntary hold or a~~ suspended or 53298
inactive license under this chapter on the date of the alleged 53299
violation. 53300

(B) If, after investigation, the superintendent determines 53301
there exists reasonable evidence of a violation of section 4735.02 53302
or 4735.25 of the Revised Code, within fourteen business days 53303
after that determination, the superintendent shall send the party 53304
who is the subject of the investigation, a written notice, by 53305
regular mail, that includes all of the following information: 53306

(1) A description of the activity in which the party 53307
allegedly is engaging or has engaged that is a violation of 53308
section 4735.02 or 4735.25 of the Revised Code; 53309

(2) The applicable law allegedly violated; 53310

(3) A statement informing the party that a hearing concerning 53311
the alleged violation will be held, upon the party's request, 53312

before a hearing examiner pursuant to Chapter 119. of the Revised Code. 53313
53314

(C)(1) If a hearing is requested, the hearing examiner shall 53315
hear the testimony of all parties present at the hearing and 53316
consider any written testimony submitted pursuant to this section, 53317
and determine if there has been a violation of section 4735.02 or 53318
4735.25 of the Revised Code. 53319

(2) After the conclusion of formal hearings, the hearing 53320
examiner shall file a report of findings of fact and conclusions 53321
of law with the superintendent, the commission, the complainant, 53322
and the parties. Within twenty days of receipt of such copy of the 53323
written report of findings of fact and conclusions of law, the 53324
parties and the division may file with the commission written 53325
objections to the report, which shall be considered by the 53326
commission before approving, modifying, or disapproving the 53327
report. 53328

(3) The commission shall review the hearing examiner's report 53329
at the next regularly scheduled commission meeting held at least 53330
twenty business days after receipt of the hearing examiner's 53331
report. The commission shall hear the testimony of the complainant 53332
or the parties upon request. 53333

(4) The commission shall decide whether to impose 53334
disciplinary sanctions upon a party for a violation of section 53335
4735.02 of the Revised Code. If the commission finds that a 53336
violation has occurred, the commission may assess a civil penalty, 53337
in an amount it determines, not to exceed one thousand dollars per 53338
violation. Each day a violation occurs or continues is a separate 53339
violation. The commission shall determine the terms of payment. 53340
The commission shall maintain a record of the proceedings of the 53341
hearing and issue a written opinion to all parties, citing its 53342
findings and grounds for any action taken. 53343

(D) Civil penalties collected under this section shall be 53344
deposited in the real estate operating fund, which is created in 53345
the state treasury under section 4735.211 of the Revised Code. 53346

(E) If a party fails to pay a civil penalty assessed pursuant 53347
to this section within the time prescribed by the commission, the 53348
superintendent shall forward to the attorney general the name of 53349
the party and the amount of the civil penalty, for the purpose of 53350
collecting that civil penalty. In addition to the civil penalty 53351
assessed pursuant to this section, the party also shall pay any 53352
fee assessed by the attorney general for collection of the civil 53353
penalty. 53354

(F) The superintendent may reserve the right to bring a civil 53355
action against a party that fails to pay a civil penalty for 53356
breach of contract in a court of competent jurisdiction. 53357

Sec. 4735.10. (A)(1) The Ohio real estate commission may 53358
adopt reasonable rules in accordance with Chapter 119. of the 53359
Revised Code, necessary for implementing the provisions of this 53360
chapter relating, but not limited to, the following: 53361

(a) The form and manner of filing applications for licensure; 53362

(b) Times and form of examination for license; 53363

(c) Placing an existing broker's license on deposit or a 53364
salesperson's license on an inactive status for an indefinite 53365
period; 53366

(d) Specifying the process by which a licensee may ~~place~~ 53367
resign the licensee's license ~~on voluntary hold or resigned~~ 53368
~~status~~; 53369

(e) Defining any additional license status that the 53370
commission determines is necessary and that is not otherwise 53371
defined in this chapter and establishing the process by which a 53372
licensee places the licensee's license in a status defined by the 53373

| | |
|--|--|
| commission in the rules the commission adopts; | 53374 |
| (f) Clarification of the activities that require a license under this chapter. | 53375 53376 |
| (2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following: | 53377 53378 53379 |
| (a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license; | 53380 53381 53382 53383 |
| (b) A three-year license and a three-year license renewal system; | 53384 53385 |
| (c) Standards for the approval of the ten-hour postlicensure courses as required by division (H) (G) of section 4735.07 and division (H) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses. | 53386 53387 53388 53389 53390 53391 |
| (d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class. | 53392 53393 53394 53395 53396 |
| (e) Requirements for trust accounts and property management accounts. The rules shall specify that: | 53397 53398 |
| (i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a | 53399 53400 53401 53402 53403 |

violation of any provision of division (A) of section 4735.18 of the Revised Code. 53404
53405

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract. 53406
53407
53408
53409

(f) Notice of renewal forms and filing deadlines; 53410

(g) Special assessments under division (A) of section 4735.12 of the Revised Code. 53411
53412

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers: 53413
53414
53415
53416

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code; 53417
53418

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code; 53419
53420
53421
53422

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code; 53423
53424
53425
53426

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under section 4735.13 of the Revised Code; 53427
53428
53429

(5) Appointment of hearing examiners under section 119.09 of the Revised Code; 53430
53431

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and 53432
53433

licensure, with waiver of examination, under sections 4735.27 and 53434
4735.28 of the Revised Code; 53435

(7) Qualification of foreign real estate under section 53436
4735.25 of the Revised Code. 53437

If at any time there is no rule in effect establishing a 53438
guideline or standard required by this division, the 53439
superintendent may adopt a rule in accordance with Chapter 119. of 53440
the Revised Code for such purpose. 53441

(C) The commission or superintendent may hear testimony in 53442
matters relating to the duties imposed upon them, and the 53443
president of the commission and superintendent may administer 53444
oaths. The commission or superintendent may require other proof of 53445
the honesty, truthfulness, and good reputation of any person named 53446
in an application for a real estate broker's or real estate 53447
salesperson's license before admitting the applicant to the 53448
examination or issuing a license. 53449

Sec. 4735.13. (A) Every real estate broker licensed under 53450
this chapter shall have and maintain a definite place of business 53451
in this state. A post office box address is not a definite place 53452
of business for purposes of this section. The license of a real 53453
estate broker shall be prominently displayed in the office or 53454
place of business of the broker, and no license shall authorize 53455
the licensee to do business except from the location specified in 53456
it. If the broker maintains more than one place of business within 53457
the state, the broker shall apply for and procure a duplicate 53458
license for each branch office maintained by the broker. Each 53459
branch office shall be in the charge of a licensed broker or 53460
salesperson. The branch office license shall be prominently 53461
displayed at the branch office location. 53462

(B) The license of each real estate salesperson shall be 53463
mailed to and remain in the possession of the licensed broker with 53464

whom the salesperson is or is to be associated until the licensee 53465
places the license on inactive, ~~voluntary held~~, or resigned status 53466
or until the salesperson leaves the brokerage or is terminated. 53467
The broker shall keep each salesperson's license in a way that it 53468
can, and shall on request, be made immediately available for 53469
public inspection at the office or place of business of the 53470
broker. Except as provided in divisions (G) and (H) of this 53471
section, immediately upon the salesperson's leaving the 53472
association or termination of the association of a real estate 53473
salesperson with the broker, the broker shall return the 53474
salesperson's license to the superintendent of real estate. 53475

The failure of a broker to return the license of a real 53476
estate salesperson or broker who leaves or who is terminated, via 53477
certified mail return receipt requested, within three business 53478
days of the receipt of a written request from the superintendent 53479
for the return of the license, is prima-facie evidence of 53480
misconduct under division (A)(6) of section 4735.18 of the Revised 53481
Code. 53482

(C) ~~Any~~ A licensee shall notify the superintendent in writing 53483
within fifteen days of any of the following occurrences: 53484

(1) The licensee is convicted of a felony. 53485

(2) The licensee is convicted of a crime involving moral 53486
turpitude. 53487

(3) The licensee is found to have violated any federal, 53488
state, or municipal civil rights law pertaining to discrimination 53489
in housing. 53490

(4) The licensee is found to have engaged in a discriminatory 53491
practice pertaining to housing accommodations described in 53492
division (H) of section 4112.02 of the Revised Code. 53493

~~(5) The licensee is found to have violated any municipal 53494
civil rights law pertaining to housing discrimination. 53495~~

~~(6)~~ The licensee is the subject of an order by the department 53496
of commerce, the department of insurance, or the department of 53497
agriculture revoking or permanently surrendering any professional 53498
license, certificate, or registration. 53499

~~(7)~~(6) The licensee is the subject of an order by any 53500
government agency concerning real estate, financial matters, or 53501
the performance of fiduciary duties with respect to any license, 53502
certificate, or registration. 53503

If a licensee fails to notify the superintendent within the 53504
required time, the superintendent immediately may suspend the 53505
license of the licensee. 53506

Any court that convicts a licensee of a violation of any 53507
municipal civil rights law pertaining to housing discrimination 53508
also shall notify the Ohio civil rights commission within fifteen 53509
days of the conviction. 53510

(D) In case of any change of business location, a broker 53511
shall give notice to the superintendent, on a form prescribed by 53512
the superintendent, within thirty days after the change of 53513
location, whereupon the superintendent shall issue new licenses 53514
for the unexpired period without charge. If a broker changes a 53515
business location without giving the required notice and without 53516
receiving new licenses that action is prima-facie evidence of 53517
misconduct under division (A)(6) of section 4735.18 of the Revised 53518
Code. 53519

(E) If a real estate broker desires to associate with another 53520
real estate broker in the capacity of a real estate salesperson, 53521
the broker shall apply to the superintendent to deposit the 53522
broker's real estate broker's license with the superintendent and 53523
for the issuance of a real estate salesperson's license. The 53524
application shall be made on a form prescribed by the 53525
superintendent and shall be accompanied by the recommendation of 53526

the real estate broker with whom the applicant intends to become 53527
associated and a fee of twenty-five dollars for the real estate 53528
salesperson's license. One dollar of the fee shall be credited to 53529
the real estate education and research fund. If the superintendent 53530
is satisfied that the applicant is honest, truthful, and of good 53531
reputation, has not been convicted of a felony or a crime 53532
involving moral turpitude, and has not been finally adjudged by a 53533
court to have violated any municipal, state, or federal civil 53534
rights laws relevant to the protection of purchasers or sellers of 53535
real estate, and that the association of the real estate broker 53536
and the applicant will be in the public interest, the 53537
superintendent shall grant the application and issue a real estate 53538
salesperson's license to the applicant. Any license so deposited 53539
with the superintendent shall be subject to this chapter. A broker 53540
who intends to deposit the broker's license with the 53541
superintendent, as provided in this section, shall give written 53542
notice of this fact in a format prescribed by the superintendent 53543
to all salespersons associated with the broker when applying to 53544
place the broker's license on deposit. 53545

(F) If a real estate broker desires to become a member or 53546
officer of a partnership, association, limited liability company, 53547
limited liability partnership, or corporation that is or intends 53548
to become a licensed real estate broker, the broker shall notify 53549
the superintendent of the broker's intentions. The notice of 53550
intention shall be on a form prescribed by the superintendent and 53551
shall be accompanied by a fee of twenty-five dollars. One dollar 53552
of the fee shall be credited to the real estate education and 53553
research fund. 53554

A licensed real estate broker who is a member or officer of a 53555
partnership, association, limited liability company, limited 53556
liability partnership, or corporation shall only act as a real 53557
estate broker for such partnership, association, limited liability 53558

company, limited liability partnership, or corporation. 53559

(G) If a real estate broker or salesperson enters the armed 53560
forces, the broker or salesperson may place the broker's or 53561
salesperson's license on deposit with the Ohio real estate 53562
commission. The licensee shall not be required to renew the 53563
license until the renewal date that follows the date of discharge 53564
from the armed forces. Any license deposited with the commission 53565
shall be subject to this chapter. Any licensee whose license is on 53566
deposit under this division and who fails to meet the continuing 53567
education requirements of section 4735.141 of the Revised Code 53568
because the licensee is in the armed forces shall satisfy the 53569
commission that the licensee has complied with the continuing 53570
education requirements within twelve months of the licensee's 53571
first birthday after discharge. The superintendent shall notify 53572
the licensee of the licensee's obligations under section 4735.141 53573
of the Revised Code at the time the licensee applies for 53574
reactivation of the licensee's license. 53575

(H) If a licensed real estate salesperson submits an 53576
application to the superintendent to leave the association of one 53577
broker to associate with a different broker, the broker possessing 53578
the licensee's license need not return the salesperson's license 53579
to the superintendent. The superintendent may process the 53580
application regardless of whether the licensee's license is 53581
returned to the superintendent. 53582

Sec. 4735.14. (A) Each license issued under this chapter, 53583
shall be valid without further recommendation or examination until 53584
it is placed in an inactive, ~~voluntary hold~~, or resigned status, 53585
is revoked or suspended, or such license expires by operation of 53586
law. 53587

(B) Except for a licensee who has placed the licensee's 53588
license ~~on voluntary hold or in~~ resigned status pursuant to 53589

section 4735.142 of the Revised Code, each licensed broker, 53590
brokerage, or salesperson shall file, on or before the date the 53591
Ohio real estate commission has adopted by rule for that licensee 53592
in accordance with division (A)(2)(f) of section 4735.10 of the 53593
Revised Code, a notice of renewal on a form prescribed by the 53594
superintendent of real estate. The notice of renewal shall be 53595
mailed by the superintendent two months prior to the filing 53596
deadline to the personal residence address of each broker or 53597
salesperson that is on file with the division. If the licensee is 53598
a partnership, association, limited liability company, limited 53599
liability partnership, or corporation, the notice of renewal shall 53600
be mailed by the superintendent two months prior to the filing 53601
deadline to the brokerage's business address on file with the 53602
division. A licensee shall not renew the licensee's license any 53603
earlier than two months prior to the filing deadline. 53604

(C) Except as otherwise provided in division (B) of this 53605
section, the license of any real estate broker, brokerage, or 53606
salesperson that fails to file a notice of renewal on or before 53607
the filing deadline of each ensuing year shall be suspended 53608
automatically without the taking of any action by the 53609
superintendent. A suspended license may be reactivated within 53610
twelve months of the date of suspension, provided that the renewal 53611
fee plus a penalty fee of fifty per cent of the renewal fee is 53612
paid to the superintendent. Failure to reactivate the license as 53613
provided in this division shall result in automatic revocation of 53614
the license without the taking of any action by the 53615
superintendent. No person, partnership, association, corporation, 53616
limited liability company, or limited partnership shall engage in 53617
any act or acts for which a real estate license is required while 53618
that entity's license is placed in an inactive, ~~voluntary hold,~~ or 53619
resigned status, or is suspended, or revoked. The commission shall 53620
adopt rules in accordance with Chapter 119. of the Revised Code to 53621
provide to licensees notice of suspension or revocation or both. 53622

(D) Each licensee shall notify the ~~commission~~ superintendent 53623
of a change in personal residence address. A licensee's failure to 53624
notify the ~~commission~~ superintendent of a change in personal 53625
residence address does not negate the requirement to file the 53626
license renewal by the required deadline established by the 53627
commission by rule under division (A)(2)(f) of section 4735.10 of 53628
the Revised Code. 53629

(E) The superintendent shall not renew a license if the 53630
licensee fails to comply with section 4735.141 of the Revised Code 53631
or is otherwise not in compliance with this chapter. 53632

(F) The superintendent shall make notice of successful 53633
renewal available electronically to licensees as soon as 53634
practicable, but not later than thirty days after receipt by the 53635
division of a complete application and renewal fee. This notice 53636
shall serve as a notice of renewal for purposes of section 4745.02 53637
of the Revised Code. 53638

Sec. 4735.141. (A) Except as otherwise provided in this 53639
division and except for a licensee who has placed the licensee's 53640
license ~~on voluntary hold or in~~ resigned status pursuant to 53641
section 4735.142 of the Revised Code, each person licensed under 53642
section 4735.07 or 4735.09 of the Revised Code shall submit proof 53643
satisfactory to the superintendent of real estate that the 53644
licensee has satisfactorily completed thirty hours of continuing 53645
education, as prescribed by the Ohio real estate commission 53646
pursuant to section 4735.10 of the Revised Code, on or before the 53647
licensee's birthday occurring three years after the licensee's 53648
date of initial licensure, and on or before the licensee's 53649
birthday every three years thereafter. 53650

Persons licensed as real estate salespersons who subsequently 53651
become licensed real estate brokers shall continue to submit proof 53652
of continuing education in accordance with the time period 53653

established in this section. 53654

The requirements of this section shall not apply to any 53655
disabled licensee as provided in division (E) of this section. 53656

Each licensee who is seventy years of age or older, within a 53657
continuing education reporting period, shall submit proof 53658
satisfactory to the superintendent of real estate that the 53659
licensee has satisfactorily completed a total of nine classroom 53660
hours of continuing education, including instruction in Ohio real 53661
estate law; recently enacted state and federal laws affecting the 53662
real estate industry; municipal, state, and federal civil rights 53663
law; and canons of ethics for the real estate industry as adopted 53664
by the commission. The required proof of completion shall be 53665
submitted on or before the licensee's birthday that falls in the 53666
third year of that continuing education reporting period. A 53667
licensee who is seventy years of age or older whose license is in 53668
an inactive status is exempt from the continuing education 53669
requirements specified in this section. The commission shall adopt 53670
reasonable rules in accordance with Chapter 119. of the Revised 53671
Code to carry out the purposes of this paragraph. 53672

(B) The continuing education requirements of this section 53673
shall be completed in schools, seminars, and educational 53674
institutions approved by the commission. Such approval shall be 53675
given according to rules established by the commission under the 53676
procedures of Chapter 119. of the Revised Code, and shall not be 53677
limited to institutions providing two-year or four-year degrees. 53678
Each school, seminar, or educational institution approved under 53679
this division shall be open to all licensees on an equal basis. 53680

(C) If the requirements of this section are not met by a 53681
licensee within the period specified, the licensee's license shall 53682
be suspended automatically without the taking of any action by the 53683
superintendent. The superintendent shall notify the licensee of 53684
the license suspension, and such notification shall be sent by 53685

regular mail to the personal residence address of the licensee 53686
that is on file with the division. Any license so suspended shall 53687
remain suspended until it is reactivated by the superintendent. No 53688
such license shall be reactivated until it is established, to the 53689
satisfaction of the superintendent, that the requirements of this 53690
section have been met. If the requirements of this section are not 53691
met within twelve months from the date the license was suspended, 53692
the license shall be revoked automatically without the taking of 53693
any action by the superintendent. 53694

(D) If the license of a real estate broker is suspended 53695
pursuant to division (C) of this section, the license of a real 53696
estate salesperson associated with that broker correspondingly is 53697
suspended pursuant to division (H) of section 4735.20 of the 53698
Revised Code. A sole broker shall notify affiliated salespersons 53699
of the suspension in writing within three days of receiving the 53700
notice required by division (C) of this section. 53701

(1) The suspended license of the associated real estate 53702
salesperson shall be reactivated and no fee shall be charged or 53703
collected for that reactivation if that broker subsequently 53704
submits proof to the superintendent that the broker has complied 53705
with the requirements of this section and requests that the 53706
broker's license as a real estate broker be reactivated, and the 53707
superintendent then reactivates the broker's license as a real 53708
estate broker. 53709

(2) If the real estate salesperson submits an application to 53710
leave the association of the suspended broker in order to 53711
associate with a different broker, the suspended license of the 53712
associated real estate salesperson shall be reactivated and no fee 53713
shall be charged or collected for that reactivation. The 53714
superintendent may process the application regardless of whether 53715
the licensee's license is returned to the superintendent. 53716

Any person whose license is reactivated pursuant to this 53717

division shall comply with the requirements of this section and 53718
otherwise be in compliance with this chapter. 53719

(E) Any licensee who is a disabled licensee at any time 53720
during the last three months of the third year of the licensee's 53721
continuing education reporting period may receive an extension of 53722
time as deemed appropriate by the superintendent to submit proof 53723
to the superintendent that the licensee has satisfactorily 53724
completed the required thirty hours of continuing education. To 53725
receive an extension of time, the licensee shall submit a request 53726
to the division of real estate for the extension and proof 53727
satisfactory to the commission that the licensee was a disabled 53728
licensee at some time during the last three months of the 53729
three-year reporting period. The proof shall include, but is not 53730
limited to, a signed statement by the licensee's attending 53731
physician describing the disability, certifying that the 53732
licensee's disability is of such a nature as to prevent the 53733
licensee from attending any instruction lasting at least three 53734
hours in duration, and stating the expected duration of the 53735
disability. The licensee shall request the extension and provide 53736
the physician's statement to the division no later than one month 53737
prior to the end of the licensee's three-year continuing education 53738
reporting period, unless the disability did not arise until the 53739
last month of the three-year reporting period, in which event the 53740
licensee shall request the extension and provide the physician's 53741
statement as soon as practical after the occurrence of the 53742
disability. A licensee granted an extension pursuant to this 53743
division who is no longer a disabled licensee and who submits 53744
proof of completion of the continuing education during the 53745
extension period, shall submit, for future continuing education 53746
reporting periods, proof of completion of the continuing education 53747
requirements according to the schedule established in division (A) 53748
of this section. 53749

(F) The superintendent shall not renew a license if the
licensee fails to comply with this section, and the licensee shall
be required to pay the penalty fee provided in section 4735.14 of
the Revised Code.

(G) A licensee shall submit proof of completion of the
required continuing education with the licensee's notice of
renewal. The proof shall be submitted in the manner provided by
the superintendent.

Sec. 4735.142. (A) Any person licensed under section 4735.07
or 4735.09 of the Revised Code, at any time prior to the date the
licensee is required to file a notice of renewal pursuant to
division (B) of section 4735.14 of the Revised Code may apply to
the superintendent of real estate and professional licensing to
place the licensee's license ~~on voluntary hold or~~ in a permanently
resigned status.

~~(B) If the superintendent has placed a license on voluntary
hold pursuant to a request made under division (A) of this
section, the licensee who requested that the licensee's license be
placed on voluntary hold may apply to the superintendent to
reactivate that license within twelve months after the date the
license is placed on voluntary hold. The superintendent shall
reactivate that license if the licensee complies with the
requirements for such reactivation that are specified in rules
adopted by the Ohio real estate commission pursuant to division
(A) of section 4735.10 of the Revised Code and satisfies all of
the following requirements:~~

~~(1) The licensee complies with the postlicensure education
requirements specified in section 4735.07 or 4735.09 of the
Revised Code, as applicable;~~

~~(2) The licensee complies with the continuing education
requirements specified in section 4735.141 of the Revised Code;~~

~~(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.~~

~~(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve month time period specified in that division or does not satisfy the requirements specified in that division during that twelve month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.~~

~~(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily permanently resign the licensee's license voluntarily. The resignation of a license is considered to be final without the taking of any action by the superintendent. ~~if~~~~

(C) If a person whose license is in a permanently resigned status pursuant to a request made under this ~~division~~ section wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to

division (A) of section 4735.10 of the Revised Code. 53813

~~(E)~~(D) If placing a broker's license ~~on voluntary hold or in~~ 53814
a permanently resigned status will result in the closure of the 53815
broker's brokerage, the broker, within three days after applying 53816
to the superintendent to place the license ~~on voluntary hold or in~~ 53817
a permanently resigned status, shall provide to each salesperson 53818
associated with that broker a written notice stating that fact. 53819

~~(F)~~(E) This section does not apply to any licensee whose 53820
license has been suspended pursuant to division (F) of section 53821
4735.181 of the Revised Code or due to disciplinary action ordered 53822
by the commission pursuant to section 4735.051 of the Revised 53823
Code. 53824

Sec. 4735.74. Unless otherwise agreed in writing, a licensee 53825
owes no further duty to a client after performance of all duties 53826
or after any contract has terminated or expired, except for both 53827
of the following: 53828

(A) Providing the client with an accounting of all moneys and 53829
property relating to the transaction; 53830

(B) Keeping confidential all information received during the 53831
course of the transaction unless: 53832

(1) The client permits disclosure; 53833

(2) Disclosure is required by law or by court order; 53834

(3) The information becomes public from a source other than 53835
the licensee; 53836

(4) The information is necessary to prevent a crime the 53837
client intends to commit; 53838

(5) Disclosure is necessary to defend the brokerage or its 53839
licensees against an accusation of wrongful conduct or to 53840
establish or defend a claim that a commission is owed on a 53841

transaction-; 53842

(6) Disclosure is regarding sales information requested by a 53843
~~registered real estate~~ appraiser assistant ~~registered under~~ 53844
~~Chapter 4763. of the Revised Code~~ or a ~~licensed or certified real~~ 53845
~~estate~~ appraiser ~~licensed or certified under Chapter 4763. of the~~ 53846
~~Revised Code~~ for the purposes of performing an appraisal. No cause 53847
of action shall arise on behalf of any person against a licensee 53848
for releasing information pursuant to this division. 53849

Sec. 4736.01. As used in this chapter: 53850

(A) "Environmental health science" means the aspect of public 53851
health science that includes, but is not limited to, the following 53852
bodies of knowledge: air quality, food quality and protection, 53853
hazardous and toxic substances, consumer product safety, housing, 53854
institutional health and safety, community noise control, 53855
radiation protection, recreational facilities, solid and liquid 53856
waste management, vector control, drinking water quality, milk 53857
sanitation, and rabies control. 53858

(B) "Sanitarian" means a person who performs for compensation 53859
educational, investigational, technical, or administrative duties 53860
requiring specialized knowledge and skills in the field of 53861
environmental health science. 53862

(C) "Registered sanitarian" means a person who is registered 53863
as a sanitarian in accordance with this chapter. 53864

(D) "Sanitarian-in-training" means a person who is registered 53865
as a sanitarian-in-training in accordance with this chapter. 53866

(E) "Practice of environmental health" means consultation, 53867
instruction, investigation, inspection, or evaluation by an 53868
employee of a city health district, a general health district, the 53869
environmental protection agency, the department of health, or the 53870
department of agriculture requiring specialized knowledge, 53871

training, and experience in the field of environmental health 53872
science, with the primary purpose of improving or conducting 53873
administration or enforcement under any of the following: 53874

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 53875
3733. of the Revised Code; 53876

(2) Chapter 3734. of the Revised Code as it pertains to solid 53877
waste; 53878

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 53879
3707.38 to 3707.99, or section 3715.21 of the Revised Code; 53880

(4) Rules adopted under former section 3701.34 of the Revised 53881
Code pertaining to rabies control or swimming pools; 53882

(5) Rules adopted under section 3701.935 of the Revised Code 53883
for school health and safety network inspections and rules adopted 53884
under section 3707.26 of the Revised Code for sanitary 53885
inspections. 53886

"Practice of environmental health" does not include sampling, 53887
testing, controlling of vectors, reporting of observations, or 53888
other duties that do not require application of specialized 53889
knowledge and skills in environmental health science performed 53890
under the supervision of a registered sanitarian. 53891

The state board of sanitarian registration may further define 53892
environmental health science in relation to specific functions in 53893
the practice of environmental health through rules adopted by the 53894
board under Chapter 119. of the Revised Code. 53895

Sec. 4740.03. (A) The administrative section of the Ohio 53896
construction industry licensing board annually shall elect from 53897
among its members a chairperson and other officers as the board, 53898
by rule, designates. The chairperson shall preside over meetings 53899
of the administrative section or designate another member to 53900
preside in the chairperson's absence. The administrative section 53901

shall hold at least two regular meetings each year, but may meet 53902
at additional times as specified by rule, at the call of the 53903
chairperson, or upon the request of two or more members. A 53904
majority of the members of the administrative section constitutes 53905
a quorum for the transaction of all business. The administrative 53906
section may not take any action without the concurrence of at 53907
least three of its members. 53908

(B)(1) The administrative section shall employ a secretary, 53909
who is not a member of the board, to serve at the pleasure of the 53910
administrative section, and shall fix the compensation of the 53911
secretary. The secretary shall be in the unclassified civil 53912
service of the state. 53913

(2) The secretary shall do all of the following: 53914

(a) Keep or set standards for and delegate to another person 53915
the keeping of the minutes, books, and other records and files of 53916
the board and each section of the board; 53917

(b) Issue all licenses in the name of the board; 53918

(c) Send out all notices, including advance notices of 53919
meetings of the board and each section of the board, and attend to 53920
all correspondence of the board and each section of the board, 53921
under the direction of the administrative section; 53922

(d) Receive and deposit all fees payable pursuant to this 53923
chapter into the ~~labor~~ industrial compliance operating fund 53924
created pursuant to section 121.084 of the Revised Code; 53925

(e) Perform all other duties incidental to the office of the 53926
secretary or properly assigned to the secretary by the 53927
administrative section of the board. 53928

(3) Before entering upon the discharge of the duties of the 53929
secretary, the secretary shall file with the treasurer of state a 53930
bond in the sum of five thousand dollars, payable to the state, to 53931

ensure the faithful performance of the secretary's duties. The 53932
board shall pay the premium of the bond in the same manner as it 53933
pays other expenditures of the board. 53934

(C) Upon the request of the administrative section of the 53935
board, the director of commerce shall supply the board and its 53936
sections with personnel, office space, and supplies, as the 53937
director determines appropriate. The administrative section of the 53938
board shall employ any additional staff it considers necessary and 53939
appropriate. 53940

(D) The chairperson of the board or the secretary, or both, 53941
as authorized by the board, shall approve all vouchers of the 53942
board. 53943

Sec. 4740.11. The Ohio construction industry licensing board 53944
and its sections shall deposit all receipts and fines collected 53945
under this chapter into the state treasury to the credit of the 53946
~~labor~~ industrial compliance operating fund created in section 53947
121.084 of the Revised Code. 53948

Sec. 4740.14. (A) There is hereby created within the 53949
department of commerce the residential construction advisory 53950
committee consisting of nine persons the director of commerce 53951
appoints. The advisory committee shall be made up of the following 53952
members: 53953

(1) Three shall be general contractors who have recognized 53954
ability and experience in the construction of residential 53955
buildings. 53956

(2) Two shall be building officials who have experience 53957
administering and enforcing a residential building code. 53958

(3) One, chosen from a list of three names the Ohio fire 53959
chief's association submits, shall be from the fire service 53960
certified as a fire safety inspector who has at least ten years of 53961

experience enforcing fire or building codes. 53962

(4) One shall be a residential contractor who has recognized 53963
ability and experience in the remodeling and construction of 53964
residential buildings. 53965

(5) One shall be an architect registered pursuant to Chapter 53966
4703. of the Revised Code, with recognized ability and experience 53967
in the architecture of residential buildings. 53968

(6) One, chosen from a list of three names the Ohio municipal 53969
league submits to the director, shall be a mayor of a municipal 53970
corporation in which the Ohio residential building code is being 53971
enforced in the municipal corporation by a certified building 53972
department. 53973

(B) Terms of office shall be for three years, with each term 53974
ending on the date three years after the date of appointment. Each 53975
member shall hold office from the date of appointment until the 53976
end of the term for which the member was appointed. Vacancies 53977
shall be filled in the manner provided for initial appointments. 53978
Any member appointed to fill a vacancy in an unexpired term shall 53979
hold office for the remainder of that term. 53980

(C) The advisory committee shall do all of the following: 53981

(1) Recommend to the board of building standards a building 53982
code for residential buildings. The committee shall recommend a 53983
code that it may model on a residential building code a national 53984
model code organization issues, with adaptations necessary to 53985
implement the code in this state. If the board of building 53986
standards decides not to adopt a code the committee recommends, 53987
the committee shall revise the code and resubmit it until the 53988
board adopts a code the committee recommends as the state 53989
residential building code; 53990

(2) Advise the board regarding the establishment of standards 53991
for certification of building officials who enforce the state 53992

| | |
|---|--|
| residential building code; | 53993 |
| (3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code; | 53994 53995 53996 |
| (4) Advise the board regarding the interpretation of the state residential building code; | 53997 53998 |
| (5) Provide other assistance the committee considers necessary; | 53999 54000 |
| (6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section. | 54001 54002 54003 |
| (D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following: | 54004 54005 54006 |
| (1) The impact that the state residential building code may have upon the health, safety, and welfare of the public; | 54007 54008 |
| (2) The economic reasonableness of the residential building code; | 54009 54010 |
| (3) The technical feasibility of the residential building code; | 54011 54012 |
| (4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing. | 54013 54014 |
| (E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code. | 54015 54016 54017 54018 54019 54020 |
| (F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive | 54021 54022 |

their actual and necessary expenses incurred in the performance of 54023
their duties as members of the advisory committee and shall 54024
receive a per diem for each day in attendance at an official 54025
meeting of the committee, to be paid from the ~~labor~~ industrial 54026
compliance operating fund in the state treasury, using fees 54027
collected in connection with residential buildings pursuant to 54028
division (F)(2) of section 3781.102 of the Revised Code and 54029
deposited in that fund. 54030

(G) The advisory committee is not subject to divisions (A) 54031
and (B) of section 101.84 of the Revised Code. 54032

Sec. 4743.05. Except as otherwise provided in sections 54033
4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of 54034
the Revised Code, all money collected under Chapters 3773., 4701., 54035
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 54036
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 54037
4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code 54038
shall be paid into the state treasury to the credit of the 54039
occupational licensing and regulatory fund, which is hereby 54040
created for use in administering such chapters. 54041

At the end of each quarter, the director of budget and 54042
management shall transfer from the occupational licensing and 54043
regulatory fund to the nurse education assistance fund created in 54044
section 3333.28 of the Revised Code the amount certified to the 54045
director under division (B) of section 4723.08 of the Revised 54046
Code. 54047

At the end of each quarter, the director shall transfer from 54048
the occupational licensing and regulatory fund to the certified 54049
public accountant education assistance fund created in section 54050
4701.26 of the Revised Code the amount certified to the director 54051
under division (H)(2) of section 4701.10 of the Revised Code. 54052

Sec. 4763.05. (A)(1)(a) A person shall make application for 54053
an initial state-certified general real estate appraiser 54054
certificate, an initial state-certified residential real estate 54055
appraiser certificate, an initial state-licensed residential real 54056
estate appraiser license, or an initial state-registered real 54057
estate appraiser assistant registration in writing to the 54058
superintendent of real estate on a form the superintendent 54059
prescribes. The application shall include the address of the 54060
applicant's principal place of business and all other addresses at 54061
which the applicant currently engages in the business of preparing 54062
real estate appraisals and the address of the applicant's current 54063
residence. The superintendent shall retain the applicant's current 54064
residence address in a separate record which ~~shall~~ does not 54065
constitute a public record for purposes of section ~~149.03~~ 149.43 54066
of the Revised Code. The application shall indicate whether the 54067
applicant seeks certification as a general real estate appraiser 54068
or as a residential real estate appraiser, licensure as a 54069
residential real estate appraiser, or registration as a real 54070
estate appraiser assistant and be accompanied by the prescribed 54071
examination and certification, registration, or licensure fees set 54072
forth in section 4763.09 of the Revised Code. The application also 54073
shall include a pledge, signed by the applicant, that the 54074
applicant will comply with the standards set forth in this 54075
chapter; and a statement that the applicant understands the types 54076
of misconduct for which disciplinary proceedings may be initiated 54077
against the applicant pursuant to this chapter. 54078

(b) Upon the filing of an application and payment of any 54079
examination and certification, registration, or licensure fees, 54080
the superintendent of real estate shall request the superintendent 54081
of the bureau of criminal identification and investigation, or a 54082
vendor approved by the bureau, to conduct a criminal records check 54083
based on the applicant's fingerprints in accordance with ~~division~~ 54084

~~(A)(11)~~ of section 109.572 of the Revised Code. Notwithstanding 54085
division (K) of section 121.08 of the Revised Code, the 54086
superintendent of real estate shall request that criminal record 54087
information from the federal bureau of investigation be obtained 54088
as part of the criminal records check. Any fee required under 54089
division (C)(3) of section 109.572 of the Revised Code shall be 54090
paid by the applicant. 54091

(2) For purposes of providing funding for the real estate 54092
appraiser recovery fund established by section 4763.16 of the 54093
Revised Code, the real estate appraiser board shall levy an 54094
assessment against each person issued an initial certificate, 54095
registration, or license and against current licensees, 54096
registrants, and certificate holders, as required by board rule. 54097
The assessment is in addition to the application and examination 54098
fees for initial applicants required by division (A)(1) of this 54099
section and the renewal fees required for current certificate 54100
holders, registrants, and licensees. The superintendent of real 54101
estate shall deposit the assessment into the state treasury to the 54102
credit of the real estate appraiser recovery fund. The assessment 54103
for initial certificate holders, registrants, and licensees shall 54104
be paid prior to the issuance of a certificate, registration, or 54105
license, and for current certificate holders, registrants, and 54106
licensees, at the time of renewal. 54107

(B) An applicant for an initial general real estate appraiser 54108
certificate, residential real estate appraiser certificate, or 54109
residential real estate appraiser license shall possess experience 54110
in real estate appraisal as the board prescribes by rule. In 54111
addition to any other information required by the board, the 54112
applicant shall furnish, under oath, a detailed listing of the 54113
appraisal reports or file memoranda for each year for which 54114
experience is claimed and, upon request of the superintendent or 54115
the board, shall make available for examination a sample of the 54116

appraisal reports prepared by the applicant in the course of the 54117
applicant's practice. 54118

(C) An applicant for an initial certificate, registration, or 54119
license shall be at least eighteen years of age, honest, truthful, 54120
and of good reputation and shall present satisfactory evidence to 54121
the superintendent that the applicant has successfully completed 54122
any education requirements the board prescribes by rule. 54123

(D) An applicant for an initial general real estate appraiser 54124
or residential real estate appraiser certificate or residential 54125
real estate appraiser license shall take and successfully complete 54126
a written examination in order to qualify for the certificate or 54127
license. 54128

The board shall prescribe the examination requirements by 54129
rule. 54130

(E)(1) A nonresident, natural person of this state who has 54131
complied with this section may obtain a certificate, registration, 54132
or license. The board shall adopt rules relating to the 54133
certification, registration, and licensure of a nonresident 54134
applicant whose state of residence the board determines to have 54135
certification, registration, or licensure requirements that are 54136
substantially similar to those set forth in this chapter and the 54137
rules adopted thereunder. 54138

(2) The board shall recognize on a temporary basis a 54139
certification or license issued in another state and shall 54140
register on a temporary basis an appraiser who is certified or 54141
licensed in another state if all of the following apply: 54142

(a) The temporary registration is to perform an appraisal 54143
assignment that is part of a federally related transaction. 54144

(b) The appraiser's business in this state is of a temporary 54145
nature. 54146

(c) The appraiser registers with the board pursuant to this 54147
division. 54148

An appraiser who is certified or licensed in another state 54149
shall register with the board for temporary practice before 54150
performing an appraisal assignment in this state in connection 54151
with a federally related transaction. 54152

The board shall adopt rules relating to registration for the 54153
temporary recognition of certification and licensure of appraisers 54154
from another state. The registration for temporary recognition of 54155
certified or licensed appraisers from another state shall not 54156
authorize completion of more than one appraisal assignment in this 54157
state. The board shall not issue more than two registrations for 54158
temporary practice to any one applicant in any calendar year. 54159

(3) In addition to any other information required to be 54160
submitted with the nonresident applicant's or appraiser's 54161
application for a certificate, registration, license, or temporary 54162
recognition of a certificate or license, each nonresident 54163
applicant or appraiser shall submit a statement consenting to the 54164
service of process upon the nonresident applicant or appraiser by 54165
means of delivering that process to the secretary of state if, in 54166
an action against the applicant, certificate holder, registrant, 54167
or licensee arising from the applicant's, certificate holder's, 54168
registrant's, or licensee's activities as a certificate holder, 54169
registrant, or licensee, the plaintiff, in the exercise of due 54170
diligence, cannot effect personal service upon the applicant, 54171
certificate holder, registrant, or licensee. 54172

(F) The superintendent shall not issue a certificate, 54173
registration, or license to, or recognize on a temporary basis an 54174
appraiser from another state that is a corporation, partnership, 54175
or association. This prohibition shall not be construed to prevent 54176
a certificate holder or licensee from signing an appraisal report 54177
on behalf of a corporation, partnership, or association. 54178

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the

applicant will commit such an offense again. 54211

Sec. 4765.07. (A) The state board of emergency medical 54212
services shall adopt rules under section 4765.11 of the Revised 54213
Code to establish and administer a grant program under which 54214
grants are distributed according to the following priorities: 54215

(1) First priority shall be given to emergency medical 54216
service organizations for the training of personnel, for the 54217
purchase of equipment and vehicles, and to improve the 54218
availability, accessibility, and quality of emergency medical 54219
services in this state. In this category, the board shall give 54220
priority to grants that fund training and equipping of emergency 54221
medical service personnel. 54222

(2) Second priority shall be given to entities that research, 54223
test, and evaluate medical procedures and systems related to adult 54224
and pediatric trauma care. 54225

(3) Third priority shall be given to entities that research 54226
the causes, nature, and effects of traumatic injuries, educate the 54227
public about injury prevention, and implement, test, and evaluate 54228
injury prevention strategies. 54229

(4) Fourth priority shall be given to entities that research, 54230
test, and evaluate procedures that promote the rehabilitation, 54231
retraining, and reemployment of adult or pediatric trauma victims 54232
and social service support mechanisms for adult or pediatric 54233
trauma victims and their families. 54234

(5) Fifth priority shall be given to entities that conduct 54235
research on, test, or evaluate one or more of the following: 54236

(a) Procedures governing the performance of emergency medical 54237
services in this state; 54238

(b) The training of emergency medical service personnel; 54239

(c) The staffing of emergency medical service organizations. 54240

(6) For grants distributed for the grant award years 54241
occurring not later than the award year ending June 30, 2017, 54242
sixth priority shall be given to entities that operate paramedic 54243
training programs and are seeking national accreditation of the 54244
programs. 54245

(B) To be eligible for a grant distributed pursuant to 54246
division (A)(6) of this section, an applicant for the grant shall 54247
meet all of the following conditions: 54248

(1) Hold a certificate of accreditation issued by the board 54249
under section 4765.17 of the Revised Code to operate a paramedic 54250
training program; 54251

(2) Be seeking initial national accreditation of the program 54252
from an accrediting organization approved by the board; 54253

(3) Apply for the national accreditation on or after February 54254
25, 2010. 54255

(C) The grant program shall be funded from the trauma and 54256
emergency medical services ~~grants~~ fund created by section 4513.263 54257
of the Revised Code. 54258

Sec. 4773.08. The ~~public~~ director of health ~~council~~ shall 54259
adopt rules to implement and administer this chapter. In adopting 54260
the rules, the ~~council~~ director shall consider any recommendations 54261
made by the radiation advisory council created under section 54262
3701.93 of the Revised Code. The rules shall be adopted in 54263
accordance with Chapter 119. of the Revised Code and shall not be 54264
less stringent than any applicable standards specified in 42 54265
C.F.R. 75. The rules shall establish all of the following: 54266

(A) Standards for licensing general x-ray machine operators, 54267
radiographers, radiation therapy technologists, and nuclear 54268
medicine technologists; 54269

(B) Application and renewal fees for licenses issued under 54270

| | |
|--|---|
| this chapter that do not exceed the cost incurred in issuing and renewing the licenses; | 54271 54272 |
| (C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology; | 54273 54274 54275 54276 |
| (D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs; | 54277 54278 54279 54280 54281 |
| (E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses; | 54282 54283 54284 |
| (F) Continuing education requirements that must be met to have a license renewed under section 4773.03 of the Revised Code; | 54285 54286 |
| (G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code; | 54287 54288 54289 |
| (H) Any other rules necessary for the implementation or administration of this chapter. | 54290 54291 |
| Sec. 4781.01. As used in this chapter: | 54292 |
| (A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code. | 54293 54294 |
| (B) "Installation" means any of the following: | 54295 |
| (1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing; | 54296 54297 |
| (2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system; | 54298 54299 |

(3) The supporting, blocking, leveling, securing, anchoring, 54300
underpinning, or adjusting of any section or component of a 54301
manufactured housing unit; 54302

(4) The joining or connecting of all sections or components 54303
of a manufactured housing unit. 54304

(C) "Manufactured home" has the same meaning as in division 54305
(C)(4) of section 3781.06 of the Revised Code. 54306

(D) "Manufactured home park" ~~has the same meaning as in~~ 54307
~~division (A) of section 3733.01 of the Revised Code~~ means any 54308
tract of land upon which three or more manufactured or mobile 54309
homes used for habitation are parked, either free of charge or for 54310
revenue purposes, and includes any roadway, building, structure, 54311
vehicle, or enclosure used or intended for use as a part of the 54312
facilities of the park. "Manufactured home park" does not include 54313
any of the following: 54314

(1) A tract of land used solely for the storage or display 54315
for sale of manufactured or mobile homes or solely as a temporary 54316
park-camp as defined in section 3729.01 of the Revised Code; 54317

(2) A tract of land that is subdivided and the individual 54318
lots are for sale or sold for the purpose of installation of 54319
manufactured or mobile homes used for habitation and the roadways 54320
are dedicated to the local government authority; 54321

(3) A tract of land within an area that is subject to local 54322
zoning authority and subdivision requirements and is subdivided, 54323
and the individual lots are for sale or sold for the purpose of 54324
installation of manufactured or mobile homes for habitation. 54325

(E) "Manufactured housing" means manufactured homes and 54326
mobile homes. 54327

(F) "Manufactured housing installer" means an individual who 54328
installs manufactured housing. 54329

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code. 54330
54331

(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404. 54332
54333

(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code. 54334
54335

(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect. 54336
54337
54338

(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence. 54339
54340
54341
54342
54343

(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business. 54344
54345
54346
54347
54348
54349
54350

(M) "Manufactured home park operator" ~~has the same meaning as "operator" in section 3733.01 of the Revised Code~~ or "park operator" means the person who has responsible charge of a manufactured home park and who is licensed under sections 4781.26 to 4781.35 of the Revised Code. 54351
54352
54353
54354
54355

(N) "Manufactured housing broker" means any person acting as a selling agent on behalf of an owner of a manufactured home or mobile home that is subject to taxation under section 4503.06 of the Revised Code. 54356
54357
54358
54359

(O) "Manufactured housing dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(P) "Manufacturer" means a person who manufactures, assembles, or imports manufactured homes or mobile homes.

(Q) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a manufactured home or mobile home to an ultimate purchaser for use as a residence.

(R) "Salesperson" means any individual employed by a manufactured housing dealer or manufactured housing broker to sell, display, and offer for sale, or deal in manufactured homes or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a 54391
manufactured home park and the grounds, areas, and facilities 54392
contained within the manufactured home park for the use of 54393
residents generally or the use of which is promised to a resident. 54394

(X) "Rental agreement" means any agreement or lease, written 54395
or oral, that establishes or modifies the terms, conditions, 54396
rules, or any other provisions concerning the use and occupancy of 54397
residential premises by one of the parties. 54398

(Y) "Security deposit" means any deposit of money or property 54399
to secure performance by the resident under a rental agreement. 54400

(Z) "Development" means any artificial change to improved or 54401
unimproved real estate, including, without limitation, buildings 54402
or structures, dredging, filling, grading, paving, excavation or 54403
drilling operations, or storage of equipment or materials, and the 54404
construction, expansion, or substantial alteration of a 54405
manufactured home park, for which plan review is required under 54406
division (A) of section 4781.31 of the Revised Code. "Development" 54407
does not include the building, construction, erection, or 54408
manufacture of any building to which section 3781.06 of the 54409
Revised Code is applicable. 54410

(AA) "Flood" or "flooding" means either of the following: 54411

(1) A general and temporary condition of partial or complete 54412
inundation of normally dry land areas from any of the following: 54413

(a) The overflow of inland or tidal waters; 54414

(b) The unusual and rapid accumulation or runoff of surface 54415
waters from any source; 54416

(c) Mudslides that are proximately caused by flooding as 54417
defined in division (AA)(1)(b) of this section and that are akin 54418
to a river of liquid and flowing mud on the surface of normally 54419
dry land areas, as when earth is carried by a current of water and 54420

deposited along the path of the current. 54421

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (AA)(1)(a) of this section. 54422
54423
54424
54425
54426
54427
54428
54429
54430

(BB) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water. 54431
54432
54433

(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. 54434
54435

(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood. 54436
54437

(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state. 54438
54439
54440
54441

(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred. 54442
54443
54444
54445
54446
54447

(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home 54448
54449
54450
54451

parks located within a one-hundred-year flood plain, 54452
"substantially alter" also includes changes in elevation resulting 54453
from the addition of fill, grading, or excavation that may affect 54454
flood plain management. 54455

(HH) "Tract" means a contiguous area of land that consists of 54456
one or more parcels, lots, or sites that have been separately 54457
surveyed regardless of whether the individual parcels, lots, or 54458
sites have been recorded and regardless of whether the one or more 54459
parcels, lots, or sites are under common or different ownership. 54460

Sec. 4781.02. (A) There is hereby created the manufactured 54461
homes commission which consists of nine members, with three 54462
members appointed by the governor, three members appointed by the 54463
president of the senate, and three members appointed by the 54464
speaker of the house of representatives. 54465

(B)(1) Commission members shall be residents of this state, 54466
except for members appointed pursuant to divisions (B)(3)(b) and 54467
(B)(4)(a) of this section. Members shall be selected from a list 54468
of persons the Ohio manufactured homes association, or any 54469
successor entity, recommends, except for appointments made 54470
pursuant to division (B)(2) of this section. 54471

(2) The governor shall appoint the following members: 54472

(a) One member to represent the board of building standards, 54473
who may be a member of the board or a board employee not in the 54474
classified civil service, with an initial term ending December 31, 54475
2007; 54476

(b) ~~One member to represent the department of health, who may~~ 54477
~~be a department employee not in the classified civil service, with~~ 54478
~~an initial term ending December 31, 2005~~ who is registered as a 54479
sanitarian in accordance with Chapter 4736. of the Revised Code, 54480
has experience with the regulation of manufactured homes, and is 54481

an employee of a health district described in section 3709.01 of 54482
the Revised Code; 54483

(c) One member whose primary residence is a manufactured 54484
home, with an initial term ending December 31, 2006. 54485

(3) The president of the senate shall appoint the following 54486
members: 54487

(a) Two members who are manufactured housing installers who 54488
have been actively engaged in the installation of manufactured 54489
housing for the five years immediately prior to appointment, with 54490
the initial term of one installer ending December 31, 2007, and 54491
the initial term of the other installer ending December 31, 2005. 54492

(b) One member who manufactures manufactured homes in this 54493
state or who manufactures manufactured homes in another state and 54494
ships homes into this state, to represent manufactured home 54495
manufacturers, with an initial term ending December 31, 2006. 54496

(4) The speaker of the house of representatives shall appoint 54497
the following members: 54498

(a) One member who operates a manufactured or mobile home 54499
retail business in this state to represent manufactured housing 54500
dealers, with an initial term ending December 31, 2007; 54501

(b) One member who is a manufactured home park operator or is 54502
employed by an operator, with an initial term ending December 31, 54503
2005; 54504

(c) One member to represent the Ohio manufactured home 54505
association, or any successor entity, who may be the president or 54506
executive director of the association or the successor entity, 54507
with an initial term ending December 31, 2006. 54508

(C)(1) After the initial term, each term of office is for 54509
four years ending on the thirty-first day of December. A member 54510
holds office from the date of appointment until the end of the 54511

term. No member may serve more than two consecutive four-year terms. 54512
54513

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first. 54514
54515
54516
54517
54518

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers. 54519
54520
54521

(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office. 54522
54523
54524

(2) Vacancies shall be filled in the manner of the original appointment. 54525
54526

Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following: 54527
54528
54529

(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of manufactured housing or amends those standards, the commission shall amend its standards as necessary to be consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary adopts or any manufacturers' standards that the secretary determines are equal to or not less stringent than the model standards. 54530
54531
54532
54533
54534
54535
54536
54537
54538
54539

(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the commission, any building 54540
54541

department or personnel of any department, ~~any licensor or~~ 54542
~~personnel of any licensor,~~ or any private third party, certified 54543
pursuant to section 4781.07 of the Revised Code shall conduct all 54544
inspections of the installation of manufactured housing located in 54545
manufactured home parks to determine compliance with the uniform 54546
installation standards the commission establishes pursuant to this 54547
section. 54548

~~As used in division (A)(2) of this section, "licensor" has~~ 54549
~~the same meaning as in section 3733.01 of the Revised Code.~~ 54550

(3) Govern the design, construction, installation, approval, 54551
and inspection of foundations and the base support systems for 54552
manufactured housing. The rules shall specify that the commission, 54553
any building department or personnel of any department, ~~any~~ 54554
~~licensor or personnel of any licensor,~~ or any private third party, 54555
certified pursuant to section 4781.07 of the Revised Code shall 54556
conduct all inspections of the installation, foundations, and base 54557
support systems of manufactured housing located in manufactured 54558
home parks to determine compliance with the uniform installation 54559
standards and foundation and base support system design the 54560
commission establishes pursuant to this section. 54561

~~As used in division (A)(3) of this section, "licensor" has~~ 54562
~~the same meaning as in section 3733.01 of the Revised Code.~~ 54563

(4) Govern the training, experience, and education 54564
requirements for manufactured housing installers, manufactured 54565
housing dealers, manufactured housing brokers, and manufactured 54566
housing salespersons; 54567

(5) Establish a code of ethics for manufactured housing 54568
installers; 54569

(6) Govern the issuance, revocation, and suspension of 54570
licenses to manufactured housing installers; 54571

(7) Establish fees for the issuance and renewal of licenses, 54572

for conducting inspections to determine an applicant's compliance 54573
with this chapter and the rules adopted pursuant to it, and for 54574
the commission's expenses incurred in implementing this chapter; 54575

(8) Establish conditions under which a licensee may enter 54576
into contracts to fulfill the licensee's responsibilities; 54577

(9) Govern the investigation of complaints concerning any 54578
violation of this chapter or the rules adopted pursuant to it or 54579
complaints involving the conduct of any licensed manufactured 54580
housing installer or person installing manufactured housing 54581
without a license, licensed manufactured housing dealer, licensed 54582
manufactured housing broker, or manufactured housing salesperson; 54583

(10) Establish a dispute resolution program for the timely 54584
resolution of warranty issues involving new manufactured homes, 54585
disputes regarding responsibility for the correction or repair of 54586
defects in manufactured housing, and the installation of 54587
manufactured housing. The rules shall provide for the timely 54588
resolution of disputes between manufacturers, manufactured housing 54589
dealers, and installers regarding the correction or repair of 54590
defects in manufactured housing that are reported by the purchaser 54591
of the home during the one-year period beginning on the date of 54592
installation of the home. The rules also shall provide that 54593
decisions made regarding the dispute under the program are not 54594
binding upon the purchaser of the home or the other parties 54595
involved in the dispute unless the purchaser so agrees in a 54596
written acknowledgement that the purchaser signs and delivers to 54597
the program within ten business days after the decision is issued. 54598

(11) Establish the requirements and procedures for the 54599
certification of building departments and building department 54600
personnel pursuant to section 4781.07 of the Revised Code; 54601

(12) Establish fees to be charged to building departments and 54602
building department personnel applying for certification and 54603

| | |
|--|---|
| renewal of certification pursuant to section 4781.07 of the Revised Code; | 54604 54605 |
| <u>(13) Develop a policy regarding the maintenance of records for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code.</u> | 54606 54607 54608 54609 54610 |
| <u>(14) Carry out any other provision of this chapter.</u> | 54611 |
| (B) The manufactured homes commission shall do all of the following: | 54612 54613 |
| (1) Prepare and administer a licensure examination to determine an applicant's knowledge of manufactured housing installation and other aspects of installation the commission determines appropriate; | 54614 54615 54616 54617 |
| (2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination; | 54618 54619 54620 |
| (3) Prepare and distribute any application form this chapter requires; | 54621 54622 |
| (4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants; | 54623 54624 |
| (5) Establish procedures for processing, approving, and disapproving applications for licensure; | 54625 54626 |
| (6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application; | 54627 54628 54629 |
| (7) Review the design and plans for manufactured housing installations, foundations, and support systems; | 54630 54631 |
| (8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of | 54632 54633 |

manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts; 54634
54635
54636

(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson; 54637
54638
54639
54640

(10) Determine appropriate disciplinary actions for violations of this chapter; 54641
54642

(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours. 54643
54644
54645
54646
54647
54648

(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity; 54649
54650
54651

(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it. 54652
54653

(C) Nothing in this section shall be construed to limit the authority of a board of health to enforce section 3701.344 or Chapters 3703., 3718., and 3781. of the Revised Code. 54654
54655
54656

Sec. 4781.07. (A) Pursuant to rules the manufactured homes commission adopts, the commission may certify municipal, township, and county building departments and the personnel of those departments, ~~licensors as defined in section 3733.01 of the Revised Code and the personnel of those licensors,~~ or any private third party, to exercise the commission's enforcement authority, accept and approve plans and specifications for foundations, 54657
54658
54659
54660
54661
54662
54663

support systems and installations, and inspect manufactured 54664
housing foundations, support systems, and manufactured housing 54665
installations. Any certification is effective for three years. 54666

(B) Following an investigation and finding of facts that 54667
support its action, the commission may revoke or suspend 54668
certification. The commission may initiate an investigation on its 54669
own motion or the petition of a person affected by the enforcement 54670
or approval of plans. 54671

Sec. 4781.09. (A) The manufactured homes commission may deny, 54672
suspend, revoke, or refuse to renew the license of any 54673
manufactured home installer for any of the following reasons: 54674

(1) Failure to satisfy the requirements of section 4781.08 or 54675
4781.10 of the Revised Code; 54676

(2) Violation of this chapter or any rule adopted pursuant to 54677
it; 54678

(3) Making a material misstatement in an application for a 54679
license; 54680

(4) Installing manufactured housing without a license or 54681
without being under the supervision of a licensed manufactured 54682
housing installer; 54683

(5) Failure to appear for a hearing before the commission or 54684
to comply with any final adjudication order of the commission 54685
issued pursuant to this chapter; 54686

(6) Conviction of a felony or a crime involving moral 54687
turpitude; 54688

(7) Having had a license revoked, suspended, or denied by the 54689
commission during the preceding two years; 54690

(8) Having had a license revoked, suspended, or denied by 54691
another state or jurisdiction during the preceding two years; 54692

(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state. 54693
54694

(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor. 54695
54696
54697

(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code. 54698
54699
54700
54701
54702
54703

(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code. 54704
54705
54706

~~(C) As an alternative to suspending, revoking, or refusing to renew a manufactured housing installer's license, the commission may impose a civil penalty of not less than one hundred dollars or more than five hundred dollars per violation of this chapter or any rule adopted pursuant to it. The commission shall deposit penalties in the occupational licensing and regulatory fund pursuant to section 4743.05 of the Revised Code.~~ 54707
54708
54709
54710
54711
54712
54713

~~(D)~~ A person whose license is suspended, revoked, or not renewed may apply for a new license two years after the date on which the license was suspended, revoked, or not renewed. 54714
54715
54716

Sec. 4781.121. (A) The manufactured homes commission, pursuant to section 4781.04 of the Revised Code, may investigate any person who allegedly has committed a violation. If, after an investigation the commission determines that reasonable evidence exists that a person has committed a violation, within seven days after that determination, the commission shall send a written 54717
54718
54719
54720
54721
54722

notice to that person in the same manner as prescribed in section 54723
119.07 of the Revised Code for licensees, except that the notice 54724
shall specify that a hearing will be held and specify the date, 54725
time, and place of the hearing. 54726

(B) The commission shall hold a hearing regarding the alleged 54727
violation in the same manner prescribed for an adjudication 54728
hearing under section 119.09 of the Revised Code. If the 54729
commission, after the hearing, determines that a violation has 54730
occurred, the commission, upon an affirmative vote of five of its 54731
members, may impose a fine not exceeding one thousand dollars per 54732
violation per day. The commission's determination is an order that 54733
the person may appeal in accordance with section 119.12 of the 54734
Revised Code. 54735

(C) If the person who allegedly committed a violation fails 54736
to appear for a hearing, the commission may request the court of 54737
common pleas of the county where the alleged violation occurred to 54738
compel the person to appear before the commission for a hearing. 54739

(D) If the commission assesses a person a civil penalty for a 54740
violation and the person fails to pay that civil penalty within 54741
the time period prescribed by the commission pursuant to section 54742
131.02 of the Revised Code, the commission shall forward to the 54743
attorney general the name of the person and the amount of the 54744
civil penalty for the purpose of collecting that civil penalty. In 54745
addition to the civil penalty assessed pursuant to this section, 54746
the person also shall pay any fee assessed by the attorney general 54747
for collection of the civil penalty. 54748

(E) The authority provided to the commission pursuant to this 54749
section, and any fine imposed under this section, shall be in 54750
addition to, and not in lieu of, all penalties and other remedies 54751
provided in this chapter. Any fines collected pursuant to this 54752
section shall be used solely to administer and enforce this 54753
chapter and rules adopted under it. Any fees collected pursuant to 54754

this section shall be transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and the rules adopted thereunder. The fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder.

(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant to section 4781.04, of the Revised Code.

Sec. 4781.14. (A) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the state, through the~~ The manufactured homes commission, has exclusive authority to regulate manufactured home installers, the installation of manufactured housing, and manufactured housing foundations and support systems in ~~the~~ this state. By enacting this chapter, it is the intent of the general assembly to preempt municipal corporations and other political subdivisions from regulating and licensing manufactured housing installers and regulating and inspecting the installation of manufactured housing and manufactured housing foundations and support systems.

(B) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The manufactured homes commission has exclusive power to adopt rules of uniform application throughout the state governing installation of manufactured housing, the inspection of manufactured housing foundations and support systems, the inspection of the installation of manufactured housing, the training and licensing of manufactured housing installers, and the investigation of complaints concerning manufactured housing installers.

(C) ~~Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The rules the commission adopts pursuant

to this chapter are the exclusive rules governing the installation 54786
of manufactured housing, the design, construction, and approval of 54787
foundations for manufactured housing, the licensure of 54788
manufactured home installers, and the fees charged for licensure 54789
of manufactured home installers. No political subdivision of the 54790
state or any department or agency of the state may establish any 54791
other standards governing the installation of manufactured 54792
housing, manufactured housing foundations and support systems, the 54793
licensure of manufactured housing installers, or fees charged for 54794
the licensure of manufactured housing installers. 54795

(D) Nothing in this section limits the authority of the 54796
attorney general to enforce Chapter 1345. of the Revised Code or 54797
to take any action permitted by the Revised Code against 54798
manufactured housing installers, retailers, or manufacturers. 54799

Sec. 4781.15. The remedies provided in sections 4781.01 to 54800
4781.14 of the Revised Code this chapter are in addition to 54801
remedies otherwise available for the same conduct under state or 54802
local law. 54803

Sec. 4781.16. (A) Except as provided in division (E) of this 54804
section, no person shall do any of the following: 54805

(1) Engage in the business of displaying or selling at retail 54806
manufactured homes or mobile homes or assume to engage in that 54807
business, unless the person is licensed as a manufactured housing 54808
dealer under this chapter, or is a salesperson licensed under this 54809
chapter and employed by a licensed manufactured housing dealer; 54810

(2) Make more than five casual sales of manufactured homes or 54811
mobile homes in a twelve-month period without obtaining a license 54812
as a manufactured housing dealer under this chapter; 54813

(3) Purchase a manufactured home directly from the 54814
manufacturer without obtaining a license as a manufactured housing 54815

| | |
|--|-------|
| <u>dealer under this chapter;</u> | 54816 |
| <u>(4) Engage in the business of brokering manufactured homes</u> | 54817 |
| unless that person is licensed as a manufactured housing broker | 54818 |
| under this chapter <u>or licensed as a real estate broker or</u> | 54819 |
| <u>salesperson pursuant to Chapter 4735. of the Revised Code.</u> | 54820 |
| (B)(1) Except as provided in this division, no manufactured | 54821 |
| housing dealer shall sell, display, offer for sale, or deal in | 54822 |
| manufactured homes or mobile homes at any place except an | 54823 |
| established place of business that is used exclusively for the | 54824 |
| purpose of selling, displaying, offering for sale, or dealing in | 54825 |
| manufactured homes or mobile homes. | 54826 |
| (2) No manufactured housing broker shall engage in the | 54827 |
| business of brokering manufactured or mobile homes at any place | 54828 |
| except an established place of business that is used exclusively | 54829 |
| for the purpose of brokering manufactured and mobile homes. | 54830 |
| (3) A place of business used for the brokering or sale of | 54831 |
| manufactured homes or mobile homes is considered to be used | 54832 |
| exclusively for brokering, selling, displaying, offering for sale, | 54833 |
| or dealing in manufactured or mobile homes even though | 54834 |
| industrialized units, as defined by section 3781.06 of the Revised | 54835 |
| Code, are brokered, sold, displayed, offered for sale, or dealt at | 54836 |
| the same place of business. | 54837 |
| (4) If the licensed manufactured housing dealer is a | 54838 |
| manufactured home park operator, then all of the following apply: | 54839 |
| (a) An established place of business that is located in the | 54840 |
| operator's manufactured home park and that is used for selling, | 54841 |
| leasing, and renting manufactured homes and mobile homes in that | 54842 |
| manufactured home park is considered to be used exclusively for | 54843 |
| that purpose even though rent and other activities related to the | 54844 |
| operation of the manufactured home park take place at the same | 54845 |
| location or office. | 54846 |

(b) The dealer's established place of business in the 54847
manufactured home park shall be staffed by someone licensed and 54848
regulated under this chapter who could reasonably assist any 54849
retail customer with or without an appointment, but such 54850
established place of business need not satisfy office size, 54851
display lot size, and physical barrier requirements applicable to 54852
other used motor vehicle dealers. 54853

(c) The manufactured and mobile homes being offered for sale, 54854
lease, or rental by the dealer may be located on individual rental 54855
lots inside the operator's manufactured home park. 54856

(C) Nothing in this chapter shall be construed as prohibiting 54857
the sale of a new or used manufactured or mobile home located in a 54858
manufactured home park by a licensed manufactured housing dealer. 54859

(D) Nothing in this section shall be construed to prohibit 54860
persons licensed under this chapter from making sales calls. 54861

(E)(1) This chapter does not apply to mortgagees selling at 54862
retail only those manufactured homes or mobile homes that have 54863
come into their possession by a default in the terms of a mortgage 54864
contract. 54865

(2) When a partnership licensed under this chapter is 54866
dissolved by death, the surviving partners may operate under the 54867
manufactured housing dealer license for a period of sixty days, 54868
and the heirs or representatives of deceased persons and receivers 54869
or trustees in bankruptcy appointed by any competent authority may 54870
operate under the license of the person succeeded in possession by 54871
that heir, representative, receiver, or trustee in bankruptcy. 54872

Sec. ~~3733.02~~ 4781.26. (A)(1) The ~~public health council~~ 54873
manufactured homes commission, subject to Chapter 119. of the 54874
Revised Code, shall adopt, and has the exclusive power to adopt, 54875
rules of uniform application throughout the state governing the 54876

review of plans, issuance of flood plain management permits, and 54877
issuance of licenses for manufactured home parks; the location, 54878
layout, density, construction, drainage, sanitation, safety, and 54879
operation of those parks; and notices of flood events concerning, 54880
and flood protection at, those parks. The rules pertaining to 54881
flood plain management shall be consistent with and not less 54882
stringent than the flood plain management criteria of the national 54883
flood insurance program adopted under the "National Flood 54884
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 54885
amended. The rules shall not apply to the construction, erection, 54886
or manufacture of any building to which section 3781.06 of the 54887
Revised Code is applicable. 54888

~~(2)~~(B) The rules pertaining to manufactured home parks 54889
constructed after June 30, 1971, shall specify that each home must 54890
be placed on its lot to provide not less than fifteen feet between 54891
the side of one home and the side of another home, ten feet 54892
between the end of one home and the side of another home, and five 54893
feet between the ends of two homes placed end to end. 54894

~~(3)~~(C) The manufactured homes commission shall determine 54895
compliance with the installation, blocking, tiedown, foundation, 54896
and base support system standards for manufactured housing located 54897
in manufactured home parks adopted by the commission pursuant to 54898
section 4781.04 of the Revised Code. All inspections of the 54899
installation, blocking, tiedown, foundation, and base support 54900
systems of manufactured housing in a manufactured home park that 54901
the ~~department of health or a licenser~~ commission conducts shall 54902
be conducted by a person ~~who has completed an installation~~ 54903
~~training course approved by~~ the manufactured homes commission 54904
certifies pursuant to ~~division (B)(12) of section 4781.04~~ 4781.07 54905
of the Revised Code. 54906

~~As used in division (A)(3) of this section, "manufactured~~ 54907
~~housing" has the same meaning as in section 4781.01 of the Revised~~ 54908

Code. 54909

~~(B) The public health council, in accordance with Chapter 54910
119. of the Revised Code, shall adopt rules of uniform application 54911
throughout the state establishing requirements and procedures in 54912
accordance with which the director of health may authorize 54913
licensors for the purposes of sections 3733.022 and 3733.025 of 54914
the Revised Code. The rules shall include at least provisions 54915
under which a licensor may enter into contracts for the purpose of 54916
fulfilling the licensor's responsibilities under either or both of 54917
those sections. 54918~~

(D) The manufactured homes commission may enter into 54919
contracts for the purpose of fulfilling the commission's annual 54920
inspection responsibilities for manufactured home parks under this 54921
chapter. Boards of health of city or general health districts 54922
shall have the right of first refusal for those contracts. 54923

Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of 54924
December, but before the first day of January of the next year, 54925
every person who intends to operate a manufactured home park shall 54926
procure a license to operate the park for the next year from the 54927
~~licensor~~ manufactured homes commission. If the applicable license 54928
fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code 54929
is not received by the ~~licensor~~ commission by the close of 54930
business on the last day of December, the applicant for the 54931
license shall pay a penalty equal to twenty-five per cent of the 54932
applicable license fee. The penalty shall accompany the license 54933
fee. If the last day of December is not a business day, the 54934
penalty attaches upon the close of business on the next business 54935
day. 54936

(2) No manufactured home park shall be maintained or operated 54937
in this state without a license. 54938

(3) No person who has received a license, upon the sale or 54939

disposition of the manufactured home park, may have the license 54940
transferred to the new operator. A person shall obtain a separate 54941
license to operate each manufactured home park. 54942

(B) Before a license is initially issued and annually 54943
thereafter, or more often if necessary, the ~~licensor~~ commission 54944
shall cause each manufactured home park to be inspected ~~relative~~ 54945
~~to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 54946
of the Revised Code and the rules adopted under those sections. A 54947
record shall be made of each inspection on a form prescribed by 54948
the ~~director of health~~ commission. 54949

(C) Each person applying for an initial license to operate a 54950
manufactured home park shall provide acceptable proof to the 54951
~~director~~ commission that adequate fire protection will be provided 54952
and that applicable fire codes will be adhered to in the 54953
construction and operation of the park. 54954

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home~~ 54955
~~park~~ manufactured homes commission may charge a fee for an annual 54956
license to operate ~~such a~~ manufactured home park. The fee for a 54957
license shall be determined in accordance with section ~~3709.09~~ 54958
4781.26 of the Revised Code and shall include the cost of 54959
licensing and all inspections. 54960

~~The fee also shall include any additional amount determined~~ 54961
~~by rule of the public health council, which shall be collected and~~ 54962
~~transmitted by the board of health to the director of health~~ 54963
~~pursuant to section 3709.092 of the Revised Code and used only for~~ 54964
~~the purpose of administering and enforcing sections 3733.01 to~~ 54965
~~3733.08 of the Revised Code and the rules adopted under those~~ 54966
~~sections. The portion of any fee retained by the board of health~~ 54967
Any fees collected shall be paid into a special fund transmitted 54968
to the treasurer of state and shall be credited to the 54969
manufactured homes commission regulatory fund created in section 54970

4781.54 of the Revised Code and used only for the purpose of 54971
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 54972
4781.35 of the Revised Code and the rules adopted thereunder. 54973

Sec. ~~3733.05~~ 4781.29. The ~~licensor of the health district in~~ 54974
~~which a manufactured home park is or is to be located, in~~ 54975
~~accordance with Chapter 119. of the Revised Code, manufactured~~ 54976
homes commission may refuse to grant, may suspend, or may revoke 54977
any license granted to any person for failure to comply with 54978
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 54979
with any rule adopted ~~by the public health council~~ under section 54980
~~3733.02~~ 4781.26 of the Revised Code. 54981

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under 54982
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 54983
any operator shall have the right to rent or use each lot for the 54984
parking or placement of a manufactured home or mobile home to be 54985
used for human habitation without interruption for any period 54986
coextensive with any license or consecutive licenses issued under 54987
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 54988

(B) No operator of a manufactured home park shall sell 54989
individual lots in a park for eight years following the issuance 54990
of the initial license for the park unless, at the time of sale, 54991
the park fulfills all platting and subdivision requirements 54992
established by the political subdivision in which the park is 54993
located, or the political subdivision has entered into an 54994
agreement with the operator regarding platting and subdivision 54995
requirements and the operator has fulfilled the terms of that 54996
agreement. 54997

Sec. ~~3733.07~~ 4781.301. Fees authorized or charged under 54998
sections ~~3733.021, 3733.022~~ 4781.31, 4781.32, and 3733.04 4781.28 54999
of the Revised Code are in lieu of all license and inspection fees 55000

on or with respect to the operation or ownership of manufactured 55001
home parks within this state, except that the licensor may charge 55002
additional reasonable fees for the collection and bacteriological 55003
examination of any necessary water samples taken from any such 55004
park. 55005

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development 55006
to occur within any portion of a manufactured home park until the 55007
plans for the development have been submitted to and reviewed and 55008
approved by the ~~director of health~~ manufactured homes commission. 55009
This division does not require that plans be submitted to the 55010
~~director~~ commission for approval for the replacement of 55011
manufactured or mobile homes on previously approved lots in a 55012
manufactured home park when no development is to occur in 55013
connection with the replacement. Within thirty days after receipt 55014
of the plans, all supporting documents and materials required to 55015
complete the review, and the applicable plan review fee 55016
established under division (D) of this section, the ~~director~~ 55017
commission shall approve or disapprove the plans. 55018

(B) Any person aggrieved by the ~~director's~~ commission's 55019
disapproval of a set of plans under division (A) of this section 55020
may request a hearing on the matter within thirty days after 55021
receipt of the ~~director's~~ commission's notice of the disapproval. 55022
The hearing shall be held in accordance with Chapter 119. of the 55023
Revised Code. Thereafter, the disapproval may be appealed in the 55024
manner provided in section 119.12 of the Revised Code. 55025

(C) The ~~director~~ commission shall establish a system by which 55026
development occurring within a manufactured home park is inspected 55027
or verified in accordance with rules adopted under ~~division (A) of~~ 55028
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 55029
development complies with the plans approved under division (A) of 55030
this section. 55031

(D) The ~~public health council~~ commission shall establish fees 55032
for reviewing plans under division (A) of this section and 55033
conducting inspections under division (C) of this section. 55034

(E) The ~~director~~ commission shall charge the appropriate fees 55035
established under division (D) of this section for reviewing plans 55036
under division (A) of this section and conducting inspections 55037
under division (C) of this section. All such plan review and 55038
inspection fees received by the ~~director~~ commission shall be 55039
transmitted to the treasurer of state and shall be credited to the 55040
~~general operations~~ occupational licensing and regulatory fund 55041
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55042
credited to the fund shall be used only for the purpose of 55043
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 55044
4781.35 of the Revised Code and rules adopted under those 55045
sections. 55046

(F) Plan approvals issued under this section do not 55047
constitute an exemption from the land use and building 55048
requirements of the political subdivision in which the 55049
manufactured home park is or is to be located. 55050

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development 55051
to occur or cause the replacement of a mobile or manufactured home 55052
within any portion of a manufactured home park that is located 55053
within a one-hundred-year flood plain unless the person first 55054
obtains a permit from the ~~director of health or a licenser~~ 55055
~~authorized by the director~~ manufactured homes commission. If the 55056
development for which a permit is required under this division is 55057
to occur on a lot where a mobile or manufactured home is or is to 55058
be located, the owner of the home and the operator of the 55059
manufactured home park shall jointly obtain the permit. Each of 55060
the persons to whom a permit is jointly issued is responsible for 55061
compliance with the provisions of the approved permit that are 55062

applicable to that person. 55063

The ~~director or a licensor authorized by the director~~ 55064
commission shall disapprove an application for a permit required 55065
under this division unless the ~~director or the licensor~~ commission 55066
finds that the proposed development or replacement of a mobile or 55067
manufactured home complies with the rules adopted under ~~division~~ 55068
(A) ~~of section 3733.02~~ 4781.26 of the Revised Code. No permit is 55069
required under this division for the construction, erection, or 55070
manufacture of any building to which section 3781.06 of the 55071
Revised Code applies. 55072

The ~~director or a licensor authorized by the director~~ 55073
commission may suspend or revoke a permit issued under this 55074
division for failure to comply with the rules adopted under 55075
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 55076
pertaining to flood plain management or for failure to comply with 55077
the approved permit. 55078

Any person aggrieved by the disapproval, suspension, or 55079
revocation of a permit under this division by the ~~director or by a~~ 55080
~~licensor authorized by the director~~ commission may request a 55081
hearing on the matter within thirty days after receipt of the 55082
notice of the disapproval, suspension, or revocation. The hearing 55083
shall be held in accordance with Chapter 119. of the Revised Code. 55084
Thereafter, an appeal of the disapproval, suspension, or 55085
revocation may be taken in the manner provided in section 119.12 55086
of the Revised Code. 55087

(B) The ~~public health council~~ commission shall establish fees 55088
for the issuance of permits under division (A) of this section and 55089
for necessary inspections conducted to determine compliance with 55090
those permits. 55091

(C) The ~~director or a licensor authorized by the director~~ 55092
commission shall charge the appropriate fee established under 55093

division (B) of this section for the issuance of a permit under 55094
division (A) of this section or for conducting any necessary 55095
inspection to determine compliance with the permit. If the 55096
~~director~~ commission issues such a permit or conducts such an 55097
inspection, the fee for the permit or inspection shall be 55098
transmitted to the treasurer of state and shall be credited to the 55099
~~general operations~~ occupational licensing and regulatory fund 55100
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55101
credited to the fund shall be used ~~by the director~~ only for the 55102
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 55103
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 55104
sections. ~~If the licensor is a board of health, the permit or~~ 55105
~~inspection fee shall be deposited to the credit of the special~~ 55106
~~fund of the health district created in section 3733.04 of the~~ 55107
~~Revised Code and shall be used only for the purpose set forth in~~ 55108
~~that section.~~ 55109

Sec. ~~3733.024~~ 4781.33. (A) When a flood event affects a 55110
manufactured home park, the operator of the manufactured home 55111
park, in accordance with rules adopted under ~~division (A) of~~ 55112
section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 55113
~~licensor having jurisdiction of the occurrence of~~ manufactured 55114
homes commission and the board of health having jurisdiction where 55115
the flood event occurred within forty-eight hours after the end of 55116
the flood event. The commission, after receiving notification, 55117
shall immediately notify the board of health. 55118

~~No person shall fail to comply with this division.~~ 55119

~~(B) The licensor having jurisdiction where a flood event~~ 55120
~~occurred that affected a manufactured home park shall notify the~~ 55121
~~director of health of the occurrence of the flood event within~~ 55122
~~twenty four hours after being notified of the flood event under~~ 55123
~~division (A) of this section. Within forty eight hours after~~ After 55124

being notified of such a flood event ~~by a licenser, the director~~ 55125
board of health shall cause an inspection to be made of the 55126
manufactured home park named in the notice. The board of health 55127
shall issue a report of the inspection to the commission within 55128
ten days after the inspection is completed. 55129

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 55130
that is located in a flood plain is substantially damaged, the 55131
owner of the home shall make all alterations, repairs, or changes 55132
to the home, and the operator of the manufactured home park shall 55133
make all alterations, repairs, or changes to the lot on which the 55134
home is located, that are necessary to ensure compliance with the 55135
flood plain management rules adopted under ~~division (A) of section~~ 55136
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 55137
changes may include, without limitation, removal of the home or 55138
other structures. 55139

No person shall fail to comply with this division. 55140

(B) No person shall cause to be performed any alteration, 55141
repair, or change required by division (A) of this section unless 55142
the person first obtains a permit from the ~~director of health or a~~ 55143
~~licenser authorized by the director~~ manufactured homes commission. 55144
~~The owner of the home and the operator of the manufactured home~~ 55145
~~park shall jointly obtain the permit required by this division.~~ 55146
~~Each of the persons to whom a permit is jointly issued is~~ 55147
~~responsible for compliance with the provisions of the approved~~ 55148
~~permit that are applicable to that person.~~ 55149

The ~~director or a licenser authorized by the director~~ 55150
commission shall disapprove an application for a permit required 55151
under this division unless the ~~director or the licenser~~ commission 55152
finds that the proposed alteration, repair, or change complies 55153
with the rules adopted under ~~division (A) of section~~ 55154
~~3733.02~~ 4781.26 of the Revised Code. No permit is required under this 55155

division for the construction, erection, or manufacture of any 55156
building to which section 3781.06 of the Revised Code applies. 55157

~~The director or a licensor authorized by the director~~ 55158
commission may suspend or revoke a permit issued under this 55159
division for failure to comply with the rules adopted under 55160
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 55161
pertaining to flood plain management or for failure to comply with 55162
the approved permit for making alterations, repairs, or changes to 55163
the lot on which the manufactured home is located. 55164

Any person aggrieved by the disapproval, suspension, or 55165
revocation of a permit under this division by the ~~director or by a~~ 55166
~~licensor authorized by the director~~ commission may request a 55167
hearing on the matter within thirty days after receipt of the 55168
notice of the disapproval, suspension, or revocation. The hearing 55169
shall be held in accordance with Chapter 119. of the Revised Code. 55170
Thereafter, an appeal of the disapproval, suspension, or 55171
revocation may be taken in the manner provided in section 119.12 55172
of the Revised Code and for necessary inspections conducted to 55173
determine compliance with those permits. 55174

(C) The ~~public health council~~ commission shall establish fees 55175
for the issuance of permits under division (B) of this section and 55176
for necessary inspections conducted to determine compliance with 55177
those permits for making alterations, repairs, or changes to the 55178
lot on which the manufactured home is located. 55179

(D) The ~~director or a licensor authorized by the director~~ 55180
commission shall charge the appropriate fee established under 55181
division (C) of this section for the issuance of a permit under 55182
division (B) of this section or for conducting any necessary 55183
inspection to determine compliance with the permit. If the 55184
~~director~~ commission issues such a permit or conducts such an 55185
inspection, the fee for the permit or inspection shall be 55186
transmitted to the treasurer of state and shall be credited to the 55187

~~general operations~~ occupational licensing and regulatory fund 55188
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55189
credited to the fund shall be used ~~by the director~~ only for the 55190
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 55191
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 55192
sections. ~~If the licenser is a board of health, the permit or~~ 55193
~~inspection fee shall be deposited to the credit of the special~~ 55194
~~fund of the health district created in section 3733.04 of the~~ 55195
~~Revised Code and shall be used only for the purpose set forth in~~ 55196
~~that section.~~ 55197

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 55198
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 55199
rules adopted thereunder. 55200

(B) The prosecuting attorney of the county, the city director 55201
of law, or the attorney general, upon complaint of the ~~licenser or~~ 55202
~~the director of health~~ manufactured homes commission, shall 55203
prosecute to termination or bring an action for injunction against 55204
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 55205
of the Revised Code or the rules adopted thereunder. 55206

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 55207
of the Revised Code, a park operator shall not retaliate against a 55208
resident by increasing the resident's rent, decreasing services 55209
that are due to the resident, refusing to renew or threatening to 55210
refuse to renew the rental agreement with the resident, or 55211
bringing or threatening to bring an action for possession of the 55212
resident's premises because: 55213

(1) The resident has complained to an appropriate 55214
governmental agency of a violation of a building, housing, health, 55215
or safety code that is applicable to the premises, and the 55216
violation materially affects health and safety; 55217

| | |
|---|---|
| (2) The resident has complained to the park operator of any violation of section 3733.10 <u>4781.38</u> of the Revised Code; | 55218 55219 |
| (3) The resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator on any of the terms and conditions of a rental agreement. | 55220 55221 55222 |
| (B) If a park operator acts in violation of division (A) of this section, the resident may: | 55223 55224 |
| (1) Use the retaliatory action of the park operator as a defense to an action by the park operator to recover possession of the premises; | 55225 55226 55227 |
| (2) Recover possession of the premises; | 55228 |
| (3) Terminate the rental agreement. | 55229 |
| In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees. | 55230 55231 |
| (C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises. | 55232 55233 55234 55235 55236 |
| Sec. 3733.091 <u>4781.37</u>. (A) Notwithstanding section 3733.09 <u>4781.36</u> of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies: | 55237 55238 55239 55240 |
| (1) The resident is in default in the payment of rent. | 55241 |
| (2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident. | 55242 55243 55244 55245 55246 |

| | |
|--|---|
| (3) The resident is holding over the resident's term. | 55247 |
| (4) The resident is in violation of rules of the public health council <u>manufactured homes commission</u> adopted pursuant to section 3733.02 <u>4781.26</u> of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the public health council <u>commission</u> . | 55248 55249 55250 55251 55252 |
| (5) The resident has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of the action, and the resident's manufactured home, mobile home, or recreational vehicle parked in the manufactured home park has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement. | 55253 55254 55255 55256 55257 55258 55259 |
| (B) The maintenance of an action by the park operator under this section does not prevent the resident from recovering damages for any violation by the park operator of the rental agreement or of section 3733.10 <u>4781.38</u> of the Revised Code. | 55260 55261 55262 55263 |
| Sec. 3733.10 <u>4781.38</u>. (A) A park operator who is a party to a rental agreement shall: | 55264 55265 |
| (1) Comply with the requirements of all applicable building, housing, health, and safety codes which materially affect health and safety, and <u>comply with</u> rules of the public health council <u>manufactured homes commission</u> ; | 55266 55267 55268 55269 |
| (2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition; | 55270 55271 |
| (3) Keep all common areas of the premises in a safe and sanitary condition; | 55272 55273 |
| (4) Maintain in good and safe working order and condition all electrical and plumbing fixtures and appliances, and septic systems, sanitary and storm sewers, refuse receptacles, and well | 55274 55275 55276 |

and water systems that are supplied or required to be supplied by 55277
~~him~~ the park operator; 55278

(5) Not abuse the right of access conferred by division (B) 55279
of section ~~3733.101~~ 4781.39 of the Revised Code; 55280

(6) Except in the case of emergency or if it is impracticable 55281
to do so, give the resident reasonable notice of ~~his~~ the park 55282
operator's intent to enter onto the residential premises and enter 55283
only at reasonable times. Twenty-four hours' notice shall be 55284
presumed to be a reasonable notice in the absence of evidence to 55285
the contrary. 55286

(B) If the park operator violates any provision of this 55287
section, makes a lawful entry onto the residential premises in an 55288
unreasonable manner, or makes repeated demands for entry otherwise 55289
lawful which demands have the effect of harassing the resident, 55290
the resident may recover actual damages resulting from the 55291
violation, entry, or demands and injunctive relief to prevent the 55292
recurrence of the conduct, and if ~~he~~ the resident obtains a 55293
judgment, reasonable attorneys' fees, or terminate the rental 55294
agreement. 55295

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a 55296
rental agreement shall: 55297

(1) Keep that part of the premises that the resident occupies 55298
and uses safe and sanitary; 55299

(2) Dispose of all rubbish, garbage, and other waste in a 55300
clean, safe, and sanitary manner; 55301

(3) Comply with the requirements imposed on residents by all 55302
applicable state and local housing, health, and safety codes, 55303
rules of the ~~public health council~~ manufactured homes commission, 55304
and rules of the manufactured home park; 55305

(4) Personally refrain, and forbid any other person who is on 55306

the premises with the resident's permission, from intentionally or 55307
negligently destroying, defacing, damaging, or removing any 55308
fixture, appliance, or other part of the residential premises; 55309

(5) Conduct self and require other persons on the premises 55310
with the resident's consent to conduct themselves in a manner that 55311
will not disturb the resident's neighbors' peaceful enjoyment of 55312
the manufactured home park. 55313

(B) The resident shall not unreasonably withhold consent for 55314
the park operator to enter the home to inspect utility 55315
connections, or enter onto the premises in order to inspect the 55316
premises, make ordinary, necessary, or agreed repairs, 55317
decorations, alterations, or improvements, deliver parcels which 55318
are too large for the resident's mail facilities, or supply 55319
necessary or agreed services. 55320

(C) If the resident violates any provision of this section, 55321
the park operator may recover any actual damages which result from 55322
the violation and reasonable attorneys' fees. This remedy is in 55323
addition to any right of the park operator to terminate the rental 55324
agreement, to maintain an action for the possession of the 55325
premises, or injunctive relief to compel access under division (B) 55326
of this section. 55327

Sec. ~~3733.11~~ 4781.40. (A)(1) The park operator shall offer 55328
each home owner a written rental agreement for a manufactured home 55329
park lot for a term of one year or more that contains terms 55330
essentially the same as any alternative month-to-month rental 55331
agreement offered to current and prospective tenants and owners. 55332
The park operator shall offer the minimum one-year rental 55333
agreement to the owner prior to installation of the home in the 55334
manufactured home park or, if the home is in the manufactured home 55335
park, prior to the expiration of the owner's existing rental 55336
agreement. 55337

(2) The park operator shall deliver the offer to the owner by certified mail, return receipt requested, or in person. If the park operator delivers the offer to the owner in person, the owner shall complete a return showing receipt of the offer. If the owner does not accept the offer, the park operator is discharged from any obligation to make any further such offers. If the owner accepts the offer, the park operator shall, at the expiration of each successive rental agreement, offer the owner another rental agreement, for a term that is mutually agreed upon, and that contains terms essentially the same as the alternative month-to-month agreement. The park operator shall deliver subsequent rental offers by ordinary mail or personal delivery. If the park operator sells the manufactured home park to another manufactured home park operator, the purchaser is bound by the rental agreements entered into by the purchaser's predecessor.

(3) If the park operator sells the manufactured home park for a use other than as a manufactured home park, the park operator shall give each tenant and owner a written notification by certified mail, return receipt requested, or by handing it to the tenant or owner in person. If the park operator delivers the notification in person, the recipient shall complete a return showing receipt of the notification. This notification shall contain notice of the sale of the manufactured home park, and notice of the date by which the tenant or owner shall vacate. The date by which the tenant shall vacate shall be at least one hundred twenty days after receipt of the written notification, and the date by which the owner shall vacate shall be at least one hundred eighty days after receipt of the written notification.

(B) A park operator shall fully disclose in writing all fees, charges, assessments, including rental fees, and rules prior to a tenant or owner executing a rental agreement and assuming occupancy in the manufactured home park. No fees, charges,

assessments, or rental fees so disclosed may be increased nor 55370
rules changed by a park operator without specifying the date of 55371
implementation of the changed fees, charges, assessments, rental 55372
fees, or rules, which date shall be not less than thirty days 55373
after written notice of the change and its effective date to all 55374
tenants or owners in the manufactured home park, and no fee, 55375
charge, assessment, or rental fee shall be increased during the 55376
term of any tenant's or owner's rental agreement. Failure on the 55377
part of the park operator to fully disclose all fees, charges, or 55378
assessments shall prevent the park operator from collecting the 55379
undisclosed fees, charges, or assessments. If a tenant or owner 55380
refuses to pay any undisclosed fees, charges, or assessments, the 55381
refusal shall not be used by the park operator as a cause for 55382
eviction in any court. 55383

(C) A park operator shall promulgate rules governing the 55384
rental or occupancy of a lot in the manufactured home park. The 55385
rules shall not be unreasonable, arbitrary, or capricious. A copy 55386
of the rules and any amendments to them shall be delivered by the 55387
park operator to the tenant or owner prior to signing the rental 55388
agreement. A copy of the rules and any amendments to them shall be 55389
posted in a conspicuous place upon the manufactured home park 55390
grounds. 55391

(D) No park operator shall require an owner to purchase from 55392
the park operator any personal property. The park operator may 55393
determine by rule the style or quality of skirting, equipment for 55394
tying down homes, manufactured or mobile home accessories, or 55395
other equipment to be purchased by an owner from a vendor of the 55396
owner's choosing, provided that the equipment is readily available 55397
to the owner. Any such equipment shall be installed in accordance 55398
with the manufactured home park rules. 55399

(E) No park operator shall charge any owner who chooses to 55400
install an electric or gas appliance in a home an additional fee 55401

solely on the basis of the installation, unless the installation 55402
is performed by the park operator at the request of the owner, nor 55403
shall the park operator restrict the installation, service, or 55404
maintenance of the appliance, restrict the ingress or egress of 55405
repairpersons to the manufactured home park for the purpose of 55406
installation, service, or maintenance of the appliance, nor 55407
restrict the making of any interior improvement in a home, if the 55408
installation or improvement is in compliance with applicable 55409
building codes and other provisions of law and if adequate utility 55410
services are available for the installation or improvement. 55411

(F) No park operator shall require a tenant to lease or an 55412
owner to purchase a manufactured or mobile home from the park 55413
operator or any specific person as a condition of or prerequisite 55414
to entering into a rental agreement. 55415

(G) No park operator shall require an owner to use the 55416
services of the park operator or any other specific person for 55417
installation of the manufactured or mobile home on the residential 55418
premises or for the performance of any service. 55419

(H) No park operator shall: 55420

(1) Deny any owner the right to sell the owner's manufactured 55421
home within the manufactured home park if the owner gives the park 55422
operator ten days' notice of the intention to sell the home; 55423

(2) Require the owner to remove the home from the 55424
manufactured home park solely on the basis of the sale of the 55425
home; 55426

(3) Unreasonably refuse to enter into a rental agreement with 55427
a purchaser of a home located within the operator's manufactured 55428
home park; 55429

(4) Charge any tenant or owner any fee, charge, or 55430
assessment, including a rental fee, that is not set forth in the 55431
rental agreement or, if the rental agreement is oral, is not set 55432

forth in a written disclosure given to the tenant or owner prior 55433
to the tenant or owner entering into a rental agreement; 55434

(5) Charge any owner any fee, charge, or assessment because 55435
of the transfer of ownership of a home or because a home is moved 55436
out of or into the manufactured home park, except a charge for the 55437
actual costs and expenses that are incurred by the park operator 55438
in moving the home out of or into the manufactured home park, or 55439
in installing the home in the manufactured home park and that have 55440
not been reimbursed by another tenant or owner. 55441

(I) If the park operator violates any provision of divisions 55442
(A) to (H) of this section, the tenant or owner may recover actual 55443
damages resulting from the violation, and, if the tenant or owner 55444
obtains a judgment, reasonable attorneys' fees, or terminate the 55445
rental agreement. 55446

(J) No rental agreement shall require a tenant or owner to 55447
sell, lease, or sublet the tenant's or owner's interest in the 55448
rental agreement or the manufactured or mobile home that is or 55449
will be located on the lot that is the subject of the rental 55450
agreement to any specific person or through any specific person as 55451
the person's agent. 55452

(K) No park operator shall enter into a rental agreement with 55453
the owner of a manufactured or mobile home for the use of 55454
residential premises, if the rental agreement requires the owner 55455
of the home, as a condition to the owner's renting, occupying, or 55456
remaining on the residential premises, to pay the park operator or 55457
any other person specified in the rental agreement a fee or any 55458
sum of money based on the sale of the home, unless the owner of 55459
the home uses the park operator or other person as the owner's 55460
agent in the sale of the home. 55461

(L) A park operator and a tenant or owner may include in a 55462
rental agreement any terms and conditions, including any term 55463

relating to rent, the duration of an agreement, and any other 55464
provisions governing the rights and obligations of the parties 55465
that are not inconsistent with or prohibited by sections 3733.09 55466
to 3733.20 of the Revised Code or any other rule of law. 55467

(M) Notwithstanding any other provision of the Revised Code, 55468
the owner of a manufactured or mobile home ~~that was previously~~ 55469
~~titled by a dealer~~ may utilize the services of a manufactured ~~home~~ 55470
housing dealer or broker licensed under Chapter ~~4517.~~ 4781. of the 55471
Revised Code or a person properly licensed under Chapter 4735. of 55472
the Revised Code to sell or lease the home. 55473

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 55474
any obligation imposed upon ~~him~~ the park operator by section 55475
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 55476
the conditions of the premises are such that the resident 55477
reasonably believes that a park operator has failed to fulfill any 55478
such obligations, or a governmental agency has found that the 55479
premises are not in compliance with building, housing, health, or 55480
safety codes which apply to any condition of the residential 55481
premises that could materially affect the health and safety of an 55482
occupant, the resident may give notice in writing to the park 55483
operator specifying the acts, omissions, or code violations that 55484
constitute noncompliance with such provisions. The notice shall be 55485
sent to the person or place where rent is normally paid. 55486
55487

(B) If a park operator receives the notice described in 55488
division (A) of this section and after receipt of the notice fails 55489
to remedy the condition within a reasonable time, considering the 55490
severity of the condition and the time necessary to remedy such 55491
condition, or within thirty days, whichever is sooner, and if the 55492
resident is current in rent payments due under the rental 55493
agreement, the resident may do one of the following: 55494

(1) Deposit all rent that is due and thereafter becomes due 55495
the park operator with the clerk of court of the municipal or 55496
county court having jurisdiction in the territory in which the 55497
residential premises are located; 55498

(2) Apply to the court for an order directing the park 55499
operator to remedy the condition. As part thereof, the resident 55500
may deposit rent pursuant to division (B)(1) of this section, and 55501
may apply for an order reducing the periodic rent due the park 55502
operator until such time as the park operator does remedy the 55503
condition, and may apply for an order to use the rent deposited to 55504
remedy the condition. In any order issued pursuant to this 55505
division, the court may require the resident to deposit rent with 55506
the clerk of court as provided in division (B)(1) of this section. 55507

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 55508
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 55509
of the Revised Code, the clerk shall give written notice of this 55510
fact to the park operator and to ~~his~~ the park operator's agent, if 55511
any. 55512

(B) The clerk shall place all rent deposited with ~~him~~ the 55513
clerk in a separate rent escrow account in the name of the clerk 55514
in a bank or building and loan association domiciled in this 55515
state. 55516

(C) The clerk shall keep in a separate docket an account of 55517
each deposit, with the name and address of the resident, and the 55518
name and address of the park operator and of ~~his~~ the park 55519
operator's agent, if any. 55520

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 55521
one per cent of the amount of the rent deposited, which shall be 55522
assessed as court costs. 55523

(E) All interest that has accrued on the rent deposited by 55524

the clerk of a county court under division (B) of this section 55525
shall be paid into the treasury of the political subdivision for 55526
which the clerk performs ~~his~~ the clerk's duties. All interest that 55527
has accrued on the rent deposited by the clerk of a municipal 55528
court under division (B) of this section shall be paid into the 55529
city treasury as defined in division (B) of section 1901.03 of the 55530
Revised Code. 55531

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives 55532
notice that rent due ~~him~~ the park operator has been deposited with 55533
a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the 55534
Revised Code, may: 55535

(1) Apply to the clerk of court for release of the rent on 55536
the ground that the condition contained in the notice given 55537
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 55538
Code has been remedied. The clerk shall forthwith release the 55539
rent, less costs, to the park operator if the resident gives 55540
written notice to the clerk that the condition has been remedied. 55541

(2) Apply to the court for release of the rent on the grounds 55542
that the resident did not comply with the notice requirement of 55543
division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or 55544
that the resident was not current in rent payments due under the 55545
rental agreement at the time the resident initiated rent deposits 55546
with the clerk of courts under division (B)(1) of section ~~3733.12~~ 55547
4781.41 of the Revised Code; 55548

(3) Apply to the court for release of the rent on the grounds 55549
that there was no violation of any obligation imposed upon the 55550
park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by 55551
the rental agreement, or by any building, housing, health, or 55552
safety code, or that the condition contained in the notice given 55553
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 55554
Code has been remedied. 55555

(B) The resident shall be named as a party to any action 55556
filed by the park operator under this section, and shall have the 55557
right to file an answer and counterclaim, as in other civil cases. 55558
A trial shall be held within sixty days of the date of filing of 55559
the park operator's complaint, unless for good cause shown the 55560
court grants a continuance. 55561

(C) If the court finds that there was no violation of any 55562
obligation imposed upon the park operator by section ~~3733.10~~ 55563
4781.38 of the Revised Code or by the rental agreement, or by any 55564
building, housing, health, or safety code, or that the condition 55565
contained in the notice given pursuant to division (A) of section 55566
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 55567
resident did not comply with the notice requirement of division 55568
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 55569
resident was not current in rent payments at the time the resident 55570
initiated rent deposits with the clerk of court under division 55571
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 55572
shall order the release to the park operator of rent on deposit 55573
with the clerk, less costs. 55574

(D) If the court finds that the condition contained in the 55575
notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 55576
of the Revised Code was the result of an act or omission of the 55577
resident, or that the resident intentionally acted in bad faith in 55578
proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the 55579
resident shall be liable for damages caused to the park operator, 55580
and for costs, together with reasonable attorneys' fees if the 55581
resident intentionally acted in bad faith. 55582

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an 55583
action for the release of rent deposited with a clerk of court, 55584
the court may, during the pendency of the action, upon application 55585
of the park operator, release part of the rent on deposit for 55586

payment of the periodic interest on a mortgage on the premises, 55587
the periodic principal payments on a mortgage on the premises, the 55588
insurance premiums for the premises, real estate taxes on the 55589
premises, utility services, repairs, and other customary and usual 55590
costs of operating the premises. 55591

(B) In determining whether to release rent for the payments 55592
described in division (A) of this section, the court shall 55593
consider the amount of rent the park operator receives from other 55594
lots, the cost of operating these lots, and the costs which may be 55595
required to remedy the condition contained in the notice given 55596
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 55597
Code. 55598

Sec. ~~3733.13~~ 4781.45. If a resident commits a material 55599
violation of the rules of the manufactured home park, of the 55600
~~public health council~~ manufactured homes commission, or of 55601
applicable state and local health and safety codes, the park 55602
operator may deliver a written notification of the violation to 55603
the resident. The notification shall contain all of the following: 55604

(A) A description of the violation; 55605

(B) A statement that the rental agreement will terminate upon 55606
a date specified in the written notice not less than thirty days 55607
after receipt of the notice unless the resident remedies the 55608
violation; 55609

(C) A statement that the violation was material and that if a 55610
second material violation of any park or ~~public health council~~ 55611
commission rule, or any health and safety code, occurs within six 55612
months after the date of this notice, the rental agreement will 55613
terminate immediately; 55614

(D) A statement that a defense available to termination of 55615
the rental agreement for two material violations of park or ~~public~~ 55616

~~health council~~ commission rules, or of health and safety codes, is 55617
that the park rule is unreasonable, or that the park or ~~public~~ 55618
~~health council~~ commission rule, or health or safety code, is not 55619
being enforced against other manufactured home park residents, or 55620
that the two violations were not willful and not committed in bad 55621
faith. 55622

If the resident remedies the condition described in the 55623
notice, whether by repair, the payment of damages, or otherwise, 55624
the rental agreement shall not terminate. The park operator may 55625
terminate the rental agreement immediately if the resident commits 55626
a second material violation of the park or ~~public health council~~ 55627
commission rules, or of applicable state and local health and 55628
safety codes, subject to the defense that the park rule is 55629
unreasonable, that the park or ~~public health council~~ commission 55630
rule, or health or safety code, is not being enforced against 55631
other manufactured home park residents, or that the two violations 55632
were not willful and not committed in bad faith. 55633

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 55634
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code, any party may 55635
recover damages for the breach of contract or the breach of any 55636
duty that is imposed by law. 55637

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 55638
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 55639
waived by any oral or written agreement except as provided in 55640
division (F) of this section. 55641

(B) No warrant of attorney to confess judgment shall be 55642
recognized in any rental agreement or in any other agreement 55643
between a park operator and resident for the recovery of rent or 55644
damages to the residential premises. 55645

(C) No agreement to pay the park operator's or resident's 55646

attorney fees shall be recognized in any rental agreement for 55647
residential premises or in any other agreement between a park 55648
operator and resident. 55649

(D) No agreement by a resident to the exculpation or 55650
limitation of any liability of the park operator arising under law 55651
or to indemnify the park operator for that liability or its 55652
related costs shall be recognized in any rental agreement or in 55653
any other agreement between a park operator and resident. 55654

(E) A rental agreement, or the assignment, conveyance, trust 55655
deed, or security instrument of the park operator's interest in 55656
the rental agreement may not permit the receipt of rent free of 55657
the obligation to comply with section ~~3733.10~~ 4781.38 of the 55658
Revised Code. 55659

(F) The park operator may agree to assume responsibility for 55660
fulfilling any duty or obligation imposed on a resident by section 55661
~~3733.101~~ 4781.39 of the Revised Code. 55662

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law 55663
finds a rental agreement, or any clause of it, to have been 55664
unconscionable at the time it was made, it may refuse to enforce 55665
the rental agreement or it may enforce the remainder of the rental 55666
agreement without the unconscionable clause, or it may so limit 55667
the application of any unconscionable clause as to avoid any 55668
unconscionable result. 55669

(B) When it is claimed or appears to the court that the 55670
rental agreement, or any clause of it, may be unconscionable, the 55671
parties shall be afforded a reasonable opportunity to present 55672
evidence as to its setting, purpose, and effect to aid the court 55673
in making the determination. 55674

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential 55675
premises shall initiate any act, including termination of 55676

utilities or services, exclusion from the premises, or threat of 55677
any unlawful act, against a resident, or a resident whose right to 55678
possession has terminated, for the purpose of recovering 55679
possession of residential premises, other than as provided in 55680
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 55681

(B) No park operator of residential premises shall seize the 55682
furnishings or possessions of a resident, or of a resident whose 55683
right to possession was terminated, for the purpose of recovering 55684
rent payments, other than in accordance with an order issued by a 55685
court of competent jurisdiction. 55686

(C) A park operator who violates this section is liable in a 55687
civil action for all damages caused to a resident, or to a 55688
resident whose right to possession has terminated, together with 55689
reasonable attorneys' fees. 55690

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 55691
fifty dollars or one month's periodic rent, whichever is greater, 55692
shall bear interest on the excess at the rate of five per cent per 55693
annum if the resident remains in possession of the premises for 55694
six months or more, and shall be computed and paid annually by the 55695
park operator to the resident. 55696

(B) Upon termination of the rental agreement any property or 55697
money held by the park operator as a security deposit may be 55698
applied to the payment of past due rent and to the payment of the 55699
amount of damages that the park operator has suffered by reason of 55700
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 55701
Revised Code or the rental agreement. Any deduction from the 55702
security deposit shall be itemized and identified by the park 55703
operator in a written notice delivered to the resident together 55704
with the amount due, within thirty days after termination of the 55705
rental agreement and delivery of possession. The resident shall 55706
provide the park operator in writing with a forwarding address or 55707

new address to which the written notice and amount due from the 55708
park operator may be sent. If the resident fails to provide the 55709
park operator with the forwarding or new address as required, the 55710
resident shall not be entitled to damages or attorneys' fees under 55711
division (C) of this section. 55712

(C) If the park operator fails to comply with division (B) of 55713
this section, the resident may recover the property and money due 55714
~~him~~ the resident, together with damages in an amount equal to the 55715
amount wrongfully withheld, and reasonable attorneys' fees. 55716

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 55717
residential premises shall contain the name and address of the 55718
owner of the residential premises and the name and address of the 55719
owner's agent, if any. If the owner or the owner's agent is a 55720
corporation, partnership, limited partnership, association, trust, 55721
or other entity, the address shall be the principal place of 55722
business in the county in which the residential premises are 55723
situated or if there is no place of business in such county then 55724
its principal place of business in this state, and shall include 55725
the name of the person in charge thereof. 55726

(B) If the rental agreement is oral, the park operator, at 55727
the commencement of the term of occupancy, shall deliver to the 55728
resident a written notice containing the information required in 55729
division (A) of this section. 55730

(C) If the park operator fails to provide the notice of the 55731
name and address of the owner and owner's agent, if any, as 55732
required under division (A) or (B) of this section, the notices to 55733
the park operator required under division (A) of sections ~~3733.12~~ 55734
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 55735
park operator and the operator's agent. 55736

(D) Every written rental agreement for residential premises 55737
shall contain the following notice in ten-point boldface type: 55738

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO ~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL AGREEMENTS IN MANUFACTURED HOME PARKS."

If the rental agreement is oral, the park operator, at the commencement of the term of occupancy, shall deliver the notice to the resident in writing.

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or continue in existence any ordinance and no township may adopt or continue in existence any resolution that is in conflict with sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, or that regulates those rights and obligations of parties to a rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, building, health, or safety codes of any municipal corporation or township.

Sec. 4781.54. There is hereby created in the state treasury the manufactured homes commission regulatory fund. The fund shall consist of fees collected under section 4781.121 of the Revised Code and fees paid under section 4781.28 of the Revised Code and shall be used for the purposes described in those sections.

Sec. 4781.99. (A) Whoever violates division (A) of section 4781.16 of the Revised Code is guilty of a minor misdemeanor on a first offense and shall be subject to a mandatory fine of one hundred dollars. On a second offense, the person is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

(B) Whoever violates section 4781.20 of the Revised Code is guilty of a minor misdemeanor.

| | |
|--|--|
| (C) Whoever violates any of the following is guilty of a misdemeanor of the fourth degree: | 55769 55770 |
| (1) Division (B) or (C) of section 4781.16 of the Revised Code; | 55771 55772 |
| (2) Section 4781.22 of the Revised Code; | 55773 |
| (3) Section 4781.23 of the Revised Code; | 55774 |
| (4) Division (A) of section 4781.24 of the Revised Code; | 55775 |
| (5) Section 4781.25 of the Revised Code; | 55776 |
| <u>(6) Division (A) of section 4781.35 of the Revised Code.</u> | 55777 |
| Sec. 4905.01. As used in this chapter: | 55778 |
| (A) "Railroad" has the same meaning as in section 4907.02 of the Revised Code. | 55779 55780 |
| (B) "Motor transportation company <u>carrier</u> " has the same meaning as in sections 4905.03 and 4921.02 <u>section 4923.01</u> of the Revised Code. | 55781 55782 55783 |
| (C) " Trailer <u>Motor vehicle</u> " and "public highway" have the same meanings as in section 4921.02 <u>4921.01</u> of the Revised Code. | 55784 55785 |
| (D) " Private motor carrier " and " motor vehicle " have the same meanings as in section 4923.02 of the Revised Code. | 55786 55787 |
| (E) "Ohio coal research and development costs" means all reasonable costs associated with a facility or project undertaken by a public utility for which a recommendation to allow the recovery of costs associated therewith has been made under division (B)(7) of section 1551.33 of the Revised Code, including, but not limited to, capital costs, such as costs of debt and equity; construction and operation costs; termination and retirement costs; costs of feasibility and marketing studies associated with the project; and the acquisition and delivery costs of Ohio coal used in the project, less any expenditures of | 55788 55789 55790 55791 55792 55793 55794 55795 55796 55797 |

grant moneys. 55798

Sec. 4905.02. (A) As used in this chapter, "public utility" 55799
includes every corporation, company, copartnership, person, or 55800
association, the lessees, trustees, or receivers of the foregoing, 55801
defined in section 4905.03 of the Revised Code, including any 55802
public utility that operates its utility not for profit, except 55803
the following: 55804

~~(A)~~(1) An electric light company that operates its utility 55805
not for profit; 55806

~~(B)~~(2) A public utility, other than a telephone company, that 55807
is owned and operated exclusively by and solely for the utility's 55808
customers, including any consumer or group of consumers 55809
purchasing, delivering, storing, or transporting, or seeking to 55810
purchase, deliver, store, or transport, natural gas exclusively by 55811
and solely for the consumer's or consumers' own intended use as 55812
the end user or end users and not for profit; 55813

~~(C)~~(3) A public utility that is owned or operated by any 55814
municipal corporation; 55815

~~(D)~~(4) A railroad as defined in sections 4907.02 and 4907.03 55816
of the Revised Code; 55817

~~(E)~~(5) Any provider, including a telephone company, with 55818
respect to its provision of any of the following: 55819

~~(1)~~(a) Advanced services as defined in 47 C.F.R. 51.5; 55820

~~(2)~~(b) Broadband service, however defined or classified by 55821
the federal communications commission; 55822

~~(3)~~(c) Information service as defined in the 55823
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20); 55824

~~(4)~~(d) Subject to division (A) of section 4927.03 of the 55825
Revised Code, internet protocol-enabled services as defined in 55826

section 4927.01 of the Revised Code; 55827

~~(5)(e)~~ Subject to division (A) of section 4927.03 of the 55828
Revised Code, any telecommunications service as defined in section 55829
4927.01 of the Revised Code to which both of the following apply: 55830

~~(a)(i)~~ The service was not commercially available on 55831
September 13, 2010, the effective date of the amendment of this 55832
section by S.B. 162 of the 128th general assembly. 55833

~~(b)(ii)~~ The service employs technology that became available 55834
for commercial use only after September 13, 2010, the effective 55835
date of the amendment of this section by S.B. 162 of the 128th 55836
general assembly. 55837

(B)(1) "Public utility" includes a for-hire motor carrier 55838
even if the carrier is operated in connection with an entity 55839
described in division (A)(1), (2), (4), or (5) of this section. 55840

(2) Division (A) of this section shall not be construed to 55841
relieve a private motor carrier, operated in connection with an 55842
entity described in division (A)(1), (2), (4), or (5) of this 55843
section, from compliance with any of the following: 55844

(a) Chapter 4923. of the Revised Code; 55845

(b) Hazardous-material regulation under section 4921.15 of 55846
the Revised Code and division (H) of section 4921.19 of the 55847
Revised Code, or rules adopted thereunder; 55848

(c) Rules governing unified carrier registration adopted 55849
under section 4921.11 of the Revised Code. 55850

Sec. 4905.03. As used in this chapter: 55851

~~(A)~~ Any, any person, firm, copartnership, voluntary 55852
association, joint-stock association, company, or corporation, 55853
wherever organized or incorporated, is: 55854

~~(1)(A)~~ A telephone company, when engaged in the business of 55855

transmitting telephonic messages to, from, through, or in this 55856
state; 55857

~~(2)(B)~~ A for-hire motor ~~transportation company~~ carrier, when 55858
engaged in the business of ~~carrying and~~ transporting persons or 55859
property ~~or the business of providing or furnishing such~~ 55860
~~transportation service, for hire, in or~~ by motor-propelled 55861
~~vehicles of any kind, including trailers, for the public in~~ 55862
~~general, over any public street, road, or highway in this state~~ 55863
vehicle for compensation, except as provided when engaged in any 55864
of the operations in intrastate commerce described in divisions 55865
(B)(1) to (9) of section 4921.02 4921.01 of the Revised Code, but 55866
including the carrier's agents, officers, and representatives, as 55867
well as employees responsible for hiring, supervising, training, 55868
assigning, or dispatching drivers and employees concerned with the 55869
installation, inspection, and maintenance of motor-vehicle 55870
equipment and accessories; 55871

~~(3)(C)~~ An electric light company, when engaged in the 55872
business of supplying electricity for light, heat, or power 55873
purposes to consumers within this state, including supplying 55874
electric transmission service for electricity delivered to 55875
consumers in this state, but excluding a regional transmission 55876
organization approved by the federal energy regulatory commission; 55877

~~(4)(D)~~ A gas company, when engaged in the business of 55878
supplying artificial gas for lighting, power, or heating purposes 55879
to consumers within this state or when engaged in the business of 55880
supplying artificial gas to gas companies or to natural gas 55881
companies within this state, but a producer engaged in supplying 55882
to one or more gas or natural gas companies, only such artificial 55883
gas as is manufactured by that producer as a by-product of some 55884
other process in which the producer is primarily engaged within 55885
this state is not thereby a gas company. All rates, rentals, 55886
tolls, schedules, charges of any kind, or agreements between any 55887

gas company and any other gas company or any natural gas company 55888
providing for the supplying of artificial gas and for compensation 55889
for the same are subject to the jurisdiction of the public 55890
utilities commission. 55891

~~(5)~~(E) A natural gas company, when engaged in the business of 55892
supplying natural gas for lighting, power, or heating purposes to 55893
consumers within this state. Notwithstanding the above, neither 55894
the delivery nor sale of Ohio-produced natural gas by a producer 55895
or gatherer under a public utilities commission-ordered exemption, 55896
adopted before, as to producers, or after, as to producers or 55897
gatherers, January 1, 1996, or the delivery or sale of 55898
Ohio-produced natural gas by a producer or gatherer of 55899
Ohio-produced natural gas, either to a lessor under an oil and gas 55900
lease of the land on which the producer's drilling unit is 55901
located, or the grantor incident to a right-of-way or easement to 55902
the producer or gatherer, shall cause the producer or gatherer to 55903
be a natural gas company for the purposes of this section. 55904

All rates, rentals, tolls, schedules, charges of any kind, or 55905
agreements between a natural gas company and other natural gas 55906
companies or gas companies providing for the supply of natural gas 55907
and for compensation for the same are subject to the jurisdiction 55908
of the public utilities commission. The commission, upon 55909
application made to it, may relieve any producer or gatherer of 55910
natural gas, defined in this section as a gas company or a natural 55911
gas company, of compliance with the obligations imposed by this 55912
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 55913
of the Revised Code, so long as the producer or gatherer is not 55914
affiliated with or under the control of a gas company or a natural 55915
gas company engaged in the transportation or distribution of 55916
natural gas, or so long as the producer or gatherer does not 55917
engage in the distribution of natural gas to consumers. 55918

Nothing in division ~~(A)~~(5)(E) of this section limits the 55919

authority of the commission to enforce sections 4905.90 to 4905.96 55920
of the Revised Code. 55921

~~(6)~~(F) A pipe-line company, when engaged in the business of 55922
transporting natural gas, oil, or coal or its derivatives through 55923
pipes or tubing, either wholly or partly within this state; 55924

~~(7)~~(G) A water-works company, when engaged in the business of 55925
supplying water through pipes or tubing, or in a similar manner, 55926
to consumers within this state; 55927

~~(8)~~(H) A heating or cooling company, when engaged in the 55928
business of supplying water, steam, or air through pipes or tubing 55929
to consumers within this state for heating or cooling purposes; 55930

~~(9)~~(I) A messenger company, when engaged in the business of 55931
supplying messengers for any purpose; 55932

~~(10)~~(J) A street railway company, when engaged in the 55933
business of operating as a common carrier, a railway, wholly or 55934
partly within this state, with one or more tracks upon, along, 55935
above, or below any public road, street, alleyway, or ground, 55936
within any municipal corporation, operated by any motive power 55937
other than steam and not a part of an interurban railroad, whether 55938
the railway is termed street, inclined-plane, elevated, or 55939
underground railway; 55940

~~(11)~~(K) A suburban railroad company, when engaged in the 55941
business of operating as a common carrier, whether wholly or 55942
partially within this state, a part of a street railway 55943
constructed or extended beyond the limits of a municipal 55944
corporation, and not a part of an interurban railroad; 55945

~~(12)~~(L) An interurban railroad company, when engaged in the 55946
business of operating a railroad, wholly or partially within this 55947
state, with one or more tracks from one municipal corporation or 55948
point in this state to another municipal corporation or point in 55949
this state, whether constructed upon the public highways or upon 55950

private rights-of-way, outside of municipal corporations, using 55951
electricity or other motive power than steam power for the 55952
transportation of passengers, packages, express matter, United 55953
States mail, baggage, and freight. Such an interurban railroad 55954
company is included in the term "railroad" as used in section 55955
4907.02 of the Revised Code. 55956

~~(13)~~(M) A sewage disposal system company, when engaged in the 55957
business of sewage disposal services through pipes or tubing, and 55958
treatment works, or in a similar manner, within this state. 55959

~~(B) "Motor propelled vehicle" means any automobile,~~ 55960
~~automobile truck, motor bus, or any other self propelled vehicle~~ 55961
~~not operated or driven upon fixed rails or tracks.~~ 55962

Sec. 4905.05. The jurisdiction, supervision, powers, and 55963
duties of the public utilities commission extend to every public 55964
utility and railroad, the plant or property of which lies wholly 55965
within this state and when the property of a public utility or 55966
railroad lies partly within and partly without this state to that 55967
part of such plant or property which lies within this state; to 55968
the persons or companies owning, leasing, or operating such public 55969
utilities and railroads; to the records and accounts of the 55970
business thereof done within this state; and to the records and 55971
accounts of any companies which are part of an electric utility 55972
holding company system exempt under section 3(a)(1) or (2) of the 55973
"Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 55974
U.S.C. 79c, and the rules and regulations promulgated thereunder, 55975
insofar as such records and accounts may in any way affect or 55976
relate to the costs associated with the provision of electric 55977
utility service by any public utility operating in this state and 55978
part of such holding company system. 55979

Nothing in this section, or section 4905.06 or 4905.46 of the 55980
Revised Code pertaining to regulation of holding companies, grants 55981

the public utilities commission authority to regulate a holding 55982
company or its subsidiaries which are organized under the laws of 55983
another state, render no public utility service in the state of 55984
Ohio, and are regulated as a public utility by the public 55985
utilities commission of another state or primarily by a federal 55986
regulatory commission, nor do these grants of authority apply to 55987
public utilities that are excepted from the definition of "public 55988
utility" under divisions (A)(1) to ~~(C)~~(3) of section 4905.02 of 55989
the Revised Code. 55990

Sec. 4905.06. The public utilities commission has general 55991
supervision over all public utilities within its jurisdiction as 55992
defined in section 4905.05 of the Revised Code, and may examine 55993
such public utilities and keep informed as to their general 55994
condition, capitalization, and franchises, and as to the manner in 55995
which their properties are leased, operated, managed, and 55996
conducted with respect to the adequacy or accommodation afforded 55997
by their service, the safety and security of the public and their 55998
employees, and their compliance with all laws, orders of the 55999
commission, franchises, and charter requirements. The commission 56000
has general supervision over all other companies referred to in 56001
section 4905.05 of the Revised Code to the extent of its 56002
jurisdiction as defined in that section, and may examine such 56003
companies and keep informed as to their general condition and 56004
capitalization, and as to the manner in which their properties are 56005
leased, operated, managed, and conducted with respect to the 56006
adequacy or accommodation afforded by their service, and their 56007
compliance with all laws and orders of the commission, insofar as 56008
any of such matters may relate to the costs associated with the 56009
provision of electric utility service by public utilities in this 56010
state which are affiliated or associated with such companies. The 56011
commission, through the public utilities commissioners or 56012
inspectors or employees of the commission authorized by it, may 56013

enter in or upon, for purposes of inspection, any property, 56014
equipment, building, plant, factory, office, apparatus, machinery, 56015
device, and lines of any public utility. The power to inspect 56016
includes the power to prescribe any rule or order that the 56017
commission finds necessary for protection of the public safety. In 56018
order to assist the commission in the performance of its duties 56019
under this chapter, authorized employees of the motor carrier 56020
enforcement unit, created under section 5503.34 of the Revised 56021
Code in the division of state highway patrol, of the department of 56022
public safety may enter in or upon, for inspection purposes, any 56023
motor vehicle of any ~~motor transportation company or private~~ motor 56024
carrier ~~as defined in section 4923.02 of the Revised Code.~~ 56025

In order to inspect motor vehicles owned or operated by a 56026
motor ~~transportation company~~ carrier engaged in the transportation 56027
of persons, authorized employees of the motor carrier enforcement 56028
unit, division of state highway patrol, of the department of 56029
public safety may enter in or upon any property of any motor 56030
~~transportation company, as defined in section 4921.02 of the~~ 56031
~~Revised Code,~~ carrier engaged in the intrastate transportation of 56032
persons. 56033

Sec. 4905.402. (A) As used in this section: 56034

(1) "Control" means the possession of the power to direct the 56035
management and policies of a domestic telephone company or a 56036
holding company of a domestic telephone company, or the management 56037
and policies of a domestic electric utility or a holding company 56038
of a domestic electric utility, through the ownership of voting 56039
securities, by contract, or otherwise, but does not include the 56040
power that results from holding an official position or the 56041
possession of corporate office with the domestic company or 56042
utility or the holding company. Control is presumed to exist if 56043
any person, directly or indirectly, owns, controls, holds the 56044

power to vote, or holds with the power to vote proxies that 56045
constitute, twenty per cent or more of the total voting power of 56046
the domestic company or utility or the holding company. 56047

(2) "Electric utility" has the same meaning as in section 56048
4928.07 of the Revised Code. 56049

(3) "Holding company" excludes any securities broker 56050
performing the usual and customary broker's function. 56051

(4) "Telephone company" means any company described in 56052
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 56053
public utility under section 4905.02 of the Revised Code and 56054
provides basic local exchange service, as defined in section 56055
4927.01 of the Revised Code. 56056

(B) No person shall acquire control, directly or indirectly, 56057
of a domestic telephone company or a holding company controlling a 56058
domestic telephone company or of a domestic electric utility or a 56059
holding company controlling a domestic electric utility unless 56060
that person obtains the prior approval of the public utilities 56061
commission under this section. To obtain approval the person shall 56062
file an application with the commission demonstrating that the 56063
acquisition will promote public convenience and result in the 56064
provision of adequate service for a reasonable rate, rental, toll, 56065
or charge. The application shall contain such information as the 56066
commission may require. If the commission considers a hearing 56067
necessary, it may fix a time and place for hearing. If, after 56068
review of the application and after any necessary hearing, the 56069
commission is satisfied that approval of the application will 56070
promote public convenience and result in the provision of adequate 56071
service for a reasonable rate, rental, toll, or charge, the 56072
commission shall approve the application and make such order as it 56073
considers proper. If the commission fails to issue an order within 56074
thirty days of the filing of the application, or within twenty 56075
days of the conclusion of a hearing, if one is held, the 56076

application shall be deemed approved by operation of law. 56077

(C) No domestic telephone company shall merge with another 56078
domestic telephone company unless the merging companies obtain the 56079
prior approval of the commission. An application seeking such 56080
approval shall be filed, processed, and decided in the manner 56081
provided for an application under division (B) of this section. 56082

(D) The commission shall adopt such rules as it finds 56083
necessary to carry out the provisions of this section. 56084

(E) If it appears to the commission or to any person that may 56085
be adversely affected that any person is engaged in or about to 56086
engage in any acts or practices that would violate division (B) or 56087
(C) of this section or any provision of a rule adopted under this 56088
section, the attorney general, when directed to do so by the 56089
commission, or the person claiming to be adversely affected may 56090
bring an action in any court of common pleas that has jurisdiction 56091
and venue to enjoin such acts or practices and enforce compliance. 56092
Upon a proper showing, the court shall grant, without bond, a 56093
restraining order or temporary or permanent injunction. 56094

(F) The courts of this state have jurisdiction over every 56095
person not a resident of or domiciled or authorized to do business 56096
in this state that files, or is prohibited from acting without 56097
first filing, an application under division (B) or (C) of this 56098
section, and over all actions involving such person arising out of 56099
violations of any provision of this section or of a rule adopted 56100
under this section. The secretary of state shall be the agent for 56101
service of process for any such person in any action, suit, or 56102
proceeding arising out of such violations. Copies of all such 56103
lawful process shall be served upon the secretary of state and 56104
transmitted by certified mail, with return receipt requested, by 56105
the secretary of state to such person at the person's last known 56106
address. 56107

Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., and 4909., ~~4921., and 4923.~~ of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in ~~sections 4905.83,~~ section 4905.95, ~~4919.99, 4921.99, and 4923.99~~ of the Revised Code, the public utilities commission may assess a forfeiture of not more than ten thousand dollars for each violation or failure against a public utility or railroad that violates a provision of those chapters or that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated. Each day's continuance of the violation or failure is a separate offense. All forfeitures collected under this section shall be credited to the general revenue fund.

Sec. 4905.57. Except as otherwise specifically provided in sections ~~4905.83,~~ 4905.96, ~~4919.99, 4921.99,~~ and 4923.99 of the Revised Code, actions to recover forfeitures provided for in this chapter and Chapters 4901., 4903., 4907., 4909., ~~4921.,~~ and 4923. of the Revised Code shall be prosecuted in the name of the state and may be brought in the court of common pleas of any county in which the public utility ~~or,~~ railroad, or motor carrier is located. Such actions shall be commenced and prosecuted by the attorney general when ~~he~~ the attorney general is directed to do so by the public utilities commission. Moneys recovered by such actions shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 4905.58. All prosecutions against a railroad or an officer, agent, or employee thereof, under Chapters 4901., 4903.,

4905., 4907., and 4909., 4921., and 4923. and other sections of 56138
the Revised Code for penalties involving imprisonment shall be by 56139
indictment. 56140

Sec. 4905.80. The policy of this state is to: 56141

(A) Regulate transportation by motor carriers so as to 56142
recognize and preserve the inherent advantages of, and foster safe 56143
conditions in, that transportation and among those carriers in the 56144
public interest; 56145

(B) Promote safe and secure service by motor carriers, 56146
without unjust discriminations, undue preferences or advantages, 56147
and unfair or destructive competitive practices; 56148

(C) Improve the relations between, and coordinate 56149
transportation by and regulation of, motor carriers and other 56150
carriers; 56151

(D) Develop and preserve a highway transportation system 56152
properly adapted to the needs of commerce and the state; 56153

(E) Cooperate with the federal government and the several 56154
states, and the authorized officials thereof, and with any 56155
organization of motor carriers in the administration and 56156
enforcement of this chapter and Chapters 4901., 4903., 4907., 56157
4909., 4921., and 4923. of the Revised Code. 56158

Sec. 4905.81. The public utilities commission shall: 56159

(A) Supervise and regulate each motor carrier; 56160

(B) Regulate the safety of operation of each motor carrier; 56161

(C) Adopt reasonable safety rules applicable to the highway 56162
transportation of persons or property in interstate and intrastate 56163
commerce by motor carriers; 56164

(D) Adopt safety rules applicable to the transportation and 56165

offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation. 56166
56167
56168
56169

(E) Require the filing of reports and other data by motor carriers; 56170
56171

(F) Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state; 56172
56173
56174
56175

(G) Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them. 56176
56177
56178
56179
56180
56181
56182
56183
56184
56185
56186
56187
56188
56189
56190

The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, whether any corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, legal or personal representatives, trustees, or receivers or 56191
56192
56193
56194
56195
56196
56197

trustees appointed by any court, is engaged as a motor carrier. 56198
The finding of the commission on such a question is a final order 56199
that may be reviewed as provided in section 4923.15 of the Revised 56200
Code. 56201

Sec. 4905.84. (A) As used in this section: 56202

(1) "Telecommunications relay service" means intrastate 56203
transmission services that provide the ability for an individual 56204
who has a hearing or speech impairment to engage in a 56205
communication by wire or radio with a hearing individual in a 56206
manner that is functionally equivalent to the ability of an 56207
individual who does not have a hearing or speech impairment to 56208
communicate using voice communication services by wire or radio. 56209
"Telecommunications relay service" includes services that enable 56210
two-way communication between an individual who uses a 56211
telecommunications device for the deaf or other nonvoice terminal 56212
device and an individual who does not use such a device. 56213

(2) "TRS provider" means an entity selected by the public 56214
utilities commission as the provider of telecommunications relay 56215
service for this state as part of the commission's intrastate 56216
telecommunications relay service program certified pursuant to 56217
federal law. 56218

(B) For the sole purpose of funding telecommunications relay 56219
service, the commission shall, not earlier than January 1, 2009, 56220
impose on and collect from each service provider that is required 56221
under federal law to provide its customers access to 56222
telecommunications relay service an annual assessment to pay for 56223
costs incurred by the TRS provider for providing such service in 56224
Ohio. The commission shall determine the appropriate service 56225
providers to be assessed the telecommunications relay service 56226
costs, including telephone companies as defined in division (A)~~(1)~~ 56227
of section 4905.03 of the Revised Code, commercial mobile radio 56228

service providers, and providers of advanced services or internet 56229
protocol-enabled services that are competitive with or 56230
functionally equivalent to basic local exchange service as defined 56231
in section 4927.01 of the Revised Code. 56232

(C) The assessment shall be allocated proportionately among 56233
the appropriate service providers using a competitively neutral 56234
formula established by the commission based on the number of 56235
retail intrastate customer access lines or their equivalent. The 56236
commission shall annually reconcile the funds collected with the 56237
actual costs of providing telecommunications relay service when it 56238
issues the assessment and shall either proportionately charge the 56239
service providers for any amounts not sufficient to cover the 56240
actual costs or proportionately credit amounts collected in excess 56241
of the actual costs. The total amount assessed from all service 56242
providers shall not exceed the total telecommunications relay 56243
service costs. 56244

Each service provider that pays the assessment shall be 56245
permitted to recover the cost of the assessment. The method of 56246
recovery may include, but is not limited to, a customer billing 56247
surcharge. 56248

The commission shall deposit the money collected in the 56249
telecommunications relay service fund, which is hereby created in 56250
the state treasury, and shall use the money in that fund solely to 56251
compensate the TRS provider. 56252

(D) The commission shall take such measures as it considers 56253
necessary to protect the confidentiality of information provided 56254
to the commission pursuant to this section by service providers 56255
required to pay the assessment. 56256

(E) The commission may assess a forfeiture of not more than 56257
one thousand dollars on any service provider failing to comply 56258
with this section. Each day's continuance of such failure is a 56259

separate offense. The forfeiture shall be recovered in accordance 56260
with sections 4905.55 to 4905.60 of the Revised Code. 56261

(F) The jurisdiction and authority granted to the commission 56262
by this section is limited to the administration and enforcement 56263
of this section. The commission may adopt such rules as it finds 56264
necessary to carry out this section. The commission shall adopt 56265
rules under section 111.15 of the Revised Code to establish the 56266
assessment amounts and procedures. 56267

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the 56268
Revised Code: 56269

(A) "Contiguous property" includes, but is not limited to, a 56270
manufactured home park as defined in section ~~3733.01~~ 4781.01 of 56271
the Revised Code; a public or publicly subsidized housing project; 56272
an apartment complex; a condominium complex; a college or 56273
university; an office complex; a shopping center; a hotel; an 56274
industrial park; and a race track. 56275

(B) "Gas" means natural gas, flammable gas, or gas which is 56276
toxic or corrosive. 56277

(C) "Gathering lines" and the "gathering of gas" have the 56278
same meaning as in the Natural Gas Pipeline Safety Act and the 56279
rules adopted by the United States department of transportation 56280
pursuant to the Natural Gas Pipeline Safety Act, including 49 56281
C.F.R. part 192, as amended. 56282

(D) "Intrastate pipe-line transportation" has the same 56283
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 56284
amended, but excludes the gathering of gas exempted by the Natural 56285
Gas Pipeline Safety Act. 56286

(E) "Master-meter system" means a pipe-line system that 56287
distributes gas within a contiguous property for which the system 56288
operator purchases gas for resale to consumers, including tenants. 56289

Such pipe-line system supplies consumers who purchase the gas 56290
directly through a meter, or by paying rent, or by other means. 56291
The term includes a master-meter system as defined in 49 C.F.R. 56292
191.3, as amended. The term excludes a pipeline within a 56293
manufactured home, mobile home, or a building. 56294

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 56295
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 56296
et seq., as amended. 56297

(G) "Operator" means any of the following: 56298

(1) A gas company or natural gas company as defined in 56299
section 4905.03 of the Revised Code, except that division 56300
~~(A)(5)(E)~~ of that section does not authorize the public utilities 56301
commission to relieve any producer of gas, as a gas company or 56302
natural gas company, of compliance with sections 4905.90 to 56303
4905.96 of the Revised Code or the pipe-line safety code created 56304
under section 4905.91 of the Revised Code; 56305

(2) A pipe-line company, as defined in section 4905.03 of the 56306
Revised Code, when engaged in the business of transporting gas by 56307
pipeline; 56308

(3) A public utility that is excepted from the definition of 56309
"public utility" under division ~~(B)(A)(2)~~ or ~~(C)(3)~~ of section 56310
4905.02 of the Revised Code, when engaged in supplying or 56311
transporting gas by pipeline within this state; 56312

(4) Any person that owns, operates, manages, controls, or 56313
leases any of the following: 56314

(a) Intrastate pipe-line transportation facilities within 56315
this state; 56316

(b) Gas gathering lines within this state which are not 56317
exempted by the Natural Gas Pipeline Safety Act; 56318

(c) A master-meter system within this state. 56319

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer.

(H) "Operator of a master-meter system" means a person described under division ~~(F)~~(G)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code.

(I) "Person" means:

(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;

(2) Any trustee, receiver, assignee, or personal representative of persons defined in division ~~(H)~~(I)(1) of this section.

(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code.

(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable.

(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.

(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or

| | |
|--|-------|
| delivered, measured in units per one thousand cubic feet: | 56350 |
| (1) Residential sales; | 56351 |
| (2) Commercial and industrial sales; | 56352 |
| (3) Other sales to public authorities; | 56353 |
| (4) Interdepartmental sales; | 56354 |
| (5) Sales for resale; | 56355 |
| (6) Transportation of gas. | 56356 |
| | |
| Sec. 4907.01. As used in sections 4907.01 to 4907.63 of the | 56357 |
| Revised Code: | 56358 |
| (A) "Public utility" has the same meaning as in section | 56359 |
| 4905.02 of the Revised Code. | 56360 |
| (B) "Telephone company," "street railway company," and | 56361 |
| "interurban railroad company" have the same meanings as in section | 56362 |
| 4905.03 of the Revised Code. | 56363 |
| (C) "Railroad" has the same meaning as in section 4907.02 of | 56364 |
| the Revised Code. | 56365 |
| (D) "Public highway" has the same meaning as in sections | 56366 |
| 4905.03 and 4921.02 <u>section 4921.01</u> of the Revised Code. | 56367 |
| | |
| Sec. 4907.02. As used in Chapters 4901., 4903., 4905., 4907., | 56368 |
| 4909., 4921., 4923., and 4959. of the Revised Code, "railroad" | 56369 |
| includes any corporation, company, individual, or association of | 56370 |
| individuals, or its lessees, trustees, or receivers appointed by a | 56371 |
| court, which owns, operates, manages, or controls a railroad or | 56372 |
| part of a railroad as a common carrier in this state, or which | 56373 |
| owns, operates, manages, or controls any cars or other equipment | 56374 |
| used on such a railroad, or which owns, operates, manages, or | 56375 |
| controls any bridges, terminals, union depots, sidetracks, docks, | 56376 |
| wharves, or storage elevators used in connection with such a | 56377 |

railroad, whether owned by such railroad or otherwise, and means 56378
and includes express companies, water transportation companies, 56379
freight-line companies, sleeping car companies, and interurban 56380
railroad companies, and all persons and associations of persons, 56381
whether incorporated or not, operating such agencies for public 56382
use in the conveyance of persons or property within this state. 56383
All duties required of, and penalties imposed upon, a railroad or 56384
an officer or agent thereof insofar as they are applicable, are 56385
required and imposed upon express companies, water transportation 56386
companies, and interurban railroad companies, and upon their 56387
officers and agents. 56388

The public utilities commission has the power of supervision 56389
and control of express companies, water transportation companies, 56390
and interurban railroad companies to the same extent as railroads. 56391

Sec. 4907.04. Chapters 4901., 4903., 4905., 4907., and 4909. 56392
~~4921., 4923., and 4925.~~ of the Revised Code do not apply to street 56393
and electric railways engaged solely in the transportation of 56394
passengers within the limits of cities, or to other private 56395
railroads not doing business as common carriers. 56396

Sec. 4907.08. The public utilities commission shall inquire 56397
into any neglect or violation of the laws of this state by a 56398
railroad doing business in this state, by its officers, agents, or 56399
employees, or by any person operating a railroad. The commission 56400
shall enforce Chapters 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 56401
~~4923.,~~ and 4959. of the Revised Code, as well as all other laws 56402
relating to railroads, and report violations thereof to the 56403
attorney general. 56404

If, upon complaint or otherwise, the commission has reason to 56405
believe that a railroad or any officer, agent, or employee of a 56406
railroad has violated or is violating any law of this state, or if 56407

it has reason to believe that differences have arisen between 56408
citizens of the state and any railroad operating as a common 56409
carrier within this state, it shall examine into the matter. 56410

Sec. 4907.19. The public utilities commission shall cause 56411
blank forms to be prepared suitable for the purposes designated in 56412
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 56413
~~4925.~~ of the Revised Code which shall conform as nearly as 56414
practicable to the forms prescribed by the interstate commerce 56415
commission, and, when necessary, furnish such blank forms to each 56416
railroad. 56417

Sec. 4907.28. No railroad shall charge, demand, collect, or 56418
receive a greater or less compensation for the transportation of 56419
passengers or property, or for any service in connection 56420
therewith, than is specified in the printed schedules referred to 56421
in sections 4907.25 to 4907.27, ~~inclusive,~~ of the Revised Code, 56422
including schedules of joint rates, as being then in force. The 56423
rates, fares, and charges named in such schedules shall be the 56424
lawful rates, fares, and charges until they are changed as 56425
provided in Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921.,~~ 56426
~~4923., and 4925.~~ of the Revised Code. 56427

Sec. 4907.35. If a railroad, or an agent or officer of a 56428
railroad, by special rate, rebate, drawback, or by means of false 56429
billing, false classification, false weighing, or other device, 56430
charges, demands, collects, or receives, either directly or 56431
indirectly, from any person, firm, or corporation, a greater or 56432
less compensation for service rendered or to be rendered by such 56433
railroad for the transportation of persons or property or any 56434
service in connection therewith, than that prescribed in the 56435
published tariffs then in force, or established as provided in 56436
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 56437

~~4925.~~ of the Revised Code, or a greater or less compensation than 56438
it charges, demands, collects, or receives from any other person, 56439
firm, or corporation for a like and contemporaneous service in the 56440
transportation of a like kind of traffic, under substantially 56441
similar circumstances and conditions, the railroad is guilty of 56442
unjust discrimination, which is hereby prohibited. Upon conviction 56443
of unjust discrimination, such railroad shall forfeit and pay into 56444
the state treasury not less than one hundred nor more than five 56445
thousand dollars for each offense. 56446

No agent or officer of a railroad shall violate this section. 56447

Sec. 4907.37. No common carrier subject to Chapters 4901., 56448
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 56449
Revised Code shall make or give undue or unreasonable preference 56450
or advantage to a particular person, company, firm, corporation, 56451
or locality, or to any particular description of traffic, or 56452
subject any particular person, company, firm, corporation, or 56453
locality, or any particular description of traffic, to any undue 56454
or unreasonable prejudice or disadvantage in any respect. 56455

Sec. 4907.43. When the tracks of a railroad and the tracks of 56456
an interurban or suburban railway cross, connect, or intersect, 56457
and such tracks are of the same gauge, the companies owning such 56458
railroads may connect such tracks so as to admit the passage of 56459
cars from one to the other with facility. 56460

If any such railroads fail to make such connection, upon 56461
complaint of any party authorized by Chapters 4901., 4903., 4905., 56462
4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code to 56463
file complaint, the public utilities commission shall proceed to 56464
hear and determine the same in a manner provided for making 56465
investigations upon complaint. 56466

If upon such hearing the commission finds that it is 56467

practicable and reasonably necessary to ~~accomodate~~ accommodate the 56468
public, to connect such tracks and that when so connected it will 56469
be practicable to transport cars over such railroad without 56470
endangering the equipment, tracks, or appliances of either 56471
company, the commission shall make an order requiring such 56472
railroads to make connection. Such order shall describe the terms 56473
and conditions and shall apportion the cost of making such 56474
connection between the railroads. 56475

When such connection is made, the railroads parties to it, 56476
according to their respective powers, shall afford all reasonable 56477
and proper facilities for the interchange of traffic between their 56478
respective lines for forwarding and delivering passengers and 56479
property, and without unreasonable delay or discrimination shall 56480
transfer, switch, and deliver freight or passenger cars destine to 56481
a point on its own or connecting lines. Precedence may be given to 56482
livestock and perishable freight over other freight. Whenever a 56483
derailing device is required at the intersection of any railroads 56484
mentioned in this section, it shall be installed, maintained, and 56485
operated as required by the commission, which may prescribe the 56486
necessary rules and regulations for such operation, and designate 56487
the companies that shall be responsible for the operation of such 56488
derailing device. 56489

Sec. 4907.49. When two or more railroads cross a public 56490
highway or street at a dangerous crossing, the expenses incurred 56491
in the erection and maintenance of gates, bells, or other devices, 56492
and of necessary gatekeepers or ~~flagmen~~ flaggers, and apportioned 56493
by the public utilities commission as railroad expense, shall be 56494
shared equally by the railroads. 56495

Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 56496
~~4923.~~ of the Revised Code do not prevent the use of automatic 56497
bells or other mechanical devices by a railroad at a public 56498

crossing not declared dangerous by the public utilities 56499
commission, nor do they prevent state, county, township, or 56500
municipal officials from entering into an agreement with a 56501
railroad to pay all or part of the expense of erecting a warning 56502
device. Any funds levied and made available for highways or street 56503
purposes may be used to pay the public share of the cost under 56504
such an agreement. If a gate is erected or a ~~flagman~~ flagger is 56505
stationed and maintained by a railroad, either alone or pursuant 56506
to such an agreement, the gate or ~~flagman~~ flagger shall not be 56507
abandoned nor an automatic bell or other mechanical device 56508
substituted for the gate or ~~flagman~~ flagger, unless the commission 56509
consents to the abandonment or substitution. 56510

Sec. 4907.57. All claims, charges, or demands against a 56511
railroad for loss of or damage to property occurring while in the 56512
custody of such railroad and unreasonable delay in transportation 56513
and delivery, for overcharges upon a shipment, or for any other 56514
service in violation of Chapters 4901., 4903., 4905., 4907., and 56515
4909., ~~4921., 4923., and 4925.~~ of the Revised Code, if not paid 56516
within sixty days from the date of the filing thereof with such 56517
railroad, may be submitted to the public utilities commission by a 56518
formal complaint. Such complaint shall be made upon blank forms 56519
which the commission shall provide upon demand of the claimant. 56520

Such complaint shall be verified as petitions in civil 56521
actions and may be accompanied by the sworn statements of any 56522
witnesses who have knowledge of any fact material to the inquiry. 56523
Upon the filing of such complaint the commission shall forthwith 56524
cite the railroad to answer the complaint, and the citation shall 56525
be accompanied with a brief statement of the claim. The answer of 56526
the railroad shall be filed within three weeks from the service of 56527
the citation and shall be verified as answers in civil cases, and 56528
may be accompanied with the affidavits of any witnesses having 56529
knowledge of facts material to the inquiry. 56530

The burden of proof shall be upon the railroad to show that 56531
loss or damage to property was not due to its negligence. The 56532
railroad to which property is delivered for shipment shall prima 56533
facie be liable for loss or damage occurring to such property in 56534
transit notwithstanding such property may be delivered to other 56535
railroads before reaching its destination. The claim referred to 56536
in this section for loss of or damage to property may be made to 56537
any carrier over whose lines the lost or damaged property was 56538
consigned, and such claimant may at ~~his~~ the claimant's option join 56539
all of such railroads as parties defendant in ~~his~~ the complaint 56540
before said commission. The railroad shall furnish the claimant 56541
with a copy of its answer and affidavits, and within two weeks 56542
from the filing of such answers the claimant may file ~~his~~ a reply, 56543
with affidavits in support thereof, verified as replies in civil 56544
cases. At the expiration of said period of two weeks the 56545
commission shall proceed summarily to examine the complaint, 56546
answer, reply, and affidavits, and shall determine the existence 56547
and validity of the claim presented. If the commission finds in 56548
favor of the claimant it shall certify its findings to the clerk 56549
of the court of common pleas of the county in which the claimant 56550
resides or where the railroad or any of its offices is maintained. 56551

Sec. 4907.59. Upon request of the public utilities 56552
commission, the attorney general or the prosecuting attorney of 56553
the proper county shall aid in an investigation, prosecution, 56554
hearing, or trial had under Chapters 4901., 4903., 4905., 4907., 56555
and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code, and shall 56556
institute and prosecute necessary actions or proceedings for the 56557
enforcement of such chapters and of other laws of this state 56558
relating to railroads, and for the punishment of all violations of 56559
such chapters and such other laws. 56560

Sec. 4907.60. If a railroad fails to perform a duty enjoined 56561

upon it by Chapter 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 56562
~~4923.,~~ or 4959. of the Revised Code, or does any act prohibited by 56563
any of those chapters, for which failure or act no penalty or 56564
forfeiture has been provided by law, or fails to obey a lawful 56565
requirement or order made by the public utilities commission or 56566
order of any court upon application of the commission, the 56567
railroad, except as otherwise specifically provided in ~~sections~~ 56568
~~4905.83,~~ section 4905.95, ~~4919.99,~~ ~~4921.99,~~ and ~~4923.99~~ of the 56569
Revised Code, shall forfeit into the state treasury not less than 56570
one hundred nor more than ten thousand dollars for each violation 56571
or failure. In construing and enforcing this section, the act, 56572
omission, or failure of any officer, agent, or other person acting 56573
for or employed by a railroad, while acting within the scope of 56574
the officer's, agent's, or other person's employment, is the act, 56575
omission, or failure of the railroad. 56576

Sec. 4907.61. Except as otherwise specifically provided in 56577
sections ~~4905.83,~~ 4905.96, ~~4919.99,~~ ~~4921.99,~~ and 4923.99 of the 56578
Revised Code, when the attorney general prosecutes an action for 56579
the recovery of a forfeiture provided for in Chapter 4901., 4903., 56580
4905., 4907., 4909., 4921., 4923., or 4959. of the Revised Code, 56581
the attorney general may bring the action in the court of common 56582
pleas of Franklin county or of any county having jurisdiction of 56583
the defendant. 56584

Sec. 4907.62. If a railroad does, causes, or permits anything 56585
prohibited by Chapters 4901., 4903., 4905., 4907., and 4909. 56586
~~4921., 4923., and 4925.~~ of the Revised Code to be done, or omits 56587
doing anything required to be done by such chapters, such railroad 56588
is liable to the person, firm, or corporation injured thereby in 56589
treble the amount of damages sustained in consequence of such 56590
violation or omission. A recovery provided by this section shall 56591
not affect a recovery by the state of the penalty prescribed for 56592

| | |
|--|---|
| such violation. | 56593 |
| Sec. 4909.01. As used in this chapter: | 56594 |
| (A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code. | 56595 56596 |
| (B) "Electric light company," "gas company," "natural gas company," "pipeline company," "water-works company," "sewage disposal system company," and "street railway company" have the same meanings as in section 4905.03 of the Revised Code. | 56597 56598 56599 56600 |
| (C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code. | 56601 56602 |
| (D) " Motor transportation company <u>For-hire motor carrier</u> " has the same meaning as in sections 4905.03 and 4921.02 <u>section 4921.01</u> of the Revised Code. | 56603 56604 56605 |
| Sec. 4909.02. All regulations, practices, and service of railroad companies prescribed by the public utilities commission shall be in force and be prima-facie reasonable, unless suspended or found otherwise in an action brought for that purpose pursuant to Chapters 4901., 4903., 4905., 4907., <u>and</u> 4909., 4921., and 4923. of the Revised Code, or until changed or modified by the commission. | 56606 56607 56608 56609 56610 56611 56612 |
| Sec. 4909.03. All rates, fares, charges, classifications, and joint rates of railroad companies fixed by the public utilities commission shall be in force and be prima-facie lawful for two years from the day they take effect, or until changed or modified by the commission or by an order of a competent court in an action under Chapters 4901., 4903., 4905., 4907., <u>and</u> 4909., 4921., and 4923. of the Revised Code. | 56613 56614 56615 56616 56617 56618 56619 |
| Sec. 4909.17. No rate, joint rate, toll, classification, | 56620 |

charge, or rental, no change in any rate, joint rate, toll, 56621
classification, charge, or rental, and no regulation or practice 56622
affecting any rate, joint rate, toll, classification, charge, or 56623
rental of a public utility shall become effective until the public 56624
utilities commission, by order, determines it to be just and 56625
reasonable, except as provided in this section and sections 56626
4909.18, 4909.19, and 4909.191 of the Revised Code. Such sections 56627
do not apply to any rate, joint rate, toll, classification, 56628
charge, or rental, or any regulation or practice affecting the 56629
same, of railroads, street and electric railways, for-hire motor 56630
~~transportation companies~~ carriers, and pipe line companies. 56631

Sec. 4909.22. When passengers or property are transported 56632
over two or more connecting railroads between points in this 56633
state, and the railroad companies have made joint rates for the 56634
transportation of such passengers or property, such rates and all 56635
charges in connection therewith shall be just and reasonable. 56636
Every unjust and unreasonable charge is prohibited. A less charge 56637
by each of such railroads for its proportion of such joint rates 56638
than is made locally between the same points on their respective 56639
lines is not for that reason a violation of Chapters 4901., 4903., 56640
4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised 56641
Code and does not render such railroads liable to any of the 56642
penalties in such chapters. 56643

Sec. 4909.24. Upon complaint of a person, firm, corporation, 56644
or association, of a mercantile, agricultural, or manufacturing 56645
society, or of a body politic or municipal organization, that any 56646
of the rates, fares, charges, or classifications, or any joint 56647
rates are in any respect unreasonable or unjustly discriminatory, 56648
or that any regulation or practice, affecting the transportation 56649
of persons or property, or any service in connection therewith, 56650
are in any respect unreasonable or unjustly discriminatory, or 56651

that any service is inadequate, the public utilities commission 56652
may notify the railroad complained of that complaint has been 56653
made, and ten days after such notice proceed to investigate such 56654
charges as provided in Chapters 4901., 4903., 4905., 4907., and 56655
4909., ~~4921., 4923., and 4925.~~ of the Revised Code. Before making 56656
such investigation, the commission shall give the railroad and the 56657
complainants ten days' notice of the time and place such matters 56658
will be considered and determined, and such parties are entitled 56659
to be heard and to have process to enforce the attendance of 56660
witnesses. 56661

A railroad may make complaint with like effect as though made 56662
by any person, firm, corporation, or association, ~~mercantile~~ 56663
mercantile, agricultural, or manufacturing society, body politic, 56664
or municipal organization. 56665

Sec. 4909.28. If, upon an investigation under Chapters 4901., 56666
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 56667
Revised Code, the public utilities commission finds that any 56668
existing rate, fare, charge, or classification, any joint rate, or 56669
any regulation or practice affecting the transportation of persons 56670
or property, or service in connection therewith, is unreasonable 56671
or unjustly discriminatory, or that any service is inadequate, it 56672
shall determine and by order fix a reasonable rate, fare, charge, 56673
classification, joint rate, regulation, practice, or service to be 56674
imposed, observed, and followed in the future, in place of that so 56675
found to be unreasonable, unjustly discriminatory, or inadequate. 56676
A certified copy of each such order shall be delivered to an 56677
officer or station agent of the railroad affected, and such order 56678
shall of its own force take effect and become operative thirty 56679
days after service. 56680

All railroads to which such order applies shall make such 56681
changes in their schedules on file as are necessary to conform to 56682

such order, and no change shall thereafter be made by any railroad 56683
in any such rate, fare, or charge, or in any joint rate, without 56684
the approval of the commission. 56685

Sec. 4911.01. As used in this chapter: 56686

(A) "Public utility" means every one as defined in divisions 56687
(A)~~(1)~~, ~~(3)~~, ~~(4)~~, ~~(5)~~, ~~(6)~~, ~~(7)~~, ~~(8)~~, (C), (D), (E), (F), (G), 56688
(H), and ~~(13)~~(M) of section 4905.03 of the Revised Code, including 56689
all public utilities that operate their utilities not for profit, 56690
except the following: 56691

(1) Electric light companies that operate their utilities not 56692
for profit; 56693

(2) Public utilities, other than telephone companies, that 56694
are owned and operated exclusively by and solely for the 56695
utilities' customers; 56696

(3) Public utilities that are owned or operated by any 56697
municipal corporation; 56698

(4) Railroads as defined in sections 4907.02 and 4907.03 of 56699
the Revised Code. 56700

(B) "Residential consumer" means urban, suburban, and rural 56701
patrons of public utilities insofar as their needs for utility 56702
services are limited to their residence. 56703

Sec. 4921.01. As used in this chapter: 56704

(A) "Ambulance" has the same meaning as in section 4766.01 of 56705
the Revised Code. 56706

(B) "For-hire motor carrier" means a person engaged in the 56707
business of transporting persons or property by motor vehicle for 56708
compensation, except when engaged in any of the following in 56709
intrastate commerce: 56710

| | |
|--|-------|
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u> | 56711 |
| | 56712 |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u> | 56713 |
| | 56714 |
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u> | 56715 |
| | 56716 |
| <u>(4) The distribution of newspapers;</u> | 56717 |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u> | 56718 |
| | 56719 |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u> | 56720 |
| | 56721 |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u> | 56722 |
| | 56723 |
| <u>(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;</u> | 56724 |
| | 56725 |
| | 56726 |
| | 56727 |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u> | 56728 |
| | 56729 |
| <u>"For-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.</u> | 56730 |
| | 56731 |
| | 56732 |
| | 56733 |
| | 56734 |
| <u>Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with hazardous-material regulation under section 4921.15 of the Revised Code and division (H) of section 4921.19 of the Revised Code, or rules adopted thereunder, or from compliance with rules governing unified carrier registration adopted under section 4921.11 of the</u> | 56735 |
| | 56736 |
| | 56737 |
| | 56738 |
| | 56739 |
| | 56740 |

| | |
|--|--|
| <u>Revised Code.</u> | 56741 |
| <u>(C) "Household goods" means personal effects and property used or to be used in a dwelling, excluding property moving from a factory or store.</u> | 56742 56743 56744 |
| <u>(D) "Interstate commerce" means trade, traffic, or transportation in the United States that is any of the following:</u> | 56745 56746 |
| <u>(1) Between a place in a state and a place outside of that state (including a place outside of the United States);</u> | 56747 56748 |
| <u>(2) Between two places in a state through another state or a place outside of the United States;</u> | 56749 56750 |
| <u>(3) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.</u> | 56751 56752 56753 |
| <u>(E) "Intrastate commerce" means any trade, traffic, or transportation in any state which is not described in the term "interstate commerce."</u> | 56754 56755 56756 |
| <u>(F) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of persons or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.</u> | 56757 56758 56759 56760 56761 56762 56763 56764 |
| <u>(G) "Public highway" means any public street, road, or highway in this state, whether within or without the corporate limits of a municipal corporation.</u> | 56765 56766 56767 |
| <u>(H) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver, and includes ridesharing</u> | 56768 56769 56770 |

arrangements known as carpools, vanpools, and buspools. 56771

(I) "School bus" has the same meaning as in section 4511.01 of the Revised Code. 56772
56773

(J) "Trailer" means any vehicle without motive power designed or used for carrying persons or property and for being drawn by a separate motor vehicle, including any vehicle of the trailer type, whether designed or used for carrying persons or property wholly on its own structure, or so designed or used that a part of its own weight or the weight of its load rests upon and is carried by such motor vehicle. 56774
56775
56776
56777
56778
56779
56780

Sec. 4921.03. (A) No for-hire motor carrier may operate in intrastate commerce unless the carrier has a current and valid certificate of public convenience and necessity. 56781
56782
56783

(B) The public utilities commission shall issue a certificate of public convenience and necessity to any person who does all of the following: 56784
56785
56786

(1) Files with the commission, in accordance with rules adopted under section 4921.05 of the Revised Code, a complete and accurate application that shall include a certification that (a) the person understands and is in compliance with the applicable service, operation, and safety laws of this state and (b) the person meets the requirements of section 4921.09 of the Revised Code; 56787
56788
56789
56790
56791
56792
56793

(2) Agrees to maintain accurate and current business and insurance information with the commission, in accordance with the commission's rules; 56794
56795
56796

(3) Has paid all applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code. 56797
56798
56799
56800

(C) The commission shall have no power to fix, alter, or establish rates for the transportation of persons or property, nor shall the commission have the power to require or accept the filing of tariffs establishing such rates, except that the commission may accept the filing of tariffs establishing rates for the transportation of household goods. 56801
56802
56803
56804
56805
56806

(D) A for-hire motor carrier may, at any time after a certificate of public convenience and necessity is granted or refused, file a new application or supplement a former application. 56807
56808
56809
56810

(E) The commission may deny issuance of a certificate of public convenience and necessity for failure to comply with this section or rules adopted under section 4921.05 of the Revised Code. 56811
56812
56813
56814

Sec. 4921.05. The public utilities commission shall adopt rules prescribing the manner and form in which a person shall apply for a certificate of public convenience and necessity under section 4921.03 of the Revised Code. The rules shall include a requirement that applications be made in writing on the blanks furnished by the commission and contain any information and certifications deemed necessary by the commission to carry out this chapter. 56815
56816
56817
56818
56819
56820
56821
56822

Sec. 4921.07. (A) The public utilities commission shall adopt rules regarding procedures and timelines by which a certificate of public convenience and necessity issued under section 4921.03 of the Revised Code may be suspended. At a minimum, the rules shall require suspension of a certificate if the for-hire motor carrier does any of the following: 56823
56824
56825
56826
56827
56828

(1) Fails to file a complete and accurate application for the certificate under section 4921.03 of the Revised Code; 56829
56830

| | |
|--|-------|
| <u>(2) Fails to maintain accurate and current business and insurance information with the commission;</u> | 56831 |
| | 56832 |
| <u>(3) Fails to maintain proper proof of insurance or proper levels of insurance under section 4921.09 of the Revised Code;</u> | 56833 |
| | 56834 |
| <u>(4) Fails to pay all applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code;</u> | 56835 |
| | 56836 |
| | 56837 |
| | 56838 |
| | 56839 |
| <u>(5) Requests to suspend the carrier's operations.</u> | 56840 |
| <u>(B)(1) The commission shall adopt rules regarding procedures and timelines by which a certificate suspended under division (A) of this section may be revoked if the conditions giving rise to the suspension are not remedied.</u> | 56841 |
| | 56842 |
| | 56843 |
| | 56844 |
| <u>(2) The commission shall provide the carrier with written notice indicating the nature of the deficiency, a proposed effective date of the revocation, and the means by which the deficiency may be remedied. The carrier may correct the identified deficiency or submit evidence refuting the proposed revocation within sixty days from the date of the notice. The commission may extend the sixty-day period for good cause shown. The commission may revoke the certificate after the remedy period if the carrier has not provided sufficient evidence to remedy the deficiency.</u> | 56845 |
| | 56846 |
| | 56847 |
| | 56848 |
| | 56849 |
| | 56850 |
| | 56851 |
| | 56852 |
| | 56853 |
| <u>Sec. 4921.09. (A) No certificate of public convenience and necessity shall be issued by the public utilities commission to any for-hire motor carrier until the carrier has filed with the commission a liability insurance certificate, policy, or bond satisfactory to the commission, in the sum and with the provisions the commission considers necessary adequately to protect the interests of the public, having due regard for the number of</u> | 56854 |
| | 56855 |
| | 56856 |
| | 56857 |
| | 56858 |
| | 56859 |
| | 56860 |

persons and amount of property affected. The certificate, policy, or bond shall insure the carrier against loss sustained by reason of death or injuries to persons and for loss or damage to property resulting from the negligence of the carrier. 56861
56862
56863
56864

(B) No certificate for the transportation of household goods shall be issued to a for-hire motor carrier pursuant to sections 4921.30 to 4921.38 of the Revised Code until it has filed with the commission a freight cargo insurance certificate, policy, or bond that the commission has determined to be adequate to protect the interests of the shipping public. 56865
56866
56867
56868
56869
56870

(C) The Commission shall adopt rules to achieve the purposes of this section that are not incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following: 56871
56872
56873
56874

(1) The minimum levels of financial responsibility for each type of for-hire motor carrier; 56875
56876

(2) The form and type of documents to be filed with the commission; 56877
56878

(3) The manner by which documents may be filed with the commission; 56879
56880

(4) The timelines for filing documents with the commission. 56881

(D) If a certificate, policy, or bond required under division (A) of this section is canceled during its term or lapses for any reason, both of the following apply: 56882
56883
56884

(1) All operations under the certificate of public convenience and necessity shall cease immediately, and further operations shall not be conducted until a replacement is filed with the commission under division (D)(2) of this section. 56885
56886
56887
56888

(2) The commission shall require the company to replace the certificate, policy, or bond with another that fully complies with 56889
56890

the requirements of this section. 56891

The certificate of public convenience and necessity shall be 56892
reinstated only after a satisfactory insurance certificate, 56893
policy, or bond has been filed with the commission. 56894

(E) To ensure minimum standards of protection of consumers' 56895
household goods, the commission may adopt rules, not incompatible 56896
with the requirements of the United States department of 56897
transportation, governing requirements for cargo insurance for 56898
for-hire motor carriers engaged in the transportation of household 56899
goods over a public highway in this state. 56900

Sec. 4921.11. The public utilities commission shall adopt 56901
rules applicable to registration pursuant to the unified carrier 56902
registration plan, codified as 49 U.S.C. 14504a, and the rules, 56903
procedures, and fee schedules adopted thereunder, in accordance 56904
with division (G) of section 4921.19 of the Revised Code. 56905

Sec. 4921.13. (A) The public utilities commission shall adopt 56906
rules applicable to the filing of annual update forms and the 56907
payment of taxes by for-hire motor carriers. The rules shall not 56908
be incompatible with the requirements of the United States 56909
department of transportation. The rules shall at a minimum address 56910
all of the following: 56911

(1) The information and certifications that must be provided 56912
to the commission on an annual update form, including a 56913
certification that the carrier continues to be in compliance with 56914
the applicable laws of this state. 56915

(2) Documentation and information that must be provided 56916
regarding proof of financial responsibility; 56917

(3) The form and manner in which taxes may be paid under 56918
section 4921.19 of the Revised Code. 56919

(B) The rules may address any other information that the commission determines is necessary to carry out this section. 56920
56921

(C) A for-hire motor carrier shall not be issued a tax receipt under division (C) of section 4921.19 of the Revised Code until all of the following have been satisfied: 56922
56923
56924

(1) A complete and accurate annual update form has been filed with the commission; 56925
56926

(2) Proof of financial responsibility remains in effect; 56927

(3) All applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code have been paid in full. 56928
56929
56930
56931
56932

Sec. 4921.15. (A) As used in sections 4921.15, 4921.16, and 4921.19 of the Revised Code: 56933
56934

(1) "Uniform registration" has the same meaning as "registration" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 56935
56936
56937
56938
56939

(2) "Uniform permit" has the same meaning as "permit" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 56940
56941
56942
56943
56944

(B)(1) The public utilities commission may adopt rules applicable to the uniform registration and uniform permitting of persons engaged in the highway transportation of hazardous materials into, through, or within this state. The rules shall include rules staggering the registration date for those persons 56945
56946
56947
56948
56949

and reducing or extending, by no more than one year, the permit 56950
renewal period for those persons. 56951

(2) For the purpose of minimizing filing requirements 56952
regarding any background investigation required for the issuance 56953
of a uniform permit as a carrier of hazardous wastes, the 56954
commission shall accept from any applicant for the permit any 56955
refiling of information the applicant has filed with the office of 56956
the attorney general under section 3734.42 of the Revised Code or 56957
any reference to that information if the refiled or referenced 56958
information is on file with the office of the attorney general, is 56959
accurate and timely for the commission's purposes under this 56960
section, and is supplemented by any additional information the 56961
commission requires. The office of the attorney general, as 56962
necessary for a background investigation, shall make accessible to 56963
the commission any information referenced or refiled in an 56964
application for a uniform permit as a carrier of hazardous wastes 56965
that the attorney general determines may be disclosed in 56966
accordance with section 3734.42 of the Revised Code. Nothing in 56967
sections 4921.15, 4921.16, and division (H) of section 4921.19 of 56968
the Revised Code affects any limitations under section 3734.42 of 56969
the Revised Code on the disclosure of that information. 56970

(C) The commission, as necessary to implement the rules 56971
adopted under division (B) of this section, may enter into 56972
agreements, contracts, arrangements, or declarations with other 56973
states and with the national repository, established pursuant to 56974
the final report submitted to the United States secretary of 56975
transportation, pursuant to subsection (c) of section 22 of the 56976
"Hazardous Materials Transportation Uniform Safety Act of 1990," 56977
104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, 56978
arrangements, or declarations shall include, but not be limited 56979
to, the determination of a base state, the collection of uniform 56980
registration fees, the frequency of distribution of uniform 56981

registration fees, procedures for dispute resolution, and 56982
protection of trade secrets and confidential business information. 56983

(D) No person shall knowingly falsify or fail to submit any 56984
data, reports, records, or other information required to be 56985
submitted to the commission pursuant to this section or a rule 56986
adopted under it. For purposes of this division, a person acts 56987
knowingly if either of the following applies: 56988

(1) The person has actual knowledge of the facts giving rise 56989
to the violation. 56990

(2) A reasonable person acting in the circumstances and 56991
exercising due care would have such knowledge. 56992

(E) After notice and opportunity for a hearing, the 56993
commission, pursuant to criteria set forth in rules adopted under 56994
division (B) of this section, may suspend, revoke, or deny the 56995
uniform permit as a carrier of hazardous materials of any person 56996
that has obtained or applied for such a uniform permit from the 56997
commission pursuant to rules adopted under that division, or the 56998
commission may order the suspension of the transportation of 56999
hazardous materials into, through, or within this state by a 57000
carrier that has obtained a uniform permit from another state that 57001
has a reciprocity agreement with the commission pursuant to 57002
division (C) of this section. 57003

(F)(1) The proceedings specified in division (E) of this 57004
section are subject to and governed by Chapter 4903. of the 57005
Revised Code, except as otherwise provided in this section. The 57006
court of appeals of Franklin county has exclusive original 57007
jurisdiction to review, modify, or vacate any order of the 57008
commission suspending, revoking, or denying a uniform permit as a 57009
carrier of hazardous materials of any person that has obtained or 57010
applied for a uniform permit from the commission pursuant to rules 57011
adopted under division (B) of this section, or any order of the 57012

commission suspending the transportation of hazardous materials 57013
into, through, or within this state by a carrier that has obtained 57014
a uniform permit from another state that has a reciprocity 57015
agreement with the commission under division (C) of this section. 57016
The court of appeals shall hear and determine those appeals in the 57017
same manner and under the same standards as the Ohio supreme court 57018
hears and determines appeals under Chapter 4903. of the Revised 57019
Code. The judgment of the court of appeals is final and conclusive 57020
unless reversed, vacated, or modified on appeal. Such appeals may 57021
be taken either by the commission or the person to whom the order 57022
was issued and shall proceed as in the case of appeals in civil 57023
actions as provided in Chapter 2505. of the Revised Code. 57024

(2) Section 4903.11 of the Revised Code does not apply to 57025
appeals of any order of the commission suspending, revoking, or 57026
denying a uniform permit of a person that has obtained or applied 57027
for a uniform permit from the commission pursuant to rules adopted 57028
under division (B) of this section, or of any order of the 57029
commission suspending the transportation of hazardous materials 57030
into, through, or within this state by a carrier that has obtained 57031
a uniform permit from another state that has a reciprocity 57032
agreement with the commission pursuant to division (C) of this 57033
section. Any person to whom such an order is issued who wishes to 57034
contest the order shall file, within sixty days after the entry of 57035
the order upon the journal of the commission, a notice of appeal, 57036
setting forth the order appealed from and the errors complained 57037
of. The notice of appeal shall be served, unless waived, upon the 57038
chairperson of the commission or, in the event of the 57039
chairperson's absence, upon any public utilities commissioner, or 57040
by leaving a copy at the office of the commission at Columbus. On 57041
appeal, the court shall reverse, vacate, or modify the order if, 57042
upon consideration of the record, the court is of the opinion that 57043
the order was unlawful or unreasonable. 57044

Sec. 4921.16. (A) Information submitted to the public 57045
utilities commission as part of a uniform registration 57046
application, pursuant to rules adopted under division (B) of 57047
section 4921.15 of the Revised Code, is a public record and is 57048
subject to section 149.43 of the Revised Code. 57049

(B) Except for information related to corporate structure and 57050
personnel, information that is submitted to the commission as part 57051
of a uniform permit application, pursuant to rules adopted under 57052
division (B) of section 4921.15 of the Revised Code, is a public 57053
record and is subject to section 149.43 of the Revised Code. 57054
Information that is related to corporate structure and personnel 57055
that is submitted to the commission as part of a uniform permit 57056
application, pursuant to rules adopted under division (B) of 57057
section 4921.15 of the Revised Code, is not a public record and is 57058
not subject to section 149.43 of the Revised Code. Except as 57059
provided in division (D) of this section, the commission shall not 57060
disclose to any person any information that is related to 57061
corporate structure and personnel that is submitted as part of a 57062
uniform permit application. 57063

(C) Information that is submitted for any background 57064
investigation for an application for a uniform permit as a carrier 57065
of hazardous wastes is not a public record and is not subject to 57066
section 149.43 of the Revised Code. Except as provided in division 57067
(D) of this section, the commission shall not disclose to any 57068
person any information submitted for any background investigation 57069
for such an application. 57070

(D) The commission may disclose to its authorized employees 57071
and to any federal agencies, state agencies of this state or 57072
another state, local government agencies of this state or another 57073
state, or the national repository established pursuant to the 57074
final report submitted to the United States secretary of 57075

transportation, pursuant to subsection (c) of section 22 of the 57076
"Hazardous Materials Transportation Uniform Safety Act of 1990," 57077
104 Stat. 3244, 49 U.S.C.A. App. 1819, any information submitted 57078
to the commission as part of a uniform permit application that is 57079
related to corporate structure and personnel or submitted for any 57080
background investigation for an application for a uniform permit 57081
as a carrier of hazardous wastes if all of the following 57082
conditions are met: 57083

(1) The commission enters into a confidentiality agreement 57084
with the employee, agency, or national repository under which that 57085
employee or entity agrees not to disclose to any third party any 57086
information related to corporate structure or personnel or any 57087
information submitted as part of a background investigation unless 57088
the third party enters into a confidentiality agreement with the 57089
commission consistent with this division. 57090

(2) The employee, agency, or national repository certifies to 57091
the commission that it is not required by any state or federal law 57092
to disclose any information related to corporate structure or 57093
personnel or any information submitted as part of a background 57094
investigation. 57095

(3) The federal agency, state or local government agency of 57096
another state, or national repository irrevocably consents in 57097
writing to the jurisdiction of the courts of this state and 57098
service of process in this state, including, without limitation, 57099
summonses and subpoenas, for any civil proceeding arising out of 57100
an intentional disclosure of information in violation of this 57101
division. 57102

(E) Any person who intentionally discloses information in 57103
violation of division (D) of this section is liable to the owner 57104
of the information for civil damages caused by the disclosure. 57105

Sec. 4921.19. (A) Every for-hire motor carrier operating in 57106

this state shall, at the time of the issuance of a certificate of public convenience and necessity under section 4921.03 of the Revised Code, pay to the public utilities commission, for and on behalf of the treasurer of state, the following taxes:

(1) For each motor vehicle used for transporting persons, thirty dollars;

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars;

(3) For each other motor vehicle transporting property, twenty dollars.

(B) Every for-hire motor carrier operating in this state solely in intrastate commerce shall, annually between the first day of May and the thirtieth day of June, pay to the commission, for and on behalf of the treasurer of state, the following taxes:

(1) For each motor vehicle used for transporting persons, thirty dollars;

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars;

(3) For each other motor vehicle transporting property, twenty dollars.

(C) After a for-hire motor carrier has paid the applicable taxes under division (B) of this section and all requirements under division (C) of section 4921.13 of the Revised Code have been met, the commission shall issue the carrier a tax receipt. The carrier shall carry a copy of the tax receipt in each motor vehicle operated by the carrier. The carrier shall maintain the original copy of the tax receipt at the carrier's primary place of business.

(D) A trailer used by a for-hire motor carrier shall not be 57137
taxed under this section. 57138

(E) The annual tax levied by division (B) of this section 57139
does not apply in those cases where the commission finds that the 57140
movement of agricultural commodities or foodstuffs produced 57141
therefrom requires a temporary and seasonal use of vehicular 57142
equipment for a period of not more than ninety days. In such 57143
event, the tax on the vehicular equipment shall be twenty-five per 57144
cent of the annual tax levied by division (B) of this section. If 57145
any vehicular equipment is used in excess of the ninety-day 57146
period, the annual tax levied by this section shall be paid. 57147

(F) All taxes levied by division (B) of this section shall be 57148
reckoned as from the beginning of the quarter in which the tax 57149
receipt is issued or as from when the use of equipment under any 57150
existing tax receipt began. 57151

(G) The fees for unified carrier registration pursuant to 57152
section 4921.11 of the Revised Code shall be identical to those 57153
established by the unified carrier registration act board as 57154
approved by the federal motor carrier safety administration for 57155
each year. 57156

(H)(1) The fees for uniform registration and a uniform permit 57157
as a carrier of hazardous materials pursuant to section 4921.15 of 57158
the Revised Code shall consist of the following: 57159

(a) A processing fee of fifty dollars; 57160

(b) An apportioned per-truck registration fee, which shall be 57161
calculated by multiplying the percentage of a registrant's 57162
activity in this state times the percentage of the registrant's 57163
business that is hazardous-materials-related, times the number of 57164
vehicles owned or operated by the registrant, times a per-truck 57165
fee determined by order of the commission following public notice 57166
and an opportunity for comment. 57167

(i) The percentage of a registrant's activity in this state shall be calculated by dividing the number of miles that the registrant travels in this state under the international registration plan, pursuant to section 4503.61 of the Revised Code, by the number of miles that the registrant travels nationwide under the international registration plan. Registrants that operate solely within this state shall use one hundred per cent as their percentage of activity. Registrants that do not register their vehicles through the international registration plan shall calculate activity in the state in the same manner as that required by the international registration plan.

(ii) The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for less-than-truckload shipments, by dividing the weight of all the registrant's hazardous materials shipments by the total weight of all shipments in the previous year. The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for truckload shipments, by dividing the number of shipments for which placarding, marking of the vehicle, or manifesting, as appropriate, was required by regulations adopted under sections 4 to 6 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, by the total number of the registrant's shipments that transported any kind of goods in the previous year. A registrant that transports both less-than-truckload and truckload shipments of hazardous materials shall calculate the percentage of business that is hazardous-materials-related on a proportional basis.

(iii) A registrant may utilize fiscal year, or calendar year, or other current company accounting data, or other publicly available information, in calculating the percentages required by divisions (H)(1)(b)(i) and (ii) of this section.

(2) The commission, after notice and opportunity for a

hearing, may assess each carrier a fee for any background 57200
investigation required for the issuance, for the purpose of 57201
section 3734.15 of the Revised Code, of a uniform permit as a 57202
carrier of hazardous wastes and fees related to investigations and 57203
proceedings for the denial, suspension, or revocation of a uniform 57204
permit as a carrier of hazardous materials. The fees shall not 57205
exceed the reasonable costs of the investigations and proceedings. 57206
The fee for a background investigation for a uniform permit as a 57207
carrier of hazardous wastes shall be six hundred dollars plus the 57208
costs of obtaining any necessary information not included in the 57209
permit application, to be calculated at the rate of thirty dollars 57210
per hour, not exceeding six hundred dollars, plus any fees payable 57211
to obtain necessary information. 57212

(I) The application fee for a certificate for the 57213
transportation of household goods issued pursuant to sections 57214
4921.30 to 4921.38 of the Revised Code shall be based on the 57215
certificate holder's gross revenue, in the prior year, for the 57216
intrastate transportation of household goods. The commission shall 57217
establish, by order, ranges of gross revenue and the fee for each 57218
range. The fees shall be set in amounts sufficient to carry out 57219
the purposes of sections 4921.30 to 4921.38 and 4923.99 of the 57220
Revised Code and, to the extent necessary, the commission shall 57221
make changes to the fee structure to ensure that neither over nor 57222
under collection of the fees occurs. The fees shall also take into 57223
consideration the revenue generated from the assessment of 57224
forfeitures under section 4923.99 of the Revised Code regarding 57225
the consumer protection provisions applicable to for-hire motor 57226
carriers engaged in the transportation of household goods. 57227

(J) The fees and taxes provided under this section shall be 57228
in addition to taxes, fees, and charges fixed and exacted by other 57229
sections of the Revised Code, except the assessments required by 57230
section 4905.10 of the Revised Code, but all fees, license fees, 57231

annual payments, license taxes, or taxes or other money exactions, 57232
except the general property tax, assessed, charged, fixed, or 57233
exacted by local authorities such as municipal corporations, 57234
townships, counties, or other local boards, or the officers of 57235
such subdivisions are illegal and, are superseded by sections 57236
4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On 57237
compliance with sections 4503.04 and 4905.03 and Chapter 4921. of 57238
the Revised Code, all local ordinances, resolutions, by laws, and 57239
rules in force shall cease to be operative as to the persons in 57240
compliance, except that such local subdivisions may make 57241
reasonable local police regulations within their respective 57242
boundaries not inconsistent with sections 4503.04 and 4905.03 and 57243
Chapter 4921. of the Revised Code. 57244

Sec. 4921.21. (A) As used in this section, "adjusted credit 57245
amount" means the aggregate amount credited to the public 57246
utilities transportation safety fund, less the sum of all of the 57247
following: 57248

(1) The fees collected by the public utilities commission, in 57249
accordance with the unified carrier registration plan under 57250
section 4921.11 of the Revised Code, that exceed the federal 57251
certification of revenue for each year of the plan; 57252

(2) The fees collected by the commission on behalf of other 57253
states under division (C) of section 4921.15 of the Revised Code; 57254

(3) The forfeitures collected by the commission under section 57255
4923.99 of the Revised Code for violations of rules adopted under 57256
division (A)(2) of section 4923.04 of the Revised Code. 57257

(B)(1) There is hereby created in the state treasury the 57258
public utilities transportation safety fund. The fees collected in 57259
accordance with the unified carrier registration plan under 57260
section 4921.11 of the Revised Code, the fees collected under 57261
section 4921.15 of the Revised Code, the taxes and fees remitted 57262

under section 4921.19 of the Revised Code, the forfeitures imposed 57263
under section 4923.99 of the Revised Code, except as provided in 57264
division (B)(2) of this section, and the fines collected under 57265
section 4163.07 of the Revised Code shall be deposited into the 57266
state treasury to the credit of the public utilities 57267
transportation safety fund, until the adjusted credit amount in a 57268
fiscal year is equal to the total amount appropriated from the 57269
fund for the fiscal year. Once this point of parity is reached, 57270
any additional fees, taxes, forfeitures, or fines received during 57271
the fiscal year shall be credited to the general revenue fund, 57272
except as provided in division (B)(2) of this section, and except 57273
for both of the following: 57274

(a) The fees collected in accordance with the unified carrier 57275
registration plan under section 4921.11 of the Revised Code, that 57276
exceed the federal certification of revenue for each year of the 57277
plan; 57278

(b) The fees collected on behalf of other states under 57279
division (C) of section 4921.15 of the Revised Code. 57280

(2) The first eight hundred thousand dollars of forfeitures 57281
collected under section 4923.99 of the Revised Code, for 57282
violations of rules adopted under division (A)(2) of section 57283
4923.04 of the Revised Code, during each fiscal year shall be 57284
credited to the public utilities transportation safety fund. Any 57285
forfeitures in excess of that amount shall be deposited into the 57286
general revenue fund. In each fiscal year, the commission shall 57287
distribute moneys from these forfeitures credited to the public 57288
utilities transportation safety fund for the purposes of emergency 57289
response planning and the training of safety, enforcement, and 57290
emergency services personnel in proper techniques for the 57291
management of hazardous materials releases that occur during 57292
transportation or otherwise. For these purposes, fifty per cent of 57293
all such moneys credited to the public utilities transportation 57294

safety fund shall be distributed to Cleveland state university, 57295
forty-five per cent shall be distributed to other educational 57296
institutions, state agencies, regional planning commissions, and 57297
political subdivisions, and five per cent shall be retained by the 57298
commission for the administration of this section and for training 57299
employees. However, if, in any such period, moneys from these 57300
forfeitures credited to the public utilities transportation safety 57301
fund equal an amount less than four hundred thousand dollars, the 57302
commission shall distribute, to the extent of the aggregate amount 57303
of those moneys, two hundred thousand dollars to Cleveland state 57304
university and the remainder to other educational institutions, 57305
state agencies, regional planning commissions, and political 57306
subdivisions. 57307

(C) The purpose of the public utilities transportation safety 57308
fund shall be for defraying all expenses incident to maintaining 57309
the nonrailroad transportation activities of the commission. 57310

(D) There is hereby created in the state treasury the federal 57311
commercial vehicle transportation systems fund. The fund shall 57312
consist of money received from the United States department of 57313
transportation's commercial vehicle intelligent transportation 57314
systems infrastructure deployment program. The public utilities 57315
commission shall use the fund to deploy the Ohio commercial 57316
vehicle information systems networks project and to improve safety 57317
of motor carrier operations through electronic exchange of data. 57318

(E) There is hereby created in the state treasury the motor 57319
carrier safety fund. The fund shall consist of money received from 57320
the United States department of transportation for motor carrier 57321
safety. The commission shall use the fund to administer the 57322
state's motor carrier safety assistance program and associated 57323
grants, including the motor carrier safety assistance program 57324
basic grant, the incentive grant, the high priority grants, the 57325
new entrant safety assurance grant, the safety data improvement 57326

grant, or their equivalents. 57327

(F) If the director of budget and management determines there 57328
is not sufficient money in the public utilities transportation 57329
safety fund, the director shall transfer money from the general 57330
revenue fund to the public utilities transportation safety fund in 57331
an amount up to the difference between the balance of the public 57332
utilities transportation safety fund and the appropriations from 57333
that fund. If the director subsequently determines during the 57334
fiscal year that the balance of the public utilities 57335
transportation safety fund exceeds the amount needed to support 57336
the appropriations from the fund, the director shall transfer the 57337
excess money, up to the amount of the original transfer, to the 57338
general revenue fund. 57339

Sec. 4921.25. Any person, firm, copartnership, voluntary 57340
association, joint-stock association, company, or corporation, 57341
wherever organized or incorporated, that is engaged in the towing 57342
of motor vehicles is subject to regulation by the public utilities 57343
commission as a for-hire motor carrier under this chapter. Such an 57344
entity is not subject to any ordinance, rule, or resolution of a 57345
municipal corporation, county, or township that provides for the 57346
licensing, registering, or regulation of entities that tow motor 57347
vehicles. 57348

Sec. 4921.30. Except as otherwise provided in sections 57349
4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier 57350
engaged in the transportation of household goods in intrastate 57351
commerce: 57352

(A) Is subject to Chapter 4921. of the Revised Code and to 57353
all other provisions of the Revised Code applicable to a for-hire 57354
motor carrier, including sections 4506.22, 4511.78, 5502.01, 57355
5503.02, and 5503.34 of the Revised Code; 57356

(B) Is not a public utility as defined in section 4911.01 of the Revised Code. 57357
57358

Sec. 4921.32. Notwithstanding any provision of this chapter or Chapters 4901. to 4909. and 4923. of the Revised Code to the contrary: 57359
57360
57361

(A) Not later than six months after the effective date of this section, the public utilities commission, in accordance with sections 4921.30 to 4921.38 of the Revised Code, shall establish by order a certification system for for-hire motor carriers engaged in the transportation of household goods in intrastate commerce. 57362
57363
57364
57365
57366
57367

(B) Beginning on the effective date of the order of the commission as initially issued under division (A) of this section, no for-hire motor carrier shall engage in the transportation of household goods in intrastate commerce without first holding a current and valid certificate for the transportation of household goods issued by the commission pursuant to sections 4921.30 to 4921.38 of the Revised Code. 57368
57369
57370
57371
57372
57373
57374

Sec. 4921.34. (A) The public utilities commission shall approve an application for a certificate for the transportation of household goods under sections 4921.30 to 4921.38 of the Revised Code and shall issue a certificate, provided the applicant pays the applicable application fee under division (I) of section 4921.19 of the Revised Code and submits to the commission a completed application, on a form prescribed by the commission, that is substantially the same as the application prescribed by the commission pursuant to section 4921.05 of the Revised Code, and includes a certification of all of the following by responsible officials of the applicant: 57375
57376
57377
57378
57379
57380
57381
57382
57383
57384
57385

(1) The applicant's workers' compensation coverage is current 57386

pursuant to Chapter 4123. of the Revised Code. 57387

(2) The applicant's unemployment compensation coverage is current pursuant to Chapter 4141. of the Revised Code. 57388
57389

(3) The applicant's financial responsibility is in accordance with rules adopted by the commission under section 4921.09 of the Revised Code. 57390
57391
57392

(B) The commission shall not approve any application that does not contain the proper certifications required by this section. The commission may revoke a certificate issued under division (A) of this section if, after at least fifteen days' advance notice to the certificate holder of the basis for such action and providing the holder with an opportunity for a hearing, the commission finds that the holder is not in compliance with this chapter, or rules adopted or orders issued under it. 57393
57394
57395
57396
57397
57398
57399
57400

(C) A certificate issued under division (A) of this section is valid for one year and is renewable annually. 57401
57402

Sec. 4921.36. Each holder of a certificate for the transportation of household goods shall do all of the following: 57403
57404

(A) Make its current certificate available for public inspection during normal business hours; 57405
57406

(B) Present each of its customers with information, written in plain and clear language and pursuant to a form prescribed by the public utilities commission, outlining a consumer's rights; 57407
57408
57409

(C) Include its certificate number on all advertising, written estimates, and contracts, pursuant to rules adopted by the commission. 57410
57411
57412

Sec. 4921.38. In accordance with sections 4921.30 to 4921.36 of the Revised Code, the public utilities commission may adopt rules regarding any of the following: 57413
57414
57415

| | |
|---|-------|
| <u>(A) Providing for binding estimates by for-hire motor carriers engaged in the transportation of household goods in intrastate commerce;</u> | 57416 |
| | 57417 |
| | 57418 |
| <u>(B) Providing for guaranteed-not-to-exceed estimates by those carriers;</u> | 57419 |
| | 57420 |
| <u>(C) Requiring those carriers to include their certificate number in all advertising, written estimates, and contracts related to the transportation of household goods in intrastate commerce;</u> | 57421 |
| | 57422 |
| | 57423 |
| | 57424 |
| <u>(D) As are necessary and proper to carry out this chapter with respect to those carriers;</u> | 57425 |
| | 57426 |
| <u>(E) Providing for the enforcement of the consumer protection provisions of Title 49 of the United States Code related to the delivery and transportation of household goods in interstate commerce, as permitted by 49 U.S.C. 14710.</u> | 57427 |
| | 57428 |
| | 57429 |
| | 57430 |
| <u>Sec. 4923.01. As used in this chapter:</u> | 57431 |
| <u>(A) "Ambulance," "interstate commerce," "intrastate commerce," "motor vehicle," "public highway," "ridesharing arrangement," and "school bus" have the same meanings as in section 4921.01 of the Revised Code.</u> | 57432 |
| | 57433 |
| | 57434 |
| | 57435 |
| <u>(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:</u> | 57436 |
| | 57437 |
| | 57438 |
| | 57439 |
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u> | 57440 |
| | 57441 |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u> | 57442 |
| | 57443 |
| <u>(3) The transportation of farm supplies to the farm or farm</u> | 57444 |

| | |
|--|--|
| <u>products from farm to market or to food fabricating plants;</u> | 57445 |
| <u>(4) The distribution of newspapers;</u> | 57446 |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u> | 57447 57448 |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u> | 57449 57450 |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u> | 57451 57452 |
| <u>(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;</u> | 57453 57454 57455 57456 |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u> | 57457 57458 |
| <u>"For-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.</u> | 57459 57460 57461 57462 57463 |
| <u>Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code, or from compliance with rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code.</u> | 57464 57465 57466 57467 57468 57469 57470 57471 |
| <u>(C) "Motor carrier" means both a for-hire motor carrier and a private motor carrier.</u> | 57472 57473 |
| <u>(D) "Private motor carrier" means a person who is not a</u> | 57474 |

for-hire motor carrier but is engaged in the business of 57475
transporting persons or property by motor vehicle, except as 57476
provided in section 4923.02 of the Revised Code. "Private motor 57477
carrier" includes the carrier's agents, officers, and 57478
representatives, as well as employees responsible for hiring, 57479
supervising, training, assigning, or dispatching drivers and 57480
employees concerned with the installation, inspection, and 57481
maintenance of motor-vehicle equipment and accessories. 57482

Sec. 4923.02. (A) As used in this chapter, "private motor 57483
carrier" does not include a person when engaged in any of the 57484
following in intrastate commerce: 57485

(1) The transportation of persons in taxicabs in the usual 57486
taxicab service; 57487

(2) The transportation of pupils in school busses operating 57488
to or from school sessions or school events; 57489

(3) The transportation of farm supplies to the farm or farm 57490
products from farm to market or to food fabricating plants; 57491

(4) The distribution of newspapers; 57492

(5) The transportation of crude petroleum incidental to 57493
gathering from wells and delivery to destination by pipe line; 57494

(6) The transportation of injured, ill, or deceased persons 57495
by hearse or ambulance; 57496

(7) The transportation of compost (a combination of manure 57497
and sand or shredded bark mulch) or shredded bark mulch; 57498

(8) The transportation of persons in a ridesharing 57499
arrangement when any fee charged each person so transported is in 57500
such amount as to recover only the person's share of the costs of 57501
operating the motor vehicle for such purpose; 57502

(9) The operation of motor vehicles for contractors on public 57503

road work. 57504

(B) The public utilities commission may grant a motor carrier operating in intrastate commerce a temporary exemption from some or all of the provisions of this chapter and the rules adopted under it, when either of the following applies: 57505
57506
57507
57508

(1) The governor of this state has declared an emergency. 57509

(2) The chairperson of the commission or the chairperson's designee has declared a transportation-specific emergency. 57510
57511

(C) The commission may adopt rules not incompatible with the requirements of the United States department of transportation to provide exemptions to motor carriers operating in intrastate commerce not otherwise identified in divisions (A) and (B) of this section. 57512
57513
57514
57515
57516

(D) Divisions (A) to (C) of this section shall not be construed to relieve a person from compliance with either of the following: 57517
57518
57519

(1) Rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code; 57520
57521
57522
57523

(2) Rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code. 57524
57525

Sec. 4923.04. (A)(1) The public utilities commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. 57526
57527
57528
57529

(2) The commission shall adopt rules applicable to the highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of 57530
57531
57532
57533

hazardous materials, operating in interstate or intrastate 57534
commerce. 57535

(B) The rules adopted under division (A) of this section 57536
shall not be incompatible with the requirements of the United 57537
States department of transportation. 57538

(C) To achieve the purposes of this chapter and to assist the 57539
commission in the performance of any of its powers or duties, the 57540
commission, either through the public utilities commissioners or 57541
employees authorized by it, may do either or both of the 57542
following: 57543

(1) Apply for, and any judge of a court of record of 57544
competent jurisdiction may issue, an appropriate search warrant; 57545

(2) Examine under oath, at the offices of the commission, any 57546
officer, agent, or employee of any person subject to this chapter. 57547
The commission, by subpoena, also may compel the attendance of a 57548
witness for the purpose of the examination and, by subpoena duces 57549
tecum, may compel the production of all books, contracts, records, 57550
and documents that relate to the transportation and offering for 57551
transportation of hazardous materials. 57552

Sec. 4923.06. (A) The public utilities commission may, 57553
through the commission's inspectors or other authorized employees, 57554
enter in or upon any motor vehicle of any motor carrier, or any 57555
person engaging in the transportation of hazardous material or 57556
hazardous waste, to inspect the motor vehicle or driver subject to 57557
rules adopted under section 4923.04 of the Revised Code. 57558

(B) In order to assist the commission in performing its 57559
duties under this section, authorized employees of the state 57560
highway patrol of the department of public safety may conduct 57561
inspections of motor vehicles and drivers. 57562

(C) Inspectors and employees authorized to conduct 57563

inspections under divisions (A) and (B) of this section may, under 57564
the direction of the commission, stop motor vehicles to inspect 57565
those vehicles and drivers to enforce compliance with rules 57566
adopted under section 4923.04 of the Revised Code. 57567

(D) Inspectors and employees authorized to conduct 57568
inspections under divisions (A) and (B) of this section shall 57569
conduct inspections consistent with the North American standard 57570
inspection procedure of the commercial vehicle safety alliance and 57571
the standards of the United States department of transportation. 57572
The inspectors and employees may declare drivers and motor 57573
vehicles out-of-service consistent with this procedure and these 57574
standards. 57575

(E) The commission may adopt rules to carry out this section 57576
that are not incompatible with the requirements of the United 57577
States department of transportation. 57578

Sec. 4923.07. (A) The public utilities commission may, 57579
through the commission's inspectors or other authorized employees, 57580
enter in or upon the premises and motor vehicles of any motor 57581
carrier, or any person engaging in the transportation of hazardous 57582
material or hazardous waste, to examine any records, documents, or 57583
property for the purpose of assessing the safety, performance, and 57584
management controls associated with the carrier or person. 57585

(B) The commission may adopt rules to carry out this section 57586
that are not incompatible with the requirements of the United 57587
States department of transportation. 57588

Sec. 4923.09. The public utilities commission shall cooperate 57589
with and permit the use of the services, records, and facilities 57590
of the commission as fully as practicable by appropriate officers 57591
of the United States department of transportation, other federal 57592
agencies or commissions, and appropriate commissions of other 57593

states in the enforcement and administration of state and federal 57594
laws relating to highway transportation by motor vehicles. The 57595
commission may enter into cooperative agreements with the United 57596
States department of transportation and any other federal agency 57597
or commission to enforce the safety laws and rules of this state 57598
and of the United States concerning highway transportation by 57599
motor vehicles. All grants-in-aid, cash, and reimbursements 57600
received by the commission pursuant to those cooperative 57601
agreements shall be deposited to the credit of the motor carrier 57602
safety fund created under section 4921.21 of the Revised Code. 57603

Sec. 4923.11. The public utilities commission may adopt rules 57604
applicable to the highway routing of hazardous materials into, 57605
through, or within this state. Rules adopted under this section 57606
shall not be incompatible with requirements of the United States 57607
department of transportation. 57608

Sec. 4923.15. Proceedings of the public utilities commission 57609
for the assessment of forfeitures for violations of Chapters 4921. 57610
and 4923. of the Revised Code are subject to and governed by 57611
section 4923.99 of the Revised Code. In all other respects in 57612
which the commission has power and authority under Chapters 4921. 57613
and 4923. of the Revised Code, applications and complaints may be 57614
made and filed with the commission, processes may be issued, 57615
hearings may be held, opinions, orders, and decisions may be made 57616
and filed, petitions for rehearing may be filed and acted upon, 57617
and all proceedings before the supreme court of this state may be 57618
considered and disposed of by that court in the manner, under the 57619
conditions, subject to the limitations, and with the effect 57620
specified in the sections of the Revised Code governing the 57621
supervision of public utilities by the commission. 57622

Sec. 4923.99. (A)(1) Whoever violates Chapter 4921. or 4923. 57623

of the Revised Code is liable to the state for a forfeiture of not 57624
more than twenty-five thousand dollars for each day of each 57625
violation. The public utilities commission, after providing 57626
reasonable notice and the opportunity for a hearing in accordance 57627
with the procedural rules adopted under section 4901.13 of the 57628
Revised Code, shall assess, by order, a forfeiture upon a person 57629
whom the commission determines, by a preponderance of the 57630
evidence, committed the violation. In determining the amount of 57631
the forfeiture for a violation discovered during a driver or 57632
motor-vehicle inspection under section 4923.06 of the Revised 57633
Code, the commission shall, to the extent practicable, not act in 57634
a manner incompatible with the requirements of the United States 57635
department of transportation, and, to the extent practicable, 57636
shall utilize a system comparable to the recommended civil-penalty 57637
procedure adopted by the commercial vehicle safety alliance. In 57638
determining the amount of the forfeiture for a violation 57639
discovered during a compliance review of a motor carrier under 57640
section 4923.07 of the Revised Code, the commission shall, to the 57641
extent practicable, not act in a manner incompatible with the 57642
civil-penalty guidelines of the United States department of 57643
transportation. 57644

The attorney general, upon the written request of the 57645
commission, shall bring a civil action in the court of common 57646
pleas of Franklin county to collect a forfeiture assessed under 57647
this section. The commission shall account for the forfeitures 57648
collected under this section and pay them to the treasurer of 57649
state under section 4921.21 of the Revised Code. 57650

(2) The attorney general, upon the written request of the 57651
commission, shall bring an action for injunctive relief in the 57652
court of common pleas of Franklin county against any person who 57653
has violated or is violating any order issued by the commission to 57654
secure compliance with any provision of Chapter 4921. or 4923. of 57655

the Revised Code. The court of common pleas of Franklin county has 57656
jurisdiction to and may grant preliminary and permanent injunctive 57657
relief upon a showing that the person against whom the action is 57658
brought has violated or is violating any such order. The court 57659
shall give precedence to such an action over all other cases. 57660

(B) The amount of any forfeiture may be compromised at any 57661
time prior to collection of the forfeiture. The commission shall 57662
adopt rules governing the manner in which the amount of a 57663
forfeiture may be established by agreement prior to the hearing on 57664
the forfeiture before the commission. 57665

(C) The proceedings of the commission specified in division 57666
(A) of this section are subject to and governed by Chapter 4903. 57667
of the Revised Code, except as otherwise specifically provided in 57668
this section. The court of appeals of Franklin county has 57669
exclusive, original jurisdiction to review, modify, or vacate an 57670
order of the commission issued to secure compliance with any 57671
provision of Chapter 4921. or 4923. of the Revised Code. The court 57672
of appeals shall hear and determine those appeals in the same 57673
manner, and under the same standards, as the supreme court hears 57674
and determines appeals under Chapter 4903. of the Revised Code. 57675
The judgment of the court of appeals is final and conclusive 57676
unless reversed, vacated, or modified on appeal. Such appeals may 57677
be taken either by the commission or the person to whom the 57678
compliance order or forfeiture assessment was issued and shall 57679
proceed as in the case of appeals in civil actions as provided in 57680
the rules of appellate procedure and Chapter 2505. of the Revised 57681
Code. 57682

(D) Section 4903.11 of the Revised Code does not apply to an 57683
appeal of an order issued to secure compliance with Chapter 4921. 57684
or 4923. of the Revised Code or an order issued under division 57685
(A)(1) of this section assessing a forfeiture. Any person to whom 57686
any such order is issued who wishes to contest a compliance order, 57687

the fact of the violation, or the amount of the forfeiture shall 57688
file a notice of appeal, setting forth the order appealed from and 57689
the errors complained of, within sixty days after the entry of the 57690
order upon the journal of the commission. The notice of appeal 57691
shall be served, unless waived, upon the chairperson of the 57692
commission or, in the event of the chairperson's absence, upon any 57693
public utilities commissioner, or by leaving a copy at the office 57694
of the commission at Columbus. An order issued by the commission 57695
to secure compliance with Chapter 4921. or 4923. of the Revised 57696
Code or an order issued under division (A)(1) of this section 57697
assessing a forfeiture shall be reversed, vacated, or modified on 57698
appeal if, upon consideration of the record, the court is of the 57699
opinion that the order was unlawful or unreasonable. 57700

(E) Only for such violations that constitute violations of 57701
the "Hazardous Materials Transportation Uniform Safety Act of 57702
1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804 and 1805, or 57703
regulations adopted under the act, the commission, in determining 57704
liability, shall use the same standard of culpability for civil 57705
forfeitures under this section as that set forth for civil 57706
penalties under section 12 of the "Hazardous Materials 57707
Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 57708
U.S.C.A. App. 1809. The commission shall consider the assessment 57709
considerations for civil penalties specified in regulations 57710
adopted under the "Hazardous Materials Transportation Act," 88 57711
Stat. 2156 (1975), 49 U.S.C. 1801. 57712

Sec. 4927.01. (A) As used in this chapter: 57713

(1) "Basic local exchange service" means residential-end-user 57714
access to and usage of telephone-company-provided services over a 57715
single line or small-business-end-user access to and usage of 57716
telephone-company-provided services over the primary access line 57717
of service, which in the case of residential and small-business 57718

access and usage is not part of a bundle or package of services, 57719
that does both of the following: 57720

(a) Enables a customer to originate or receive voice 57721
communications within a local service area as that area exists on 57722
September 13, 2010, the effective date of the amendment of this 57723
section by S.B. 162 of the 128th general assembly; 57724

(b) Consists of all of the following services: 57725

(i) Local dial tone service; 57726

(ii) For residential end users, flat-rate telephone exchange 57727
service; 57728

(iii) Touch tone dialing service; 57729

(iv) Access to and usage of 9-1-1 services, where such 57730
services are available; 57731

(v) Access to operator services and directory assistance; 57732

(vi) Provision of a telephone directory in any reasonable 57733
format for no additional charge and a listing in that directory, 57734
with reasonable accommodations made for private listings; 57735

(vii) Per call, caller identification blocking services; 57736

(viii) Access to telecommunications relay service; and 57737

(ix) Access to toll presubscription, interexchange or toll 57738
providers or both, and networks of other telephone companies. 57739

(2) "Bundle or package of services" means one or more 57740
telecommunications services or other services offered together as 57741
one service option at a single price. 57742

(3) "Carrier access" means access to and usage of telephone 57743
company-provided facilities that enable end user customers 57744
originating or receiving voice grade, data, or image 57745
communications, over a local exchange telephone company network 57746
operated within a local service area, to access interexchange or 57747

other networks and includes special access. 57748

(4) "Federal poverty level" means the income level 57749
represented by the poverty guidelines as revised annually by the 57750
United States department of health and human services in 57751
accordance with section 673(2) of the "Omnibus Reconciliation Act 57752
of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family 57753
size equal to the size of the family of the person whose income is 57754
being determined. 57755

(5) "Incumbent local exchange carrier" means, with respect to 57756
an area, the local exchange carrier that: 57757

(a) On February 8, 1996, provided telephone exchange service 57758
in such area; and 57759

(b)(i) On February 8, 1996, was deemed to be a member of the 57760
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 57761

(ii) Is a person or entity that, on or after February 8, 57762
1996, became a successor or assign of a member described in 57763
division (A)(5)(b)(i) of this section. 57764

(6) "Internet protocol-enabled services" means any services, 57765
capabilities, functionalities, or applications that are provided 57766
using internet protocol or a successor protocol to enable an end 57767
user to send or receive communications in internet protocol format 57768
or a successor format, regardless of how any particular such 57769
service is classified by the federal communications commission, 57770
and includes voice over internet protocol service. 57771

(7) "Local exchange carrier" means any person engaged in the 57772
provision of telephone exchange service, or the offering of access 57773
to telephone exchange service or facilities for the purpose of 57774
originating or terminating telephone toll service. 57775

(8) "Local service area" means the geographic area that may 57776
encompass more than one exchange area and within which a telephone 57777

customer, by paying the rate for basic local exchange service, may 57778
complete calls to other telephone customers without being assessed 57779
long distance toll charges. 57780

(9) "Small business" means a nonresidential service customer 57781
with three or fewer service access lines. 57782

(10) "Telecommunications" means the transmission, between or 57783
among points specified by the user, of information of the user's 57784
choosing, without change in the form or content of the information 57785
as sent and received. 57786

(11) "Telecommunications carrier" has the same meaning as in 57787
the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153. 57788

(12) "Telecommunications service" means the offering of 57789
telecommunications for a fee directly to the public, or to such 57790
classes of users as to be effectively available directly to the 57791
public, regardless of the facilities used. 57792

(13) "Telephone company" means a company described in 57793
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 57794
public utility under section 4905.02 of the Revised Code. 57795

(14) "Telephone exchange service" means telecommunications 57796
service that is within a telephone exchange, or within a connected 57797
system of telephone exchanges within the same exchange area 57798
operated to furnish to subscribers intercommunicating service of 57799
the character ordinarily furnished by a single exchange, and that 57800
is covered by the exchange service charge; or comparable service 57801
provided through a system of switches, transmission equipment, or 57802
other facilities, or combination thereof, by which a customer can 57803
originate and terminate a telecommunications service. 57804

(15) "Telephone toll service" means telephone service between 57805
stations in different exchange areas for which there is made a 57806
separate charge not included in contracts with customers for 57807
exchange service. 57808

(16) "Voice over internet protocol service" means a service 57809
that uses a broadband connection from an end user's location and 57810
enables real-time, two-way, voice communications that originate or 57811
terminate from the user's location using internet protocol or a 57812
successor protocol, including, but not limited to, any such 57813
service that permits an end user to receive calls from and 57814
terminate calls to the public switched network. 57815

(17) "Wireless service" means federally licensed commercial 57816
mobile service as defined in the "Telecommunications Act of 1996," 57817
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 57818
commercial mobile radio service in 47 C.F.R. 20.3. Under division 57819
(A)(17) of this section, commercial mobile radio service is 57820
specifically limited to mobile telephone, mobile cellular 57821
telephone, paging, personal communications services, and 57822
specialized mobile radio service provided by a common carrier in 57823
this state and excludes fixed wireless service. 57824

(18) "Wireless service provider" means a facilities-based 57825
provider of wireless service to one or more end users in this 57826
state. 57827

(B) The definitions of this section shall be applied 57828
consistent with the definitions in the "Telecommunications Act of 57829
1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with 57830
federal decisions interpreting those definitions. 57831

Sec. 4929.01. As used in this chapter: 57832

(A) "Alternative rate plan" means a method, alternate to the 57833
method of section 4909.15 of the Revised Code, for establishing 57834
rates and charges, under which rates and charges may be 57835
established for a commodity sales service or ancillary service 57836
that is not exempt pursuant to section 4929.04 of the Revised Code 57837
or for a distribution service. Alternative rate plans may include, 57838
but are not limited to, methods that provide adequate and reliable 57839

natural gas services and goods in this state; minimize the costs 57840
and time expended in the regulatory process; tend to assess the 57841
costs of any natural gas service or goods to the entity, service, 57842
or goods that cause such costs to be incurred; afford rate 57843
stability; promote and reward efficiency, quality of service, or 57844
cost containment by a natural gas company; provide sufficient 57845
flexibility and incentives to the natural gas industry to achieve 57846
high quality, technologically advanced, and readily available 57847
natural gas services and goods at just and reasonable rates and 57848
charges; or establish revenue decoupling mechanisms. Alternative 57849
rate plans also may include, but are not limited to, automatic 57850
adjustments based on a specified index or changes in a specified 57851
cost or costs. 57852

(B) "Ancillary service" means a service that is ancillary to 57853
the receipt or delivery of natural gas to consumers, including, 57854
but not limited to, storage, pooling, balancing, and transmission. 57855

(C) "Commodity sales service" means the sale of natural gas 57856
to consumers, exclusive of any distribution or ancillary service. 57857

(D) "Comparable service" means any regulated service or goods 57858
whose availability, quality, price, terms, and conditions are the 57859
same as or better than those of the services or goods that the 57860
natural gas company provides to a person with which it is 57861
affiliated or which it controls, or, as to any consumer, that the 57862
natural gas company offers to that consumer as part of a bundled 57863
service that includes both regulated and exempt services or goods. 57864

(E) "Consumer" means any person or association of persons 57865
purchasing, delivering, storing, or transporting, or seeking to 57866
purchase, deliver, store, or transport, natural gas, including 57867
industrial consumers, commercial consumers, and residential 57868
consumers, but not including natural gas companies. 57869

(F) "Distribution service" means the delivery of natural gas 57870

to a consumer at the consumer's facilities, by and through the 57871
instrumentalities and facilities of a natural gas company, 57872
regardless of the party having title to the natural gas. 57873

(G) "Natural gas company" means a natural gas company, as 57874
defined in section 4905.03 of the Revised Code, that is a public 57875
utility as defined in section 4905.02 of the Revised Code and 57876
excludes a retail natural gas supplier. 57877

(H) "Person," except as provided in division (N) of this 57878
section, has the same meaning as in section 1.59 of the Revised 57879
Code, and includes this state and any political subdivision, 57880
agency, or other instrumentality of this state and includes the 57881
United States and any agency or other instrumentality of the 57882
United States. 57883

(I) "Billing or collection agent" means a fully independent 57884
agent, not affiliated with or otherwise controlled by a retail 57885
natural gas supplier or governmental aggregator subject to 57886
certification under section 4929.20 of the Revised Code, to the 57887
extent that the agent is under contract with such supplier or 57888
aggregator solely to provide billing and collection for 57889
competitive retail natural gas service on behalf of the supplier 57890
or aggregator. 57891

(J) "Competitive retail natural gas service" means any retail 57892
natural gas service that may be competitively offered to consumers 57893
in this state as a result of revised schedules approved under 57894
division (C) of section 4929.29 of the Revised Code, a rule or 57895
order adopted or issued by the public utilities commission under 57896
Chapter 4905. of the Revised Code, or an exemption granted by the 57897
commission under sections 4929.04 to 4929.08 of the Revised Code. 57898

(K) "Governmental aggregator" means either of the following: 57899

(1) A legislative authority of a municipal corporation, a 57900
board of township trustees, or a board of county commissioners 57901

acting exclusively under section 4929.26 or 4929.27 of the Revised Code as an aggregator for the provision of competitive retail natural gas service;

(2) A municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.

(L)(1) "Mercantile customer" means a customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. "Mercantile customer" excludes a customer for which a declaration under division (L)(2) of this section is in effect pursuant to that division.

(2) A not-for-profit customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state may file a declaration under division (L)(2) of this section with the public utilities commission. The declaration shall take effect upon the date of filing, and by virtue of the declaration, the customer is not a mercantile customer for the purposes of this section and sections 4929.20 to 4929.29 of the Revised Code or the purposes of a governmental natural gas aggregation or arrangement or other contract entered into after the declaration's effective date for the supply or arranging of the supply of natural gas to the customer to a location within this state. The customer may file a rescission of the declaration with the commission at any time. The rescission shall not affect any governmental natural gas aggregation or arrangement or other contract entered into by the customer prior to the date of the

filing of the rescission and shall have effect only with respect 57934
to any subsequent such aggregation or arrangement or other 57935
contract. The commission shall prescribe rules under section 57936
4929.10 of the Revised Code specifying the form of the declaration 57937
or a rescission and procedures by which a declaration or 57938
rescission may be filed. 57939

(M) "Retail natural gas service" means commodity sales 57940
service, ancillary service, natural gas aggregation service, 57941
natural gas marketing service, or natural gas brokerage service. 57942

(N) "Retail natural gas supplier" means any person, as 57943
defined in section 1.59 of the Revised Code, that is engaged on a 57944
for-profit or not-for-profit basis in the business of supplying or 57945
arranging for the supply of a competitive retail natural gas 57946
service to consumers in this state that are not mercantile 57947
customers. "Retail natural gas supplier" includes a marketer, 57948
broker, or aggregator, but excludes a natural gas company, a 57949
governmental aggregator as defined in division (K)(1) or (2) of 57950
this section, an entity described in division ~~(B)~~(A)(2) or ~~(C)~~(3) 57951
of section 4905.02 of the Revised Code, or a billing or collection 57952
agent, and excludes a producer or gatherer of gas to the extent 57953
such producer or gatherer is not a natural gas company under 57954
section 4905.03 of the Revised Code. 57955

(O) "Revenue decoupling mechanism" means a rate design or 57956
other cost recovery mechanism that provides recovery of the fixed 57957
costs of service and a fair and reasonable rate of return, 57958
irrespective of system throughput or volumetric sales. 57959

Sec. 4929.02. (A) It is the policy of this state to, 57960
throughout this state: 57961

(1) Promote the availability to consumers of adequate, 57962
reliable, and reasonably priced natural gas services and goods; 57963

| | |
|--|--|
| (2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs; | 57964 57965 57966 57967 |
| (3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers; | 57968 57969 57970 |
| (4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods; | 57971 57972 |
| (5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods; | 57973 57974 57975 57976 |
| (6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment; | 57977 57978 57979 |
| (7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code; | 57980 57981 57982 57983 57984 57985 |
| (8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods; | 57986 57987 57988 |
| (9) Ensure that the risks and rewards of a natural gas company's offering of nonjurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of nonexempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this | 57989 57990 57991 57992 57993 57994 |

section; 57995

(10) Facilitate the state's competitiveness in the global economy; 57996
57997

(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation; 57998
57999

(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation. 58000
58001
58002

(B) The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code. 58003
58004
58005
58006

(C) Nothing in Chapter 4929. of the Revised Code shall be construed to alter the public utilities commission's construction or application of division ~~(A)(5)~~(E) of section 4905.03 of the Revised Code. 58007
58008
58009
58010

Sec. 4929.041. (A) As used in this section, "regulatory exemption" means an exemption from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters. 58011
58012
58013
58014
58015
58016
58017

(B) The public utilities commission, upon the an application of filed under section 4909.18 of the Revised Code by a natural gas company in substantial compliance with the policy specified in section 4929.02 of the Revised Code, shall exempt grant a regulatory exemption, by order, any investment for either or both of the following: 58018
58019
58020
58021
58022
58023

(1) Any investments in gathering lines or storage or 58024

gathering facilities placed into service on or after January 1, 2010, and also any service of the natural gas company related to those gathering lines or storage facilities from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters;

(2) Any investments in gathering facilities placed into service before January 1, 2010, and also any service of the natural gas company related to those facilities.

(C)(1) A natural gas company requesting a regulatory exemption under division (B)(2) of this section shall identify in the application both of the following:

(a) The valuation of the investments to be exempted, as determined under division (A)(1) of section 4909.15 of the Revised Code, in the rate case proceeding that established the company's rates in effect at the time of the filing of the application requesting the regulatory exemption;

(b) The valuation of all nonexempt investments placed into service after the date certain used in the rate case proceeding described in division (C)(1)(a) of this section, excluding investments for which deferral or recovery is authorized under section 4909.18, 4929.05, or 4929.111 of the Revised Code.

(2) The commission shall compare the valuations identified in divisions (C)(1)(a) and (b) of this section.

(a) If the valuation identified in division (C)(1)(a) of this section exceeds the valuation identified in division (C)(1)(b) of this section, the commission shall, in addition to the adjustments needed to implement the regulatory exemption, reduce the gross

annual revenues to which the utility is entitled under division (B) of section 4909.15 of the Revised Code by applying the rate of return, as determined under division (A)(2) of section 4909.15 of the Revised Code in the rate case proceeding in which the regulatory exemption is being sought, to the difference in the two valuations. 58056
58057
58058
58059
58060
58061

(b) If the valuation identified in division (C)(1)(a) of this section does not exceed the valuation identified in division (C)(1)(b) of this section, the commission shall make no adjustments beyond those needed to implement the regulatory exemption. 58062
58063
58064
58065
58066

(3) If the company, after a regulatory exemption has been granted under division (B)(2) of this section, subsequently places into service investments that perform the function that had been provided by the exempt investments prior to the granting of the regulatory exemption, the company shall not be authorized to recover revenues related to the investments placed into service greater than those consistent with the value of the exempt assets as would be determined under division (A)(1) of section 4909.15 of the Revised Code in the company's next rate case. 58067
58068
58069
58070
58071
58072
58073
58074
58075

~~(B)(D)(1)~~ Subject to division ~~(C)(E)~~ of this section, a natural gas company subject to ~~an~~ a regulatory exemption order ~~issued under division (A) of this section~~ shall, to the maximum extent practicable, keep separate the company's operations, resources, and employees, and the associated books and records, involved in the provision or marketing of a company-provided service related to an investment exempted under the regulatory exemption order ~~order~~ from the operations, resources, and employees, and the associated books and records, involved in the provision or marketing of any company-provided service not exempted under the regulatory exemption order or any other section of the Revised Code. 58076
58077
58078
58079
58080
58081
58082
58083
58084
58085
58086
58087

(2) An order granting regulatory exemption ~~order issued under~~ 58088
~~division (A) of this section~~ shall prescribe a functional 58089
separation plan for compliance with division ~~(B)~~(D)(1) of this 58090
section. 58091

~~(C)~~(E)(1) No natural gas company subject to ~~an a regulatory~~ 58092
~~exemption order issued under division (A) of this section~~ may use 58093
the company's storage ~~facilities and or~~ gathering lines facilities 58094
associated with the regulatory exemption order to provide a 58095
commodity sales service that is unregulated or subject to an 58096
exemption order issued under section 4929.04 of the Revised Code. 58097
58098

(2) Upon application to the commission by a natural gas 58099
company and upon a finding of good cause shown, the commission 58100
may, by order, waive the prohibition described in division 58101
~~(C)~~(E)(1) of this section. The natural gas company shall bear the 58102
burden of proof that the waiver is just and reasonable, which 58103
shall constitute good cause. 58104

~~(D)~~(F) The commission shall have continuous jurisdiction to 58105
enforce any terms that it imposes in ~~an a regulatory~~ exemption 58106
~~order issued under division (A) of this section~~. Whenever the 58107
commission is of the opinion, after hearing had upon complaint or 58108
upon its own initiative or complaint, served as provided in 58109
section 4905.26 of the Revised Code, that ~~an a regulatory~~ 58110
~~exemption order issued under division (A) of this section~~ has 58111
adversely affected the quality, adequacy, or sufficiency of 58112
service provided by the company subject to the regulatory 58113
~~exemption order~~, the commission may alter, amend, or suspend the 58114
regulatory exemption order. 58115

Sec. 4929.042. A natural gas company shall notify the public 58116
utilities commission in writing before converting the use of any 58117
gathering facilities described in division (B)(2) of section 58118

4929.041 of the Revised Code. 58119

Sec. 4933.18. (A) In a prosecution for a theft offense, as 58120
defined in section 2913.01 of the Revised Code, that involves 58121
alleged tampering with a gas, electric, steam, or water meter, 58122
conduit, or attachment of a utility that has been disconnected by 58123
the utility, proof that a meter, conduit, or attachment of a 58124
utility has been tampered with is prima-facie evidence that the 58125
person who is obligated to pay for the service rendered through 58126
the meter, conduit, or attachment and is in possession or control 58127
of the meter, conduit, or attachment at the time the tampering 58128
occurred has caused the tampering with intent to commit a theft 58129
offense. 58130

In a prosecution for a theft offense, as defined in section 58131
2913.01 of the Revised Code, that involves the alleged 58132
reconnection of a gas, electric, steam, or water meter, conduit, 58133
or attachment of a utility that has been disconnected by the 58134
utility, proof that a meter, conduit, or attachment disconnected 58135
by a utility has been reconnected without the consent of the 58136
utility is prima-facie evidence that the person in possession or 58137
control of the meter, conduit, or attachment at the time of the 58138
reconnection has reconnected the meter, conduit, or attachment 58139
with intent to commit a theft offense. 58140

(B) As used in this section: 58141

(1) "Utility" means any electric light company, gas company, 58142
natural gas company, pipe-line company, water-works company, or 58143
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 58144
~~(5), (6), (7)~~ (C), (D), (E), (F), (G), or ~~(8)~~ (H) of section 4905.03 58145
of the Revised Code, its lessees, trustees, or receivers, or any 58146
similar utility owned or operated by a political subdivision. 58147

(2) "Tamper" means to interfere with, damage, or by-pass a 58148

utility meter, conduit, or attachment with the intent to impede 58149
the correct registration of a meter or the proper functions of a 58150
conduit or attachment so as to reduce the amount of utility 58151
service that is registered on the meter. 58152

Sec. 4933.19. Each electric light company, gas company, 58153
natural gas company, pipe-line company, water-works company, or 58154
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 58155
~~(5), (6), (7),~~ (C), (D), (E), (F), (G), or ~~(8)~~ (H) of section 58156
4905.03 of the Revised Code, or its lessees, trustees, or 58157
receivers, and each similar utility owned or operated by a 58158
political subdivision shall notify its customers, on an annual 58159
basis, that tampering with or bypassing a meter constitutes a 58160
theft offense that could result in the imposition of criminal 58161
sanctions. 58162

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the 58163
Revised Code: 58164

(A) "Cable operator," "cable service," and "franchise" have 58165
the same meanings as in the "Cable Communications Policy Act of 58166
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 58167

(B) "Occupy or use" means, with respect to a public way, to 58168
place a tangible thing in a public way for any purpose, including, 58169
but not limited to, constructing, repairing, positioning, 58170
maintaining, or operating lines, poles, pipes, conduits, ducts, 58171
equipment, or other structures, appurtenances, or facilities 58172
necessary for the delivery of public utility services or any 58173
services provided by a cable operator. 58174

(C) "Person" means any natural person, corporation, or 58175
partnership and also includes any governmental entity. 58176

(D) "Public utility" means any company described in section 58177
4905.03 of the Revised Code except in divisions ~~(A)(2)~~ (B) and 58178

~~(9)~~(I) of that section, which company also is a public utility as 58179
defined in section 4905.02 of the Revised Code; and includes any 58180
electric supplier as defined in section 4933.81 of the Revised 58181
Code. 58182

(E) "Public way" means the surface of, and the space within, 58183
through, on, across, above, or below, any public street, public 58184
road, public highway, public freeway, public lane, public path, 58185
public alley, public court, public sidewalk, public boulevard, 58186
public parkway, public drive, and any other land dedicated or 58187
otherwise designated for a compatible public use, which, on or 58188
after ~~the effective date of this section~~ July 2, 2002, is owned or 58189
controlled by a municipal corporation. "Public way" excludes a 58190
private easement. 58191

(F) "Public way fee" means a fee levied to recover the costs 58192
incurred by a municipal corporation and associated with the 58193
occupancy or use of a public way. 58194

Sec. 4953.04. No union terminal company or corporation shall 58195
engage in the business of a for-hire motor transportation service 58196
carrier, as defined in ~~sections 4905.03, 4921.02, and 4923.02~~ 58197
4921.01 of the Revised Code, over any public highway in this 58198
state, without obtaining authority from the public utilities 58199
commission, and complying with all laws governing every 58200
corporation or company when engaged or proposing to engage in ~~such~~ 58201
the business of a for-hire motor transportation service carrier. 58202

Sec. 4961.03. Any railroad company owning or operating a 58203
railroad in this state may own, control, operate, or manage motor 58204
vehicles for the purpose of transporting persons or property, or 58205
both, upon the public highways for hire, subject to ~~sections~~ 58206
~~4921.02 to 4921.32, inclusive,~~ Chapters 4921. and 4923. of the 58207
Revised Code. Any railroad company may also own and operate 58208

equipment for and engage in the business of aerial transportation. 58209
Any railroad company may acquire, own, and hold capital stock and 58210
securities of corporations organized for or engaged in the 58211
businesses authorized in this section and may operate the 58212
properties, or any part thereof, of such corporations, and may 58213
enter into working arrangements and agreements with such 58214
corporations. 58215

Sec. 4965.54. Any common carrier, railroad, or ~~transportation~~ 58216
~~company~~ motor carrier receiving property at a point within this 58217
state for transportation to a point within this state, shall issue 58218
a receipt or bill of lading for such property and is liable to the 58219
lawful holder of it for any loss, damage, or injury to such 58220
property caused by it or by any common carrier, railroad, or 58221
transportation company to which such property is delivered or over 58222
whose line such property passes. No contract, receipt, rule, or 58223
regulation shall exempt such common carrier, railroad, or 58224
~~transportation company~~ motor carrier from the liability imposed by 58225
this section. This section does not deprive any holder of such 58226
receipt or bill of lading of any remedy or right of action which 58227
~~he~~ the holder has under existing law. 58228

The common carrier, railroad, or ~~transportation company~~ motor 58229
carrier issuing such receipt or bill of lading may recover from 58230
the common carrier, railroad, or ~~transportation company~~ motor 58231
carrier on whose line the loss, damage, or injury was sustained 58232
the amount of such loss, damage, or injury it is required to pay 58233
the owners of such property as is evidenced by any receipt, 58234
judgment, or transcript thereof. 58235

As used in this section, "motor carrier" has the same meaning 58236
as in section 4923.01 of the Revised Code. 58237

Sec. 5101.01. (A) As used in the Revised Code, the 58238

"department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. Whenever the department or director of public welfare or the department or director of human services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter ~~of the Revised Code~~: 58248

(1) References ~~to counties or to a county departments~~ department of job and family services include ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code. 58249
58250
58251
58252

(2) References to ~~boards~~ a board of county commissioners include ~~boards~~ the board of directors of ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code. 58253
58254
58255
58256

Sec. 5101.46. (A) As used in this section: 58257

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 58258
58259

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 58260
58261
58262
58263
58264
58265

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus 58266
58267
58268

| | |
|--|-------|
| Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. | 58269 |
| 9902, as amended, for a family size equal to the size of the | 58270 |
| family of the person whose income is being determined. | 58271 |
| (B) The departments of job and family services, mental | 58272 |
| health, and developmental disabilities, with their respective | 58273 |
| local agencies, shall administer the provision of social services | 58274 |
| funded through grants made under Title XX. The social services | 58275 |
| furnished with Title XX funds shall be directed at the following | 58276 |
| goals: | 58277 |
| (1) Achieving or maintaining economic self-support to | 58278 |
| prevent, reduce, or eliminate dependency; | 58279 |
| (2) Achieving or maintaining self-sufficiency, including | 58280 |
| reduction or prevention of dependency; | 58281 |
| (3) Preventing or remedying neglect, abuse, or exploitation | 58282 |
| of children and adults unable to protect their own interests, or | 58283 |
| preserving, rehabilitating, or reuniting families; | 58284 |
| (4) Preventing or reducing inappropriate institutional care | 58285 |
| by providing for community-based care, home-based care, or other | 58286 |
| forms of less intensive care; | 58287 |
| (5) Securing referral or admission for institutional care | 58288 |
| when other forms of care are not appropriate, or providing | 58289 |
| services to individuals in institutions. | 58290 |
| (C)(1) All federal funds received under Title XX shall be | 58291 |
| appropriated as follows: | 58292 |
| (a) Seventy-two and one-half per cent to the department of | 58293 |
| job and family services; | 58294 |
| (b) Twelve and ninety-three one-hundredths <u>one-hundredths</u> per | 58295 |
| cent to the department of mental health; | 58296 |
| (c) Fourteen and fifty-seven one-hundredths <u>one-hundredths</u> per | 58297 |
| cent to the department of developmental disabilities. | 58298 |

(2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department.

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly 58329
engaged in providing Title XX services. 58330

(D) The department of job and family services shall prepare a 58331
~~biennial~~ an annual comprehensive Title XX social services plan on 58332
the intended use of Title XX funds. The department shall develop a 58333
method for obtaining public comment during the development of the 58334
plan and following its completion. 58335

For each ~~state~~ federal fiscal year, the department of job and 58336
family services shall prepare a report on the actual use of Title 58337
XX funds. The department shall make the annual report available 58338
for public inspection. 58339

The departments of mental health and developmental 58340
disabilities shall prepare and submit to the department of job and 58341
family services the portions of each ~~biennial~~ annual plan and 58342
~~annual~~ report that apply to services for mental health and mental 58343
retardation and developmental disabilities. Each respective local 58344
agency of the three state departments shall submit information as 58345
necessary for the preparation of ~~biennial~~ annual plans and ~~annual~~ 58346
reports. 58347

(E) Each county department of job and family services shall 58348
adopt a county profile for the administration and provision of 58349
Title XX social services in the county. In developing its county 58350
profile, the county department shall take into consideration the 58351
comments and recommendations received from the public by the 58352
county family services planning committee pursuant to section 58353
329.06 of the Revised Code. As part of its preparation of the 58354
county profile, the county department may prepare a local needs 58355
report analyzing the need for Title XX social services. 58356

The county department shall submit the county profile to the 58357
board of county commissioners for its review. Once the county 58358
profile has been approved by the board, the county department 58359

shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with

| | |
|---|-------|
| Chapter 119. of the Revised Code. | 58392 |
| Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code: | 58393 |
| (A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish. | 58395 |
| (B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care <u>a residential facility licensed pursuant to Chapter 5119. under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults</u> , but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment. | 58398 |
| (C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction. | 58401 |
| (D) "Court" means the probate court in the county where an adult resides. | 58409 |
| (E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person. | 58419 |

| | |
|---|---|
| (F) "Emergency services" means protective services furnished to an adult in an emergency. | 58422 58423 |
| (G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain. | 58424 58425 58426 |
| (H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result. | 58427 58428 58429 58430 |
| (I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support. | 58431 58432 58433 58434 58435 58436 58437 58438 58439 |
| (J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. | 58440 58441 58442 58443 |
| (K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. | 58444 58445 58446 58447 |
| (L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code. | 58448 58449 |
| (M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult. | 58450 58451 |

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel,

including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which

provides community mental health services and is included in the 58512
comprehensive mental health plan for the alcohol, drug addiction, 58513
and mental health service district in which it is located. 58514

(4) "Community mental health service" means services, other 58515
than inpatient services, provided by a community mental health 58516
facility. 58517

(5) "Home health agency" means an institution or a distinct 58518
part of an institution operated in this state which: 58519

(a) Is primarily engaged in providing home health services; 58520

(b) Has home health policies which are established by a group 58521
of professional personnel, including one or more duly licensed 58522
doctors of medicine or osteopathy and one or more registered 58523
professional nurses, to govern the home health services it 58524
provides and which includes a requirement that every patient must 58525
be under the care of a duly licensed doctor of medicine or 58526
osteopathy; 58527

(c) Is under the supervision of a duly licensed doctor of 58528
medicine or doctor of osteopathy or a registered professional 58529
nurse who is responsible for the execution of such home health 58530
policies; 58531

(d) Maintains comprehensive records on all patients; 58532

(e) Is operated by the state, a political subdivision, or an 58533
agency of either, or is operated not for profit in this state and 58534
is licensed or registered, if required, pursuant to law by the 58535
appropriate department of the state, county, or municipality in 58536
which it furnishes services; or is operated for profit in this 58537
state, meets all the requirements specified in divisions (A)(5)(a) 58538
to (d) of this section, and is certified under Title XVIII of the 58539
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 58540
amended. 58541

| | |
|---|-------|
| (6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home: | 58542 |
| (a) Nursing care provided by or under the supervision of a registered professional nurse; | 58543 |
| (b) Physical, occupational, or speech therapy ordered by the patient's attending physician; | 58544 |
| (c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician; | 58545 |
| (d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse; | 58546 |
| (e) Medical supplies and the use of medical appliances; | 58547 |
| (f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician; | 58548 |
| (g) Any of the foregoing items and services which: | 58549 |
| (i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility; | 58550 |
| (ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment. | 58551 |
| Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in | 58552 |
| | 58553 |
| | 58554 |
| | 58555 |
| | 58556 |
| | 58557 |
| | 58558 |
| | 58559 |
| | 58560 |
| | 58561 |
| | 58562 |
| | 58563 |
| | 58564 |
| | 58565 |
| | 58566 |
| | 58567 |
| | 58568 |
| | 58569 |
| | 58570 |
| | 58571 |

section 3701.01 of the Revised Code, any nurse licensed under 58572
Chapter 4723. of the Revised Code, any employee of an ambulatory 58573
health facility, any employee of a home health agency, any 58574
employee of ~~an adult care~~ a residential facility as defined in 58575
licensed under section ~~5119.70~~ 5119.22 of the Revised Code that 58576
provides accommodations, supervision, and personal care services 58577
for three to sixteen unrelated adults, any employee of a nursing 58578
home, residential care facility, or home for the aging, as defined 58579
in section 3721.01 of the Revised Code, any senior service 58580
provider, any peace officer, coroner, ~~clergyman~~ member of the 58581
clergy, any employee of a community mental health facility, and 58582
any person engaged in social work or counseling having reasonable 58583
cause to believe that an adult is being abused, neglected, or 58584
exploited, or is in a condition which is the result of abuse, 58585
neglect, or exploitation shall immediately report such belief to 58586
the county department of job and family services. This section 58587
does not apply to employees of any hospital or public hospital as 58588
defined in section 5122.01 of the Revised Code. 58589

(B) Any person having reasonable cause to believe that an 58590
adult has suffered abuse, neglect, or exploitation may report, or 58591
cause reports to be made of such belief to the department. 58592

(C) The reports made under this section shall be made orally 58593
or in writing except that oral reports shall be followed by a 58594
written report if a written report is requested by the department. 58595
Written reports shall include: 58596

(1) The name, address, and approximate age of the adult who 58597
is the subject of the report; 58598

(2) The name and address of the individual responsible for 58599
the adult's care, if any individual is, and if the individual is 58600
known; 58601

(3) The nature and extent of the alleged abuse, neglect, or 58602

exploitation of the adult; 58603

(4) The basis of the reporter's belief that the adult has 58604
been abused, neglected, or exploited. 58605

(D) Any person with reasonable cause to believe that an adult 58606
is suffering abuse, neglect, or exploitation who makes a report 58607
pursuant to this section or who testifies in any administrative or 58608
judicial proceeding arising from such a report, or any employee of 58609
the state or any of its subdivisions who is discharging 58610
responsibilities under section 5101.62 of the Revised Code shall 58611
be immune from civil or criminal liability on account of such 58612
investigation, report, or testimony, except liability for perjury, 58613
unless the person has acted in bad faith or with malicious 58614
purpose. 58615

(E) No employer or any other person with the authority to do 58616
so shall discharge, demote, transfer, prepare a negative work 58617
performance evaluation, or reduce benefits, pay, or work 58618
privileges, or take any other action detrimental to an employee or 58619
in any way retaliate against an employee as a result of the 58620
employee's having filed a report under this section. 58621

(F) Neither the written or oral report provided for in this 58622
section nor the investigatory report provided for in section 58623
5101.62 of the Revised Code shall be considered a public record as 58624
defined in section 149.43 of the Revised Code. Information 58625
contained in the report shall upon request be made available to 58626
the adult who is the subject of the report, to agencies authorized 58627
by the department to receive information contained in the report, 58628
and to legal counsel for the adult. 58629

Sec. 5104.012. (A)(1) At the times specified in this 58630
division, the administrator of a child day-care center or a type A 58631
family day-care home shall request the superintendent of the 58632
bureau of criminal identification and investigation to conduct a 58633

criminal records check with respect to any applicant who has 58634
applied to the center or type A home for employment as a person 58635
responsible for the care, custody, or control of a child. 58636

The administrator shall request a criminal records check 58637
pursuant to this division at the time of the applicant's initial 58638
application for employment and every four years thereafter. When 58639
the administrator requests pursuant to this division a criminal 58640
records check for an applicant at the time of the applicant's 58641
initial application for employment, the administrator shall 58642
request that the superintendent obtain information from the 58643
federal bureau of investigation as a part of the criminal records 58644
check for the applicant, including fingerprint-based checks of 58645
national crime information databases as described in 42 U.S.C. 58646
671, for the person subject to the criminal records check. In all 58647
other cases in which the administrator requests a criminal records 58648
check for an applicant pursuant to this division, the 58649
administrator may request that the superintendent include 58650
information from the federal bureau of investigation in the 58651
criminal records check, including fingerprint-based checks of 58652
national crime information databases as described in 42 U.S.C. 58653
671. 58654

(2) A person required by division (A)(1) of this section to 58655
request a criminal records check shall provide to each applicant a 58656
copy of the form prescribed pursuant to division (C)(1) of section 58657
109.572 of the Revised Code, provide to each applicant a standard 58658
impression sheet to obtain fingerprint impressions prescribed 58659
pursuant to division (C)(2) of section 109.572 of the Revised 58660
Code, obtain the completed form and impression sheet from each 58661
applicant, and forward the completed form and impression sheet to 58662
the superintendent of the bureau of criminal identification and 58663
investigation at the time the person requests a criminal records 58664
check pursuant to division (A)(1) of this section. On and after 58665

August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)~~(9)~~(5) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from

employment. 58698

(C)(1) Each child day-care center and type A family day-care 58699
home shall pay to the bureau of criminal identification and 58700
investigation the fee prescribed pursuant to division (C)(3) of 58701
section 109.572 of the Revised Code for each criminal records 58702
check conducted in accordance with that section upon the request 58703
pursuant to division (A)(1) of this section of the administrator 58704
or provider of the center or home. 58705

(2) A child day-care center and type A family day-care home 58706
may charge an applicant a fee for the costs it incurs in obtaining 58707
a criminal records check under this section. A fee charged under 58708
this division shall not exceed the amount of fees the center or 58709
home pays under division (C)(1) of this section. If a fee is 58710
charged under this division, the center or home shall notify the 58711
applicant at the time of the applicant's initial application for 58712
employment of the amount of the fee and that, unless the fee is 58713
paid, the center or type A home will not consider the applicant 58714
for employment. 58715

(D) The report of any criminal records check conducted by the 58716
bureau of criminal identification and investigation in accordance 58717
with section 109.572 of the Revised Code and pursuant to a request 58718
under division (A)(1) of this section is not a public record for 58719
the purposes of section 149.43 of the Revised Code and shall not 58720
be made available to any person other than the applicant who is 58721
the subject of the criminal records check or the applicant's 58722
representative; the center or type A home requesting the criminal 58723
records check or its representative; the department of job and 58724
family services or a county department of job and family services; 58725
and any court, hearing officer, or other necessary individual 58726
involved in a case dealing with the denial of employment to the 58727
applicant. 58728

(E) The director of job and family services shall adopt rules 58729

pursuant to Chapter 119. of the Revised Code to implement this 58730
section, including rules specifying circumstances under which a 58731
center or home may hire a person who has been convicted of an 58732
offense listed in division (B)(1) of this section but who meets 58733
standards in regard to rehabilitation set by the department. 58734

(F) Any person required by division (A)(1) of this section to 58735
request a criminal records check shall inform each person, at the 58736
time of the person's initial application for employment, that the 58737
person is required to provide a set of impressions of the person's 58738
fingerprints and that a criminal records check is required to be 58739
conducted and satisfactorily completed in accordance with section 58740
109.572 of the Revised Code if the person comes under final 58741
consideration for appointment or employment as a precondition to 58742
employment for that position. 58743

(G) As used in this section: 58744

(1) "Applicant" means a person who is under final 58745
consideration for appointment to or employment in a position with 58746
a child day-care center or a type A family day-care home as a 58747
person responsible for the care, custody, or control of a child; 58748
an in-home aide certified pursuant to section 5104.12 of the 58749
Revised Code; or any person who would serve in any position with a 58750
child day-care center or a type A family day-care home as a person 58751
responsible for the care, custody, or control of a child pursuant 58752
to a contract with another entity. 58753

(2) "Criminal records check" has the same meaning as in 58754
section 109.572 of the Revised Code. 58755

Sec. 5104.013. (A)(1) At the times specified in division 58756
(A)(3) of this section, the director of job and family services, 58757
as part of the process of licensure of child day-care centers and 58758
type A family day-care homes, shall request the superintendent of 58759
the bureau of criminal identification and investigation to conduct 58760

a criminal records check with respect to the following persons: 58761

(a) Any owner, licensee, or administrator of a child day-care center; 58762
58763

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home. 58764
58765
58766

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home. 58767
58768
58769
58770
58771
58772
58773
58774
58775

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime 58776
58777
58778
58779
58780
58781
58782
58783
58784
58785
58786
58787
58788
58789
58790
58791
58792

information databases as described in 42 U.S.C. 671 for the person 58793
subject to the criminal records check. In all other cases in which 58794
the director of job and family services or the director of a 58795
county department of job and family services requests a criminal 58796
records check for an applicant pursuant to division (A)(1) or (2) 58797
of this section, the director may request that the superintendent 58798
include information from the federal bureau of investigation in 58799
the criminal records check, including fingerprint-based checks of 58800
national crime information databases as described in 42 U.S.C. 58801
671. 58802

(4) The director of job and family services shall review the 58803
results of a criminal records check subsequent to a request made 58804
pursuant to divisions (A)(1) and (3) of this section prior to 58805
approval of a license. The director of a county department of job 58806
and family services shall review the results of a criminal records 58807
check subsequent to a request made pursuant to divisions (A)(2) 58808
and (3) of this section prior to approval of certification. 58809

(B) The director of job and family services or the director 58810
of a county department of job and family services shall provide to 58811
each person for whom a criminal records check is required under 58812
this section a copy of the form prescribed pursuant to division 58813
(C)(1) of section 109.572 of the Revised Code and a standard 58814
impression sheet to obtain fingerprint impressions prescribed 58815
pursuant to division (C)(2) of that section, obtain the completed 58816
form and impression sheet from that person, and forward the 58817
completed form and impression sheet to the superintendent of the 58818
bureau of criminal identification and investigation. 58819

(C) A person who receives pursuant to division (B) of this 58820
section a copy of the form and standard impression sheet described 58821
in that division and who is requested to complete the form and 58822
provide a set of fingerprint impressions shall complete the form 58823
or provide all the information necessary to complete the form and 58824

shall provide the impression sheet with the impressions of the 58825
person's fingerprints. If the person, upon request, fails to 58826
provide the information necessary to complete the form or fails to 58827
provide impressions of the person's fingerprints, the director may 58828
consider the failure as a reason to deny licensure or 58829
certification. 58830

(D) Except as provided in rules adopted under division (G) of 58831
this section, the director of job and family services shall not 58832
grant a license to a child day-care center or type A family 58833
day-care home and a county director of job and family services 58834
shall not certify a type B family day-care home if a person for 58835
whom a criminal records check was required in connection with the 58836
center or home previously has been convicted of or pleaded guilty 58837
to any of the violations described in division (A)~~(9)~~(5) of 58838
section 109.572 of the Revised Code. 58839

(E) Each child day-care center, type A family day-care home, 58840
and type B family day-care home shall pay to the bureau of 58841
criminal identification and investigation the fee prescribed 58842
pursuant to division (C)(3) of section 109.572 of the Revised Code 58843
for each criminal records check conducted in accordance with that 58844
section upon a request made pursuant to division (A) of this 58845
section. 58846

(F) The report of any criminal records check conducted by the 58847
bureau of criminal identification and investigation in accordance 58848
with section 109.572 of the Revised Code and pursuant to a request 58849
made under division (A) of this section is not a public record for 58850
the purposes of section 149.43 of the Revised Code and shall not 58851
be made available to any person other than the person who is the 58852
subject of the criminal records check or the person's 58853
representative, the director of job and family services, the 58854
director of a county department of job and family services, the 58855
center, type A home, or type B home involved, and any court, 58856

hearing officer, or other necessary individual involved in a case 58857
dealing with a denial of licensure or certification related to the 58858
criminal records check. 58859

(G) The director of job and family services shall adopt rules 58860
pursuant to Chapter 119. of the Revised Code to implement this 58861
section, including rules specifying exceptions to the prohibition 58862
in division (D) of this section for persons who have been 58863
convicted of an offense listed in that division but who meet 58864
standards in regard to rehabilitation set by the ~~department~~ 58865
director. 58866

(H) As used in this section, "criminal records check" has the 58867
same meaning as in section 109.572 of the Revised Code. 58868

Sec. 5104.051. (A)(1) The department of commerce is 58869
responsible for the inspections of child day-care centers as 58870
required by division (A)(1) of section 5104.05 of the Revised 58871
Code. Where there is a municipal, township, or county building 58872
department certified under section 3781.10 of the Revised Code to 58873
exercise enforcement authority with respect to the category of 58874
building occupancy which includes day-care centers, all 58875
inspections required under division (A)(1) of section 5104.05 of 58876
the Revised Code shall be made by that department according to the 58877
standards established by the board of building standards. 58878
Inspections in areas of the state where there is no municipal, 58879
township, or county building department certified under section 58880
3781.10 of the Revised Code to exercise enforcement authority with 58881
respect to the category of building occupancy which includes 58882
day-care centers shall be made by personnel of the department of 58883
commerce. Inspections of centers shall be contingent upon payment 58884
of a fee by the applicant to the department having jurisdiction to 58885
inspect. 58886

(2) The department of commerce is responsible for the 58887

inspections of type A family day-care homes as required by 58888
division (B)(3) of section 5104.05 of the Revised Code. Where 58889
there is a municipal, township, or county building department 58890
certified under section 3781.10 of the Revised Code to exercise 58891
enforcement authority with respect to the category of building 58892
occupancy which includes type A homes, all inspections required 58893
under division (B)(3) of section 5104.05 of the Revised Code shall 58894
be made by that department according to the standards established 58895
by the board of building standards. Inspections in areas of the 58896
state where there is no municipal, township, or county building 58897
department certified under section 3781.10 of the Revised Code to 58898
exercise enforcement authority with respect to the category of 58899
building occupancy which includes type A homes shall be made by 58900
personnel of the department of commerce. Inspections of type A 58901
homes shall be contingent upon payment of a fee by the applicant 58902
to the department having jurisdiction to inspect. 58903

(B) The state fire marshal is responsible for the inspections 58904
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 58905
Revised Code. In municipal corporations and in townships outside 58906
municipal corporations where there is a fire prevention official, 58907
the inspections shall be made by the fire chief or the fire 58908
prevention official under the supervision of and according to the 58909
standards established by the state fire marshal. In townships 58910
outside municipal corporations where there is no fire prevention 58911
official, inspections shall be made by the employees of the state 58912
fire marshal. 58913

(C) The state fire marshal shall enforce all statutes and 58914
rules pertaining to fire safety and fire prevention in child 58915
day-care centers and type A family day-care homes. In the event of 58916
a dispute between the state fire marshal and any other responsible 58917
officer under sections 5104.05 and 5104.051 of the Revised Code 58918
with respect to the interpretation or application of a specific 58919

fire safety statute or rule, the interpretation of the state fire marshal shall prevail. 58920
58921

(D) As used in this division, "licensor" has the same meaning as in section 3717.01 of the Revised Code. 58922
58923

The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code. 58924
58925
58926
58927

(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code. 58928
58929
58930
58931

Sec. 5104.09. (A)(1) Except as provided in rules adopted pursuant to division (D) of this section, no individual who has been convicted of or pleaded guilty to a violation described in division (A)~~(9)~~(5) of section 109.572 of the Revised Code, a violation of section 2905.11, 2909.02, 2909.03, 2909.04, 2909.05, 2917.01, 2917.02, 2917.03, 2917.31, 2921.03, 2921.34, or 2921.35 of the Revised Code or a violation of an existing or former law or ordinance of any municipal corporation, this state, any other state, or the United States that is substantially equivalent to any of those violations, or two violations of section 4511.19 of the Revised Code during operation of the center or home shall be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home. 58932
58933
58934
58935
58936
58937
58938
58939
58940
58941
58942
58943
58944
58945
58946

(2) Each employee of a child day-care center and type A home and every person eighteen years of age or older residing in a type A home shall sign a statement on forms prescribed by the director of job and family services attesting to the fact that the employee 58947
58948
58949
58950

or resident person has not been convicted of or pleaded guilty to 58951
any offense set forth in division (A)(1) of this section and that 58952
no child has been removed from the employee's or resident person's 58953
home pursuant to section 2151.353 of the Revised Code. Each 58954
licensee of a type A home shall sign a statement on a form 58955
prescribed by the director attesting to the fact that no person 58956
who resides at the type A home and who is under the age of 58957
eighteen has been adjudicated a delinquent child for committing a 58958
violation of any section listed in division (A)(1) of this 58959
section. The statements shall be kept on file at the center or 58960
type A home. 58961

(3) Each in-home aide and every person eighteen years of age 58962
or older residing in a certified type B home shall sign a 58963
statement on forms prescribed by the director of job and family 58964
services attesting that the aide or resident person has not been 58965
convicted of or pleaded guilty to any offense set forth in 58966
division (A)(1) of this section and that no child has been removed 58967
from the aide's or resident person's home pursuant to section 58968
2151.353 of the Revised Code. Each authorized provider shall sign 58969
a statement on forms prescribed by the director attesting that the 58970
provider has not been convicted of or pleaded guilty to any 58971
offense set forth in division (A)(1) of this section and that no 58972
child has been removed from the provider's home pursuant to 58973
section 2151.353 of the Revised Code. Each authorized provider 58974
shall sign a statement on a form prescribed by the director 58975
attesting to the fact that no person who resides at the certified 58976
type B home and who is under the age of eighteen has been 58977
adjudicated a delinquent child for committing a violation of any 58978
section listed in division (A)(1) of this section. The statements 58979
shall be kept on file at the county department of job and family 58980
services. 58981

(4) Each administrator and licensee of a center or type A 58982

home shall sign a statement on a form prescribed by the director 58983
of job and family services attesting that the administrator or 58984
licensee has not been convicted of or pleaded guilty to any 58985
offense set forth in division (A)(1) of this section and that no 58986
child has been removed from the administrator's or licensee's home 58987
pursuant to section 2151.353 of the Revised Code. The statement 58988
shall be kept on file at the center or type A home. 58989

(B) No in-home aide, no administrator, licensee, authorized 58990
provider, or employee of a center, type A home, or certified type 58991
B home, and no person eighteen years of age or older residing in a 58992
type A home or certified type B home shall withhold information 58993
from, or falsify information on, any statement required pursuant 58994
to division (A)(2), (3), or (4) of this section. 58995

(C) No administrator, licensee, or child-care staff member 58996
shall discriminate in the enrollment of children in a child 58997
day-care center upon the basis of race, color, religion, sex, or 58998
national origin. 58999

(D) The director of job and family services shall adopt rules 59000
pursuant to Chapter 119. of the Revised Code to implement this 59001
section, including rules specifying exceptions to the prohibition 59002
in division (A) of this section for persons who have been 59003
convicted of an offense listed in that division but meet 59004
rehabilitation standards set by the ~~department~~ director. 59005

Sec. 5104.37. (A) As used in this section, "eligible 59006
provider" means an individual or entity eligible to provide 59007
publicly funded child care pursuant to section 5104.31 of the 59008
Revised Code. 59009

(B) The department of job and family services may withhold 59010
any money due, under this chapter and recover through any 59011
appropriate method any money erroneously paid, under this chapter 59012
if evidence exists of less than full compliance with this chapter 59013

and any rules adopted under it. 59014

(C) Notwithstanding any other provision of this chapter to 59015
the contrary, the department shall take action against an eligible 59016
provider as described in this section. 59017

(D) Subject to the notice and appeal provisions of divisions 59018
(G) and (H) of this section, the department may suspend a contract 59019
entered into under section 5104.32 of the Revised Code with an 59020
eligible provider if the department has initiated an investigation 59021
of the provider for either of the following reasons: 59022

(1) The department has evidence that the eligible provider 59023
received an improper child care payment as a result of the 59024
provider's intentional act. 59025

(2) The department receives notice and a copy of an 59026
indictment, information, or complaint charging the eligible 59027
provider or the owner or operator of the provider with committing 59028
any of the following: 59029

(a) An act that is a felony or misdemeanor relating to 59030
providing or billing for publicly funded child care or providing 59031
management or administrative services relating to providing 59032
publicly funded child care; 59033

(b) An act that would constitute an offense described in 59034
section 5104.09 of the Revised Code. 59035

(E)(1) Except as provided in division (E)(2) of this section, 59036
the suspension of a contract under division (D) of this section 59037
shall continue until the department completes its investigation or 59038
all criminal charges are disposed of through dismissal, a finding 59039
of not guilty, conviction, or a plea of guilty. 59040

(2) If the department initiates the termination of a contract 59041
that has been suspended pursuant to division (D) of this section, 59042
the suspension shall continue until the termination process is 59043

completed. 59044

(F) An eligible provider shall not provide publicly funded child care while the provider's contract is under suspension pursuant to division (D) of this section. As of the date the eligible provider's contract is suspended, the department shall withhold payment to the eligible provider for publicly funded child care. 59045
59046
59047
59048
59049
59050

(G) Before suspending an eligible provider's contract pursuant to division (D) of this section, the department shall notify the eligible provider. The notice shall include all of the following: 59051
59052
59053
59054

(1) A description, which need not disclose specific information concerning any ongoing administrative or criminal investigation, of the reason that the department initiated its investigation of the provider; 59055
59056
59057
59058

(2) A statement that the eligible provider will be prohibited from providing publicly funded child care while the contract is under suspension; 59059
59060
59061

(3) A statement that the suspension will continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty, and that if the department initiates the termination of the contract, the suspension will continue until the termination process is completed. 59062
59063
59064
59065
59066
59067

(H) An eligible provider may file an appeal with the department regarding any proposal by the department to suspend the provider's contract pursuant to division (D) of this section. The appeal must be received by the department not later than fifteen days after the date the provider receives the notification described in division (G) of this section. The department shall review the evidence and issue a decision not later than thirty 59068
59069
59070
59071
59072
59073
59074

days after receiving the appeal. The department shall not suspend 59075
a contract pursuant to division (D) of this section until the time 59076
for filing the appeal has passed or, if the provider files a 59077
timely appeal, the department has issued a decision on the appeal. 59078

Sec. 5107.05. The director of job and family services shall 59079
adopt rules to implement this chapter. The rules shall be 59080
consistent with Title IV-A, Title IV-D, federal regulations, state 59081
law, the Title IV-A state plan submitted to the United States 59082
secretary of health and human services under section 5101.80 of 59083
the Revised Code, amendments to the plan, and waivers granted by 59084
the United States secretary. Rules governing eligibility, program 59085
participation, and other applicant and participant requirements 59086
shall be adopted in accordance with Chapter 119. of the Revised 59087
Code. Rules governing financial and other administrative 59088
requirements applicable to the department of job and family 59089
services and county departments of job and family services shall 59090
be adopted in accordance with section 111.15 of the Revised Code. 59091

(A) The rules shall specify, establish, or govern all of the 59092
following: 59093

(1) A payment standard for Ohio works first based on federal 59094
and state appropriations that is increased in accordance with 59095
section 5107.04 of the Revised Code; 59096

(2) For the purpose of section 5107.04 of the Revised Code, 59097
the method of determining the amount of cash assistance an 59098
assistance group receives under Ohio works first; 59099

(3) Requirements for initial and continued eligibility for 59100
Ohio works first, including requirements regarding income, 59101
citizenship, age, residence, and assistance group composition; 59102

(4) For the purpose of section 5107.12 of the Revised Code, 59103
application and verification procedures, including the minimum 59104

information an application must contain; 59105

(5) The extent to which a participant of Ohio works first 59106
must notify, pursuant to section 5107.12 of the Revised Code, a 59107
county department of job and family services of additional income 59108
not previously reported to the county department; 59109

(6) For the purpose of section 5107.16 of the Revised Code, 59110
~~all~~ both of the following: 59111

(a) Standards for the determination of good cause for failure 59112
or refusal to comply in full with a provision of a 59113
self-sufficiency contract; 59114

(b) The compliance ~~form~~ activities a member of an assistance 59115
group ~~may complete to indicate willingness to come into full~~ 59116
~~compliance must complete for the member to be considered to have~~ 59117
ceased to fail or refuse to comply in full with a provision of a 59118
self-sufficiency contract; 59119

~~(c) The manner by which the compliance form is to be~~ 59120
~~completed and provided to a county department of job and family~~ 59121
~~services.~~ 59122

(7) The department of job and family services providing 59123
written notice of a sanction under section 5107.161 of the Revised 59124
Code; 59125

(8) For the purpose of division ~~(A)(2)~~(B) of section 5107.17 59126
of the Revised Code, the ~~period of time by which a county~~ 59127
~~department of job and family services is to receive a compliance~~ 59128
~~form established in rules adopted under division (A)(6)(b) of this~~ 59129
~~section~~ circumstances under which the adult member of an 59130
assistance group or an assistance group's minor head of household 59131
whose failure or refusal, without good cause, to comply in full 59132
with a provision of a self-sufficiency contract causes a sanction 59133
under section 5107.16 of the Revised Code must enter into a new, 59134
or amend an existing, self-sufficiency contract before the 59135

| | |
|--|-------|
| <u>assistance group may resume participation in Ohio works first</u> | 59136 |
| <u>following the sanction;</u> | 59137 |
| (9) Requirements for the collection and distribution of | 59138 |
| support payments owed participants of Ohio works first pursuant to | 59139 |
| section 5107.20 of the Revised Code; | 59140 |
| (10) For the purpose of section 5107.22 of the Revised Code, | 59141 |
| what constitutes cooperating in establishing a minor child's | 59142 |
| paternity or establishing, modifying, or enforcing a child support | 59143 |
| order and good cause for failure or refusal to cooperate; | 59144 |
| (11) The requirements governing the LEAP program, including | 59145 |
| the definitions of "equivalent of a high school diploma" and "good | 59146 |
| cause," and the incentives provided under the LEAP program; | 59147 |
| (12) If the director implements section 5107.301 of the | 59148 |
| Revised Code, the requirements governing the award provided under | 59149 |
| that section, including the form that the award is to take and | 59150 |
| requirements an individual must satisfy to receive the award; | 59151 |
| (13) Circumstances under which a county department of job and | 59152 |
| family services may exempt a minor head of household or adult from | 59153 |
| participating in a work activity or developmental activity for all | 59154 |
| or some of the weekly hours otherwise required by section 5107.43 | 59155 |
| of the Revised Code. | 59156 |
| (14) The maximum amount of time the department will subsidize | 59157 |
| positions created by state agencies and political subdivisions | 59158 |
| under division (C) of section 5107.52 of the Revised Code; | 59159 |
| (15) The implementation of sections 5107.71 to 5107.717 of | 59160 |
| the Revised Code by county departments of job and family services; | 59161 |
| (16) A domestic violence screening process to be used for the | 59162 |
| purpose of division (A) of section 5107.71 of the Revised Code; | 59163 |
| (17) The minimum frequency with which county departments of | 59164 |
| job and family services must redetermine a member of an assistance | 59165 |

group's need for a waiver issued under section 5107.714 of the Revised Code. 59166
59167

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code. 59168
59169
59170
59171

The rules adopted under division (A)(10) of this section shall be consistent with 42 U.S.C. 654(29). 59172
59173

The rules adopted under division (A)(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation. 59174
59175
59176
59177
59178

(C) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment ~~that is below an amount the department specifies~~ under circumstances the rules specify. 59179
59180
59181
59182
59183

Sec. 5107.16. (A) If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of the Revised Code, a county department of job and family services shall sanction the assistance group as follows: 59184
59185
59186
59187
59188

(1) For a first failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for one payment month or until the failure or refusal ceases, whichever is longer; 59189
59190
59191
59192

(2) For a second failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for three payment months or until 59193
59194
59195

the failure or refusal ceases, whichever is longer; 59196

(3) For a third or subsequent failure or refusal, the county 59197
department shall deny or terminate the assistance group's 59198
eligibility to participate in Ohio works first for six payment 59199
months or until the failure or refusal ceases, whichever is 59200
longer. 59201

(B) The director of job and family services shall establish 59202
standards for the determination of good cause for failure or 59203
refusal to comply in full with a provision of a self-sufficiency 59204
contract in rules adopted under section 5107.05 of the Revised 59205
Code. 59206

~~(C) The director of job and family services shall provide a 59207
compliance form established in rules adopted under section 5107.05 59208
of the Revised Code to an An assistance group member who fails or 59209
refuses, without good cause, to comply in full with a provision of 59210
a self-sufficiency contract. The member's failure or refusal to 59211
comply in full with the provision shall be deemed to have ceased 59212
on the date a county department of job and family services 59213
receives the compliance form from the member if the compliance 59214
form is completed and provided to the county department in the 59215
~~manner~~ must complete all compliance activities specified in rules 59216
adopted under section 5107.05 of the Revised Code in order for the 59217
failure or refusal to be considered to have ceased. 59218~~

(D) After sanctioning an assistance group under division (A) 59219
of this section, a county department of job and family services 59220
shall continue to work with the assistance group. 59221

(E) An adult eligible for medicaid pursuant to division 59222
~~(A)~~(C)(1)(a) of section 5111.01 of the Revised Code who is 59223
sanctioned under division (A)(3) of this section for a failure or 59224
refusal, without good cause, to comply in full with a provision of 59225
a self-sufficiency contract related to work responsibilities under 59226

sections 5107.40 to 5107.69 of the Revised Code loses eligibility 59227
for medicaid unless the adult is otherwise eligible for medicaid 59228
pursuant to another division of section 5111.01 of the Revised 59229
Code. 59230

An assistance group that would be participating in Ohio works 59231
first if not for a sanction under this section shall continue to 59232
be eligible for all of the following: 59233

(1) Publicly funded child care in accordance with division 59234
(A)(3) of section 5104.30 of the Revised Code; 59235

(2) Support services in accordance with section 5107.66 of 59236
the Revised Code; 59237

(3) To the extent permitted by the "Fair Labor Standards Act 59238
of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate 59239
in work activities, developmental activities, and alternative work 59240
activities in accordance with sections 5107.40 to 5107.69 of the 59241
Revised Code. 59242

Sec. 5107.17. ~~An~~ Both of the following must occur before an 59243
assistance group ~~that resumes~~ may resume participation in Ohio 59244
works first following a sanction under section 5107.16 of the 59245
Revised Code ~~is not required to do either of the following:~~ 59246

(A) ~~Reapply~~ The assistance group must reapply under section 59247
5107.12 of the Revised Code, ~~unless either~~ if any of the following 59248
~~applies~~ apply: 59249

(1) It is the assistance group's regularly scheduled time for 59250
an eligibility redetermination; 59251

(2) ~~The county department of job and family services does not~~ 59252
~~receive the completed compliance form established in rules adopted~~ 59253
~~under section 5107.05 of the Revised Code within the period of~~ 59254
~~time specified in rules adopted under that section~~ If the sanction 59255
was imposed under division (A)(1) of section 5107.16 of the 59256

Revised Code, the failure or refusal on which the sanction was 59257
based is not considered to have ceased until after one payment 59258
month immediately following the date the sanction began; 59259

(3) If the sanction was imposed under division (A)(2) of 59260
section 5107.16 of the Revised Code, the failure or refusal on 59261
which the sanction was based is not considered to have ceased 59262
until after three payment months immediately following the date 59263
the sanction began; 59264

(4) If the sanction was imposed under division (A)(3) of 59265
section 5107.16 of the Revised Code, the failure or refusal on 59266
which the sanction was based is not considered to have ceased 59267
until after six payment months immediately following the date the 59268
sanction began. 59269

(B) ~~Enter~~ The adult member of the assistance group or the 59270
assistance group's minor head of household whose failure or 59271
refusal, without good cause, to comply in full with a provision of 59272
a self-sufficiency contract caused the sanction must enter into a 59273
new, or amend an existing, self-sufficiency contract under section 59274
5107.14 of the Revised Code, unless the county department of job 59275
and family services determines it is time for a new appraisal 59276
under section 5107.41 of the Revised Code or the assistance 59277
group's circumstances have changed in a manner necessitating an 59278
amendment to the self-sufficiency contract as determined using 59279
procedures included in the contract under division (B)(9) of if 59280
required to do so by rules adopted under section 5107.14 5107.05 59281
of the Revised Code. 59282

Sec. 5111.01. (A) As used in this chapter, "medical: 59283

"Children's health insurance program" means the children's 59284
health insurance program part I, children's health insurance 59285
program part II, and children's health insurance program part III 59286
authorized by sections 5101.50 to 5101.529 of the Revised Code. 59287

"Medical assistance program" or "medicaid" means the program 59288
that is authorized by this chapter and provided by the ~~department~~ 59289
~~office of job and family services~~ medical assistance under this 59290
chapter, Title XIX of the "Social Security Act," 79 Stat. 286 59291
(1965), 42 U.S.C.A. 1396, et seq., as amended, and the waivers of 59292
Title XIX requirements granted to the ~~department office~~ by the 59293
centers for medicare and medicaid services of the United States 59294
department of health and human services. 59295

~~The department of job and family services~~ (B) There is hereby 59296
established the office of medical assistance as a work unit within 59297
the department of job and family services. The chief of the office 59298
shall hold the title of medical assistance director. 59299
Notwithstanding section 5101.06 of the Revised Code, the governor 59300
shall appoint the medical assistance director and the medical 59301
assistance director shall serve at the governor's pleasure. The 59302
medical assistance director is not an assistant director of the 59303
department of job and family services for purposes of section 59304
121.05 or 5101.03 of the Revised Code or any other purpose. 59305

Subject to appropriations for the medicaid program and 59306
children's health insurance program, the department of job and 59307
family services shall provide staff and support services as 59308
necessary for the operation of the office of medical assistance. 59309

If a statute, rule, contract, or other legal authority 59310
requires the director of job and family services or department of 59311
job and family services to take an action regarding the medicaid 59312
program or children's health insurance program, the medical 59313
assistance director or office of medical assistance shall take the 59314
action in place of the director of job and family services or 59315
department of job and family services. If a statute, rule, 59316
contract, or other legal authority permits the director of job and 59317
family services or department of job and family services to take 59318
an action regarding the medicaid program or children's health 59319

insurance program, the medical assistance director or office of 59320
medical assistance shall take the action in place of the director 59321
of job and family services or department of job and family 59322
services if the action is to be taken. 59323

The office of medical assistance shall act as the single 59324
state agency to supervise the administration of the medicaid 59325
program. As the single state agency, the ~~department~~ office shall 59326
comply with 42 C.F.R. 431.10(e). The ~~department's~~ office's rules 59327
governing medicaid are binding on other agencies that administer 59328
components of the medicaid program. No agency may establish, by 59329
rule or otherwise, a policy governing medicaid that is 59330
inconsistent with a medicaid policy established, in rule or 59331
otherwise, by the medical assistance director ~~of job and family~~ 59332
~~services.~~ 59333

~~(A)(C)~~ The ~~department~~ office of ~~job and family services~~ 59334
medical assistance may provide medical assistance under the 59335
medicaid program as long as federal funds are provided for such 59336
assistance, to the following: 59337

(1) Families with children that meet either of the following 59338
conditions: 59339

(a) The family meets the income, resource, and family 59340
composition requirements in effect on July 16, 1996, for the 59341
former aid to dependent children program as those requirements 59342
were established by Chapter 5107. of the Revised Code, federal 59343
waivers granted pursuant to requests made under former section 59344
5101.09 of the Revised Code, and rules adopted by the department 59345
or any changes the department makes to those requirements in 59346
accordance with paragraph (a)(2) of section 114 of the "Personal 59347
Responsibility and Work Opportunity Reconciliation Act of 1996," 59348
110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of 59349
implementing section 5111.0120 of the Revised Code. An adult loses 59350
eligibility for medicaid under division ~~(A)(C)~~(1)(a) of this 59351

section pursuant to division (E) of section 5107.16 of the Revised Code. 59352
59353

(b) The family does not meet the requirements specified in 59354
division ~~(A)~~(C)(1)(a) of this section but is eligible for medicaid 59355
pursuant to section 5101.18 of the Revised Code. 59356

(2) Aged, blind, and disabled persons who meet the following 59357
conditions: 59358

(a) Receive federal aid under Title XVI of the "Social 59359
Security Act," or are eligible for but are not receiving such aid, 59360
provided that the income from all other sources for individuals 59361
with independent living arrangements shall not exceed one hundred 59362
seventy-five dollars per month. The income standards hereby 59363
established shall be adjusted annually at the rate that is used by 59364
the United States department of health and human services to 59365
adjust the amounts payable under Title XVI. 59366

(b) Do not receive aid under Title XVI, but meet any of the 59367
following criteria: 59368

(i) Would be eligible to receive such aid, except that their 59369
income, other than that excluded from consideration as income 59370
under Title XVI, exceeds the maximum under division ~~(A)~~(C)(2)(a) 59371
of this section, and incurred expenses for medical care, as 59372
determined under federal regulations applicable to section 209(b) 59373
of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 59374
U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which 59375
their income exceeds the maximum under division ~~(A)~~(C)(2)(a) of 59376
this section; 59377

(ii) Received aid for the aged, aid to the blind, or aid for 59378
the permanently and totally disabled prior to January 1, 1974, and 59379
continue to meet all the same eligibility requirements; 59380

(iii) Are eligible for medicaid pursuant to section 5101.18 59381
of the Revised Code. 59382

(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;

(4) Persons under age twenty-one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The medical assistance director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division ~~(A)~~(C)(4) of this section.

~~(B)~~(D) If sufficient funds are appropriated for the medicaid program, the ~~department~~ office of medical assistance may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.

~~(C)~~(E) The ~~department~~ office of medical assistance may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the ~~department~~ office receives the approval of the federal government. The ~~department~~ office may implement the eligibility expansion authorized under this division on any date selected by the ~~department~~ office, but not sooner than January 1, 1998.

~~(D)~~(F) In addition to any other authority or requirement to adopt rules under this chapter, the medical assistance director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance under the medicaid program. The rules may establish requirements to be followed in applying for medicaid,

making determinations of eligibility for medicaid, and verifying 59415
eligibility for medicaid. The rules may include special conditions 59416
as the ~~department~~ office determines appropriate for making 59417
applications, determining eligibility, and verifying eligibility 59418
for any medical assistance that the ~~department~~ office may provide 59419
under the medicaid program pursuant to division ~~(C)~~(E) of this 59420
section and section 5111.014 or 5111.0120 of the Revised Code. 59421

Sec. 5111.013. (A) The provision of medical assistance to 59422
pregnant women and young children who are eligible for medical 59423
assistance under division ~~(A)~~(C)(3) of section 5111.01 of the 59424
Revised Code, but who are not otherwise eligible for medical 59425
assistance under that section, shall be known as the healthy start 59426
program. 59427

(B) The department of job and family services shall do all of 59428
the following with regard to the application procedures for the 59429
healthy start program: 59430

(1) Establish a short application form for the program that 59431
requires the applicant to provide no more information than is 59432
necessary for making determinations of eligibility for the healthy 59433
start program, except that the form may require applicants to 59434
provide their social security numbers. The form shall include a 59435
statement, which must be signed by the applicant, indicating that 59436
she does not choose at the time of making application for the 59437
program to apply for assistance provided under any other program 59438
administered by the department and that she understands that she 59439
is permitted at any other time to apply at the county department 59440
of job and family services of the county in which she resides for 59441
any other assistance administered by the department. 59442

(2) To the extent permitted by federal law, do one or both of 59443
the following: 59444

(a) Distribute the application form for the program to each 59445

public or private entity that serves as a women, infants, and 59446
children clinic or as a child and family health clinic and to each 59447
administrative body for such clinics and train employees of each 59448
such agency or entity to provide applicants assistance in 59449
completing the form; 59450

(b) In cooperation with the department of health, develop 59451
arrangements under which employees of county departments of job 59452
and family services are stationed at public or private agencies or 59453
entities selected by the department of job and family services 59454
that serve as women, infants, and children clinics; child and 59455
family health clinics; or administrative bodies for such clinics 59456
for the purpose both of assisting applicants for the program in 59457
completing the application form and of making determinations at 59458
that location of eligibility for the program. 59459

(3) Establish performance standards by which a county 59460
department of job and family services' level of enrollment of 59461
persons potentially eligible for the program can be measured, and 59462
establish acceptable levels of enrollment for each county 59463
department. 59464

(4) Direct any county department of job and family services 59465
whose rate of enrollment of potentially eligible enrollees in the 59466
program is below acceptable levels established under division 59467
(B)(3) of this section to implement corrective action. Corrective 59468
action may include but is not limited to any one or more of the 59469
following to the extent permitted by federal law: 59470

(a) Establishing formal referral and outreach methods with 59471
local health departments and local entities receiving funding 59472
through the bureau of maternal and child health; 59473

(b) Designating a specialized intake unit within the county 59474
department for healthy start applicants; 59475

(c) Establishing abbreviated timeliness requirements to 59476

| | |
|---|---|
| shorten the time between receipt of an application and the scheduling of an initial application interview; | 59477 59478 |
| (d) Establishing a system for telephone scheduling of intake interviews for applicants; | 59479 59480 |
| (e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department. | 59481 59482 59483 59484 59485 59486 |
| (C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code. | 59487 59488 59489 59490 59491 59492 59493 59494 59495 |
| (D) A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program at all of those locations. | 59496 59497 59498 59499 |
| (E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. | 59500 59501 59502 |
| Sec. 5111.014. (A) The director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible | 59503 59504 59505 59506 |

for medicaid: 59507

(1) The individual is pregnant; 59508

(2) The individual's family income does not exceed two 59509
hundred per cent of the federal poverty guidelines; 59510

(3) The individual satisfies all relevant requirements 59511
established by rules adopted under division ~~(D)~~(F) of section 59512
5111.01 of the Revised Code. 59513

(B) If approved by the United States secretary of health and 59514
human services, the director of job and family services shall 59515
implement the medicaid plan amendment submitted under division (A) 59516
of this section as soon as possible after receipt of notice of the 59517
approval, but not sooner than January 1, 2008. 59518

Sec. 5111.0115. (A) The department of job and family services 59519
may provide medical assistance under the medicaid program, as long 59520
as federal funds are provided for such assistance, to each former 59521
participant of the Ohio works first program established under 59522
Chapter 5107. of the Revised Code who meets all of the following 59523
requirements: 59524

(1) Is ineligible to participate in Ohio works first solely 59525
as a result of increased income due to employment; 59526

(2) Is not covered by, and does not have access to, medical 59527
insurance coverage through the employer with benefits comparable 59528
to those provided under this section, as determined in accordance 59529
with rules adopted by the director of job and family services 59530
under division (B) of this section; 59531

(3) Meets any other requirement established by rule adopted 59532
under division (B) of this section. 59533

(B) The director of job and family services shall adopt such 59534
rules under Chapter 119. of the Revised Code as are necessary to 59535
implement and administer the medical assistance program under this 59536

section. 59537

(C) A person seeking to participate in a program of medical 59538
assistance under this section shall apply to the county department 59539
of job and family services in the county in which the applicant 59540
resides. The application shall be made on a form prescribed by the 59541
department of job and family services and furnished by the county 59542
department. 59543

(D) If the county department of job and family services 59544
determines that a person is eligible to receive medical assistance 59545
under this section, the department shall provide assistance, to 59546
the same extent and in the same manner as medical assistance is 59547
provided to a person eligible for medical assistance pursuant to 59548
division ~~(A)~~(C)(1)(a) of section 5111.01 of the Revised Code, for 59549
no longer than twelve months, beginning the month after the date 59550
the participant's eligibility for Ohio works first is terminated. 59551

Sec. 5111.0120. The director of job and family services shall 59552
submit to the United States secretary of health and human services 59553
an amendment to the state medicaid plan to make an individual 59554
eligible for medicaid who meets all of the following requirements: 59555
59556

(A) The individual is the parent of a child under nineteen 59557
years of age and resides with the child; 59558

(B) The individual's family income does not exceed ninety per 59559
cent of the federal poverty guidelines; 59560

(C) The individual is not otherwise eligible for medicaid; 59561

(D) The individual satisfies all relevant requirements 59562
established by rules adopted under division ~~(D)~~(F) of section 59563
5111.01 of the Revised Code. 59564

Sec. 5111.031. (A) As used in this section: 59565

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code. 59566
59567

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code. 59568
59569
59570

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded. 59571
59572
59573
59574

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider. 59575
59576

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee. 59577
59578
59579
59580
59581

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is issued on or after September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered. 59582
59583
59584
59585
59586
59587
59588
59589
59590
59591
59592

The suspension shall continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to 59593
59594
59595
59596

terminate the suspended provider agreement, the suspension shall 59597
also continue in effect until the termination process is 59598
concluded. 59599

Pursuant to section 5111.06 of the Revised Code, the 59600
department is not required to take action under this division by 59601
issuing an order pursuant to an adjudication conducted in 59602
accordance with Chapter 119. of the Revised Code. 59603

When subject to a suspension under this division, a provider, 59604
owner, officer, authorized agent, associate, manager, or employee 59605
shall not own or provide services to any other medicaid provider 59606
or risk contractor or arrange for, render, or order services for 59607
medicaid recipients during the period of suspension. During the 59608
period of suspension, the provider, owner, officer, authorized 59609
agent, associate, manager, or employee shall not receive 59610
reimbursement in the form of direct payments from the department 59611
or indirect payments of medicaid funds in the form of salary, 59612
shared fees, contracts, kickbacks, or rebates from or through any 59613
participating provider or risk contractor. 59614

(D)(1) The department shall not suspend a provider agreement 59615
or terminate medicaid reimbursement under division (C) of this 59616
section if the provider or owner can demonstrate through the 59617
submission of written evidence that the provider or owner did not 59618
directly or indirectly sanction the action of its authorized 59619
agent, associate, manager, or employee that resulted in the 59620
indictment. 59621

(2) The termination of medicaid reimbursement applies only to 59622
payments for medicaid services rendered subsequent to the date on 59623
which the notice required under division (F) of this section is 59624
sent. Claims for reimbursement for medicaid services rendered by 59625
the provider prior to the issuance of the notice may be subject to 59626
prepayment review procedures whereby the department reviews claims 59627
to determine whether they are supported by sufficient 59628

documentation, are in compliance with state and federal statutes 59629
and rules, and are otherwise complete. 59630

(E)(1) In the case of a noninstitutional medicaid provider 59631
that is not an independent provider, the suspension of a provider 59632
agreement under division (C) of this section applies when an 59633
indictment charges a person with committing an act that would be a 59634
felony or misdemeanor under the laws of this state and the act 59635
relates to or results from either of the following: 59636

(a) Furnishing or billing for medical care, services, or 59637
supplies under the medicaid program; 59638

(b) Participating in the performance of management or 59639
administrative services relating to furnishing medical care, 59640
services, or supplies under the medicaid program. 59641

(2) In the case of a noninstitutional medicaid provider that 59642
is an independent provider, the suspension of a provider agreement 59643
under division (C) of this section applies when an indictment 59644
charges a person with committing an act that would constitute ~~one~~ 59645
~~of the offenses specified in division (D) of a disqualifying~~ 59646
offense as defined in section 5111.034 5111.032 of the Revised 59647
Code. 59648

(F) Not later than five days after suspending a provider 59649
agreement under division (C) of this section, the department shall 59650
send notice of the suspension to the affected provider or owner. 59651
In providing the notice, the department shall do all of the 59652
following: 59653

(1) Describe the indictment that was the cause of the 59654
suspension, without necessarily disclosing specific information 59655
concerning any ongoing civil or criminal investigation; 59656

(2) State that the suspension will continue in effect until 59657
the proceedings in the criminal case are completed through 59658
dismissal of the indictment or through conviction, entry of a 59659

guilty plea, or finding of not guilty and, if the department 59660
commences a process to terminate the suspended provider agreement, 59661
until the termination process is concluded; 59662

(3) Inform the provider or owner of the opportunity to submit 59663
to the department, not later than thirty days after receiving the 59664
notice, a request for a reconsideration pursuant to division (G) 59665
of this section. 59666

(G)(1) Pursuant to the procedure specified in division (G)(2) 59667
of this section, a noninstitutional medicaid provider or owner 59668
subject to a suspension under this section may request a 59669
reconsideration. The request shall be made not later than thirty 59670
days after receipt of the notice provided under division (F) of 59671
this section. The reconsideration is not subject to an 59672
adjudication hearing pursuant to Chapter 119. of the Revised Code. 59673

(2) In requesting a reconsideration, the provider or owner 59674
shall submit written information and documents to the department. 59675
The information and documents may pertain to any of the following 59676
issues: 59677

(a) Whether the determination to suspend the provider 59678
agreement was based on a mistake of fact, other than the validity 59679
of the indictment; 59680

(b) Whether any offense charged in the indictment resulted 59681
from an offense specified in division (E) of this section; 59682

(c) Whether the provider or owner can demonstrate that the 59683
provider or owner did not directly or indirectly sanction the 59684
action of its authorized agent, associate, manager, or employee 59685
that resulted in the indictment. 59686

(3) The department shall review the information and documents 59687
submitted in a request for reconsideration. After the review, the 59688
suspension may be affirmed, reversed, or modified, in whole or in 59689
part. The department shall notify the affected provider or owner 59690

of the results of the review. The review and notification of its 59691
results shall be completed not later than forty-five days after 59692
receiving the information and documents submitted in a request for 59693
reconsideration. 59694

(H) The department may adopt rules in accordance with Chapter 59695
119. of the Revised Code to implement this section. The rules may 59696
specify circumstances under which the department would not suspend 59697
a provider agreement pursuant to this section. 59698

Sec. 5111.032. (A) As used in this section: 59699

(1) "Criminal records check" has the same meaning as in 59700
section 109.572 of the Revised Code. 59701

(2) ~~"Department" includes a designee of the department of job 59702
and family services. 59703~~

~~(3) "Disqualifying offense" means any of the offenses listed 59704
or described in divisions (A)(3)(a) to (e) of section 109.572 of 59705
the Revised Code. 59706~~

~~(3) "Owner" means a person who has an ownership interest in a 59707
provider or applicant to be a provider in an amount designated ~~by 59708
the department of job and family services~~ in rules adopted under 59709
this section. 59710~~

(4) "Person subject to the criminal records check 59711
requirement" means the following: 59712

(a) A provider or applicant to be a provider who is notified 59713
under division (E)(1) of this section that the provider or 59714
applicant is subject to a criminal records check; 59715

(b) An owner or prospective owner, officer or prospective 59716
officer, or board member or prospective board member of a provider 59717
or applicant to be a provider if, pursuant to division (E)(1)(a) 59718
of this section, the owner or prospective owner, officer or 59719
prospective officer, or board member or prospective board member 59720

is specified in information given to the provider or applicant 59721
under division (E)(1) of this section; 59722

(c) An employee or prospective employee of a provider or 59723
applicant to be a provider if both of the following apply: 59724

(i) The employee or prospective employee is specified, 59725
pursuant to division (E)(1)(b) of this section, in information 59726
given to the provider or applicant under division (E)(1) of this 59727
section. 59728

(ii) The provider or applicant is not prohibited by division 59729
(D)(3)(b) of this section from employing the employee or 59730
prospective employee. 59731

(5) "Provider" means a person, institution, or entity that 59732
has a medicaid provider agreement with the department of job and 59733
family services pursuant to Title XIX of the "Social Security 59734
Act," 49 State. 620 (1965), 42 U.S.C. 1396, as amended. 59735

(6) "Responsible entity" means the following: 59736

(a) With respect to a criminal records check required under 59737
this section for a provider or applicant to be a provider, the 59738
department of job and family services or the department's 59739
designee; 59740

(b) With respect to a criminal records check required under 59741
this section for an owner or prospective owner, officer or 59742
prospective officer, board member or prospective board member, or 59743
employee or prospective employee of a provider or applicant to be 59744
a provider, the provider or applicant. 59745

~~(B)(1) Except as provided in division (B)(2) of this section,~~ 59746
the This section does not apply to any individual who is subject 59747
to a criminal records check under section 3712.09, 3721.121, 59748
5111.034, 5123.081, or 5123.169 of the Revised Code or any 59749
individual who is subject to a database review or criminal records 59750

check under section 173.394, 3701.881, or 5111.033 of the Revised Code. 59751
59752

(C) The department of job and family services may ~~require~~ do any of the following: 59753
59754

(1) ~~Require~~ that any provider, or applicant to be a provider, employee or prospective employee of a provider, owner or prospective owner of a provider, officer or prospective officer of a provider, or board member or prospective board member of a provider submit to a criminal records check as a condition of obtaining having a medicaid provider agreement, ~~continuing to hold~~ a provider agreement, being employed by a provider, having an ownership interest in a provider, or being an officer or board member of a provider. The department may designate the categories of persons who are subject to the criminal records check requirement. The department shall designate the times at which the eriminal records checks must be conducted. 59755
59756
59757
59758
59759
59760
59761
59762
59763
59764
59765
59766

(2) ~~The section does not apply to providers, applicants to be providers, employees of a provider, or prospective employees of a provider who are subject to criminal records checks under section 5111.033 or 5111.034 of the Revised Code;~~ 59767
59768
59769
59770

(2) Require that any provider or applicant to be a provider require an owner or prospective owner, officer or prospective officer, or board member or prospective board member of the provider or applicant submit to a criminal records check as a condition of being an owner, officer, or board member of the provider or applicant; 59771
59772
59773
59774
59775
59776

(3) Require that any provider or applicant to be a provider do the following: 59777
59778

(a) If so required by rules adopted under this section, determine pursuant to a database review conducted under division (F)(1)(a) of this section whether any employee or prospective 59779
59780
59781

employee of the provider or applicant is included in a database; 59782

(b) Unless the provider or applicant is prohibited by 59783
division (D)(3)(b) of this section from employing the employee or 59784
prospective employee, require the employee or prospective employee 59785
to submit to a criminal records check as a condition of being an 59786
employee of the provider or applicant. 59787

(D)(1) The department or the department's designee shall 59788
terminate a provider's medicaid provider agreement or deny an 59789
applicant's application for a medicaid provider agreement if the 59790
provider or applicant is a person subject to the criminal records 59791
check requirement and either of the following applies: 59792

(a) The provider or applicant fails to obtain the criminal 59793
records check after being given the information specified in 59794
division (G)(1) of this section. 59795

(b) Except as provided in rules adopted under this section, 59796
the provider or applicant is found by the criminal records check 59797
to have been convicted of, pleaded guilty to, or been found 59798
eligible for intervention in lieu of conviction for a 59799
disqualifying offense, regardless of the date of the conviction, 59800
the date of entry of the guilty plea, or the date the applicant or 59801
provider was found eligible for intervention in lieu of 59802
conviction. 59803

(2) No provider or applicant to be a provider shall permit a 59804
person to be an owner, officer, or board member of the provider or 59805
applicant if the person is a person subject to the criminal 59806
records check requirement and either of the following applies: 59807

(a) The person fails to obtain the criminal records check 59808
after being given the information specified in division (G)(1) of 59809
this section. 59810

(b) Except as provided in rules adopted under this section, 59811
the person is found by the criminal records check to have been 59812

convicted of, pleaded guilty to, or been found eligible for 59813
intervention in lieu of conviction for a disqualifying offense, 59814
regardless of the date of the conviction, the date of entry of the 59815
guilty plea, or the date the person was found eligible for 59816
intervention in lieu of conviction. 59817

(3) No provider or applicant to be a provider shall employ a 59818
person if any of the following apply: 59819

(a) The person has been excluded from providing services or 59820
items under the medicaid program, the medicare program operated 59821
pursuant to Title XVIII of the "Social Security Act," or any other 59822
federal health care program. 59823

(b) If the person is subject to a database review conducted 59824
under division (F)(1)(a) of this section, the person is found by 59825
the database review to be included in a database and the rules 59826
adopted under this section regarding the database review prohibit 59827
the provider or applicant from employing a person included in the 59828
database. 59829

(c) If the person is a person subject to the criminal records 59830
check requirement, either of the following applies: 59831

(i) The person fails to obtain the criminal records check 59832
after being given the information specified in division (G)(1) of 59833
this section. 59834

(ii) Except as provided in rules adopted under this section, 59835
the person is found by the criminal records check to have been 59836
convicted of, pleaded guilty to, or been found eligible for 59837
intervention in lieu of conviction for a disqualifying offense, 59838
regardless of the date of the conviction, the date of entry of the 59839
guilty plea, or the date the person was found eligible for 59840
intervention in lieu of conviction. 59841

~~(C)~~(E)(1) The department or the department's designee shall 59842
inform each provider or applicant to be a provider whether the 59843

provider or applicant is subject to a criminal records check 59844
~~requirement under division (B) of this section.~~ For providers, the 59845
information shall be given at times designated in rules adopted 59846
under this section. For applicants to be providers, the 59847
information shall be given at the time of initial application. 59848
When the information is given, the department or the department's 59849
designee shall specify ~~which~~ the following: 59850

(a) Which of the provider's or applicant's ~~employees or~~ 59851
~~prospective employees,~~ owners or prospective owners, officers or 59852
prospective officers, or board members or prospective board 59853
members are subject to ~~the~~ a criminal records check ~~requirement;~~ 59854

(b) Which of the provider's or applicant's employees or 59855
prospective employees are subject to division (C)(3) of this 59856
section. 59857

(2) At times designated in rules adopted under this section, 59858
a provider or applicant to be a provider that is a person subject 59859
to the criminal records check requirement shall ~~inform~~ do the 59860
following: 59861

(a) Inform each person specified ~~by the department~~ under 59862
division ~~(C)(1)(E)(1)(a)~~ of this section that the person is 59863
required, ~~as applicable,~~ to submit to a criminal records check ~~for~~ 59864
~~final consideration for employment in a full time, part time, or~~ 59865
~~temporary position; as a condition of continued employment; or as~~ 59866
a condition of ~~becoming or continuing to be~~ being an owner, 59867
officer, or board member ~~or owner~~ of a the provider or applicant; 59868

(b) Inform each person specified under division (E)(1)(b) of 59869
this section that the person is subject to division (C)(3) of this 59870
section. 59871

~~(D)~~(F)(1) If a provider or applicant to be a provider is a 59872
person subject to a the criminal records check ~~under this section~~ 59873
requirement, the department or the department's designee shall 59874

require the conduct of a criminal records check by the 59875
superintendent of the bureau of criminal identification and 59876
~~investigation. If a provider or applicant to be a provider for~~ 59877
~~whom a criminal records check is required does not present proof~~ 59878
~~of having been a resident of this state for the five year period~~ 59879
~~immediately prior to the date the criminal records check is~~ 59880
~~requested or provide evidence that within that five year period~~ 59881
~~the superintendent has requested information about the individual~~ 59882
~~from the federal bureau of investigation in a criminal records~~ 59883
~~check, the department shall require the provider or applicant to~~ 59884
~~request that the superintendent obtain information from the~~ 59885
~~federal bureau of investigation as part of the criminal records~~ 59886
~~check of the provider or applicant. Even if a provider or~~ 59887
~~applicant for whom a criminal records check request is required~~ 59888
~~presents proof of having been a resident of this state for the~~ 59889
~~five year period, the department may require that the provider or~~ 59890
~~applicant request that the superintendent obtain information from~~ 59891
~~the federal bureau of investigation and include it in the criminal~~ 59892
~~records check of the provider or applicant.~~ 59893

~~(2) investigation. A provider or applicant to be a provider~~ 59894
~~shall require the conduct of a criminal records check by the~~ 59895
~~superintendent with respect to each of the persons specified by~~ 59896
~~the department under division ~~(C)(1)(E)(1)(a)~~ of this section. If~~ 59897
~~the person for whom a criminal records check is required does not~~ 59898
~~present proof of having been a resident of this state for the~~ 59899
~~five year period immediately prior to the date the criminal~~ 59900
~~records check is requested or provide evidence that within that~~ 59901
~~five year period the superintendent of the bureau of criminal~~ 59902
~~identification and investigation has requested information about~~ 59903
~~the individual from the federal bureau of investigation in a~~ 59904
~~criminal records check, the individual shall request that the~~ 59905
~~superintendent obtain information from the federal bureau of~~ 59906
~~investigation as part of the criminal records check of the~~ 59907

~~individual. Even if an individual for whom a criminal records~~ 59908
~~check request is required presents proof of having been a resident~~ 59909
~~of this state for the five-year period, the department may require~~ 59910
~~the provider to request that the superintendent obtain information~~ 59911
~~from the federal bureau of investigation and include it in the~~ 59912
~~criminal records check of the person. With respect to each~~ 59913
~~employee and prospective employee specified under division~~ 59914
~~(E)(1)(b) of this section, a provider or applicant to be a~~ 59915
~~provider shall do the following:~~ 59916

(a) If rules adopted under this section require the provider 59917
or applicant to conduct a database review to determine whether the 59918
employee or prospective employee is included in a database, 59919
conduct the database review in accordance with the rules; 59920

(b) Unless the provider or applicant is prohibited by 59921
division (D)(3)(b) of this section from employing the employee or 59922
prospective employee, require the conduct of a criminal records 59923
check of the employee or prospective employee by the 59924
superintendent. 59925

(2) If a person subject to the criminal records check 59926
requirement does not present proof of having been a resident of 59927
this state for the five-year period immediately prior to the date 59928
the criminal records check is requested or provide evidence that 59929
within that five-year period the superintendent has requested 59930
information about the person from the federal bureau of 59931
investigation in a criminal records check, the responsible entity 59932
shall require the person to request that the superintendent obtain 59933
information from the federal bureau of investigation as part of 59934
the criminal records check of the person. Even if the person 59935
presents proof of having been a resident of this state for the 59936
five-year period, the responsible entity may require that the 59937
person request that the superintendent obtain information from the 59938
federal bureau of investigation and include it in the criminal 59939

records check of the person. 59940

~~(E)(1)~~(G) Criminal records checks required ~~under~~ by this 59941
section for ~~providers or applicants to be providers~~ shall be 59942
obtained as follows: 59943

~~(a)(1)~~ The ~~department~~ responsible entity shall provide each 59944
~~provider or applicant~~ person subject to the criminal records check 59945
requirement information about accessing and completing the form 59946
prescribed pursuant to division (C)(1) of section 109.572 of the 59947
Revised Code and the standard ~~fingerprint~~ impression sheet 59948
prescribed pursuant to division (C)(2) of that section. 59949

~~(b)(2)~~ The ~~provider or applicant~~ person subject to the 59950
criminal records check requirement shall submit the required form 59951
and one complete set of the person's fingerprint impressions 59952
directly to the superintendent for purposes of conducting the 59953
criminal records check using the applicable methods prescribed by 59954
division (C) of section 109.572 of the Revised Code. The ~~applicant~~ 59955
~~or provider~~ person shall pay all fees associated with obtaining 59956
the criminal records check. 59957

~~(e)(3)~~ The superintendent shall conduct the criminal records 59958
check in accordance with section 109.572 of the Revised Code. The 59959
~~provider or applicant~~ person subject to the criminal records check 59960
requirement shall instruct the superintendent to submit the report 59961
of the criminal records check directly to the ~~director of job and~~ 59962
~~family services.~~ 59963

~~(2)~~ Criminal records checks required ~~under this section for~~ 59964
~~persons specified by the department under division (C)(1) of this~~ 59965
~~section shall be obtained as follows:~~ 59966

~~(a)~~ The ~~provider~~ shall give to each person subject to 59967
~~criminal records check requirement~~ information about accessing and 59968
~~completing the form prescribed pursuant to division (C)(1) of~~ 59969
~~section 109.572 of the Revised Code and the standard fingerprint~~ 59970

~~impression sheet prescribed pursuant to division (C)(2) of that section.~~ 59971
59972

~~(b) The person shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.~~ 59973
59974
59975
59976
59977
59978

~~(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check shall instruct the superintendent to submit the report of the criminal records check directly to the provider responsible entity. The If the department or the department's designee is not the responsible entity, the department or designee may require the provider responsible entity to submit the report to the department or designee.~~ 59979
59980
59981
59982
59983
59984
59985
59986

~~(F) If a provider or applicant to be a provider is given the information specified in division (E)(1)(a) of this section but fails to obtain a criminal records check, the department shall, as applicable, terminate the provider agreement or deny the application to be a provider.~~ 59987
59988
59989
59990
59991

~~If a person is given the information specified in division (E)(2)(a) of this section but fails to obtain a criminal records check, the provider shall not, as applicable, permit the person to be an employee, owner, officer, or board member of the provider.~~ 59992
59993
59994
59995

~~(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty~~ 59996
59997
59998
59999
60000
60001

~~to, or has been found eligible for intervention in lieu of 60002
conviction for any of the following, regardless of the date of the 60003
conviction, the date of entry of the guilty plea, or the date the 60004
applicant or provider was found eligible for intervention in lieu 60005
of conviction. 60006~~

~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 60007
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 60008
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 60009
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 60010
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 60011
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 60012
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 60013
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 60014
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 60015
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 60016
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 60017
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 60018
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 60019
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 60020
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 60021
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 60022
penetration in violation of former section 2907.12 of the Revised 60023
Code, a violation of section 2905.04 of the Revised Code as it 60024
existed prior to July 1, 1996, a violation of section 2919.23 of 60025
the Revised Code that would have been a violation of section 60026
2905.04 of the Revised Code as it existed prior to July 1, 1996, 60027
had the violation been committed prior to that date; 60028~~

~~(2) A violation of an existing or former municipal ordinance 60029
or law of this state, any other state, or the United States that 60030
is substantially equivalent to any of the offenses listed in 60031
division (G)(1) of this section. 60032~~

~~(H)(1)(a) Except as provided in rules adopted under division 60033~~

~~(J) of this section and subject to division (H)(2) of this section, no provider shall permit a person to be an employee, owner, officer, or board member of the provider if the person is subject to a criminal records check under this section and the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.~~ 60034
60035
60036
60037
60038
60039
60040

~~(b) No provider shall employ a person who has been excluded from participating in the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.~~ 60041
60042
60043
60044

~~(2)(a)(H)(1) A provider or applicant to be a provider may employ conditionally a person for whom a criminal records check is required under by this section prior to obtaining the results of a the criminal records check regarding the person, but only if the both of the following apply:~~ 60045
60046
60047
60048
60049

~~(a) The provider or applicant is not prohibited by division (D)(3)(b) of this section from employing the person.~~ 60050
60051

~~(b) The person submits a request for a the criminal records check not later than five business days after the individual person begins conditional employment.~~ 60052
60053
60054

~~(b)(2) A provider or applicant to be a provider that employs a person conditionally under authority of division (H)(2)(a)(1) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section a~~ 60055
60056
60057
60058
60059
60060
60061
60062
60063
60064

disqualifying offense, the provider or applicant shall terminate 60065
the person's employment unless circumstances specified in rules 60066
adopted under this section exist that permit the provider or 60067
applicant to employ the person and the provider or applicant 60068
chooses to employ the ~~individual pursuant to division (J) of this~~ 60069
~~section~~ person. 60070

(I) The report of a criminal records check conducted pursuant 60071
to this section is not a public record for the purposes of section 60072
149.43 of the Revised Code and shall not be made available to any 60073
person other than the following: 60074

(1) The person who is the subject of the criminal records 60075
check or the person's representative; 60076

(2) The director of job and family services and the staff of 60077
the department who are involved in the administration of the 60078
medicaid program; 60079

(3) The department's designee; 60080

(4) The provider or applicant to be a provider who required 60081
the person who is the subject of the criminal records check to 60082
submit to the criminal records check; 60083

(5) A court, hearing officer, or other necessary individual 60084
involved in a case dealing with ~~the~~ any of the following: 60085

(a) The denial or termination of a medicaid provider 60086
agreement; 60087

~~(4) A court, hearing officer, or other necessary individual~~ 60088
~~involved in a case dealing with a~~ (b) A person's denial of 60089
employment, termination of employment, or employment or 60090
unemployment benefits; 60091

(c) A civil or criminal action regarding the medicaid 60092
program. 60093

(J) The ~~department~~ director of job and family services may 60094

adopt rules in accordance with Chapter 119. of the Revised Code to 60095
implement this section. If the director adopts such rules, the 60096
rules shall designate the times at which a criminal records check 60097
must be conducted under this section. The rules may ~~specify~~ do any 60098
of the following: 60099

(1) Designate the categories of persons who are subject to a 60100
criminal records check under this section; 60101

(2) Specify circumstances under which the department or the 60102
department's designee may continue a medicaid provider agreement 60103
or issue a medicaid provider agreement to an applicant when the 60104
provider or applicant ~~has~~ is found by a criminal records check to 60105
have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found 60106
eligible for intervention in lieu of conviction for ~~any of the~~ 60107
~~offenses specified in division (G)(1) or (2) of this section.~~ The 60108
~~rules may also specify~~ a disqualifying offense; 60109

(3) Specify circumstances under which a provider or applicant 60110
to be a provider may permit a person to be an employee, owner, 60111
officer, or board member of the provider or applicant, when the 60112
person ~~has~~ is found by a criminal records check conducted pursuant 60113
to this section to have been convicted of, ~~has~~ pleaded guilty to, 60114
or ~~has~~ been found eligible for intervention in lieu of conviction 60115
for ~~any of the offenses specified in division (G)(1) or (2) of~~ 60116
~~this section~~ a disqualifying offense; 60117

(4) Specify all of the following: 60118

(a) The circumstances under which a database review must be 60119
conducted under division (F)(1)(a) of this section to determine 60120
whether an employee or prospective employee of a provider or 60121
applicant to be a provider is included in a database; 60122

(b) The procedures for conducting the database review; 60123

(c) The databases that are to be checked; 60124

(d) The circumstances under which a provider or applicant to be a provider is prohibited from employing a person who is found by the database review to be included in a database. 60125
60126
60127

Sec. 5111.033. (A) As used in this section: 60128

~~(1) "Applicant" means a person who is under final consideration for employment or, after September 26, 2003, an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. "Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities after September 26, 2003.~~ 60129
60130
60131
60132
60133
60134
60135
60136
60137

~~(2) "Criminal "Community-based long-term care agency" has the same meaning as in section 173.39 of the Revised Code.~~ 60138
60139

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 60140
60141

~~(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community based waiver services to persons with disabilities through department of job and family services administered home and community based waiver programs.~~ 60142
60143
60144
60145
60146
60147
60148

~~(4) "Home "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.~~ 60149
60150
60151

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services. 60152
60153
60154

"Home and community-based waiver services medicaid waiver component" means ~~services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital~~ has the same meaning as in section 5111.85 of the Revised Code. Home and community based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan. 60155
60156
60157
60158
60159
60160
60161
60162

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of job and family services, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5111.034 of the Revised Code. 60163
60164
60165
60166
60167
60168
60169

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code. If a waiver agency also is a community-based long-term care agency, the agency may provide for applicants and employees to undergo database reviews and criminal records checks in accordance with section 173.394 of the Revised Code rather than this section. 60170
60171
60172
60173
60174
60175
60176

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply: 60177
60178
60179

(1) A review of the databases listed in division (E) of this section reveals any of the following: 60180
60181

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section; 60182
60183
60184

(b) That there is in the state nurse aide registry 60185

established under section 3721.32 of the Revised Code a statement 60186
detailing findings by the director of health that the applicant or 60187
employee neglected or abused a long-term care facility or 60188
residential care facility resident or misappropriated property of 60189
such a resident; 60190

(c) That the applicant or employee is included in one or more 60191
of the databases, if any, specified in rules adopted under this 60192
section and the rules prohibit the waiver agency from employing an 60193
applicant or continuing to employ an employee included in such a 60194
database in a position that involves providing home and 60195
community-based services. 60196

(2) After the applicant or employee is given the information 60197
and notification required by divisions (F)(2)(a) and (b) of this 60198
section, the applicant or employee fails to do either of the 60199
following: 60200

(a) Access, complete, or forward to the superintendent of the 60201
bureau of criminal identification and investigation the form 60202
prescribed to division (C)(1) of section 109.572 of the Revised 60203
Code or the standard impression sheet prescribed pursuant to 60204
division (C)(2) of that section; 60205

(b) Instruct the superintendent to submit the completed 60206
report of the criminal records check required by this section 60207
directly to the chief administrator of the waiver agency. 60208

(3) Except as provided in rules adopted under this section, 60209
the applicant or employee is found by a criminal records check 60210
required by this section to have been convicted of, pleaded guilty 60211
to, or been found eligible for intervention in lieu of conviction 60212
for a disqualifying offense, regardless of the date of the 60213
conviction, date of entry of the guilty plea, or the date the 60214
applicant or employee was found eligible for intervention in lieu 60215
of conviction. 60216

(D) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following: 60217
60218
60219
60220

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C)(1) of this section from employing the applicant in the position; 60221
60222
60223
60224

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check. 60225
60226
60227
60228
60229

(E) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following: 60230
60231
60232
60233
60234
60235
60236
60237
60238
60239
60240

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation; 60241
60242
60243

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 60244
60245
60246
60247

amended, and section 1156 of the "Social Security Act," 96 Stat. 60248
388 (1982), 42 U.S.C. 1320c-5, as amended; 60249

(3) The registry of MR/DD employees established under section 60250
5123.52 of the Revised Code; 60251

(4) The internet-based sex offender and child-victim offender 60252
database established under division (A)(11) of section 2950.13 of 60253
the Revised Code; 60254

(5) The internet-based database of inmates established under 60255
section 5120.66 of the Revised Code; 60256

(6) The state nurse aide registry established under section 60257
3721.32 of the Revised Code; 60258

(7) Any other database, if any, specified in rules adopted 60259
under this section. 60260

(F)(1) The As a condition of employing any applicant in a 60261
position that involves providing home and community-based 60262
services, the chief administrator of a waiver agency shall require 60263
each the applicant to request that the superintendent of the 60264
bureau of criminal identification and investigation conduct a 60265
criminal records check with respect to of the applicant. If rules 60266
adopted under this section so require, the chief administrator of 60267
a waiver agency shall require an employee to request that the 60268
superintendent conduct a criminal records check of the employee at 60269
times specified in the rules as a condition of continuing to 60270
employ the employee in a position that involves providing home and 60271
community-based services. However, a criminal records check is not 60272
required for an applicant or employee if the waiver agency is 60273
prohibited by division (C)(1) of this section from employing the 60274
applicant or continuing to employ the employee in a position that 60275
involves providing home and community-based services. If an 60276
applicant or employee for whom a criminal records check request is 60277
required under this division by this section does not present 60278

proof of having been a resident of this state for the five-year 60279
period immediately prior to the date the criminal records check is 60280
requested or provide evidence that within that five-year period 60281
the superintendent has requested information about the applicant 60282
or employee from the federal bureau of investigation in a criminal 60283
records check, the chief administrator shall require the applicant 60284
or employee to request that the superintendent obtain information 60285
from the federal bureau of investigation as part of the criminal 60286
records check ~~of the applicant~~. Even if an applicant or employee 60287
for whom a criminal records check request is required ~~under this~~ 60288
~~division by this section~~ presents proof of having been a resident 60289
of this state for the five-year period, the chief administrator 60290
may require the applicant or employee to request that the 60291
superintendent include information from the federal bureau of 60292
investigation in the criminal records check. 60293

(2) The chief administrator shall provide the following to 60294
each applicant and employee for whom a criminal records check 60295
~~request~~ is required ~~under division (B)(1) of~~ by this section: 60296

(a) Information about accessing, completing, and forwarding 60297
to the superintendent of the bureau of criminal identification and 60298
investigation the form prescribed pursuant to division (C)(1) of 60299
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 60300
impression sheet prescribed pursuant to division (C)(2) of that 60301
section; 60302

(b) Written notification that the applicant or employee is to 60303
instruct the superintendent to submit the completed report of the 60304
criminal records check directly to the chief administrator. 60305

(3) ~~An applicant given information and notification under~~ 60306
~~divisions (B)(2)(a) and (b) of this section who fails to access,~~ 60307
~~complete, and forward to the superintendent the form or the~~ 60308
~~standard fingerprint impression sheet, or who fails to instruct~~ 60309
~~the superintendent to submit the completed report of the criminal~~ 60310

~~records check directly to the chief administrator, shall not be~~ 60311
~~employed in any position in a waiver agency for which a criminal~~ 60312
~~records check is required by this section. A waiver agency shall~~ 60313
~~pay to the bureau of criminal identification and investigation the~~ 60314
~~fee prescribed pursuant to division (C)(3) of section 109.572 of~~ 60315
~~the Revised Code for any criminal records check required by this~~ 60316
~~section. However, a waiver agency may require an applicant to pay~~ 60317
~~to the bureau the fee for a criminal records check of the~~ 60318
~~applicant. If the waiver agency pays the fee for an applicant, it~~ 60319
~~may charge the applicant a fee not exceeding the amount the waiver~~ 60320
~~agency pays to the bureau under this section if the waiver agency~~ 60321
~~notifies the applicant at the time of initial application for~~ 60322
~~employment of the amount of the fee and that, unless the fee is~~ 60323
~~paid, the applicant will not be considered for employment.~~ 60324

~~(C)(1) Except as provided in rules adopted by the department~~ 60325
~~of job and family services in accordance with division (F) of this~~ 60326
~~section and subject to division (C)(2) of this section, no waiver~~ 60327
~~agency shall employ a person in a position that involves providing~~ 60328
~~home and community based waiver services to persons with~~ 60329
~~disabilities if the person has been convicted of, has pleaded~~ 60330
~~guilty to, or has been found eligible for intervention in lieu of~~ 60331
~~conviction for any of the following, regardless of the date of the~~ 60332
~~conviction, the date of entry of the guilty plea, or the date the~~ 60333
~~person was found eligible for intervention in lieu of conviction:~~ 60334

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03,~~ 60335
~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~ 60336
~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~ 60337
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~ 60338
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~ 60339
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~ 60340
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~ 60341
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~ 60342

~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 60343
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 60344
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 60345
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 60346
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 60347
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 60348
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 60349
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 60350
penetration in violation of former section 2907.12 of the Revised 60351
Code, a violation of section 2905.04 of the Revised Code as it 60352
existed prior to July 1, 1996, a violation of section 2919.23 of 60353
the Revised Code that would have been a violation of section 60354
2905.04 of the Revised Code as it existed prior to July 1, 1996, 60355
had the violation been committed prior to that date; 60356~~

~~(b) A violation of an existing or former municipal ordinance 60357
or law of this state, any other state, or the United States that 60358
is substantially equivalent to any of the offenses listed in 60359
division (C)(1)(a) of this section. 60360~~

~~(2)(a)(G)(1) A waiver agency may employ conditionally an 60361
applicant for whom a criminal records check request is required 60362
under division (B) of by this section prior to obtaining the 60363
results of a the criminal records check regarding the individual, 60364
provided that the if both of the following apply: 60365~~

~~(a) The waiver agency is not prohibited by division (C)(1) of 60366
this section from employing the applicant in a position that 60367
involves providing home and community-based services. 60368~~

~~(b) The chief administrator of the waiver agency shall 60369
require requires the individual applicant to request a criminal 60370
records check regarding the individual applicant in accordance 60371
with division (B)(F)(1) of this section not later than five 60372
business days after the individual applicant begins conditional 60373
employment. 60374~~

~~(b)(2)~~ A waiver agency that employs an individual applicant 60375
conditionally under ~~authority of~~ division ~~(C)(2)(a)(G)(1)~~ of this 60376
section shall terminate the ~~individual's~~ applicant's employment if 60377
the results of the criminal records check ~~request under division~~ 60378
~~(B) of this section~~, other than the results of any request for 60379
information from the federal bureau of investigation, are not 60380
obtained within the period ending sixty days after the date the 60381
request for the criminal records check is made. Regardless of when 60382
the results of the criminal records check are obtained, if the 60383
results indicate that the individual applicant has been convicted 60384
of, has pleaded guilty to, or has been found eligible for 60385
intervention in lieu of conviction for ~~any of the offenses listed~~ 60386
~~or described in division (C)(1) of this section~~ a disqualifying 60387
offense, the waiver agency shall terminate the ~~individual's~~ 60388
applicant's employment unless circumstances specified in rules 60389
adopted under this section exist that permit the waiver agency to 60390
employ the applicant and the waiver agency chooses to employ the 60391
~~individual pursuant to division (F) of this section~~ applicant. 60392

~~(D)(1)~~ The fee prescribed pursuant to ~~division (C)(3) of~~ 60393
~~section 109.572 of the Revised Code for each criminal records~~ 60394
~~check conducted pursuant to a request made under division (B) of~~ 60395
~~this section shall be paid to the bureau of criminal~~ 60396
~~identification and investigation by the applicant or the waiver~~ 60397
~~agency.~~ 60398

~~(2)~~ If a waiver agency pays the fee, it may charge the 60399
applicant a fee not exceeding the amount the agency pays under 60400
division ~~(D)(1) of this section~~. An agency may collect a fee only 60401
if the agency notifies the person at the time of initial 60402
application for employment of the amount of the fee and that, 60403
unless the fee is paid, the person will not be considered for 60404
employment. 60405

~~(E)(H)~~ The report of any criminal records check conducted 60406

pursuant to a request made under this section is not a public 60407
record for the purposes of section 149.43 of the Revised Code and 60408
shall not be made available to any person other than the 60409
following: 60410

(1) The ~~individual~~ applicant or employee who is the subject 60411
of the criminal records check or the ~~individual's~~ representative 60412
of the applicant or employee; 60413

(2) The chief administrator of the waiver agency ~~requesting~~ 60414
that requires the applicant or employee to request the criminal 60415
records check or the administrator's representative; 60416

(3) ~~An administrator at~~ The director of job and family 60417
services and the staff of the department who are involved in the 60418
administration of the medicaid program; 60419

(4) The director of aging or the director's designee if the 60420
waiver agency also is a community-based long-term care agency; 60421

(5) A court, hearing officer, or other necessary individual 60422
involved in a case dealing with a any of the following: 60423

(a) A denial of employment of the applicant or ~~dealing with~~ 60424
employment employee; 60425

(b) Employment or unemployment benefits of the applicant or 60426
employee; 60427

(c) A civil or criminal action regarding the medicaid 60428
program. 60429

~~(F)~~(I) The ~~department~~ director of job and family services 60430
shall adopt rules in accordance with Chapter 119. of the Revised 60431
Code to implement this section. ~~The~~ 60432

(1) The rules may do the following: 60433

(a) Require employees to undergo database reviews and 60434
criminal records checks under this section; 60435

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements; 60436
60437
60438

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section. 60439
60440
60441

(2) The rules shall specify all of the following: 60442

(a) The procedures for conducting a database review under this section; 60443
60444

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted; 60445
60446
60447
60448

(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases; 60449
60450
60451
60452
60453

(d) The circumstances under which a waiver agency may employ a person an applicant or employee who has is found by a criminal records check required by this section to have been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division (C)(1) of this section a disqualifying offense. 60454
60455
60456
60457
60458
60459

~~(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.~~ 60460
60461
60462
60463
60464
60465
60466

~~(H)(1) A person who, on September 26, 2003, is an employee of a waiver agency in a full time, part time, or temporary position that involves providing home and community based waiver services to a person with disabilities shall comply with this section within sixty days after September 26, 2003, unless division (H)(2) of this section applies.~~

~~(2) This section shall not apply to a person to whom all of the following apply:~~

~~(a) On September 26, 2003, the person is an employee of a waiver agency in a full time, part time, or temporary position that involves providing home and community based waiver services to a person with disabilities.~~

~~(b) The person previously had been the subject of a criminal background check relating to that position;~~

~~(c) The person has been continuously employed in that position since that criminal background check had been conducted.~~

(J) The amendments made by H.B. 487 of the 129th general assembly to this section do not preclude the department of job and family services from taking action against a person for failure to comply with former division (H) of this section as that division existed on the day preceding the effective date of this amendment.

Sec. 5111.034. (A) As used in this section:

~~(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.~~

~~(2) "Criminal Applicant" means a person who has applied for a medicaid provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of job and family services.~~

"Criminal records check" has the same meaning as in section 60497
109.572 of the Revised Code. 60498

~~(3) "Department" includes a designee of the department of job 60499
and family services. 60500~~

~~(4) "Independent "Disqualifying offense" means any of the 60501
offenses listed or described in divisions (A)(3)(a) to (e) of 60502
section 109.572 of the Revised Code. 60503~~

~~"Independent provider" means a person who is submitting an 60504
application for a provider agreement or who has a medicaid 60505
provider agreement to provide home and community-based services as 60506
an independent provider in a home and community-based services 60507
medicaid waiver component administered by the department of job 60508
and family services administered home and community based services 60509
program providing home and community based waiver services to 60510
consumers with disabilities. 60511~~

~~(5) "Home and community-based waiver services medicaid waiver 60512
component" has the same meaning as in section ~~5111.033~~ 5111.85 of 60513
the Revised Code. 60514~~

~~(B) The department of job and family services or the 60515
department's designee shall deny an applicant's application for a 60516
medicaid provider agreement and shall terminate an independent 60517
provider's medicaid provider agreement if either of the following 60518
applies: 60519~~

~~(1) After the applicant or independent provider is given the 60520
information and notification required by divisions (D)(2)(a) and 60521
(b) of this section, the applicant or independent provider fails 60522
to do either of the following: 60523~~

~~(a) Access, complete, or forward to the superintendent of the 60524
bureau of criminal identification and investigation the form 60525
prescribed pursuant to division (C)(1) of section 109.572 of the 60526
Revised Code or the standard impression sheet prescribed pursuant 60527~~

to division (C)(2) of that section; 60528

(b) Instruct the superintendent to submit the completed 60529
report of the criminal records check required by this section 60530
directly to the department or the department's designee. 60531

(2) Except as provided in rules adopted under this section, 60532
the applicant or independent provider is found by a criminal 60533
records check required by this section to have been convicted of, 60534
pleaded guilty to, or been found eligible for intervention in lieu 60535
of conviction for a disqualifying offense, regardless of the date 60536
of the conviction, the date of entry of the guilty plea, or the 60537
date the applicant or independent provider was found eligible for 60538
intervention in lieu of conviction. 60539

(C)(1) The department of job and family services or the 60540
department's designee shall inform each independent provider 60541
applicant, at the time of initial application for a medicaid 60542
provider agreement that involves providing home and 60543
community-based waiver services to consumers with disabilities, 60544
that the independent provider applicant is required to provide a 60545
set of the applicant's fingerprint impressions and that a criminal 60546
records check is required to be conducted if the person is to 60547
become an independent provider in a department administered home 60548
and community-based waiver program as a condition of the 60549
department's approving the application. 60550

(2) Beginning on September 26, 2003, the department or the 60551
department's designee shall inform each enrolled medicaid 60552
independent provider on or before the time of the anniversary date 60553
of the medicaid provider agreement that involves providing home 60554
and community-based waiver services to consumers with disabilities 60555
that the independent provider is required to provide a set of the 60556
independent provider's fingerprint impressions and that a criminal 60557
records check is required to be conducted. 60558

~~(C)(D)~~(1) The department or the department's designee shall 60559
require ~~the independent provider~~ an applicant to complete a 60560
criminal records check prior to entering into a medicaid provider 60561
agreement with the ~~independent provider and applicant~~. The 60562
department or the department's designee shall require an 60563
independent provider to complete a criminal records check at least 60564
annually ~~thereafter~~. If an applicant or independent provider for 60565
whom a criminal records check is required ~~under this division~~ by 60566
this section does not present proof of having been a resident of 60567
this state for the five-year period immediately prior to the date 60568
the criminal records check is requested or provide evidence that 60569
within that five-year period the superintendent of the bureau of 60570
criminal identification and investigation has requested 60571
information about the applicant or independent provider from the 60572
federal bureau of investigation in a criminal records check, the 60573
department or the department's designee shall request that the 60574
applicant or independent provider obtain through the 60575
superintendent a criminal records request from the federal bureau 60576
of investigation as part of the criminal records check of the 60577
applicant or independent provider. Even if an applicant or 60578
independent provider for whom a criminal records check request is 60579
required ~~under this division~~ by this section presents proof of 60580
having been a resident of this state for the five-year period, the 60581
department or the department's designee may request that the 60582
applicant or independent provider obtain information through the 60583
superintendent from the federal bureau of investigation in the 60584
criminal records check. 60585

(2) The department or the department's designee shall provide 60586
the following to each applicant and independent provider for whom 60587
a criminal records check ~~request~~ is required ~~under division (C)(1)~~ 60588
~~of~~ by this section: 60589

(a) Information about accessing, completing, and forwarding 60590

to the superintendent of the bureau of criminal identification and 60591
investigation the form prescribed pursuant to division (C)(1) of 60592
section 109.572 of the Revised Code and the standard ~~fingerpr~~ 60593
impression sheet prescribed pursuant to division (C)(2) of that 60594
section; 60595

(b) Written notification that the applicant or independent 60596
provider is to instruct the superintendent to submit the completed 60597
report of the criminal records check directly to the department or 60598
the department's designee. 60599

~~(3) An independent provider given information and 60600
notification under divisions (C)(2)(a) and (b) of this section who 60601
fails to access, complete, and forward to the superintendent the 60602
form or the standard fingerprint impression sheet, or who fails to 60603
instruct the superintendent to submit the completed report of the 60604
criminal records check directly to the department, shall not be 60605
approved as an independent provider. Each applicant and 60606
independent provider for whom a criminal records check is required 60607
by this section shall pay to the bureau of criminal identification 60608
and investigation the fee prescribed pursuant to division (C)(3) 60609
of section 109.572 of the Revised Code for the criminal records 60610
check conducted of the applicant or independent provider. 60611~~

~~(D) Except as provided in rules adopted by the department in 60612
accordance with division (G) of this section, the department shall 60613
not issue a new provider agreement to, and shall terminate an 60614
existing provider agreement of, an independent provider if the 60615
person has been convicted of, has pleaded guilty to, or has been 60616
found eligible for intervention in lieu of conviction for any of 60617
the following, regardless of the date of the conviction, the date 60618
of entry of the guilty plea, or the date the person was found 60619
eligible for intervention in lieu of conviction:~~ 60620

~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 60621
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 60622~~

~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 60623~~
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 60624~~
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 60625~~
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 60626~~
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 60627~~
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 60628~~
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 60629~~
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 60630~~
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 60631~~
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 60632~~
~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 60633~~
~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 60634~~
~~2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 60635~~
~~2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 60636~~
~~penetration in violation of former section 2907.12 of the Revised 60637~~
~~Code, a violation of section 2905.04 of the Revised Code as it 60638~~
~~existed prior to July 1, 1996, a violation of section 2919.23 of 60639~~
~~the Revised Code that would have been a violation of section 60640~~
~~2905.04 of the Revised Code as it existed prior to July 1, 1996, 60641~~
~~had the violation been committed prior to that date; 60642~~

~~(2) A violation of an existing or former municipal ordinance 60643~~
~~or law of this state, any other state, or the United States that 60644~~
~~is substantially equivalent to any of the offenses listed in 60645~~
~~division (D)(1) of this section. 60646~~

~~(E) Each independent provider shall pay to the bureau of 60647~~
~~criminal identification and investigation the fee prescribed 60648~~
~~pursuant to division (C)(3) of section 109.572 of the Revised Code 60649~~
~~for each criminal records check conducted pursuant to a request 60650~~
~~made under division (C) of this section. 60651~~

~~(F)(E) The report of any criminal records check conducted by 60652~~
~~the bureau of criminal identification and investigation in 60653~~
~~accordance with section 109.572 of the Revised Code and pursuant 60654~~

to a request made under ~~division (C)~~ of this section is not a 60655
public record for the purposes of section 149.43 of the Revised 60656
Code and shall not be made available to any person other than the 60657
following: 60658

(1) The person who is the subject of the criminal records 60659
check or the person's representative; 60660

(2) ~~An administrator at~~ The director of job and family 60661
services and the staff of the department ~~or the administrator's~~ 60662
representative who are involved in the administration of the 60663
medicaid program; 60664

(3) The department's designee; 60665

(4) An individual who receives home and community-based 60666
services from the person who is the subject of the criminal 60667
records check; 60668

(5) A court, hearing officer, or other necessary individual 60669
involved in a case dealing with ~~a~~ either of the following: 60670

(a) A denial or termination of a provider agreement related 60671
to the criminal records check; 60672

(b) A civil or criminal action regarding the medicaid 60673
program. 60674

~~(G)~~(F) The department director of job and family services 60675
shall adopt rules in accordance with Chapter 119. of the Revised 60676
Code to implement this section. The rules shall specify 60677
circumstances under which the department or the department's 60678
designee may either ~~issue a provider agreement to an independent~~ 60679
~~provider~~ approve an applicant's application or allow an 60680
independent provider to maintain an existing medicaid provider 60681
agreement ~~when~~ even though the applicant or independent provider 60682
~~has~~ is found by a criminal records check required by this section 60683
to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been 60684

found eligible for intervention in lieu of conviction for an 60685
~~offense listed or described in division (D)(1) or (2) of this~~ 60686
~~section a disqualifying offense.~~ 60687

Sec. 5111.06. (A)(1) As used in this section and in sections 60688
5111.061 and 5111.063 of the Revised Code: 60689

(a) "Provider" means any person, institution, or entity that 60690
furnishes medicaid services under a provider agreement with the 60691
department of job and family services pursuant to Title XIX of the 60692
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 60693
amended. 60694

(b) "Party" has the same meaning as in division (G) of 60695
section 119.01 of the Revised Code. 60696

(c) "Adjudication" has the same meaning as in division (D) of 60697
section 119.01 of the Revised Code. 60698

(2) This section does not apply to ~~any~~ either of the 60699
following: 60700

(a) Any action taken or decision made by the department of 60701
job and family services with respect to entering into or refusing 60702
to enter into a contract with a managed care organization pursuant 60703
to section 5111.17 of the Revised Code; 60704

(b) Any action taken by the department under sections 5111.16 60705
to 5111.177 or sections 5111.35 to 5111.62 of the Revised Code. 60706

(B) Except as provided in division (D) of this section and 60707
section 5111.914 of the Revised Code, the department shall do 60708
either of the following by issuing an order pursuant to an 60709
adjudication conducted in accordance with Chapter 119. of the 60710
Revised Code: 60711

(1) Enter into or refuse to enter into a provider agreement 60712
with a provider, or suspend, terminate, renew, or refuse to renew 60713
an existing provider agreement with a provider; 60714

(2) Take any action based upon a final fiscal audit of a provider. 60715
60716

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code. 60717
60718
60719
60720

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur: 60721
60722

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited. 60723
60724
60725
60726
60727
60728
60729

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification. 60730
60731
60732
60733
60734
60735

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state. 60736
60737
60738
60739
60740
60741
60742
60743
60744

(4) The provider agreement is denied, terminated, or not 60745

renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code. 60746
60747

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act" or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state. 60748
60749
60750
60751
60752
60753
60754

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program. 60755
60756
60757
60758

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program. 60759
60760
60761
60762

(8) Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended and payments to the provider are suspended pending indictment of the provider. 60763
60764
60765

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code. 60766
60767
60768
60769
60770

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited. 60771
60772
60773

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified 60774
60775
60776

for re-enrollment pursuant to section 5111.028 of the Revised Code. 60777
60778

(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 60779
60780
60781
60782

(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer. 60783
60784
60785

(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408. 60786
60787
60788
60789

In the case of a provider described in division (D)(13) or (14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail. 60790
60791
60792
60793
60794
60795

(E) The department may withhold payments for services rendered by a medicaid provider under the medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 60796
60797
60798
60799
60800
60801
60802
60803
60804
60805
60806
60807

5111.20 of the Revised Code. 60808

Sec. 5111.091. ~~Not later than the first day of each calendar~~ 60809
~~quarter~~ Semiannually, the director of job and family services 60810
shall submit ~~a report~~ to the president and minority leader of the 60811
senate, speaker and minority leader of the house of 60812
representatives, and the chairpersons of the standing committees 60813
of the senate and house of representatives ~~that hear bills with~~ 60814
primary responsibility for legislation making biennial 60815
appropriations a report on the establishment and implementation of 60816
programs designed to control the increase of the cost of the 60817
medicaid program, increase the efficiency of the medicaid program, 60818
and promote better health outcomes. In each calendar year, one 60819
report shall be submitted not later than the last day of June and 60820
the subsequent report shall be submitted not later than the last 60821
day of December. 60822

~~The report shall include information regarding all of the~~ 60823
~~following:~~ 60824

~~(A) Provider network management;~~ 60825

~~(B) Electronic claims submission and payment systems;~~ 60826

~~(C) Limited provider contracts and payments based on~~ 60827
~~performance;~~ 60828

~~(D) Efforts to enforce third party liability;~~ 60829

~~(E) Implementation of the medicaid information technology~~ 60830
~~system;~~ 60831

~~(F) Expansion of the medicaid data warehouse and decision~~ 60832
~~support system;~~ 60833

~~(G) Development of infrastructure policies for electronic~~ 60834
~~health records and e-prescribing.~~ 60835

Sec. 5111.113. (A) As used in this section: 60836

(1) ~~"Adult care facility" has the same meaning as in section 5119.70 of the Revised Code.~~ 60837
60838

~~(2)~~ "Commissioner" means a person appointed by a probate court under division (E) of section 2113.03 of the Revised Code to act as a commissioner. 60839
60840
60841

~~(3)~~(2) "Home" has the same meaning as in section 3721.10 of the Revised Code. 60842
60843

~~(4)~~(3) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident. 60844
60845
60846
60847

(4) "Residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults. 60848
60849
60850
60851

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of ~~an adult care facility or a home or residential facility~~ shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the ~~facility or home~~ or facility who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The ~~adult care facility or home~~ or facility shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate. 60852
60853
60854
60855
60856
60857
60858
60859
60860
60861
60862

(C) If funeral or burial expenses for a resident of ~~an adult care facility or a home~~ or residential facility who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the 60863
60864
60865
60866
60867

resident are inadequate to pay the full cost of the expenses, the 60868
money in the resident's personal needs allowance account shall be 60869
used to pay for the expenses rather than being transferred to the 60870
department of job and family services pursuant to division (B) of 60871
this section. 60872

(D) If, not later than sixty days after a resident of ~~an~~ 60873
~~adult care facility or a~~ home or residential facility dies, 60874
letters testamentary or letters of administration are issued, or 60875
an application for release from administration is filed under 60876
section 2113.03 of the Revised Code, concerning the resident's 60877
estate, the owner or operator of the ~~facility or~~ home or facility 60878
shall transfer the money in the resident's personal needs 60879
allowance account to the administrator, executor, commissioner, or 60880
person who filed the application for release from administration. 60881

(E) The transfer or use of money in a resident's personal 60882
needs allowance account in accordance with division (B), (C), or 60883
(D) of this section discharges and releases the ~~adult care~~ 60884
~~facility or~~ home or residential facility, and the owner or 60885
operator of the ~~facility or~~ home, from any claim for the money 60886
from any source. 60887

(F) If, sixty-one or more days after a resident of ~~an adult~~ 60888
~~care facility or a~~ home or residential facility dies, letters 60889
testamentary or letters of administration are issued, or an 60890
application for release from administration under section 2113.03 60891
of the Revised Code is filed, concerning the resident's estate, 60892
the department of job and family services shall transfer the funds 60893
to the administrator, executor, commissioner, or person who filed 60894
the application, unless the department is entitled to recover the 60895
money under the medicaid estate recovery program instituted under 60896
section 5111.11 of the Revised Code. 60897

Sec. 5111.16. (A) As part of the medicaid program, the 60898

department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division ~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation. The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of

those services is provided by a board of alcohol, drug addiction, 60931
and mental health services or a state agency other than the 60932
department of job and family services, but the recipients of those 60933
services may otherwise be designated for participation in the 60934
system. 60935

(C)(1) In designating participants who receive medicaid on 60936
the basis of being aged, blind, or disabled, the department shall 60937
not include any of the following, except as provided under 60938
division (C)(2) of this section: 60939

(a) Individuals who are under twenty-one years of age; 60940

(b) Individuals who are institutionalized; 60941

(c) Individuals who become eligible for medicaid by spending 60942
down their income or resources to a level that meets the medicaid 60943
program's financial eligibility requirements; 60944

(d) Individuals who are dually eligible under the medicaid 60945
program and the medicare program established under Title XVIII of 60946
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 60947
amended; 60948

(e) Individuals to the extent that they are receiving 60949
medicaid services through a medicaid waiver component, as defined 60950
in section 5111.85 of the Revised Code. 60951

(2) If any necessary waiver of federal medicaid requirements 60952
is granted, the department may designate any of the following 60953
individuals who receive medicaid on the basis of being aged, 60954
blind, or disabled as individuals who are permitted or required to 60955
participate in the care management system: 60956

(a) Individuals who are under twenty-one years of age; 60957

(b) Individuals who reside in a nursing facility, as defined 60958
in section 5111.20 of the Revised Code; 60959

(c) Individuals who, as an alternative to receiving nursing 60960

facility services, are participating in a home and community-based 60961
services medicaid waiver component, as defined in section 5111.85 60962
of the Revised Code; 60963

(d) Individuals who are dually eligible under the medicaid 60964
program and the medicare program. 60965

(D) Subject to division (B) of this section, the department 60966
may do both of the following under the care management system: 60967

(1) Require or permit participants in the system to obtain 60968
health care services from providers designated by the department; 60969

(2) Require or permit participants in the system to obtain 60970
health care services through managed care organizations under 60971
contract with the department pursuant to section 5111.17 of the 60972
Revised Code. 60973

(E)(1) The department shall prepare an annual report on the 60974
care management system. The report shall address the department's 60975
ability to implement the system, including all of the following 60976
components: 60977

(a) The required designation of participants included in the 60978
category identified by the department as covered families and 60979
children; 60980

(b) The required designation of participants included in the 60981
aged, blind, or disabled category of medicaid recipients; 60982

(c) The use of any programs for enhanced care management. 60983

(2) The department shall submit each annual report to the 60984
general assembly. The first report shall be submitted not later 60985
than October 1, 2007. 60986

(F) The director of job and family services may adopt rules 60987
in accordance with Chapter 119. of the Revised Code to implement 60988
this section. 60989

Sec. 5111.161. (A) As used in this section: 60990

(1) "Children's care network" means any of the following: 60991

(a) A children's hospital; 60992

(b) A group of children's hospitals; 60993

(c) A group of pediatric physicians~~+~~. 60994

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code. 60995
60996

(B) If the department of job and family services includes in 60997
the care management system, pursuant to section 5111.16 of the 60998
Revised Code, individuals under twenty-one years of age included 60999
in the category of individuals who receive medicaid on the basis 61000
of being aged, blind, or disabled, as specified in division 61001
~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department 61002
shall develop a system to recognize entities as pediatric 61003
accountable care organizations. The purpose of the recognition 61004
system shall be to meet the complex medical and behavioral needs 61005
of disabled children through new approaches to care coordination. 61006
The department shall implement the recognition system not later 61007
than July 1, 2012. 61008

An entity recognized by the department as a pediatric 61009
accountable care organization may develop innovative partnerships 61010
between relevant groups and may contract directly or subcontract 61011
with the state to provide services to the medicaid recipients 61012
under twenty-one years of age described in this division who are 61013
permitted or required to participate in the care management 61014
system. 61015

(C)(1) To be recognized by the department as a pediatric 61016
accountable care organization, an entity shall meet the standards 61017
established in rules adopted under this section. Unless required 61018
by sections 2706 and 3022 of the "Patient Protection and 61019

Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the 61020
"Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, 61021
the regulations adopted pursuant to those sections, and the laws 61022
of this state, the department shall not require that an entity be 61023
a health insuring corporation as a condition of receiving the 61024
department's recognition. 61025

(2) Any of the following entities may receive the 61026
department's recognition, if the standards for recognition have 61027
been met: 61028

(a) A children's care network; 61029

(b) A children's care network that may include one or more 61030
other entities, including, but not limited to, health insuring 61031
corporations or other managed care organizations; 61032

(c) Any other entity the department determines is qualified. 61033

(D) The department shall consult with all of the following in 61034
adopting rules under division (E) of this section necessary for an 61035
entity to be recognized by the department as a pediatric 61036
accountable care organization: 61037

(1) The superintendent of insurance; 61038

(2) Children's hospitals; 61039

(3) Managed care organizations under contract pursuant to 61040
section 5111.17 of the Revised Code; 61041

(4) Any other relevant entities, as determined necessary by 61042
the department, with interests in pediatric accountable care 61043
organizations. 61044

(E) The department shall adopt rules in accordance with 61045
Chapter 119. of the Revised Code as necessary to implement this 61046
section. In adopting the rules, the department shall do all of the 61047
following: 61048

(1) Establish application procedures to be followed by an 61049

entity seeking recognition as a pediatric accountable care organization; 61050
61051

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections; 61052
61053
61054
61055
61056
61057
61058

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization; 61059
61060
61061

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization; 61062
61063

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department; 61064
61065

(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization; 61066
61067
61068

(7) Establish a process for sharing data. 61069

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state. 61070
61071
61072

Sec. 5111.171. ~~(A)~~ The department of job and family services may provide financial incentive awards to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial 61073
61074
61075
61076
61077
61078
61079

incentive awards, methodology for distributing awards, types of 61080
awards, and standards for administration by the department. 61081

~~(B) There is hereby created in the state treasury the health 61082
care compliance fund. The fund shall consist of all fines imposed 61083
on and collected from managed care organizations for failure to 61084
meet performance standards or other requirements specified in 61085
provider agreements or rules adopted by the department. All 61086
investment earnings of the fund shall be credited to the fund. 61087
Moneys credited to the fund shall be used solely for the following 61088
purposes: 61089~~

~~(1) To reimburse managed care organizations that have paid 61090
fines for failures to meet performance standards or other 61091
requirements and that have come into compliance by meeting 61092
requirements as specified by the department; 61093~~

~~(2) To provide financial incentive awards established 61094
pursuant to division (A) of this section and specified in 61095
contracts between managed care organizations and the department. 61096~~

Sec. 5111.20. As used in sections 5111.20 to 5111.331 of the 61097
Revised Code: 61098

(A) "Allowable costs" are those costs determined by the 61099
department of job and family services to be reasonable and do not 61100
include fines paid under sections 5111.35 to 5111.61 and section 61101
5111.99 of the Revised Code. 61102

(B) "Ancillary and support costs" means all reasonable costs 61103
incurred by a nursing facility other than direct care costs, tax 61104
costs, or capital costs. "Ancillary and support costs" includes, 61105
but is not limited to, costs of activities, social services, 61106
pharmacy consultants, habilitation supervisors, qualified mental 61107
retardation professionals, program directors, medical and 61108
habilitation records, program supplies, incontinence supplies, 61109

food, enterals, dietary supplies and personnel, laundry, 61110
housekeeping, security, administration, medical equipment, 61111
utilities, liability insurance, bookkeeping, purchasing 61112
department, human resources, communications, travel, dues, license 61113
fees, subscriptions, home office costs not otherwise allocated, 61114
legal services, accounting services, minor equipment, ~~wheelchairs,~~ 61115
~~resident transportation,~~ maintenance and repairs, help-wanted 61116
advertising, informational advertising, start-up costs, 61117
organizational expenses, other interest, property insurance, 61118
employee training and staff development, employee benefits, 61119
payroll taxes, and workers' compensation premiums or costs for 61120
self-insurance claims and related costs as specified in rules 61121
adopted by the director of job and family services under section 61122
5111.02 of the Revised Code, for personnel listed in this 61123
division. "Ancillary and support costs" also means the cost of 61124
equipment, including vehicles, acquired by operating lease 61125
executed before December 1, 1992, if the costs are reported as 61126
administrative and general costs on the facility's cost report for 61127
the cost reporting period ending December 31, 1992. 61128

(C) "Capital costs" means costs of ownership and, in the case 61129
of an intermediate care facility for the mentally retarded, costs 61130
of nonextensive renovation. 61131

(1) "Cost of ownership" means the actual expense incurred for 61132
all of the following: 61133

(a) Depreciation and interest on any capital assets that cost 61134
five hundred dollars or more per item, including the following: 61135

(i) Buildings; 61136

(ii) Building improvements that are not approved as 61137
nonextensive renovations under section 5111.251 of the Revised 61138
Code; 61139

(iii) Except as provided in division (B) of this section, 61140

| | |
|--|-------|
| equipment; | 61141 |
| (iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations; | 61142 |
| (v) Transportation equipment. | 61143 |
| (b) Amortization and interest on land improvements and leasehold improvements; | 61144 |
| (c) Amortization of financing costs; | 61145 |
| (d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment. | 61146 |
| The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice. | 61147 |
| (2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations. | 61148 |
| (D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles. | 61149 |
| (E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded. | 61150 |
| (F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the | 61151 |
| | 61152 |
| | 61153 |
| | 61154 |
| | 61155 |
| | 61156 |
| | 61157 |
| | 61158 |
| | 61159 |
| | 61160 |
| | 61161 |
| | 61162 |
| | 61163 |
| | 61164 |
| | 61165 |
| | 61166 |
| | 61167 |
| | 61168 |
| | 61169 |
| | 61170 |

Revised Code, "date of licensure" means the date specific beds 61171
were originally licensed as residential facility beds under that 61172
section. 61173

If nursing home beds licensed under Chapter 3721. of the 61174
Revised Code or residential facility beds licensed under section 61175
5123.19 of the Revised Code were not required by law to be 61176
licensed when they were originally used to provide nursing home or 61177
residential facility services, "date of licensure" means the date 61178
the beds first were used to provide nursing home or residential 61179
facility services, regardless of the date the present provider 61180
obtained licensure. 61181

If a facility adds nursing home beds or residential facility 61182
beds or extensively renovates all or part of the facility after 61183
its original date of licensure, it will have a different date of 61184
licensure for the additional beds or extensively renovated portion 61185
of the facility, unless the beds are added in a space that was 61186
constructed at the same time as the previously licensed beds but 61187
was not licensed under Chapter 3721. or section 5123.19 of the 61188
Revised Code at that time. 61189

(2) The definition of "date of licensure" in this section 61190
applies in determinations of the medicaid reimbursement rate for a 61191
nursing facility or intermediate care facility for the mentally 61192
retarded but does not apply in determinations of the franchise 61193
permit fee for a nursing facility or intermediate care facility 61194
for the mentally retarded. 61195

(G) "Desk-reviewed" means that costs as reported on a cost 61196
report submitted under section 5111.26 of the Revised Code have 61197
been subjected to a desk review under division (A) of section 61198
5111.27 of the Revised Code and preliminarily determined to be 61199
allowable costs. 61200

(H) "Direct care costs" means all of the following: 61201

| | |
|---|---|
| (1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility; | 61202 61203 |
| (b) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2) of this section, other persons holding degrees qualifying them to provide therapy; | 61204 61205 61206 61207 |
| (c) Costs of purchased nursing services; | 61208 |
| (d) Costs of quality assurance; | 61209 |
| (e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section; | 61210 61211 61212 61213 61214 61215 |
| (f) Costs of consulting and management fees related to direct care; | 61216 61217 |
| (g) Allocated direct care home office costs. | 61218 |
| (2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, <u>wheelchairs, resident transportation</u> , and universal precautions supplies. | 61219 61220 61221 61222 61223 61224 61225 61226 61227 |
| (3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following: | 61228 61229 61230 |
| (a) Costs for physical therapists and physical therapy | 61231 |

assistants, occupational therapists and occupational therapy 61232
assistants, speech therapists, audiologists, habilitation staff 61233
(including habilitation supervisors), qualified mental retardation 61234
professionals, program directors, social services staff, 61235
activities staff, off-site day programming, psychologists and 61236
psychology assistants, and social workers and counselors; 61237

(b) Costs of training and staff development, employee 61238
benefits, payroll taxes, and workers' compensation premiums or 61239
costs for self-insurance claims and related costs as specified in 61240
rules adopted under section 5111.02 of the Revised Code, for 61241
personnel listed in division (H)(3)(a) of this section. 61242

(4) Costs of other direct-care resources that are specified 61243
as direct care costs in rules adopted under section 5111.02 of the 61244
Revised Code. 61245

(I) "Fiscal year" means the fiscal year of this state, as 61246
specified in section 9.34 of the Revised Code. 61247

(J) "Franchise permit fee" means the following: 61248

(1) In the context of nursing facilities, the fee imposed by 61249
sections 3721.50 to 3721.58 of the Revised Code; 61250

(2) In the context of intermediate care facilities for the 61251
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 61252
of the Revised Code. 61253

(K) "Indirect care costs" means all reasonable costs incurred 61254
by an intermediate care facility for the mentally retarded other 61255
than direct care costs, other protected costs, or capital costs. 61256
"Indirect care costs" includes but is not limited to costs of 61257
habilitation supplies, pharmacy consultants, medical and 61258
habilitation records, program supplies, incontinence supplies, 61259
food, enterals, dietary supplies and personnel, laundry, 61260
housekeeping, security, administration, liability insurance, 61261
bookkeeping, purchasing department, human resources, 61262

communications, travel, dues, license fees, subscriptions, home 61263
office costs not otherwise allocated, legal services, accounting 61264
services, minor equipment, maintenance and repairs, help-wanted 61265
advertising, informational advertising, start-up costs, 61266
organizational expenses, other interest, property insurance, 61267
employee training and staff development, employee benefits, 61268
payroll taxes, and workers' compensation premiums or costs for 61269
self-insurance claims and related costs as specified in rules 61270
adopted under section 5111.02 of the Revised Code, for personnel 61271
listed in this division. Notwithstanding division (C)(1) of this 61272
section, "indirect care costs" also means the cost of equipment, 61273
including vehicles, acquired by operating lease executed before 61274
December 1, 1992, if the costs are reported as administrative and 61275
general costs on the facility's cost report for the cost reporting 61276
period ending December 31, 1992. 61277

(L) "Inpatient days" means ~~all~~ the following: 61278

(1) In the context of a nursing facility, both of the 61279
following: 61280

(a) All days during which a resident, regardless of payment 61281
source, occupies a bed in a nursing facility ~~or intermediate care~~ 61282
~~facility for the mentally retarded~~ that is included in the nursing 61283
facility's certified capacity under Title XIX. ~~Therapeutic or~~ 61284
~~hospital leave;~~ 61285

(b) Fifty per cent of the days for which payment is made 61286
under section ~~5111.33~~ ~~or~~ 5111.331 of the Revised Code ~~are~~ 61287
~~considered inpatient days proportionate to the percentage of the~~ 61288
~~facility's per resident per day rate paid for those days.~~ 61289

(2) In the context of an intermediate care facility for the 61290
mentally retarded, both of the following: 61291

(a) All days during which a resident, regardless of payment 61292
source, occupies a bed in an intermediate care facility for the 61293

mentally retarded that is included in the facility's certified capacity under Title XIX; 61294
61295

(b) All days for which payment is made under section 5111.33 of the Revised Code. 61296
61297

(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX. 61298
61299
61300
61301
61302

(N) "Maintenance and repair expenses" means, except as provided in division (BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering. 61303
61304
61305
61306
61307
61308
61309

(O) "Medicaid days" means ~~all~~ the following: 61310

(1) In the context of a nursing facility, both of the following: 61311
61312

(a) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. ~~Therapeutic or hospital leave;~~ 61313
61314
61315
61316

(b) Fifty per cent of the days for which payment is made under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.~~ 61317
61318
61319
61320

(2) In the context of an intermediate care facility for the mentally retarded, both of the following: 61321
61322

(a) All days during which a resident who is a medicaid 61323

recipient eligible for intermediate care facility for the mentally 61324
retarded services occupies a bed in an intermediate care facility 61325
for the mentally retarded that is included in the facility's 61326
certified capacity under Title XIX; 61327

(b) All days for which payment is made under section 5111.33 61328
of the Revised Code. 61329

(P) "Nursing facility" means a facility, or a distinct part 61330
of a facility, that is certified as a nursing facility by the 61331
director of health in accordance with Title XIX and is not an 61332
intermediate care facility for the mentally retarded. "Nursing 61333
facility" includes a facility, or a distinct part of a facility, 61334
that is certified as a nursing facility by the director of health 61335
in accordance with Title XIX and is certified as a skilled nursing 61336
facility by the director in accordance with Title XVIII. 61337

(Q) "Operator" means the person or government entity 61338
responsible for the daily operating and management decisions for a 61339
nursing facility or intermediate care facility for the mentally 61340
retarded. 61341

(R) "Other protected costs" means costs incurred by an 61342
intermediate care facility for the mentally retarded for medical 61343
supplies; real estate, franchise, and property taxes; natural gas, 61344
fuel oil, water, electricity, sewage, and refuse and hazardous 61345
medical waste collection; allocated other protected home office 61346
costs; and any additional costs defined as other protected costs 61347
in rules adopted under section 5111.02 of the Revised Code. 61348

(S)(1) "Owner" means any person or government entity that has 61349
at least five per cent ownership or interest, either directly, 61350
indirectly, or in any combination, in any of the following 61351
regarding a nursing facility or intermediate care facility for the 61352
mentally retarded: 61353

(a) The land on which the facility is located; 61354

| | |
|--|--|
| (b) The structure in which the facility is located; | 61355 |
| (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located; | 61356 61357 61358 |
| (d) Any lease or sublease of the land or structure on or in which the facility is located. | 61359 61360 |
| (2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary. | 61361 61362 61363 61364 61365 61366 |
| (T) "Patient" includes "resident." | 61367 |
| (U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period. | 61368 61369 61370 61371 61372 |
| (1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent. | 61373 61374 61375 61376 61377 61378 61379 61380 |
| (2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the | 61381 61382 61383 61384 61385 |

facility would have had during that period if its occupancy rate had been ninety-five per cent. 61386
61387

(V) "Provider" means an operator with a provider agreement. 61388

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program. 61389
61390
61391
61392
61393
61394

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility. 61395
61396
61397
61398

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider. 61399
61400
61401
61402
61403
61404

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider. 61405
61406
61407
61408

(1) An individual who is a relative of an owner is a related party. 61409
61410

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or 61411
61412
61413
61414
61415
61416

individuals possess ten per cent ownership or equity in both the 61417
provider and another organization from which the provider 61418
purchases or leases real property. 61419

(3) Control exists when an individual or organization has the 61420
power, directly or indirectly, to significantly influence or 61421
direct the actions or policies of an organization. 61422

(4) An individual or organization that supplies goods or 61423
services to a provider shall not be considered a related party if 61424
all of the following conditions are met: 61425

(a) The supplier is a separate bona fide organization. 61426

(b) A substantial part of the supplier's business activity of 61427
the type carried on with the provider is transacted with others 61428
than the provider and there is an open, competitive market for the 61429
types of goods or services the supplier furnishes. 61430

(c) The types of goods or services are commonly obtained by 61431
other nursing facilities or intermediate care facilities for the 61432
mentally retarded from outside organizations and are not a basic 61433
element of patient care ordinarily furnished directly to patients 61434
by the facilities. 61435

(d) The charge to the provider is in line with the charge for 61436
the goods or services in the open market and no more than the 61437
charge made under comparable circumstances to others by the 61438
supplier. 61439

(AA) "Relative of owner" means an individual who is related 61440
to an owner of a nursing facility or intermediate care facility 61441
for the mentally retarded by one of the following relationships: 61442

(1) Spouse; 61443

(2) Natural parent, child, or sibling; 61444

(3) Adopted parent, child, or sibling; 61445

(4) Stepparent, stepchild, stepbrother, or stepsister; 61446

| | |
|---|-------|
| (5) Father-in-law, mother-in-law, son-in-law, | 61447 |
| daughter-in-law, brother-in-law, or sister-in-law; | 61448 |
| (6) Grandparent or grandchild; | 61449 |
| (7) Foster caregiver, foster child, foster brother, or foster | 61450 |
| sister. | 61451 |
| (BB) "Renovation" and "extensive renovation" mean: | 61452 |
| (1) Any betterment, improvement, or restoration of an | 61453 |
| intermediate care facility for the mentally retarded started | 61454 |
| before July 1, 1993, that meets the definition of a renovation or | 61455 |
| extensive renovation established in rules adopted by the director | 61456 |
| of job and family services in effect on December 22, 1992. | 61457 |
| (2) In the case of betterments, improvements, and | 61458 |
| restorations of intermediate care facilities for the mentally | 61459 |
| retarded started on or after July 1, 1993: | 61460 |
| (a) "Renovation" means the betterment, improvement, or | 61461 |
| restoration of an intermediate care facility for the mentally | 61462 |
| retarded beyond its current functional capacity through a | 61463 |
| structural change that costs at least five hundred dollars per | 61464 |
| bed. A renovation may include betterment, improvement, | 61465 |
| restoration, or replacement of assets that are affixed to the | 61466 |
| building and have a useful life of at least five years. A | 61467 |
| renovation may include costs that otherwise would be considered | 61468 |
| maintenance and repair expenses if they are an integral part of | 61469 |
| the structural change that makes up the renovation project. | 61470 |
| "Renovation" does not mean construction of additional space for | 61471 |
| beds that will be added to a facility's licensed or certified | 61472 |
| capacity. | 61473 |
| (b) "Extensive renovation" means a renovation that costs more | 61474 |
| than sixty-five per cent and no more than eighty-five per cent of | 61475 |
| the cost of constructing a new bed and that extends the useful | 61476 |
| life of the assets for at least ten years. | 61477 |

For the purposes of division (BB)(2) of this section, the
cost of constructing a new bed shall be considered to be forty
thousand dollars, adjusted for the estimated rate of inflation
from January 1, 1993, to the end of the calendar year during which
the renovation is completed, using the consumer price index for
shelter costs for all urban consumers for the north central
region, as published by the United States bureau of labor
statistics.

The department of job and family services may treat a
renovation that costs more than eighty-five per cent of the cost
of constructing new beds as an extensive renovation if the
department determines that the renovation is more prudent than
construction of new beds.

(CC) "Tax costs" means the costs of taxes imposed under
Chapter 5751. of the Revised Code, real estate taxes, personal
property taxes, and corporate franchise taxes.

(DD) "Title XIX" means Title XIX of the "Social Security
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(DD)~~(EE) "Title XVIII" means Title XVIII of the "Social
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.222. (A) Except as otherwise provided by sections
5111.20 to 5111.331 of the Revised Code and by division (B) of
this section, the total rate that the department of job and family
services shall agree to pay for a fiscal year to the provider of a
nursing facility pursuant to a provider agreement shall equal the
sum of all of the following:

(1) The rate for direct care costs determined for the nursing
facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for
the nursing facility's ancillary and support cost peer group under

section 5111.24 of the Revised Code; 61508

(3) The rate for tax costs determined for the nursing 61509
facility under section 5111.242 of the Revised Code; 61510

(4) The quality incentive payment paid to the nursing 61511
facility under section 5111.244 of the Revised Code; 61512

(5) If the nursing facility qualifies as a critical access 61513
nursing facility, the critical access incentive payment paid to 61514
the nursing facility under section 5111.246 of the Revised Code; 61515

(6) The rate for capital costs determined for the nursing 61516
facility's capital costs peer group under section 5111.25 of the 61517
Revised Code. 61518

(B) The department shall adjust the rates otherwise 61519
determined under division (A) of this section as directed by the 61520
general assembly through the enactment of law governing medicaid 61521
payments to providers of nursing facilities, including any law 61522
that establishes factors by which the rates are to be adjusted. 61523

(C) In addition to paying a nursing facility provider the 61524
total rate determined for the nursing facility under division (A) 61525
of this section for a fiscal year, the department shall pay the 61526
provider a quality bonus under section 5111.245 of the Revised 61527
Code for that fiscal year if the provider's nursing facility is a 61528
qualifying nursing facility, as defined in that section, for that 61529
fiscal year. The quality bonus shall not be part of the total 61530
rate. 61531

Sec. 5111.23. (A) The department of job and family services 61532
shall pay a provider for each of the provider's eligible 61533
intermediate care facilities for the mentally retarded a per 61534
resident per day rate for direct care costs established 61535
prospectively for each facility. The department shall establish 61536
each facility's rate for direct care costs quarterly. 61537

(B) Each facility's rate for direct care costs shall be based 61538
on the facility's cost per case-mix unit, subject to the maximum 61539
costs per case-mix unit established under division (B)(2) of this 61540
section, from the calendar year preceding the fiscal year in which 61541
the rate is paid. To determine the rate, the department shall do 61542
all of the following: 61543

(1) Determine each facility's cost per case-mix unit for the 61544
calendar year preceding the fiscal year in which the rate will be 61545
paid by dividing the facility's desk-reviewed, actual, allowable, 61546
per diem direct care costs for that year by its average case-mix 61547
score determined under section 5111.232 of the Revised Code for 61548
the same calendar year. 61549

(2)(a) Set the maximum cost per case-mix unit for each peer 61550
group of intermediate care facilities for the mentally retarded 61551
with more than eight beds specified in rules adopted under 61552
division (F) of this section at a percentage above the cost per 61553
case-mix unit of the facility in the group that has the group's 61554
median medicaid ~~inpatient~~ day for the calendar year preceding the 61555
fiscal year in which the rate will be paid, as calculated under 61556
division (B)(1) of this section, that is no less than the 61557
percentage calculated under division (E)(2) of this section. 61558

(b) Set the maximum cost per case-mix unit for each peer 61559
group of intermediate care facilities for the mentally retarded 61560
with eight or fewer beds specified in rules adopted under division 61561
(F) of this section at a percentage above the cost per case-mix 61562
unit of the facility in the group that has the group's median 61563
medicaid ~~inpatient~~ day for the calendar year preceding the fiscal 61564
year in which the rate will be paid, as calculated under division 61565
(B)(1) of this section, that is no less than the percentage 61566
calculated under division (E)(3) of this section. 61567

(c) In calculating the maximum cost per case-mix unit under 61568
divisions (B)(2)(a) and (b) of this section for each peer group, 61569

the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the index specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) The department shall use the following index for the purpose of division (B)(3) of this section:

(1) The employment cost index for total compensation, health services component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to

publish the index specified in division (C)(1) of this section, 61601
the index that is subsequently published by the bureau and covers 61602
nursing facilities' staff costs. 61603

(D) Each facility's rate for direct care costs shall be 61604
determined as follows for each calendar quarter within a fiscal 61605
year: 61606

(1) Multiply the lesser of the following by the facility's 61607
average case-mix score determined under section 5111.232 of the 61608
Revised Code for the calendar quarter that preceded the 61609
immediately preceding calendar quarter: 61610

(a) The facility's cost per case-mix unit for the calendar 61611
year preceding the fiscal year in which the rate will be paid, as 61612
determined under division (B)(1) of this section; 61613

(b) The maximum cost per case-mix unit established for the 61614
fiscal year in which the rate will be paid for the facility's peer 61615
group under division (B)(2) of this section; 61616

(2) Adjust the product determined under division (D)(1) of 61617
this section by the inflation rate estimated under division (B)(3) 61618
of this section. 61619

(E)(1) The department shall calculate the percentage above 61620
the median cost per case-mix unit determined under division (B)(1) 61621
of this section for the facility that has the median medicaid 61622
~~inpatient~~ day for calendar year 1992 for all intermediate care 61623
facilities for the mentally retarded with more than eight beds 61624
that would result in payment of all desk-reviewed, actual, 61625
allowable direct care costs for eighty and one-half per cent of 61626
the medicaid ~~inpatient~~ days for such facilities for calendar year 61627
1992. 61628

(2) The department shall calculate the percentage above the 61629
median cost per case-mix unit determined under division (B)(1) of 61630
this section for the facility that has the median medicaid 61631

~~inpatient~~ day for calendar year 1992 for all intermediate care 61632
facilities for the mentally retarded with eight or fewer beds that 61633
would result in payment of all desk-reviewed, actual, allowable 61634
direct care costs for eighty and one-half per cent of the medicaid 61635
~~inpatient~~ days for such facilities for calendar year 1992. 61636

(F) The director of job and family services shall adopt rules 61637
under section 5111.02 of the Revised Code that specify peer groups 61638
of intermediate care facilities for the mentally retarded with 61639
more than eight beds and intermediate care facilities for the 61640
mentally retarded with eight or fewer beds, based on findings of 61641
significant per diem direct care cost differences due to geography 61642
and facility bed-size. The rules also may specify peer groups 61643
based on findings of significant per diem direct care cost 61644
differences due to other factors which may include case-mix. 61645

(G) The department, in accordance with division (D) of 61646
section 5111.232 of the Revised Code and rules adopted under 61647
division (F) of that section, may assign case-mix scores or costs 61648
per case-mix unit if a provider fails to submit assessment data 61649
necessary to calculate an intermediate care facility for the 61650
mentally retarded's case-mix score in accordance with that 61651
section. 61652

Sec. 5111.242. (A) As used in this section: 61653

~~(1)~~ ~~Applicable~~, "applicable calendar year" means the 61654
following: 61655

~~(a)~~ (1) For the purpose of the department of job and family 61656
services' initial determination under this section of nursing 61657
facilities' rate for tax costs, calendar year 2003; 61658

~~(b)~~ (2) For the purpose of the department's subsequent 61659
determinations under division (C) of this section of nursing 61660
facilities' rate for tax costs, the calendar year the department 61661

selects. 61662

~~(2) "Tax costs" means the costs of taxes imposed under 61663
Chapter 5751. of the Revised Code, real estate taxes, personal 61664
property taxes, and corporate franchise taxes. 61665~~

(B) The department of job and family services shall pay a 61666
provider for each of the provider's eligible nursing facilities a 61667
per resident per day rate for tax costs determined under division 61668
(C) of this section. 61669

(C) At least once every ten years, the department shall 61670
determine the rate for tax costs for each nursing facility. The 61671
rate for tax costs determined under this division for a nursing 61672
facility shall be used for subsequent years until the department 61673
redetermines it. To determine a nursing facility's rate for tax 61674
costs and except as provided in division (D) of this section, the 61675
department shall divide the nursing facility's desk-reviewed, 61676
actual, allowable tax costs paid for the applicable calendar year 61677
by the number of inpatient days the nursing facility would have 61678
had if its occupancy rate had been one hundred per cent during the 61679
applicable calendar year. 61680

(D) If a nursing facility had a credit regarding its real 61681
estate taxes reflected on its cost report for calendar year 2003, 61682
the department shall determine its rate for tax costs for the 61683
period beginning on July 1, 2010, and ending on the first day of 61684
the fiscal year for which the department first redetermines all 61685
nursing facilities' rate for tax costs under division (C) of this 61686
section by dividing the nursing facility's desk-reviewed, actual, 61687
allowable tax costs paid for calendar year 2004 by the number of 61688
inpatient days the nursing facility would have had if its 61689
occupancy rate had been one hundred per cent during calendar year 61690
2004. 61691

Sec. 5111.246. (A) Each fiscal year, the department of job 61692

and family services shall pay a critical access incentive payment 61693
to the provider of each nursing facility that qualifies as a 61694
critical access nursing facility. To qualify as a critical access 61695
nursing facility for a fiscal year, a nursing facility must meet 61696
all of the following requirements: 61697

(1) The nursing facility must be located in an area that, on 61698
December 31, 2011, was designated an empowerment zone under 61699
section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 61700
543, 26 U.S.C. 1391, as amended. 61701

(2) The nursing facility must have an occupancy rate of at 61702
least eighty-five per cent as of the last day of the calendar year 61703
preceding the fiscal year. 61704

(3) The nursing facility must have a medicaid utilization 61705
rate of at least sixty-five per cent as of the last day of the 61706
calendar year preceding the fiscal year. 61707

(B) A critical access nursing facility's critical access 61708
incentive payment for a fiscal year shall equal five per cent of 61709
the portion of the nursing facility's total rate for the fiscal 61710
year that is the sum of the rates and payment identified in 61711
divisions (A)(1) to (4) and (6) of section 5111.222 of the Revised 61712
Code. 61713

Sec. 5111.254. (A) The department of job and family services 61714
shall establish initial rates for a nursing facility with a first 61715
date of licensure that is on or after July 1, 2006, including a 61716
facility that replaces one or more existing facilities, or for a 61717
nursing facility with a first date of licensure before that date 61718
that was initially certified for the medicaid program on or after 61719
that date, in the following manner: 61720

(1) The rate for direct care costs shall be the product of 61721
the cost per case-mix unit determined under division (D) of 61722

section 5111.231 of the Revised Code for the facility's peer group 61723
and the nursing facility's case-mix score. For the purpose of 61724
division (A)(1) of this section, the nursing facility's case-mix 61725
score shall be the following: 61726

(a) Unless the nursing facility replaces an existing nursing 61727
facility that participated in the medicaid program immediately 61728
before the replacement nursing facility begins participating in 61729
the medicaid program, the median annual average case-mix score for 61730
the nursing facility's peer group; 61731

(b) If the nursing facility replaces an existing nursing 61732
facility that participated in the medicaid program immediately 61733
before the replacement nursing facility begins participating in 61734
the medicaid program, the semiannual case-mix score most recently 61735
determined under section 5111.232 of the Revised Code for the 61736
replaced nursing facility as adjusted, if necessary, to reflect 61737
any difference in the number of beds in the replaced and 61738
replacement nursing facilities. 61739

(2) The rate for ancillary and support costs shall be the 61740
rate for the facility's peer group determined under division (D) 61741
of section 5111.24 of the Revised Code. 61742

(3) The rate for capital costs shall be the rate for the 61743
facility's peer group determined under division (D) of section 61744
5111.25 of the Revised Code. 61745

(4) The rate for tax costs ~~as defined in section 5111.242 of~~ 61746
~~the Revised Code~~ shall be the median rate for tax costs for the 61747
facility's peer group in which the facility is placed under 61748
division (C) of section 5111.24 of the Revised Code. 61749

(5) The quality incentive payment shall be the mean payment 61750
made to nursing facilities under section 5111.244 of the Revised 61751
Code. 61752

(B) Subject to division (C) of this section, the department 61753

shall adjust the rates established under division (A) of this 61754
section effective the first day of July, to reflect new rate 61755
calculations for all nursing facilities under sections 5111.20 to 61756
5111.331 of the Revised Code. 61757

(C) If a rate for direct care costs is determined under this 61758
section for a nursing facility using the median annual average 61759
case-mix score for the nursing facility's peer group, the rate 61760
shall be redetermined to reflect the replacement nursing 61761
facility's actual semiannual case-mix score determined under 61762
section 5111.232 of the Revised Code after the nursing facility 61763
submits its first two quarterly assessment data that qualify for 61764
use in calculating a case-mix score in accordance with rules 61765
authorized by division (E) of section 5111.232 of the Revised 61766
Code. If the nursing facility's quarterly submissions do not 61767
qualify for use in calculating a case-mix score, the department 61768
shall continue to use the median annual average case-mix score for 61769
the nursing facility's peer group in lieu of the nursing 61770
facility's semiannual case-mix score until the nursing facility 61771
submits two consecutive quarterly assessment data that qualify for 61772
use in calculating a case-mix score. 61773

Sec. 5111.862. (A) As used in this section: 61774

"Hospital long-term care unit" has the same meaning as in 61775
section 3721.50 of the Revised Code. 61776

"Nursing facility" has the same meaning as in section 5111.20 61777
of the Revised Code. 61778

"Ohio home care program" means the medicaid waiver component 61779
created under section 5111.861 of the Revised Code. 61780

"Residential treatment facility" means a residential facility 61781
licensed by the department of mental health under section 5119.22 61782
of the Revised Code, or an institution certified by the department 61783

of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.

(B) Subject to division (C) of section 5111.861 of the Revised Code, the department of job and family services shall establish a home first component for the Ohio home care program. An individual is eligible for the Ohio home care program's home first component if the individual has been determined to be eligible for the Ohio home care program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time

the individual applies for the Ohio home care program. 61815

(6) At the time the individual applies for the Ohio home care 61816
program, the individual participates in the money follows the 61817
person demonstration project authorized by section 6071 of the 61818
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 61819
and either resides in a residential treatment facility or 61820
inpatient hospital setting. 61821

(C) An individual determined to be eligible for the home 61822
first component of the Ohio home care program shall be enrolled in 61823
the Ohio home care program in accordance with rules adopted under 61824
section 5111.85 of the Revised Code. 61825

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 61826
of the Revised Code: 61827

"Home and community-based services" has the same meaning as 61828
in section 5123.01 of the Revised Code. 61829

"ICF/MR services" means intermediate care facility for the 61830
mentally retarded services covered by the medicaid program that an 61831
intermediate care facility for the mentally retarded provides to a 61832
resident of the facility who is a medicaid recipient eligible for 61833
medicaid-covered intermediate care facility for the mentally 61834
retarded services. 61835

"Intermediate care facility for the mentally retarded" means 61836
an intermediate care facility for the mentally retarded that is 61837
certified as in compliance with applicable standards for the 61838
medicaid program by the director of health in accordance with 61839
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 61840
U.S.C. 1396, as amended, and licensed as a residential facility 61841
under section 5123.19 of the Revised Code. 61842

"Residential facility" has the same meaning as in section 61843
5123.19 of the Revised Code. 61844

(B) For the purpose of increasing the number of slots 61845
available for home and community-based services and subject to 61846
sections 5111.877 and 5111.878 of the Revised Code, the operator 61847
of an intermediate care facility for the mentally retarded may 61848
convert some or all of the beds in the facility from providing 61849
ICF/MR services to providing home and community-based services if 61850
all of the following requirements are met: 61851

(1) The operator provides the directors of health, ~~job and~~ 61852
~~family services,~~ and developmental disabilities at least ninety 61853
days' notice of the operator's intent to make the conversion. 61854

(2) The operator complies with the requirements of sections 61855
5111.65 to 5111.689 of the Revised Code regarding a voluntary 61856
termination as defined in section 5111.65 of the Revised Code if 61857
those requirements are applicable. 61858

(3) If the operator intends to convert all of the facility's 61859
beds, the operator notifies each of the facility's residents that 61860
the facility is to cease providing ICF/MR services and inform each 61861
resident that the resident may do either of the following: 61862

(a) Continue to receive ICF/MR services by transferring to 61863
another facility that is an intermediate care facility for the 61864
mentally retarded willing and able to accept the resident if the 61865
resident continues to qualify for ICF/MR services; 61866

(b) Begin to receive home and community-based services 61867
instead of ICF/MR services from any provider of home and 61868
community-based services that is willing and able to provide the 61869
services to the resident if the resident is eligible for the 61870
services and a slot for the services is available to the resident. 61871

(4) If the operator intends to convert some but not all of 61872
the facility's beds, the operator notifies each of the facility's 61873
residents that the facility is to convert some of its beds from 61874
providing ICF/MR services to providing home and community-based 61875

services and inform each resident that the resident may do either 61876
of the following: 61877

(a) Continue to receive ICF/MR services from any provider of 61878
ICF/MR services that is willing and able to provide the services 61879
to the resident if the resident continues to qualify for ICF/MR 61880
services; 61881

(b) Begin to receive home and community-based services 61882
instead of ICF/MR services from any provider of home and 61883
community-based services that is willing and able to provide the 61884
services to the resident if the resident is eligible for the 61885
services and a slot for the services is available to the resident. 61886

(5) The operator meets the requirements for providing home 61887
and community-based services, including the following: 61888

(a) Such requirements applicable to a residential facility if 61889
the operator maintains the facility's license as a residential 61890
facility; 61891

(b) Such requirements applicable to a facility that is not 61892
licensed as a residential facility if the operator surrenders the 61893
facility's license as a residential facility ~~license~~ under section 61894
5123.19 of the Revised Code. 61895

(6) The ~~directors~~ director of developmental disabilities ~~and~~ 61896
~~job and family services~~ approve ~~approve~~ the conversion. 61897

(C) A decision by the ~~directors~~ director of developmental 61898
disabilities to approve or refuse to approve a proposed conversion 61899
of beds is final. In making a decision, the ~~directors~~ director 61900
shall consider all of the following: 61901

(1) The fiscal impact on the facility if some but not all of 61902
the beds are converted; 61903

(2) The fiscal impact on the medical assistance program; 61904

(3) The availability of home and community-based services. 61905

(D) The notice provided to the directors under division 61906
(B)(1) of this section shall specify whether some or all of the 61907
facility's beds are to be converted. If some but not all of the 61908
beds are to be converted, the notice shall specify how many of the 61909
facility's beds are to be converted and how many of the beds are 61910
to continue to provide ICF/MR services. The notice to the director 61911
of developmental disabilities shall specify whether the operator 61912
wishes to surrender the facility's license as a residential 61913
facility under section 5123.19 of the Revised Code. 61914

(E)(1) If the ~~directors~~ director of developmental 61915
disabilities ~~and job and family services approve~~ approves a 61916
conversion under division (C) of this section, the director of 61917
health shall do the following: 61918

(a) Terminate the certification of the intermediate care 61919
facility for the mentally retarded if the notice specifies that 61920
all of the facility's beds are to be converted; 61921

(b) Reduce the facility's certified capacity by the number of 61922
beds being converted if the notice specifies that some but not all 61923
of the beds are to be converted. 61924

(2) The director of health shall notify the director of job 61925
and family services of the termination or reduction. On receipt of 61926
the director of health's notice, the director of job and family 61927
services shall do the following: 61928

(a) Terminate the operator's medicaid provider agreement that 61929
authorizes the operator to provide ICF/MR services at the facility 61930
if the facility's certification was terminated; 61931

(b) Amend the operator's medicaid provider agreement to 61932
reflect the facility's reduced certified capacity if the 61933
facility's certified capacity is reduced. 61934

(3) In the case of action taken under division (E)(2)(a) of 61935
this section, the operator is not entitled to notice or a hearing 61936

under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement. 61937
61938

Sec. 5111.877. The director of job and family services may seek approval from the United States secretary of health and human services for not more than a total of ~~two~~ five hundred slots for home and community-based services for the purposes of sections 5111.874, 5111.875, and 5111.876 of the Revised Code. 61939
61940
61941
61942
61943

Sec. 5111.878. Not more than a total of ~~one~~ five hundred beds may be converted from providing ICF/MR services to providing home and community-based services under sections 5111.874 and 5111.875 of the Revised Code. 61944
61945
61946
61947

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of the Revised Code: 61948
61949

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code. 61950
61951

"Assisted living program" means the program created under this section. 61952
61953

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming. 61954
61955
61956
61957

"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program. 61958
61959
61960
61961

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code. 61962
61963

"Long-term care consultation program" means the program the 61964

department of aging is required to develop under section 173.42 of the Revised Code. 61965
61966

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 61967
61968
61969
61970
61971

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 61972
61973

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 61974
61975

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code. 61976
61977

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 61978
61979
61980

(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component. 61981
61982
61983
61984
61985

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply: 61986
61987
61988

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. 61989
61990
61991
61992

(b) The contract shall include an estimate of the medicaid-funded component's costs. 61993
61994

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component. 61995
61996

(d) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver. 61997
61998
61999

(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the medicaid-funded component. 62000
62001
62002

(f) The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt. 62003
62004
62005
62006
62007

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify. 62008
62009
62010
62011
62012
62013
62014
62015
62016

(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program. 62017
62018
62019
62020

An individual who is eligible for the state-funded component may participate in the component for not more than ~~three months~~ ninety days. 62021
62022
62023

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded 62024
62025

component. 62026

Sec. 5111.894. (A) Subject to division (C)(2) of section 62027
5111.89 of the Revised Code, the department of aging shall 62028
establish a home first component of the assisted living program 62029
under which eligible individuals may be enrolled in the 62030
medicaid-funded component of the assisted living program in 62031
accordance with this section. An individual is eligible for the 62032
assisted living program's home first component if both of the 62033
following apply: 62034

(1) The individual has been determined to be eligible for the 62035
medicaid-funded component of the assisted living program. 62036

(2) At least one of the following applies: 62037

(a) The individual has been admitted to a nursing facility. 62038

(b) A physician has determined and documented in writing that 62039
the individual has a medical condition that, unless the individual 62040
is enrolled in home and community-based services such as the 62041
assisted living program, will require the individual to be 62042
admitted to a nursing facility within thirty days of the 62043
physician's determination. 62044

(c) The individual has been hospitalized and a physician has 62045
determined and documented in writing that, unless the individual 62046
is enrolled in home and community-based services such as the 62047
assisted living program, the individual is to be transported 62048
directly from the hospital to a nursing facility and admitted. 62049

(d) Both of the following apply: 62050

(i) The individual is the subject of a report made under 62051
section 5101.61 of the Revised Code regarding abuse, neglect, or 62052
exploitation or such a report referred to a county department of 62053
job and family services under section 5126.31 of the Revised Code 62054
or has made a request to a county department for protective 62055

services as defined in section 5101.60 of the Revised Code. 62056

(ii) A county department of job and family services and an 62057
area agency on aging have jointly documented in writing that, 62058
unless the individual is enrolled in home and community-based 62059
services such as the assisted living program, the individual 62060
should be admitted to a nursing facility. 62061

~~(c) The individual resided in a residential care facility for 62062
at least six months immediately before applying for the 62063
medicaid-funded component of the assisted living program and is at 62064
risk of imminent admission to a nursing facility because the costs 62065
of residing in the residential care facility have depleted the 62066
individual's resources such that the individual is unable to 62067
continue to afford the cost of residing in the residential care 62068
facility. 62069~~

(B) Each month, each area agency on aging shall identify 62070
individuals residing in the area that the area agency on aging 62071
serves who are eligible for the home first component of the 62072
assisted living program. When an area agency on aging identifies 62073
such an individual and determines that there is a vacancy in a 62074
residential care facility participating in the medicaid-funded 62075
component of the assisted living program that is acceptable to the 62076
individual, the agency shall notify the long-term care 62077
consultation program administrator serving the area in which the 62078
individual resides. The administrator shall determine whether the 62079
assisted living program is appropriate for the individual and 62080
whether the individual would rather participate in the assisted 62081
living program than continue or begin to reside in a nursing 62082
facility. If the administrator determines that the assisted living 62083
program is appropriate for the individual and the individual would 62084
rather participate in the assisted living program than continue or 62085
begin to reside in a nursing facility, the administrator shall so 62086
notify the department of aging. On receipt of the notice from the 62087

administrator, the department shall approve the individual's 62088
enrollment in the medicaid-funded component of the assisted living 62089
program regardless of the unified waiting list established under 62090
section 173.404 of the Revised Code, unless the enrollment would 62091
cause the component to exceed any limit on the number of 62092
individuals who may participate in the component as set by the 62093
United States secretary of health and human services in the 62094
assisted living waiver. 62095

Sec. 5111.941. (A) The medicaid revenue and collections 62096
health care/medicaid support and recoveries fund is hereby created 62097
in the state treasury. ~~Except~~ All of the following shall be 62098
credited to the fund: 62099

(1) Except as otherwise provided by statute or as authorized 62100
by the controlling board, the nonfederal share of all 62101
medicaid-related revenues, collections, and recoveries ~~shall be~~ 62102
~~credited to the fund;~~ 62103

(2) Federal reimbursement received for payment adjustments 62104
made pursuant to section 1923 of the "Social Security Act," 101 62105
Stat. 1330-148 (1987), 42 U.S.C. 1396r-4, as amended, under the 62106
medicaid program to state mental health hospitals maintained and 62107
operated by the department of mental health under division (A) of 62108
section 5119.02 of the Revised Code; 62109

(3) Revenues the department of job and family services 62110
receives from another state agency for medicaid services pursuant 62111
to an interagency agreement, other than such revenues required to 62112
be deposited into the health care services administration fund 62113
created under section 5111.94 of the Revised Code; 62114

(4) The first seven hundred fifty thousand dollars the 62115
department receives in a fiscal year for performing eligibility 62116
verification services necessary for compliance with the 62117
independent, certified audit requirement of 42 C.F.R. 455.304. 62118

(B) The department of job and family services shall use money 62119
credited to the ~~medicaid revenue and collections~~ health 62120
~~care/medicaid support and recoveries~~ fund to pay for medicaid 62121
services and contracts. 62122

Sec. 5111.946. (A) As used in this section, "medicaid managed 62123
care organization" means a managed care organization under 62124
contract with the department of job and family services pursuant 62125
to section 5111.17 of the Revised Code. 62126

(B) There is hereby created in the state treasury the health 62127
care compliance fund. All of the following shall be credited to 62128
the fund: 62129

(1) All fines imposed on and collected from medicaid managed 62130
care organizations for failure to meet performance standards or 62131
other requirements specified in provider agreements or rules 62132
adopted by the department; 62133

(2) Money the department receives in a fiscal year for 62134
performing eligibility verification services necessary for 62135
compliance with the independent, certified audit requirement of 42 62136
C.F.R. 455.304, other than the amounts of such money that are to 62137
be credited to the health care/medicaid support and recoveries 62138
fund under section 5111.941 of the Revised Code; 62139

(3) All investment earnings of the fund. 62140

(C) Money credited to the health care compliance fund shall 62141
be used solely for the following purposes: 62142

(1) To reimburse medicaid managed care organizations that 62143
have paid fines for failure to meet performance standards or other 62144
requirements and have come into compliance by meeting requirements 62145
as specified by the department; 62146

(2) To provide financial incentive awards established 62147
pursuant to section 5111.171 of the Revised Code and specified in 62148

contracts between medicaid managed care organizations and the 62149
department. 62150

Sec. 5111.96. (A) As used in this section, "MFP demonstration 62151
project" means a money follows the person demonstration project 62152
that the United States secretary of health and human services is 62153
authorized to award under section 6071 of the Deficit Reduction 62154
Act of 2005 (Pub. L. No. 109-171, as amended). 62155
62156

(B) To the extent funds are available under an MFP 62157
demonstration project awarded to the department of job and family 62158
services, the director of job and family services may operate the 62159
helping Ohioans move, expanding (HOME) choice demonstration 62160
component of the medicaid program to transition medicaid 62161
recipients who qualify for the demonstration component to 62162
community settings. The director may adopt rules in accordance 62163
with Chapter 119. of the Revised Code for the administration and 62164
operation of the demonstration component. 62165

Sec. 5111.97. (A) As used in this section, ~~"nursing:~~ 62166

(1) "Home and community-based services medicaid waiver 62167
component" has the same meaning as in section 5111.85 of the 62168
Revised Code. 62169

(2) "Nursing facility" has the same meaning as in section 62170
5111.20 of the Revised Code. 62171

(B) To the extent funds are available, the director of job 62172
and family services may establish the Ohio access success project 62173
to help medicaid recipients make the transition from residing in a 62174
nursing facility to residing in a community setting. The project 62175
may be established as a separate nonmedicaid program or integrated 62176
into a new or existing ~~program of medicaid-funded~~ home and 62177
community-based services ~~authorized by a~~ medicaid waiver ~~approved~~ 62178

by the ~~United States department of health and human services~~ 62179
~~component~~. The director shall permit any recipient of 62180
medicaid-funded nursing facility services to apply for 62181
participation in the project, but may limit the number of project 62182
participants. 62183

The director shall ensure that an assessment of an applicant 62184
is conducted as soon as practicable to determine whether the 62185
applicant is eligible for participation in the project. To the 62186
maximum extent possible, the assessment and eligibility 62187
determination shall be completed not later than the date that 62188
occurs six months after the applicant became a recipient of 62189
medicaid-funded nursing facility services. 62190

(C) To be eligible for benefits under the project, a medicaid 62191
recipient must satisfy all of the following requirements: 62192

(1) The medicaid recipient must be a recipient of 62193
medicaid-funded nursing facility services, at the time of applying 62194
for the project benefits. 62195

(2) If the project is established as a nonmedicaid program, 62196
the medicaid recipient must be able to remain in the community as 62197
a result of receiving project benefits and the projected cost of 62198
the benefits to the project does not exceed eighty per cent of the 62199
average monthly medicaid cost of a medicaid recipient in a nursing 62200
facility. 62201

(3) If the project is integrated into a ~~medicaid-funded~~ home 62202
and community-based services medicaid waiver ~~program~~ component, 62203
the medicaid recipient must meet the waiver component's enrollment 62204
criteria. 62205

(D) If the director establishes the Ohio access success 62206
project, the benefits provided under the project may include 62207
payment of all of the following: 62208

(1) The first month's rent in a community setting; 62209

| | |
|---|---|
| (2) Rental deposits; | 62210 |
| (3) Utility deposits; | 62211 |
| (4) Moving expenses; | 62212 |
| (5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting. | 62213 62214 62215 |
| (E) If the project is established as a nonmedicaid program, no participant may receive more than two thousand dollars' worth of benefits under the project. | 62216 62217 62218 |
| (F) <u>If the department of job and family services enters into a contract with an entity to provide fiscal management services regarding the project, the contract may provide for a portion of a participant's benefits under the project to be paid to the contracting entity. The contract shall specify the portion to be paid to the contracting entity.</u> | 62219 62220 62221 62222 62223 62224 |
| (G) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 95 Stat. 286 809 (1965 1981), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services <u>medicaid</u> waiver program <u>component</u> to serve individuals who meet the criteria for participation in the Ohio access success project. The | 62225 62226 62227 62228 62229 62230 62231 |
| (H) <u>The director may adopt rules under in accordance with Chapter 119. of the Revised Code for the administration and operation of the project. If the project is integrated into a home and community-based services medicaid waiver component, the rules shall be adopted under section 5111.85 of the Revised Code.</u> | 62232 62233 62234 62235 62236 |
| Sec. 5112.31. The department of job and family services shall do all of the following: | 62237 62238 |
| (A) Subject to <u>section 5112.331 of the Revised Code and</u> | 62239 |

divisions (B) and (C) of this section and for the purposes 62240
specified in ~~sections 5112.37 and~~ section 5112.371 of the Revised 62241
Code, assess for each fiscal year each intermediate care facility 62242
for the mentally retarded a franchise permit fee equal to the 62243
franchise permit fee rate multiplied by the product of the 62244
following: 62245

(1) The number of beds certified under Title XIX of the 62246
"Social Security Act" on the first day of May of the calendar year 62247
in which the assessment is determined pursuant to division (A) of 62248
section 5112.33 of the Revised Code; 62249

(2) The number of days in the fiscal year. 62250

(B) If the total amount of the franchise permit fee assessed 62251
under division (A) of this section for a fiscal year exceeds the 62252
indirect guarantee percentage of the actual net patient revenue 62253
for all intermediate care facilities for the mentally retarded for 62254
that fiscal year and seventy-five per cent or more of the total 62255
number of intermediate care facilities for the mentally retarded 62256
receive enhanced medicaid payments or other state payments equal 62257
to seventy-five per cent or more of their total franchise permit 62258
fee assessments, do both of the following: 62259

(1) Recalculate the assessments under division (A) of this 62260
section using a per bed per day rate equal to the indirect 62261
guarantee percentage of actual net patient revenue for all 62262
intermediate care facilities for the mentally retarded for that 62263
fiscal year; 62264

(2) Refund the difference between the amount of the franchise 62265
permit fee assessed for that fiscal year under division (A) of 62266
this section and the amount recalculated under division (B)(1) of 62267
this section as a credit against the assessments imposed under 62268
division (A) of this section for the subsequent fiscal year. 62269

(C) If the United States secretary of health and human 62270

services determines that the franchise permit fee established by 62271
sections 5112.30 to 5112.39 of the Revised Code would be an 62272
impermissible health care-related tax under section 1903(w) of the 62273
"Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C.A. 62274
1396b(w), as amended, take all necessary actions to cease 62275
implementation of those sections in accordance with rules adopted 62276
under section 5112.39 of the Revised Code. 62277

Sec. 5112.33. (A) Not later than the fifteenth day of August 62278
of each year, the department of job and family services shall 62279
determine the annual franchise permit fee for each intermediate 62280
care facility for the mentally retarded in accordance with section 62281
5112.31 of the Revised Code. 62282

(B) Not later than the first day of September of each year, 62283
the department shall mail to each intermediate care facility for 62284
the mentally retarded notice of the amount of the franchise permit 62285
fee the facility has been assessed under section 5112.31 of the 62286
Revised Code. 62287

(C) ~~Each~~ Subject to section 5112.331 of the Revised Code, 62288
each intermediate care facility for the mentally retarded shall 62289
pay its fee under section 5112.31 of the Revised Code to the 62290
department in quarterly installment payments not later than 62291
forty-five days after the last day of each September, December, 62292
March, and June. 62293

Sec. 5112.331. (A) If, during the period beginning on the 62294
first day of May of a calendar year and ending on the first day of 62295
January of the immediately following calendar year, the operator 62296
of an intermediate care facility for the mentally retarded 62297
converts, pursuant to section 5111.874 of the Revised Code, one or 62298
more of the facility's beds to providing home and community-based 62299
services, the department of job and family services shall do the 62300

following: 62301

(1) If the facility's medicaid certification is terminated because of the conversion, terminate the facility's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the department receives the notice of the conversion from the director of health; 62302
62303
62304
62305
62306

(2) If the facility's certified capacity under medicaid is reduced because of the conversion, redetermine the facility's franchise permit fee in accordance with division (B) of this section for the second half of the fiscal year for which the fee is assessed. 62307
62308
62309
62310
62311

(B)(1) To redetermine an intermediate care facility for the mentally retarded's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following: 62312
62313
62314
62315

(a) The number of the facility's beds that remain certified under Title XIX of the "Social Security Act" as of the date the conversion takes effect; 62316
62317
62318

(b) The number of days in the second half of the fiscal year for which the redetermination is made. 62319
62320

(2) The intermediate care facility for the mentally retarded shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made. 62321
62322
62323
62324
62325

Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do any of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due: 62326
62327
62328
62329
62330

(1) Withhold an amount less than or equal to the installment 62331
and penalty assessed under section 5112.34 of the Revised Code 62332
from a medicaid payment due the facility until the facility pays 62333
the installment and penalty; 62334

(2) Offset an amount less than or equal to the installment 62335
and penalty assessed under section 5112.34 of the Revised Code 62336
from a ~~Medicaid~~ medicaid payment due the ~~nursing~~ facility ~~or~~ 62337
~~hospital~~; 62338

(3) Terminate the facility's medicaid provider agreement. 62339

(B) The department may offset a medicaid payment under 62340
division (A) of this section without providing notice to the 62341
intermediate care facility for the mentally retarded and without 62342
conducting an adjudication under Chapter 119. of the Revised Code. 62343

Sec. 5112.37. There is hereby created in the state treasury 62344
the home and community-based services for the mentally retarded 62345
and developmentally disabled fund. ~~Eighty one and seventy seven~~ 62346
~~hundredths per cent of all~~ All installment payments and penalties 62347
paid by an intermediate care facility for the mentally retarded 62348
under sections 5112.33 and 5112.34 of the Revised Code ~~for state~~ 62349
~~fiscal year 2012~~ shall be deposited into the fund. ~~Eighty two and~~ 62350
~~two tenths per cent of all installment payments and penalties paid~~ 62351
~~by an intermediate care facility for the mentally retarded under~~ 62352
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 62353
~~year 2013 and thereafter shall be deposited into the fund. The~~ 62354
~~department~~ As soon as possible after the end of each quarter, the 62355
director of job and family services shall distribute certify to 62356
the director of budget and management the amount of money in that 62357
is in the fund ~~in accordance with rules adopted under section~~ 62358
~~5112.39 of the Revised Code as of the last day of that quarter.~~ 62359
~~The departments of job and family services and developmental~~ 62360
~~disabilities shall use the money for the medicaid program~~ 62361

~~established under Chapter 5111. of the Revised Code and home and
community based services to mentally retarded and developmentally
disabled persons. On receipt of a certification, the director of
budget and management shall transfer the amount so certified from
the home and community-based services for the mentally retarded
and developmentally disabled fund to the department of
developmental disabilities operating and services fund created
under section 5112.371 of the Revised Code.~~

Sec. 5112.371. There is hereby created in the state treasury
the department of developmental disabilities operating and
services fund. ~~All installment payments and penalties paid by an
intermediate care facility for the mentally retarded under
sections 5112.33 and 5112.34 of the Revised Code that are not
deposited into the home and community based services for the
mentally retarded and developmentally disabled fund shall be
deposited into the department of developmental disabilities
operating and services~~ The fund shall consist of the money
transferred to it under section 5112.37 of the Revised Code. The
money in the fund shall be used for the expenses of the programs
that the department of developmental disabilities administers and
the department's administrative expenses.

Sec. 5112.39. The director of job and family services shall
adopt rules in accordance with Chapter 119. of the Revised Code to
do ~~all~~ both of the following:

(A) Prescribe the actions the department will take to cease
implementation of sections 5112.30 to 5112.39 of the Revised Code
if the United States secretary of health and human services
determines that the franchise permit fee imposed under section
5112.31 of the Revised Code is an impermissible health
care-related tax under section 1903(w) of the "Social Security
Act," 49 105 Stat. ~~620~~ 1793 (1935 1991), 42 U.S.C.A. 1396b(w), as

amended; 62393

~~(B) Establish the method of distributing the money in the home and community based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;~~ 62394
62395
62396
62397

~~(C)~~ Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code. 62398
62399
62400

Sec. 5119.22. ~~(A)(1)~~ As used in this section and section 5119.221 of the Revised Code: 62401
62402

~~(a)(1)~~ "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care. 62403
62404
62405
62406
62407

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services. 62408
62409

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age. 62410
62411
62412

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age. 62413
62414
62415

(5) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code. 62416
62417
62418

~~(b)(6)~~ "Community mental health services" means any of the services listed in section 340.09 of the Revised Code. 62419
62420

~~(e)(7)~~ "Operator" means the person that is responsible for 62421

the administration and management of a residential facility. 62422

(8) "Personal care services" means services including, but 62423
not limited to, the following: 62424

~~(i)~~(a) Assisting residents with activities of daily living; 62425

~~(ii)~~(b) Assisting residents with self-administration of 62426
medication in accordance with rules adopted under this section; 62427

~~(iii)~~(c) Preparing special diets, other than complex 62428
therapeutic diets, for residents pursuant to the instructions of a 62429
physician or a licensed dietitian, in accordance with rules 62430
adopted under this section. 62431

"Personal care services" does not include "skilled nursing 62432
care" as defined in section 3721.01 of the Revised Code. A 62433
facility need not provide more than one of the services listed in 62434
division (A)~~(1)(e)~~(8) of this section to be considered to be 62435
providing personal care services. 62436

~~(d)~~(9) "Residential facility" means a publicly or privately 62437
operated home or facility that provides one of the following: 62438

~~(i) Room and board~~ (a) Accommodations, supervision, personal 62439
care services, and community mental health services ~~to~~ for one or 62440
more of the following unrelated persons ~~with mental illness or~~ 62441
~~persons with severe mental disabilities~~ who are referred by or are 62442
receiving community mental health services from a community mental 62443
health agency, hospital, or practitioner~~;~~: 62444

(i) Adults with mental illness; 62445

(ii) Persons of any age with severe mental disabilities; 62446

(iii) Children with serious emotional disturbances or in need 62447
of mental health services. 62448

~~(ii) Room and board~~ (b) Accommodations and personal care 62449
services for only one or two unrelated adults; accommodations, 62450
supervision, and personal care services ~~to~~ for three to sixteen 62451

unrelated adults; or accommodations, supervision, and personal 62452
care services for one or two of the following unrelated persons: 62453

(i) Persons of any age with mental illness ~~or persons with~~ 62454
~~severe mental disabilities~~ who are referred by or are receiving 62455
community mental health services from a community mental health 62456
agency, hospital, or practitioner; 62457

~~(iii) Room and board to~~ (ii) Persons of any age with severe 62458
mental disabilities who are referred by or are receiving community 62459
mental health services from a community mental health agency, 62460
hospital, or practitioner. 62461

(c) Room and board for five or more of the following 62462
unrelated persons: 62463

(i) Adults with mental illness ~~or persons with severe mental~~ 62464
~~disabilities~~ who are referred by or are receiving community mental 62465
health services from a community mental health agency, hospital, 62466
or practitioner; 62467

(ii) Adults with severe mental disabilities who are referred 62468
by or are receiving community mental health services from a 62469
community mental health agency, hospital, or practitioner. 62470

~~The following are not residential facilities (10)~~ 62471
"Residential facility" does not include any of the following: the 62472
~~residence of a relative or guardian of a mentally ill individual,~~ 62473
~~a~~ 62474

(a) A hospital subject to licensure under section 5119.20 of 62475
the Revised Code, ~~a;~~ 62476

(b) A residential facility as defined in licensed under 62477
section 5123.19 of the Revised Code, ~~a facility providing care for~~ 62478
~~a child in the custody of a public children services agency or a~~ 62479
~~private agency certified under section 5103.03 of the Revised~~ 62480
Code, a foster care facility or otherwise regulated by the 62481

| | |
|--|-------|
| <u>department of developmental disabilities;</u> | 62482 |
| <u>(c) An institution or association subject to certification</u> | 62483 |
| <u>under section 5103.03 of the Revised Code, an adult care facility</u> | 62484 |
| <u>subject to licensure under sections 5119.70 to 5119.88 of the</u> | 62485 |
| <u>Revised Code, and a;</u> | 62486 |
| <u>(d) A facility operated by a hospice care program licensed</u> | 62487 |
| <u>under section 3712.04 of the Revised Code that is used exclusively</u> | 62488 |
| <u>for care of hospice patients;</u> | 62489 |
| <u>(e) A nursing home, residential care facility, or home for</u> | 62490 |
| <u>the aging subject to licensure under as defined in section 3721.02</u> | 62491 |
| <u>of the Revised Code;</u> | 62492 |
| <u>(f) An alcohol or drug addiction program as defined in</u> | 62493 |
| <u>section 3793.01 of the Revised Code;</u> | 62494 |
| <u>(g) A facility licensed to provide methadone treatment under</u> | 62495 |
| <u>section 3793.11 of the Revised Code;</u> | 62496 |
| <u>(h) Any facility that receives funding for operating costs</u> | 62497 |
| <u>from the department of development under any program established</u> | 62498 |
| <u>to provide emergency shelter housing or transitional housing for</u> | 62499 |
| <u>the homeless;</u> | 62500 |
| <u>(i) A terminal care facility for the homeless that has</u> | 62501 |
| <u>entered into an agreement with a hospice care program under</u> | 62502 |
| <u>section 3712.07 of the Revised Code;</u> | 62503 |
| <u>(j) A facility approved by the veterans administration under</u> | 62504 |
| <u>section 104(a) of the "Veterans Health Care Amendments of 1983,"</u> | 62505 |
| <u>97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for</u> | 62506 |
| <u>the placement and care of veterans.</u> | 62507 |
| <u>(11) "Room and board" means the provision of sleeping and</u> | 62508 |
| <u>living space, meals or meal preparation, laundry services,</u> | 62509 |
| <u>housekeeping services, or any combination thereof.</u> | 62510 |
| <u>(12) "Supervision" means any of the following:</u> | 62511 |

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities; 62512
62513
62514

(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities; 62515
62516
62517

(c) Assisting a resident in making or keeping an appointment. 62518

(13) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle. 62519
62520
62521
62522
62523

~~(2)(B)~~ Nothing in division (A)~~(1)(d)(9)~~ of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance. 62524
62525
62526
62527

~~(3)(C)~~ Except in the case of a residential facility described in division (A)~~(1)(d)(i)(9)(a)~~ of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, all medication taken by residents of a residential facility shall be self-administered, and no person shall be admitted to or retained by a residential facility unless the person is capable of taking the person's own medication and biologicals, as determined in writing by the person's personal physician. Members of the staff of a residential facility but may do any of the following: 62528
62529
62530
62531
62532
62533
62534
62535
62536
62537

~~(a)(1)~~ Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; 62538
62539

~~(b)(2)~~ Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this 62540
62541
62542

section, and handing it to the resident. If the resident is 62543
physically unable to open the container, a staff member may open 62544
the container for the resident. 62545

~~(e)~~(3) Assist a physically impaired but mentally alert 62546
resident, such as a resident with arthritis, cerebral palsy, or 62547
Parkinson's disease, in removing oral or topical medication from 62548
containers and in consuming or applying the medication, upon 62549
request by or with the consent of the resident. If a resident is 62550
physically unable to place a dose of medicine to the resident's 62551
mouth without spilling it, a staff member may place the dose in a 62552
container and place the container to the mouth of the resident. 62553

~~(B) Every (D)(1) Except as provided in division (D)(2) of~~ 62554
~~this section, a person operating or desiring seeking to operate a~~ 62555
~~residential facility shall apply for licensure of the facility to~~ 62556
~~the department of mental health and. The application shall be~~ 62557
~~submitted by the operator. When applying for the license, the~~ 62558
~~applicant shall pay to the department the application fee~~ 62559
~~specified in rules adopted under division (L) of this section. The~~ 62560
~~fee is nonrefundable.~~ 62561

~~The department shall send a copy of the an application to the~~ 62562
~~ADAMHS board of alcohol, drug addiction, and mental health~~ 62563
~~services whose service district includes serving the county in~~ 62564
~~which the person operates or desires seeks to operate a~~ 62565
~~residential the facility. The ADAMHS board shall review such~~ 62566
~~applications and recommend approval or disapproval to the~~ 62567
~~department. Each recommendation shall be consistent with the~~ 62568
~~board's community mental health plan.~~ 62569

~~(C) the application and provide to the department any~~ 62570
~~information about the applicant or the facility that the board~~ 62571
~~would like the department to consider in reviewing the~~ 62572
~~application.~~ 62573

(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met: 62574
62575
62576
62577
62578
62579

(a) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license. 62580
62581
62582

(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation. 62583
62584
62585
62586

(E)(1) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone. 62587
62588
62589
62590
62591
62592
62593
62594
62595
62596

(2) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude such facilities from such 62597
62598
62599
62600
62601
62602
62603
62604
62605

districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(b) Require compliance with yard, parking, and sign regulation.

(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision.

(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.

(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on the effective date of this section and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this

section that are not existing and operating on the effective date 62637
of this section. 62638

(F)(1) The department of mental health shall inspect and 62639
license the operation of residential facilities. The department 62640
shall consider the past record of the facility and the applicant 62641
or licensee in arriving at its licensure decision. ~~The~~ 62642

The department may issue full, probationary, and interim 62643
licenses. A full license shall expire two years after the date of 62644
issuance, a probationary license shall expire in a shorter period 62645
of time as ~~prescribed by rule~~ specified in rules adopted by the 62646
director of mental health ~~pursuant to Chapter 119. of the Revised~~ 62647
~~Code~~ under division (L) of this section, and an interim license 62648
shall expire ninety days after the date of issuance. ~~The~~ A license 62649
may be renewed in accordance with rules adopted by the director 62650
under division (L) of this section. The renewal application shall 62651
be submitted by the operator. When applying for renewal of a 62652
license, the applicant shall pay to the department the renewal fee 62653
specified in rules adopted under division (L) of this section. The 62654
fee is nonrefundable. 62655

(2) The department may issue an order suspending the 62656
admission of residents to the facility or refuse to issue or renew 62657
and may revoke a license if it finds the facility is not in 62658
compliance with rules adopted by the ~~department~~ director pursuant 62659
to division ~~(G)~~(L) of this section or if any facility operated by 62660
the applicant or licensee has ~~had~~ been cited for repeated 62661
violations of statutes or rules during the period of previous 62662
licenses. Proceedings initiated to deny applications for full or 62663
probationary licenses or to revoke such licenses are governed by 62664
Chapter 119. of the Revised Code. 62665

~~(D)~~(G) The department may issue an interim license to operate 62666
a residential facility if both of the following conditions are 62667
met: 62668

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under ~~Chapter 119. of the Revised Code~~ division (L) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

~~(E)~~(H)(1) The department of mental health may conduct an inspection of a residential facility as follows:

~~(1)~~(a) Prior to ~~the~~ issuance of a license ~~to a prospective operator for the facility~~;

~~(2)~~(b) Prior to ~~the~~ renewal of ~~any operator's~~ the license;

~~(3)~~(c) To determine whether a the facility has completed a plan of correction required pursuant to ~~this~~ division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

~~(4)~~(d) Upon complaint by any individual or agency;

~~(5)~~(e) At any time the director considers an inspection to be necessary in order to determine whether ~~a residential~~ the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, and its personnel, activities, and services. The department shall

have access to examine and copy all records, accounts, and any 62699
other documents relating to the operation of the residential 62700
facility, including records pertaining to residents, and shall 62701
have access to the facility in order to conduct interviews with 62702
the operator, staff, and residents. Following each inspection and 62703
review, the department shall complete a report listing any 62704
deficiencies, and including, when appropriate, a time table within 62705
which the operator shall correct the deficiencies. The department 62706
may require the operator to submit a plan of correction describing 62707
how the deficiencies will be corrected. 62708

~~(F)~~(I) No person shall do any of the following: 62709

(1) Operate a residential facility unless the facility holds 62710
a valid license; 62711

(2) Violate any of the conditions of licensure after having 62712
been granted a license; 62713

(3) Interfere with a state or local official's inspection or 62714
investigation of a residential facility; 62715

(4) Violate any of the provisions of this section or any 62716
rules adopted pursuant to this section. 62717

~~(G)~~(J) The following may enter a residential facility at any 62718
time: 62719

(1) Employees designated by the director of mental health; 62720

(2) Employees of an ADAMHS board under either of the 62721
following circumstances: 62722

(a) When a resident of the facility is receiving services 62723
from a community mental health agency under contract with that 62724
ADAMHS board or another ADAMHS board; 62725

(b) When authorized by section 340.05 of the Revised Code. 62726

(3) Employees of a community mental health agency under 62727
either of the following circumstances: 62728

| | |
|---|--|
| <u>(a) When the agency has a client residing in the facility;</u> | 62729 |
| <u>(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.</u> | 62730 62731 |
| <u>(4) Representatives of the state long-term care ombudsperson program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.</u> | 62732 62733 62734 62735 62736 |
| <u>The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.</u> | 62737 62738 62739 62740 |
| <u>(K) Employees of the department of mental health may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.</u> | 62741 62742 62743 62744 62745 62746 |
| <u>(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, prescribing minimum governing the licensing and operation of residential facilities. The rules shall establish all of the following:</u> | 62747 62748 62749 62750 |
| <u>(1) Minimum standards for the health, safety, adequacy, and cultural specificity and sensitivity <u>competency</u> of treatment of and services for persons in residential facilities; establishing procedures</u> | 62751 62752 62753 62754 |
| <u>(2) Procedures for the issuance, renewal or revocation of the licenses of such residential facilities; establishing the</u> | 62755 62756 |
| <u>(3) Procedures for conducting criminal records checks for prospective operators, staff, and other individuals who, if</u> | 62757 62758 |

| | |
|--|-------|
| <u>employed by a residential facility, would have unsupervised access</u> | 62759 |
| <u>to facility residents;</u> | 62760 |
| <u>(4) The fee to be paid when applying for a new residential</u> | 62761 |
| <u>facility license or renewing the license;</u> | 62762 |
| <u>(5) Procedures for the operator of a residential facility to</u> | 62763 |
| <u>follow when notifying the ADAMHS board serving the county in which</u> | 62764 |
| <u>the facility is located when the facility is serving residents</u> | 62765 |
| <u>with mental illness or severe mental disability, including the</u> | 62766 |
| <u>circumstances under which the operator is required to make such a</u> | 62767 |
| <u>notification;</u> | 62768 |
| <u>(6) Procedures for the issuance and termination of orders of</u> | 62769 |
| <u>suspension of admission of residents to a residential facility;</u> | 62770 |
| <u>(7) Measures to be taken by residential facilities relative</u> | 62771 |
| <u>to residents' medication;</u> | 62772 |
| <u>(8) Requirements relating to preparation of special diets;</u> | 62773 |
| <u>(9) The maximum number of residents of who may be served in a</u> | 62774 |
| <u>residential facility; establishing the</u> | 62775 |
| <u>(10) The rights of residents of residential facilities and</u> | 62776 |
| <u>procedures to protect such rights; and requiring</u> | 62777 |
| <u>(11) Procedures for obtaining an affiliation agreement</u> | 62778 |
| <u>approved by the board between a residential facility and a</u> | 62779 |
| <u>community mental health agency. Such affiliation agreement must be</u> | 62780 |
| <u>consistent with the residential portion of the community mental</u> | 62781 |
| <u>health plan submitted pursuant to section 340.03 of the Revised</u> | 62782 |
| <u>Code;</u> | 62783 |
| <u>(12) Standards and procedures under which the director may</u> | 62784 |
| <u>waive the requirements of any of the rules adopted.</u> | 62785 |
| (H) The department may investigate any facility that has been | 62786 |
| reported to the department or that the department has reasonable | 62787 |
| cause to believe is operating as a residential facility without a | 62788 |

~~valid license.~~ 62789

~~(I)(M)(1)~~ The department may withhold the source of any 62790
complaint reported as a violation of this ~~act~~ section when the 62791
department determines that disclosure could be detrimental to the 62792
department's purposes or could jeopardize the investigation. The 62793
department may disclose the source of any complaint if the 62794
complainant agrees in writing to such disclosure and shall 62795
disclose the source upon order by a court of competent 62796
jurisdiction. 62797

~~(J)(2)~~ Any person who makes a complaint under division (M)(1) 62798
of this section, or any person who participates in an 62799
administrative or judicial proceeding resulting from such a 62800
complaint, is immune from civil liability and is not subject to 62801
criminal prosecution, other than for perjury, unless the person 62802
has acted in bad faith or with malicious purpose. 62803

~~(N)(1)~~ The director of mental health may petition the court 62804
of common pleas of the county in which a residential facility is 62805
located for an order enjoining any person from operating a 62806
residential facility without a license or from operating a 62807
licensed facility when, in the director's judgment, there is a 62808
~~real and~~ present danger to the health or safety of any of the 62809
occupants of the facility. The court shall have jurisdiction to 62810
grant such injunctive relief upon a showing that the respondent 62811
named in the petition is operating a facility without a license or 62812
there is a ~~real and~~ present danger to the health or safety of any 62813
residents of the facility. 62814

~~(K)~~ ~~Whoever violates division (F) of this section or any rule~~ 62815
~~adopted under this section is liable for a civil penalty of one~~ 62816
~~hundred dollars for the first offense; for each subsequent~~ 62817
~~offense, such violator is liable for a civil penalty of five~~ 62818
~~hundred dollars. If the violator does not pay, the attorney~~ 62819
~~general, upon the request of the director of mental health, shall~~ 62820

~~bring a civil action to collect the penalty. Fines collected 62821
pursuant to this section shall be deposited into the state 62822
treasury to the credit of the mental health sale of goods and 62823
services fund. 62824~~

(2) When the court grants injunctive relief in the case of a 62825
facility operating without a license, the court shall issue, at a 62826
minimum, an order enjoining the facility from admitting new 62827
residents to the facility and an order requiring the facility to 62828
assist with the safe and orderly relocation of the facility's 62829
residents. 62830

(3) If injunctive relief is granted against a facility for 62831
operating without a license and the facility continues to operate 62832
without a license, the director shall refer the case to the 62833
attorney general for further action. 62834

(O) The director may fine a person for violating division (I) 62835
of this section. The fine shall be five hundred dollars for a 62836
first offense; for each subsequent offense, the fine shall be one 62837
thousand dollars. The director's actions in imposing a fine shall 62838
be taken in accordance with Chapter 119. of the Revised Code. 62839

Sec. 5119.61. Any provision in this chapter that refers to a 62840
board of alcohol, drug addiction, and mental health services also 62841
refers to the community mental health board in an alcohol, drug 62842
addiction, and mental health service district that has a community 62843
mental health board. 62844

The director of mental health with respect to all facilities 62845
and programs established and operated under Chapter 340. of the 62846
Revised Code for mentally ill and emotionally disturbed persons, 62847
shall do all of the following: 62848

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 62849
that may be necessary to carry out the purposes of Chapter 340. 62850

and sections 5119.61 to 5119.63 of the Revised Code. 62851

(1) The rules shall include ~~all of~~ the following: 62852

(a) Rules governing a community mental health agency's 62853
services under section 340.091 of the Revised Code to an 62854
individual referred to the agency under division ~~(C)~~(D)(2) of 62855
section 5119.69 of the Revised Code; 62856

(b) For the purpose of division (A)(16) of section 340.03 of 62857
the Revised Code, rules governing the duties of mental health 62858
agencies and boards of alcohol, drug addiction, and mental health 62859
services ~~under section 5119.88 of the Revised Code~~ regarding 62860
referrals of individuals with mental illness or severe mental 62861
disability to ~~adult care~~ residential facilities as defined in 62862
division (A)(9)(b) of section 5119.22 of the Revised Code and 62863
effective arrangements for ongoing mental health services for the 62864
individuals. ~~The rules shall do at least the following:~~ 62865

~~(i) Provide for agencies and boards to participate fully in 62866
the procedures owners and managers of adult care facilities must 62867
follow under division (A) of section 5119.88 of the Revised Code;~~ 62868

~~(ii) Specify the manner in which boards are accountable for 62869
ensuring that ongoing mental health services are effectively 62870
arranged for individuals with mental illness or severe mental 62871
disability who are referred by the board or mental health agency 62872
under contract with the board to an adult care facility.~~ 62873

~~(c) Rules governing a board of alcohol, drug addiction, and 62874
mental health services when making a report to the director of 62875
mental health under section 5119.87 of the Revised Code regarding 62876
the quality of care and services provided by an adult care 62877
facility to a person with mental illness or a severe mental 62878
disability.~~ 62879

(2) Rules may be adopted to govern the method of paying a 62880
community mental health facility, as defined in section 5111.023 62881

of the Revised Code, for providing services listed in division (B) 62882
of that section. Such rules must be consistent with the contract 62883
entered into between the departments of job and family services 62884
and mental health under section 5111.91 of the Revised Code and 62885
include requirements ensuring appropriate service utilization. 62886

(B) Review and evaluate, and, taking into account the 62887
findings and recommendations of the board of alcohol, drug 62888
addiction, and mental health services of the district served by 62889
the program and the requirements and priorities of the state 62890
mental health plan, including the needs of residents of the 62891
district now residing in state mental institutions, and make 62892
recommendations for needed improvements to boards of alcohol, drug 62893
addiction, and mental health services; 62894

(C) Provide consultative services to community mental health 62895
agencies with the knowledge and cooperation of the board of 62896
alcohol, drug addiction, and mental health services; 62897

(D) At the director's discretion, provide to boards of 62898
alcohol, drug addiction, and mental health services state or 62899
federal funds, in addition to those allocated under section 62900
5119.62 of the Revised Code, for special programs or projects the 62901
director considers necessary but for which local funds are not 62902
available; 62903

(E) Establish criteria by which a board of alcohol, drug 62904
addiction, and mental health services reviews and evaluates the 62905
quality, effectiveness, and efficiency of services provided 62906
through its community mental health plan. The criteria shall 62907
include requirements ensuring appropriate service utilization. The 62908
department shall assess a board's evaluation of services and the 62909
compliance of each board with this section, Chapter 340. or 62910
section 5119.62 of the Revised Code, and other state or federal 62911
law and regulations. The department, in cooperation with the 62912
board, periodically shall review and evaluate the quality, 62913

effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community mental health information system or systems.

Boards of alcohol, drug ~~abuse~~ addiction, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (F)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

(G) Review each board's community mental health plan 62945
submitted pursuant to section 340.03 of the Revised Code and 62946
approve or disapprove it in whole or in part. Periodically, in 62947
consultation with representatives of boards and after considering 62948
the recommendations of the medical director, the director shall 62949
issue criteria for determining when a plan is complete, criteria 62950
for plan approval or disapproval, and provisions for conditional 62951
approval. The factors that the director considers may include, but 62952
are not limited to, the following: 62953

(1) The mental health needs of all persons residing within 62954
the board's service district, especially severely mentally 62955
disabled children, adolescents, and adults; 62956

(2) The demonstrated quality, effectiveness, efficiency, and 62957
cultural relevance of the services provided in each service 62958
district, the extent to which any services are duplicative of 62959
other available services, and whether the services meet the needs 62960
identified above; 62961

(3) The adequacy of the board's accounting for the 62962
expenditure of funds. 62963

If the director disapproves all or part of any plan, the 62964
director shall provide the board an opportunity to present its 62965
position. The director shall inform the board of the reasons for 62966
the disapproval and of the criteria that must be met before the 62967
plan may be approved. The director shall give the board a 62968
reasonable time within which to meet the criteria, and shall offer 62969
technical assistance to the board to help it meet the criteria. 62970

If the approval of a plan remains in dispute, the board or 62971
the director may request that the dispute be submitted to a 62972
mutually agreed upon third-party mediator with the cost to be 62973
shared by the board and the department. The mediator shall issue 62974
to the board and the department recommendations for resolution of 62975

the dispute. The director, taking into consideration the 62976
recommendations of the mediator, shall make a final determination 62977
and approve or disapprove the plan, in whole or in part. 62978

Sec. 5119.69. (A) As used in this section and section 62979
5119.691 of the Revised Code: 62980

(1) "Long-term care consultation program" means the program 62981
the department of aging is required to develop under section 62982
173.42 of the Revised Code. 62983

(2) "Long-term care consultation program administrator" or 62984
"administrator" means the department of aging or, if the 62985
department contracts with an area agency on aging or other entity 62986
to administer the long-term care consultation program for a 62987
particular area, that agency or entity. 62988

(3) "Nursing facility" has the same meaning as in section 62989
5111.20 of the Revised Code. 62990

(4) "Residential state supplement administrative agency" 62991
means the department of mental health or, if the department 62992
designates an entity under division (C) of this section for a 62993
particular area, the designated entity. 62994

(5) "Residential state supplement program" means the program 62995
administered pursuant to this section. 62996

(B) The department of mental health shall implement the 62997
residential state supplement program under which the state 62998
supplements the supplemental security income payments received by 62999
aged, blind, or disabled adults under Title XVI of the "Social 63000
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. 63001
Residential state supplement payments shall be used for the 63002
provision of accommodations, supervision, and personal care 63003
services to supplemental security income recipients who the 63004
department determines are at risk of needing institutional care. 63005

~~(B)~~(C) In implementing the program, the department may 63006
designate one or more entities to be responsible for providing 63007
administrative services regarding the program. The department may 63008
designate an entity to be a residential state supplement 63009
administrative agency under this division either by entering into 63010
a contract with the entity to serve in that capacity or by 63011
otherwise delegating to the entity the responsibility to serve in 63012
that capacity. 63013

~~(C)~~(D) For an individual to be eligible for residential state 63014
supplement payments, all of the following must be the case: 63015

(1) Except as provided by division ~~(G)~~(H) of this section, 63016
the individual must reside in one of the following: 63017

(a) ~~An adult foster home certified under section 5119.692 of~~ 63018
~~the Revised Code;~~ 63019

~~(b)~~ A home or facility, other than a nursing home or nursing 63020
home unit of a home for the aging, licensed by the department of 63021
health under Chapter 3721. of the Revised Code ~~or the department~~ 63022
~~of mental health under sections 5119.70 to 5119.88 of the Revised~~ 63023
~~Code;~~ 63024

~~(c)~~(b) A residential facility as defined in division 63025
(A)~~(1)~~(d)~~(ii)~~(9)(b) of section 5119.22 of the Revised Code 63026
licensed by the department of mental health; 63027

~~(d)~~(c) An apartment or room used to provide community mental 63028
health housing services certified by the department of mental 63029
health under section 5119.611 of the Revised Code and approved by 63030
a board of alcohol, drug addiction, and mental health services 63031
under division (A)(14) of section 340.03 of the Revised Code. 63032

(2) A residential state supplement administrative agency must 63033
have determined that the environment in which the individual will 63034
be living while receiving the payments is appropriate for the 63035
individual's needs. If the individual is eligible for supplemental 63036

security income payments or social security disability insurance 63037
benefits because of a mental disability, the residential state 63038
supplement administrative agency shall refer the individual to a 63039
community mental health agency for ~~the community mental health~~ 63040
~~agency to issue in accordance with an assessment under division~~ 63041
~~(A) of section 340.091 of the Revised Code a recommendation on~~ 63042
~~whether the residential state supplement administrative agency~~ 63043
~~should determine that the environment in which the individual will~~ 63044
~~be living while receiving the payments is appropriate for the~~ 63045
~~individual's needs.~~ 63046

(3) The individual satisfies all eligibility requirements 63047
established by rules adopted under division ~~(D)~~(E) of this 63048
section. 63049

~~(D)~~(E) The directors of mental health and job and family 63050
services shall adopt rules in accordance with section 111.15 of 63051
the Revised Code as necessary to implement the residential state 63052
supplement program. 63053

To the extent permitted by Title XVI of the "Social Security 63054
Act," and any other provision of federal law, the director of job 63055
and family services may adopt rules establishing standards for 63056
adjusting the eligibility requirements concerning the level of 63057
impairment a person must have so that the amount appropriated for 63058
the program by the general assembly is adequate for the number of 63059
eligible individuals. The rules shall not limit the eligibility of 63060
disabled persons solely on a basis classifying disabilities as 63061
physical or mental. The director of job and family services also 63062
may adopt rules that establish eligibility standards for aged, 63063
blind, or disabled individuals who reside in one of the homes or 63064
facilities specified in division ~~(C)~~(D)(1) of this section but 63065
who, because of their income, do not receive supplemental security 63066
income payments. The rules may provide that these individuals may 63067
include individuals who receive other types of benefits, 63068

including, social security disability insurance benefits provided 63069
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 63070
42 U.S.C.A. 401, as amended. Notwithstanding division ~~(A)~~(B) of 63071
this section, such payments may be made if funds are available for 63072
them. 63073

The director of mental health may adopt rules establishing 63074
the method to be used to determine the amount an eligible 63075
individual will receive under the program. The amount the general 63076
assembly appropriates for the program may be a factor included in 63077
the method that director establishes. 63078

~~(E)~~(F) The county department of job and family services of 63079
the county in which an applicant for the residential state 63080
supplement program resides shall determine whether the applicant 63081
meets income and resource requirements for the program. 63082

~~(F)~~(G) The department of mental health shall maintain a 63083
waiting list of any individuals eligible for payments under this 63084
section but not receiving them because moneys appropriated to the 63085
department for the purposes of this section are insufficient to 63086
make payments to all eligible individuals. An individual may apply 63087
to be placed on the waiting list even though the individual does 63088
not reside in one of the homes or facilities specified in division 63089
~~(C)~~(D)(1) of this section at the time of application. The director 63090
of mental health, by rules adopted in accordance with Chapter 119. 63091
of the Revised Code, may specify procedures and requirements for 63092
placing an individual on the waiting list and priorities for the 63093
order in which individuals placed on the waiting list are to begin 63094
to receive residential state supplement payments. The rules 63095
specifying priorities may give priority to individuals placed on 63096
the waiting list on or after July 1, 2006, who receive 63097
supplemental security income benefits under Title XVI of the 63098
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as 63099
amended. The rules shall not affect the place on the waiting list 63100

of any person who was on the list on July 1, 2006. The rules 63101
specifying priorities may also set additional priorities based on 63102
living arrangement, such as whether an individual resides in a 63103
facility listed in division ~~(C)~~(D)(1) of this section or has been 63104
admitted to a nursing facility. 63105

~~(G)~~(H) An individual in a licensed or certified living 63106
arrangement receiving state supplementation on November 15, 1990, 63107
under former section 5101.531 of the Revised Code shall not become 63108
ineligible for payments under this section solely by reason of the 63109
individual's living arrangement as long as the individual remains 63110
in the living arrangement in which the individual resided on 63111
November 15, 1990. 63112

~~(H)~~(I) The department of mental health shall notify each 63113
person denied approval for payments under this section of the 63114
person's right to a hearing. On request, the hearing shall be 63115
provided in accordance with Chapter 119. of the Revised Code. 63116

Sec. 5119.691. ~~(A) As used in this section:~~ 63117

~~"Long term care consultation program" means the program the 63118
department of aging is required to develop under section 173.42 of 63119
the Revised Code.~~ 63120

~~"Long term care consultation program administrator" or 63121
"administrator" means the department of aging or, if the 63122
department contracts with an area agency on aging or other entity 63123
to administer the long term care consultation program for a 63124
particular area, that agency or entity.~~ 63125

~~"Nursing facility" has the same meaning as in section 5111.20 63126
of the Revised Code.~~ 63127

~~"Residential state supplement administrative agency" means an 63128
entity designated as such by the department of mental health under 63129
section 5119.69 of the Revised Code.~~ 63130

~~"Residential state supplement program" means the program administered pursuant to section 5119.69 of the Revised Code.~~ 63131
63132

~~(B)~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the agency serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If a residential state supplement administrative agency determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of mental health. On receipt of the notice from the administrator, the department of mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division ~~(F)~~(G) of section 5119.69 of the Revised Code. Each quarter, the department of mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section. 63133
63134
63135
63136
63137
63138
63139
63140
63141
63142
63143
63144
63145
63146
63147
63148
63149
63150
63151
63152
63153
63154
63155
63156
63157
63158
63159

Sec. 5119.99. ~~(A)~~ Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree. 63160
63161

~~(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.~~

~~(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.~~

Sec. 5120.036. (A) The department of rehabilitation and correction shall provide risk reduction programming and treatment for inmates whom a court under section 2929.143 of the Revised Code recommends serve a risk reduction sentence and who meet the eligibility criteria described in division (B) of this section.

(B) If an offender is sentenced to a term of imprisonment in a state correctional institution and the sentencing court recommended that the offender serve a risk reduction sentence, the department of rehabilitation and correction shall conduct a validated and objective assessment of the person's needs and risk of reoffending. If the offender cooperates with the risk assessment and agrees to participate in any programming or treatment ordered by the department, the department shall provide programming and treatment to the offender to address the risks and needs identified in the assessment.

(C) If the department determines that an offender serving a term of incarceration for whom the sentencing court recommended a risk reduction sentence under section 2929.143 of the Revised Code has successfully completed the assessment and treatment or programming required by the department under division (B) of this section, the department shall release the offender to ~~supervised~~ release post-release control under one or more post-release

control sanctions after the offender has served each mandatory 63193
prison term to which the offender was sentenced, if any, and a 63194
minimum of eighty per cent of the aggregated nonmandatory prison 63195
terms to which the offender was sentenced. The placement under 63196
post-release control sanctions shall be under terms set by the 63197
parole board in accordance with section 2967.28 of the Revised 63198
Code and shall be subject to the provisions of that section and 63199
sections 2929.141 and 2967.15 of the Revised Code regarding 63200
violation of post-release control sanctions. No mandatory prison 63201
term shall be reduced by, or as a result of, an offender's service 63202
of a risk reduction sentence. The department shall notify the 63203
sentencing court that the offender has successfully completed the 63204
terms of the risk reduction sentence at least thirty days prior to 63205
the date upon which the offender is to be released. 63206

(D) As used in this section: 63207

(1) "Mandatory prison term" has the same meaning as in 63208
section 2929.01 of the Revised Code. 63209

(2) "Nonmandatory prison term" means a prison term that is 63210
not a mandatory prison term. 63211

(3) "Post-release control" and "post-release control 63212
sanction" have the same meanings as in section 2967.01 of the 63213
Revised Code. 63214

Sec. 5120.105. (A) ~~The department of administrative services~~ 63215
Ohio facilities construction commission shall provide for the 63216
construction of a halfway house facility in conformity with 63217
Chapter 153. of the Revised Code, except that construction 63218
services may be provided by the department of rehabilitation and 63219
correction. 63220

(B) The director of rehabilitation and correction may enter 63221
into an agreement with a halfway house organization for the 63222

management of a halfway house facility. The halfway house 63223
organization that occupies, will occupy, or is responsible for the 63224
management of a halfway house facility shall pay the costs of 63225
management of and general building services for the halfway house 63226
facility as provided in an agreement between the department of 63227
rehabilitation and correction and the halfway house organization. 63228

(C) No state funds, including state bond proceeds, shall be 63229
spent on the construction of a halfway house facility under 63230
sections 5120.102 to 5120.105 of the Revised Code, unless the 63231
general assembly has specifically authorized the spending of money 63232
on, or has made an appropriation to the department of 63233
rehabilitation and correction for, the construction of the halfway 63234
house facility or rental payments relating to the financing of the 63235
construction of that facility. An authorization to spend money or 63236
an appropriation for planning a halfway house facility does not 63237
constitute an authorization to spend money on, or an appropriation 63238
for, the construction of that facility. Capital funds for the 63239
construction of halfway house facilities under sections 5120.102 63240
to 5120.105 of the Revised Code shall be paid from the adult 63241
correctional building fund created in division (F) of section 63242
154.24 of the Revised Code. 63243

Sec. 5120.132. (A) There is hereby created in the state 63244
treasury the prisoner programs fund. The director of 63245
rehabilitation and correction shall deposit in the fund all moneys 63246
received by the department from commissions on telephone systems 63247
established for the use of prisoners and services provided to 63248
prisoners in relation to electronic mail, prisoner trust fund 63249
deposits, and the purchase of music, digital music players, and 63250
other electronic devices. The money in the fund shall be used only 63251
to pay for the costs of the following: 63252

(1) The purchase of material, supplies, and equipment used in 63253

any library program, educational program, religious program, 63254
recreational program, or pre-release program operated by the 63255
department for the benefit of prisoners; 63256

(2) The construction, alteration, repair, or reconstruction 63257
of buildings and structures owned by the department for use in any 63258
library program, educational program, religious program, 63259
recreational program, or pre-release program operated by the 63260
department for the benefit of prisoners; 63261

(3) The payment of salary, wages, and other compensation to 63262
employees of the department who are employed in any library 63263
program, educational program, religious program, recreational 63264
program, or pre-release program operated by the department for the 63265
benefit of prisoners; 63266

(4) The compensation to vendors that contract with the 63267
department for the provision of services for the benefit of 63268
prisoners in any library program, educational program, religious 63269
program, recreational program, or pre-release program operated by 63270
the department; 63271

(5) The payment of prisoner release payments in an 63272
appropriate amount as determined pursuant to rule; 63273

(6) The purchase of other goods and the payment of other 63274
services that are determined, in the discretion of the director, 63275
to be goods and services that may provide additional benefit to 63276
prisoners. 63277

(B) The director shall establish rules for the operation of 63278
the prisoner programs fund. 63279

Sec. 5120.66. (A) Within ninety days after November 23, 2005, 63280
but not before January 1, 2006, the department of rehabilitation 63281
and correction shall establish and operate on the internet a 63282
database that contains all of the following: 63283

(1) For each inmate in the custody of the department under a sentence imposed for a conviction of or plea of guilty to any offense, all of the following information:

(a) The inmate's name;

(b) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in the department's custody, the name of the offense, the Revised Code section of which the offense is a violation, the gender of each victim of the offense if those facts are known, whether each victim of the offense was an adult or child if those facts are known, the range of the possible prison terms or term of imprisonment that could have been imposed for the offense, the actual prison term or term of imprisonment imposed for the offense, the county in which the offense was committed, the date on which the inmate began serving the prison term or term of imprisonment imposed for the offense, and either the date on which the inmate will be eligible for parole relative to the offense if the prison term or term of imprisonment is an indefinite term or life term or the date on which the term ends if the prison term is a definite term;

(c) All of the following information that is applicable regarding the inmate:

(i) If known to the department prior to the conduct of any hearing for judicial release of the defendant pursuant to section 2929.20 of the Revised Code in relation to any prison term or term of imprisonment the inmate is serving for any offense or any hearing for release of the defendant pursuant to section 2967.19 of the Revised Code in relation to any such term, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release or release, the date of the hearing, and the right of any person pursuant to division (J) of section 2929.20 or division (H) of section 2967.19 of the Revised Code, whichever is applicable, to submit to the court a written

statement regarding the possible judicial release or release. The 63316
department also shall post notice of the filing submission to a 63317
sentencing court of any ~~petition~~ recommendation for early release 63318
of the inmate pursuant to section 2967.19 of the Revised Code, as 63319
required by division (E) of that section. 63320

(ii) If the inmate is serving a prison term pursuant to 63321
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 63322
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 63323
Code, prior to the conduct of any hearing pursuant to section 63324
2971.05 of the Revised Code to determine whether to modify the 63325
requirement that the inmate serve the entire prison term in a 63326
state correctional facility in accordance with division (C) of 63327
that section, whether to continue, revise, or revoke any existing 63328
modification of that requirement, or whether to terminate the 63329
prison term in accordance with division (D) of that section, 63330
notice of the fact that the inmate will be having a hearing 63331
regarding those determinations and of the date of the hearing; 63332

(iii) At least three weeks before the adult parole authority 63333
recommends a pardon or commutation of sentence for the inmate or 63334
at least three weeks prior to a hearing before the adult parole 63335
authority regarding a grant of parole to the inmate in relation to 63336
any prison term or term of imprisonment the inmate is serving for 63337
any offense, notice of the fact that the inmate might be under 63338
consideration for a pardon or commutation of sentence or will be 63339
having a hearing regarding a possible grant of parole, of the date 63340
of any hearing regarding a possible grant of parole, and of the 63341
right of any person to submit a written statement regarding the 63342
pending action; 63343

(iv) At least three weeks before the inmate is transferred to 63344
transitional control under section 2967.26 of the Revised Code in 63345
relation to any prison term or term of imprisonment the inmate is 63346
serving for any offense, notice of the pendency of the transfer, 63347

of the date of the possible transfer, and of the right of any person to submit a statement regarding the possible transfer; 63348
63349

(v) Prompt notice of the inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after an escape; 63350
63351
63352

(vi) Notice of the inmate's death while in confinement; 63353

(vii) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, of the date of the release, and, if applicable, of the standard terms and conditions of the release; 63354
63355
63356
63357

(viii) Notice of the inmate's judicial release pursuant to section 2929.20 of the Revised Code or release pursuant to section 2967.19 of the Revised Code. 63358
63359
63360

(2) Information as to where a person can send written statements of the types referred to in divisions (A)(1)(c)(i), (iii), and (iv) of this section. 63361
63362
63363

(B)(1) The department shall update the database required under division (A) of this section every twenty-four hours to ensure that the information it contains is accurate and current. 63364
63365
63366

(2) The database required under division (A) of this section is a public record open for inspection under section 149.43 of the Revised Code. The department shall make the database searchable by inmate name and by the county and zip code where the offender intends to reside after release from a state correctional institution if this information is known to the department. 63367
63368
63369
63370
63371
63372

(3) The database required under division (A) of this section may contain information regarding inmates who are listed in the database in addition to the information described in that division. 63373
63374
63375
63376

(4) No information included on the database required under 63377

division (A) of this section shall identify or enable the 63378
identification of any victim of any offense committed by an 63379
inmate. 63380

(C) The failure of the department to comply with the 63381
requirements of division (A) or (B) of this section does not give 63382
any rights or any grounds for appeal or post-conviction relief to 63383
any inmate. 63384

(D) This section, and the related provisions of sections 63385
2929.20, 2967.03, 2967.12, and 2967.26 of the Revised Code enacted 63386
in the act in which this section was enacted, shall be known as 63387
"Laura's Law." 63388

Sec. 5122.31. (A) All certificates, applications, records, 63389
and reports made for the purpose of this chapter and sections 63390
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 63391
Code, other than court journal entries or court docket entries, 63392
and directly or indirectly identifying a patient or former patient 63393
or person whose hospitalization has been sought under this 63394
chapter, shall be kept confidential and shall not be disclosed by 63395
any person except: 63396

(1) If the person identified, or the person's legal guardian, 63397
if any, or if the person is a minor, the person's parent or legal 63398
guardian, consents, and if the disclosure is in the best interests 63399
of the person, as may be determined by the court for judicial 63400
records and by the chief clinical officer for medical records; 63401

(2) When disclosure is provided for in this chapter or 63402
section 5123.60 of the Revised Code; 63403

(3) That hospitals, boards of alcohol, drug addiction, and 63404
mental health services, and community mental health agencies may 63405
release necessary medical information to insurers and other 63406
third-party payers, including government entities responsible for 63407

processing and authorizing payment, to obtain payment for goods 63408
and services furnished to the patient; 63409

(4) Pursuant to a court order signed by a judge; 63410

(5) That a patient shall be granted access to the patient's 63411
own psychiatric and medical records, unless access specifically is 63412
restricted in a patient's treatment plan for clear treatment 63413
reasons; 63414

(6) That hospitals and other institutions and facilities 63415
within the department of mental health may exchange psychiatric 63416
records and other pertinent information with other hospitals, 63417
institutions, and facilities of the department, and with community 63418
mental health agencies and boards of alcohol, drug addiction, and 63419
mental health services with which the department has a current 63420
agreement for patient care or services. Records and information 63421
that may be released pursuant to this division shall be limited to 63422
medication history, physical health status and history, financial 63423
status, summary of course of treatment in the hospital, summary of 63424
treatment needs, and a discharge summary, if any. 63425

(7) That hospitals within the department, other institutions 63426
and facilities within the department, hospitals licensed by the 63427
department under section 5119.20 of the Revised Code, and 63428
community mental health agencies may exchange psychiatric records 63429
and other pertinent information with payers and other providers of 63430
treatment and health services if the purpose of the exchange is to 63431
facilitate continuity of care for a patient; 63432

(8) That a patient's family member who is involved in the 63433
provision, planning, and monitoring of services to the patient may 63434
receive medication information, a summary of the patient's 63435
diagnosis and prognosis, and a list of the services and personnel 63436
available to assist the patient and the patient's family, if the 63437
patient's treating physician determines that the disclosure would 63438

be in the best interests of the patient. No such disclosure shall 63439
be made unless the patient is notified first and receives the 63440
information and does not object to the disclosure. 63441

(9) That community mental health agencies may exchange 63442
psychiatric records and certain other information with the board 63443
of alcohol, drug addiction, and mental health services and other 63444
agencies in order to provide services to a person involuntarily 63445
committed to a board. Release of records under this division shall 63446
be limited to medication history, physical health status and 63447
history, financial status, summary of course of treatment, summary 63448
of treatment needs, and discharge summary, if any. 63449

(10) That information may be disclosed to the executor or the 63450
administrator of an estate of a deceased patient when the 63451
information is necessary to administer the estate; 63452

(11) That records in the possession of the Ohio historical 63453
society may be released to the closest living relative of a 63454
deceased patient upon request of that relative; 63455

(12) That information may be disclosed to staff members of 63456
the appropriate board or to staff members designated by the 63457
director of mental health for the purpose of evaluating the 63458
quality, effectiveness, and efficiency of services and determining 63459
if the services meet minimum standards. Information obtained 63460
during such evaluations shall not be retained with the name of any 63461
patient. 63462

(13) That records pertaining to the patient's diagnosis, 63463
course of treatment, treatment needs, and prognosis shall be 63464
disclosed and released to the appropriate prosecuting attorney if 63465
the patient was committed pursuant to section 2945.38, 2945.39, 63466
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 63467
attorney designated by the board for proceedings pursuant to 63468
involuntary commitment under this chapter. 63469

(14) That the department of mental health may exchange 63470
psychiatric hospitalization records, other mental health treatment 63471
records, and other pertinent information with the department of 63472
rehabilitation and correction to ensure continuity of care for 63473
inmates who are receiving mental health services in an institution 63474
of the department of rehabilitation and correction and may 63475
exchange psychiatric hospitalization records, other mental health 63476
treatment records, and other pertinent information with boards of 63477
alcohol, drug addiction, and mental health services and community 63478
mental health agencies to ensure continuity of care for inmates or 63479
offenders who are receiving mental health services in an 63480
institution and are scheduled for release within six months. The 63481
~~department shall not disclose those records unless the inmate is~~ 63482
~~notified, receives the information, and does not object to the~~ 63483
~~disclosure.~~ The release of records under this division is limited 63484
to records regarding an inmate's or offender's medication history, 63485
physical health status and history, summary of course of 63486
treatment, summary of treatment needs, and a discharge summary, if 63487
any. 63488

(15) That a community mental health agency that ceases to 63489
operate may transfer to either a community mental health agency 63490
that assumes its caseload or to the board of alcohol, drug 63491
addiction, and mental health services of the service district in 63492
which the patient resided at the time services were most recently 63493
provided any treatment records that have not been transferred 63494
elsewhere at the patient's request. 63495

(B) Before records are disclosed pursuant to divisions 63496
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 63497
records shall attempt to obtain the patient's consent for the 63498
disclosure. No person shall reveal the contents of a medical 63499
record of a patient except as authorized by law. 63500

(C) The managing officer of a hospital who releases necessary 63501

medical information under division (A)(3) of this section to allow 63502
an insurance carrier or other third party payor to comply with 63503
section 5121.43 of the Revised Code shall neither be subject to 63504
criminal nor civil liability. 63505

Sec. 5123.01. As used in this chapter: 63506

(A) "Chief medical officer" means the licensed physician 63507
appointed by the managing officer of an institution for the 63508
mentally retarded with the approval of the director of 63509
developmental disabilities to provide medical treatment for 63510
residents of the institution. 63511

(B) "Chief program director" means a person with special 63512
training and experience in the diagnosis and management of the 63513
mentally retarded, certified according to division (C) of this 63514
section in at least one of the designated fields, and appointed by 63515
the managing officer of an institution for the mentally retarded 63516
with the approval of the director to provide habilitation and care 63517
for residents of the institution. 63518

(C) "Comprehensive evaluation" means a study, including a 63519
sequence of observations and examinations, of a person leading to 63520
conclusions and recommendations formulated jointly, with 63521
dissenting opinions if any, by a group of persons with special 63522
training and experience in the diagnosis and management of persons 63523
with mental retardation or a developmental disability, which group 63524
shall include individuals who are professionally qualified in the 63525
fields of medicine, psychology, and social work, together with 63526
such other specialists as the individual case may require. 63527

(D) "Education" means the process of formal training and 63528
instruction to facilitate the intellectual and emotional 63529
development of residents. 63530

(E) "Habilitation" means the process by which the staff of 63531

the institution assists the resident in acquiring and maintaining 63532
those life skills that enable the resident to cope more 63533
effectively with the demands of the resident's own person and of 63534
the resident's environment and in raising the level of the 63535
resident's physical, mental, social, and vocational efficiency. 63536
Habilitation includes but is not limited to programs of formal, 63537
structured education and training. 63538

(F) "Health officer" means any public health physician, 63539
public health nurse, or other person authorized or designated by a 63540
city or general health district. 63541

(G) "Home and community-based services" means medicaid-funded 63542
home and community-based services specified in division (B)(1) of 63543
section 5111.87 of the Revised Code provided under the medicaid 63544
waiver components the department of developmental disabilities 63545
administers pursuant to section 5111.871 of the Revised Code. 63546
~~However~~ Except as provided in section 5123.0412 of the Revised 63547
Code, home and community-based services provided under the 63548
medicaid waiver component known as the transitions developmental 63549
disabilities waiver are to be considered to be home and 63550
community-based services for the purposes of this chapter only to 63551
the extent, if any, provided by the contract required by section 63552
5111.871 of the Revised Code regarding the waiver. 63553

(H) "Indigent person" means a person who is unable, without 63554
substantial financial hardship, to provide for the payment of an 63555
attorney and for other necessary expenses of legal representation, 63556
including expert testimony. 63557

(I) "Institution" means a public or private facility, or a 63558
part of a public or private facility, that is licensed by the 63559
appropriate state department and is equipped to provide 63560
residential habilitation, care, and treatment for the mentally 63561
retarded. 63562

(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant

habilitation in an institution. 63594

(P) "A person who is at least moderately mentally retarded" 63595
means a person who is found, following a comprehensive evaluation, 63596
to be impaired in adaptive behavior to a moderate degree and to be 63597
functioning at the moderate level of intellectual functioning in 63598
accordance with standard measurements as recorded in the most 63599
current revision of the manual of terminology and classification 63600
in mental retardation published by the American association on 63601
mental retardation. 63602

(Q) As used in this division, "substantial functional 63603
limitation," "developmental delay," and "established risk" have 63604
the meanings established pursuant to section 5123.011 of the 63605
Revised Code. 63606

"Developmental disability" means a severe, chronic disability 63607
that is characterized by all of the following: 63608

(1) It is attributable to a mental or physical impairment or 63609
a combination of mental and physical impairments, other than a 63610
mental or physical impairment solely caused by mental illness as 63611
defined in division (A) of section 5122.01 of the Revised Code. 63612

(2) It is manifested before age twenty-two. 63613

(3) It is likely to continue indefinitely. 63614

(4) It results in one of the following: 63615

(a) In the case of a person under three years of age, at 63616
least one developmental delay or an established risk; 63617

(b) In the case of a person at least three years of age but 63618
under six years of age, at least two developmental delays or an 63619
established risk; 63620

(c) In the case of a person six years of age or older, a 63621
substantial functional limitation in at least three of the 63622
following areas of major life activity, as appropriate for the 63623

person's age: self-care, receptive and expressive language, 63624
learning, mobility, self-direction, capacity for independent 63625
living, and, if the person is at least sixteen years of age, 63626
capacity for economic self-sufficiency. 63627

(5) It causes the person to need a combination and sequence 63628
of special, interdisciplinary, or other type of care, treatment, 63629
or provision of services for an extended period of time that is 63630
individually planned and coordinated for the person. 63631

(R) "Developmentally disabled person" means a person with a 63632
developmental disability. 63633

(S) "State institution" means an institution that is 63634
tax-supported and under the jurisdiction of the department. 63635

(T) "Residence" and "legal residence" have the same meaning 63636
as "legal settlement," which is acquired by residing in Ohio for a 63637
period of one year without receiving general assistance prior to 63638
July 17, 1995, under former Chapter 5113. of the Revised Code, 63639
financial assistance under Chapter 5115. of the Revised Code, or 63640
assistance from a private agency that maintains records of 63641
assistance given. A person having a legal settlement in the state 63642
shall be considered as having legal settlement in the assistance 63643
area in which the person resides. No adult person coming into this 63644
state and having a spouse or minor children residing in another 63645
state shall obtain a legal settlement in this state as long as the 63646
spouse or minor children are receiving public assistance, care, or 63647
support at the expense of the other state or its subdivisions. For 63648
the purpose of determining the legal settlement of a person who is 63649
living in a public or private institution or in a home subject to 63650
licensing by the department of job and family services, the 63651
department of mental health, or the department of developmental 63652
disabilities, the residence of the person shall be considered as 63653
though the person were residing in the county in which the person 63654
was living prior to the person's entrance into the institution or 63655

home. Settlement once acquired shall continue until a person has
been continuously absent from Ohio for a period of one year or has
acquired a legal residence in another state. A woman who marries a
man with legal settlement in any county immediately acquires the
settlement of her husband. The legal settlement of a minor is that
of the parents, surviving parent, sole parent, parent who is
designated the residential parent and legal custodian by a court,
other adult having permanent custody awarded by a court, or
guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have
the legal settlement of her husband and, in the case of death of
her husband or divorce, she shall not thereby lose her legal
settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has
resided in this state for one year without receiving general
assistance prior to July 17, 1995, under former Chapter 5113. of
the Revised Code, financial assistance under Chapter 5115. of the
Revised Code, or assistance from a private agency that maintains
records of assistance given shall be considered to have obtained a
legal settlement in this state.

(3) The legal settlement of a child under eighteen years of
age who is in the care or custody of a public or private child
caring agency shall not change if the legal settlement of the
parent changes until after the child has been in the home of the
parent for a period of one year.

No person, adult or minor, may establish a legal settlement
in this state for the purpose of gaining admission to any state
institution.

(U)(1) "Resident" means, subject to division (R)(2) of this
section, a person who is admitted either voluntarily or
involuntarily to an institution or other facility pursuant to

section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code.

Sec. 5123.033. The program fee fund is hereby created in the state treasury. All fees collected pursuant to sections 5123.161, 5123.164, and 5123.19, ~~and 5126.25~~ of the Revised Code shall be

credited to the fund. Money credited to the fund shall be used 63717
solely for the department of developmental disabilities' duties 63718
under sections 5123.16 to ~~5123.169~~ 5123.1610, and 5123.19, ~~and~~ 63719
~~5126.25~~ of the Revised Code and to provide continuing education 63720
and professional training to ~~employees of county boards of~~ 63721
~~developmental disabilities for the purpose of section 5126.25 of~~ 63722
~~the Revised Code and other~~ providers of services to individuals 63723
with mental retardation or a developmental disability. If the 63724
money credited to the fund is inadequate to pay all of the 63725
department's costs in performing those duties and providing the 63726
continuing education and professional training, the department may 63727
use other available funds appropriated to the department to pay 63728
the remaining costs of performing those duties and providing the 63729
continuing education and professional training. 63730

Sec. 5123.042. ~~(A) The~~ Except as provided in section 5123.197 63731
of the Revised Code, each person or government entity seeking to 63732
develop new or modify existing residential services shall submit 63733
to the department of developmental disabilities a plan for the 63734
development or modification. The department shall approve a plan 63735
that is submitted in accordance with rules adopted under this 63736
section and meets the uniform standards for plans established in 63737
those rules. 63738

The director of developmental disabilities shall adopt rules 63739
in accordance with Chapter 119. of the Revised Code establishing 63740
the following: 63741

~~(1)~~ (A) Procedures for submitting plans under this section; 63742

(B) Uniform standards under which: 63743

~~(a) A person or agency shall submit plans to the county board~~ 63744
~~of developmental disabilities for the development of residential~~ 63745
~~services for individuals with mental retardation or a~~ 63746
~~developmental disability within the county;~~ 63747

~~(b) The county board must review the plans and recommend providers for the services for the plans.~~ 63748
63749

~~(2) The eligibility criteria for selecting persons and agencies to provide residential services, which shall take into consideration the recommendations of the county board.~~ 63750
63751
63752

~~(B) The county board, in accordance with its comprehensive service plan, shall review all proposals for the development of residential services that are submitted to it and shall, if the proposals are acceptable to the county board, recommend providers for the development of residential services within the county. The department shall approve proposals for the development of residential services within counties based upon the availability of funds and in accordance with rules adopted under division (A)(2) of this section.~~ 63753
63754
63755
63756
63757
63758
63759
63760
63761

~~No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services.~~ 63762
63763
63764
63765
63766
63767

~~If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county.~~ 63768
63769
63770
63771
63772
63773
63774
63775

Sec. 5123.044. The department of developmental disabilities shall determine whether county boards of developmental disabilities are in compliance with violate the rights that 63776
63777
63778

individuals with mental retardation or other developmental 63779
disabilities have under section 5126.046 of the Revised Code to 63780
obtain home and community-based services, nonmedicaid residential 63781
services, or nonmedicaid supported living from qualified and 63782
willing providers. The department shall provide assistance to an 63783
individual with mental retardation or other developmental 63784
disability who requests assistance with the individual's ~~right~~ 63785
rights under that section ~~5126.046 of the Revised Code to choose a~~ 63786
~~provider of habilitation, vocational, community employment,~~ 63787
~~residential, or supported living services~~ if the department is 63788
notified of a county board's alleged violation of the individual's 63789
~~right to choose such a provider~~ rights under that section. 63790

Sec. 5123.0412. (A) The department of developmental 63791
disabilities shall charge each county board of developmental 63792
disabilities an annual fee equal to one and one-quarter per cent 63793
of the total value of all medicaid paid claims for home and 63794
community-based services provided during the year to an individual 63795
eligible for services from the county board. However, the 63796
department shall not charge the fee for home and community-based 63797
services provided under the medicaid waiver component known as the 63798
transitions developmental disabilities waiver. No county board 63799
shall pass the cost of a fee charged to the county board under 63800
this section on to another provider of these services. 63801

(B) The fees collected under this section shall be deposited 63802
into the ODDD administration and oversight fund and the ODJFS 63803
administration and oversight fund, both of which are hereby 63804
created in the state treasury. The portion of the fees to be 63805
deposited into the ODDD administration and oversight fund and the 63806
portion of the fees to be deposited into the ODJFS administration 63807
and oversight fund shall be the portion specified in an 63808
interagency agreement entered into under division (C) of this 63809
section. The department of developmental disabilities shall use 63810

the money in the ODDD administration and oversight fund and the 63811
department of job and family services shall use the money in the 63812
ODJFS administration and oversight fund for both of the following 63813
purposes: 63814

(1) Medicaid administrative costs, including administrative 63815
and oversight costs of medicaid case management services and home 63816
and community-based services. The administrative and oversight 63817
costs of medicaid case management services and home and 63818
community-based services shall include costs for staff, systems, 63819
and other resources the departments need and dedicate solely to 63820
the following duties associated with the services: 63821

(a) Eligibility determinations; 63822

(b) Training; 63823

(c) Fiscal management; 63824

(d) Claims processing; 63825

(e) Quality assurance oversight; 63826

(f) Other duties the departments identify. 63827

(2) Providing technical support to county boards' local 63828
administrative authority under section 5126.055 of the Revised 63829
Code for the services. 63830

(C) The departments of developmental disabilities and job and 63831
family services shall enter into an interagency agreement to do 63832
both of the following: 63833

(1) Specify which portion of the fees collected under this 63834
section is to be deposited into the ODDD administration and 63835
oversight fund and which portion is to be deposited into the ODJFS 63836
administration and oversight fund; 63837

(2) Provide for the departments to coordinate the staff whose 63838
costs are paid for with money in the ODDD administration and 63839
oversight fund and the ODJFS administration and oversight fund. 63840

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0414. (A) When the director of developmental disabilities, under section 119.07 of the Revised Code, sends a party a notice by registered mail, return receipt requested, that the director intends to take action against the party authorized by section ~~5123.082~~, 5123.166, 5123.168, 5123.19, 5123.45, 5123.51, or 5126.25 of the Revised Code and the notice is returned to the director with an endorsement indicating that the notice was refused or unclaimed, the director shall resend the notice by ordinary mail to the party.

(B) If the original notice was refused, the notice shall be deemed received as of the date the director resends the notice.

(C) If the original notice was unclaimed, the notice shall be deemed received as of the date the director resends the notice unless, not later than thirty days after the date the director sent the original notice, the resent notice is returned to the director for failure of delivery.

If the notice concerns taking action under section 5123.51 of the Revised Code and the resent notice is returned to the director for failure of delivery not later than thirty days after the date the director sent the original notice, the director shall cause the notice to be published in a newspaper of general circulation in the county of the party's last known residence or business and shall mail a dated copy of the published notice to the party at the last known address. The notice shall be deemed received as of the date of the publication.

If the notice concerns taking action under section ~~5123.082~~,

5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised Code and the resent notice is returned to the director for failure of delivery not later than thirty days after the date the director sent the original notice, the director shall resend the notice to the party a second time. The notice shall be deemed received as of the date the director resends the notice the second time.

Sec. 5123.0415. ~~As used in this section, "license" means a license, certificate, or evidence of registration.~~

Each person and each government entity that applies for or holds a valid license, certification, or registration issued under section ~~5123.082~~, 5123.161, 5123.19, 5123.45, or 5126.25, ~~or 5126.252~~ of the Revised Code shall notify the director of developmental disabilities of any change in the ~~person~~ person's or government entity's address.

Sec. 5123.081. (A) As used in this section:

(1)(a) "Applicant" means a any of the following:

(i) A person who is under final consideration for appointment to or employment with the department of developmental disabilities, including, but not limited to, a or a county board of developmental disabilities;

(ii) A person who is being transferred to the department and an or a county board;

(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;

(iv) A person under final consideration for a direct services position with a provider or subcontractor.

(b) Neither of the following is an applicant:

(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this

section and either is being considered for a different position 63901
with the responsible entity or is returning after a leave of 63902
absence or seasonal break in employment, unless the responsible 63903
entity has reason to believe that the person has committed a 63904
disqualifying offense; 63905

(ii) A person who is to provide only respite care under a 63906
family support services program established under section 5126.11 63907
of the Revised Code if a family member of the individual with 63908
mental retardation or a developmental disability who is to receive 63909
the respite care selects the person. 63910

(2) "Criminal records check" has the same meaning as in 63911
section 109.572 of the Revised Code. 63912

(3) "Direct services position" means an employment position 63913
in which the employee has the opportunity to be alone with or 63914
exercises supervision or control over one or more individuals with 63915
mental retardation or a developmental disability. 63916

(4) "Disqualifying offense" means any of the offenses listed 63917
or described in divisions (A)(3)(a) to (e) of section 109.572 of 63918
the Revised Code. 63919

(5)(a) "Employee" means either of the following: 63920

(i) A person appointed to or employed by the department of 63921
developmental disabilities or a county board of developmental 63922
disabilities; 63923

(ii) A person employed in a direct services position by a 63924
provider or subcontractor. 63925

(b) "Employee" does not mean a person who provides only 63926
respite care under a family support services program established 63927
under section 5126.11 of the Revised Code if a family member of 63928
the individual with mental retardation or a developmental 63929
disability who receives the respite care selected the person. 63930

(6) "Minor drug possession offense" has the same meaning as 63931
in section 2925.01 of the Revised Code. 63932

(7) "Provider" means a person that provides specialized 63933
services to individuals with mental retardation or a developmental 63934
disability and employs one or more persons in direct services 63935
positions. 63936

(8) "Responsible entity" means the following: 63937

(a) The department of developmental disabilities in the case 63938
of either of the following: 63939

(i) A person who is an applicant because the person is under 63940
final consideration for appointment to or employment with the 63941
department, being transferred to the department, or being recalled 63942
to or reemployed by the department after a layoff; 63943

(ii) A person who is an employee because the person is 63944
appointed to or employed by the department. 63945

(b) A county board of developmental disabilities in the case 63946
of either of the following: 63947

(i) A person who is an applicant because the person is under 63948
final consideration for appointment to or employment with the 63949
county board, being transferred to the county board, or being 63950
recalled to or reemployed by the county board after a layoff; 63951

(ii) A person who is an employee because the person is 63952
appointed to or employed by the county board. 63953

(c) A provider in the case of either of the following: 63954

(i) A person who is an applicant because the person is under 63955
final consideration for a direct services position with the 63956
provider; 63957

(ii) A person who is an employee because the person is 63958
employed in a direct services position by the provider. 63959

| | |
|---|---|
| <u>(d) A subcontractor in the case of either of the following:</u> | 63960 |
| <u>(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;</u> | 63961 63962 63963 |
| <u>(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.</u> | 63964 63965 |
| <u>(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The director's determination is final.</u> | 63966 63967 63968 63969 63970 63971 63972 63973 63974 |
| <u>(10) "Subcontractor" means a person to which both of the following apply:</u> | 63975 63976 |
| <u>(a) The person has either of the following:</u> | 63977 |
| <u>(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of developmental disabilities;</u> | 63978 63979 63980 63981 |
| <u>(ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other subcontractor and a provider or other subcontractor.</u> | 63982 63983 63984 |
| <u>(b) The person employs one or more persons in direct services positions.</u> | 63985 63986 |
| <u>(B) The director of developmental disabilities A responsible entity shall not employ an applicant or continue to employ an employee if either of the following applies:</u> | 63987 63988 63989 |

(1) The applicant or employee fails to comply with division 63990
(D)(3) of this section. 63991

(2) Except as provided in rules adopted under this section, 63992
the applicant or employee is found by a criminal records check 63993
required by this section to have been convicted of, pleaded guilty 63994
to, or been found eligible for intervention in lieu of conviction 63995
for a disqualifying offense. 63996

(C) Before employing an applicant in a position for which a 63997
criminal records check is required by this section, a responsible 63998
entity shall require the applicant to submit a statement with the 63999
applicant's signature attesting that the applicant has not been 64000
convicted of, pleaded guilty to, or been found eligible for 64001
intervention in lieu of conviction for a disqualifying offense. 64002
The responsible entity also shall require the applicant to sign an 64003
agreement under which the applicant agrees to notify the 64004
responsible entity within fourteen calendar days if, while 64005
employed by the responsible entity, the applicant is formally 64006
charged with, is convicted of, pleads guilty to, or is found 64007
eligible for intervention in lieu of conviction for a 64008
disqualifying offense. The agreement shall provide that the 64009
applicant's failure to provide the notification may result in 64010
termination of the applicant's employment. 64011

(D)(1) As a condition of employing any applicant in a 64012
position for which a criminal records check is required by this 64013
section, a responsible entity shall request the superintendent of 64014
the bureau of criminal identification and investigation to conduct 64015
a criminal records check with respect to each applicant, except 64016
that the director is not required to request a criminal records 64017
check for an employee of the department who is being considered 64018
for a different position or is returning after a leave of absence 64019
or seasonal break in employment, as long as the director has no 64020
reason to believe that the employee has committed any of the 64021

~~offenses listed or described in division (E) of this section.~~ 64022

~~If the~~ of the applicant. If rules adopted under this section 64023
require an employee to undergo a criminal records check, a 64024
responsible entity shall request the superintendent to conduct a 64025
criminal records check of the employee at times specified in the 64026
rules as a condition of the responsible entity's continuing to 64027
employ the employee in a position for which a criminal records 64028
check is required by this section. If an applicant or employee 64029
does not present proof that the applicant or employee has been a 64030
resident of this state for the five-year period immediately prior 64031
to the date upon which the criminal records check is requested, 64032
the ~~director~~ responsible entity shall request that the 64033
superintendent ~~of the bureau~~ obtain information from the federal 64034
bureau of investigation as a part of the criminal records check 64035
~~for the applicant.~~ If the applicant or employee presents proof 64036
that the applicant or employee has been a resident of this state 64037
for that five-year period, the ~~director~~ responsible entity may 64038
request that the superintendent ~~of the bureau~~ include information 64039
from the federal bureau of investigation in the criminal records 64040
check. For purposes of this division, an applicant or employee may 64041
provide proof of residency in this state by presenting, with a 64042
notarized statement asserting that the applicant or employee has 64043
been a resident of this state for that five-year period, a valid 64044
driver's license, notification of registration as an elector, a 64045
copy of an officially filed federal or state tax form identifying 64046
the applicant's or employee's permanent residence, or any other 64047
document the ~~director~~ responsible entity considers acceptable. 64048

~~(C) The director~~ (2) A responsible entity shall provide do 64049
all of the following: 64050

(a) Provide to each applicant and employee for whom a 64051
criminal records check is required by this section a copy of the 64052
form prescribed pursuant to division (C)(1) of section 109.572 of 64053

the Revised Code, ~~provide to each applicant and~~ and a standard 64054
impression sheet to obtain fingerprint impressions prescribed 64055
pursuant to division (C)(2) of section 109.572 of the Revised 64056
Code, ~~obtain;~~ 64057

(b) Obtain the completed form and standard impression sheet 64058
from ~~each the~~ applicant, ~~and forward or~~ employee; 64059

(c) Forward the completed form and standard impression sheet 64060
to the superintendent ~~of the bureau of criminal identification and~~ 64061
~~investigation~~ at the time the criminal records check is requested. 64062

(3) Any applicant or employee who receives pursuant to this 64063
division a copy of the form prescribed pursuant to division (C)(1) 64064
of section 109.572 of the Revised Code and a copy of ~~an~~ the
standard impression sheet prescribed pursuant to division (C)(2) 64066
of that section and who is requested to complete the form and 64067
provide a set of the applicant's or employee's fingerprint 64068
impressions shall complete the form or provide all the information 64069
necessary to complete the form and shall provide the ~~material~~ 64070
standard impression sheet with the impressions of the applicant's 64071
or employee's fingerprints. ~~If an applicant, upon request, fails~~ 64072
~~to provide the information necessary to complete the form or fails~~ 64073
~~to provide impressions of the applicant's fingerprints, the~~ 64074
~~director shall not employ the applicant.~~ 64075

~~(D) The director~~ (4) A responsible entity shall pay to the 64076
bureau of criminal identification and investigation the fee 64077
prescribed pursuant to division (C)(3) of section 109.572 of the 64078
Revised Code for each criminal records check requested and 64079
conducted pursuant to this section. 64080

(E) A responsible entity may request any other state or 64081
federal agency to supply the ~~director~~ responsible entity with a 64082
written report regarding the criminal record of ~~each~~ an applicant 64083
or employee. ~~With regard to an applicant who becomes a department~~ 64084

~~employee, if the~~ If an employee holds an occupational or 64085
professional license or other credentials, the ~~director~~ 64086
responsible entity may request that the state or federal agency 64087
that regulates the employee's occupation or profession supply the 64088
~~director~~ responsible entity with a written report of any 64089
information pertaining to the employee's criminal record that the 64090
agency obtains in the course of conducting an investigation or in 64091
the process of renewing the employee's license or other 64092
credentials. The responsible entity may consider the reports when 64093
determining whether to employ the applicant or to continue to 64094
employ the employee. 64095

~~(E) Except as provided in division (K)(2) of this section and~~ 64096
~~in rules adopted by the director in accordance with division (M)~~ 64097
~~of this section, the director shall not employ a person to fill a~~ 64098
~~position with the department who has been convicted of or pleaded~~ 64099
~~guilty to any of the following:~~ 64100

~~(1) A violation of section 2903.01, 2903.02, 2903.03,~~ 64101
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 64102
~~2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04,~~ 64103
~~2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,~~ 64104
~~2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323,~~ 64105
~~2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24,~~ 64106
~~2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04,~~ 64107
~~2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of~~ 64108
~~section 2905.04 of the Revised Code as it existed prior to July 1,~~ 64109
~~1996, a violation of section 2919.23 of the Revised Code that~~ 64110
~~would have been a violation of section 2905.04 of the Revised Code~~ 64111
~~as it existed prior to July 1, 1996, had the violation occurred~~ 64112
~~prior to that date, a violation of section 2925.11 of the Revised~~ 64113
~~Code that is not a minor drug possession offense, or felonious~~ 64114
~~sexual penetration in violation of former section 2907.12 of the~~ 64115
~~Revised Code;~~ 64116

~~(2) A felony contained in the Revised Code that is not listed in this division, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled;~~

~~(3) Any offense contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the department;~~

~~(4) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in division (E)(1), (2), or (3) of this section.~~

~~(F) Prior to employing an applicant, the director shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section. The director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while employed with the department, the applicant is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in division (E) of this section. The agreement shall inform the applicant that failure to report formal charges, a conviction, or a guilty plea may result in being dismissed from employment. As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with mental retardation or developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record~~

from the bureau of motor vehicles. If rules adopted under this 64149
section require a responsible entity to obtain an employee's 64150
driving record, the responsible entity shall obtain the employee's 64151
driving record from the bureau at times specified in the rules as 64152
a condition of continuing to employ the employee. The responsible 64153
entity may consider the applicant's or employee's driving record 64154
when determining whether to employ the applicant or to continue to 64155
employ the employee. 64156

~~(G) The director shall pay to the bureau of criminal~~ 64157
~~identification and investigation the fee prescribed pursuant to~~ 64158
~~division (C)(3) of section 109.572 of the Revised Code for each~~ 64159
~~criminal records check requested and conducted pursuant to this~~ 64160
~~section. A responsible entity may employ an applicant~~ 64161
conditionally pending receipt of a report regarding the applicant 64162
requested under this section. The responsible entity shall 64163
terminate the applicant's employment if it is determined from a 64164
report that the applicant failed to inform the responsible entity 64165
that the applicant had been convicted of, pleaded guilty to, or 64166
been found eligible for intervention in lieu of conviction for a 64167
disqualifying offense. 64168

(H) A responsible entity may charge an applicant a fee for 64169
costs the responsible entity incurs in obtaining a report 64170
regarding the applicant under this section if the responsible 64171
entity notifies the applicant of the amount of the fee at the time 64172
of the applicant's initial application for employment and that, 64173
unless the fee is paid, the responsible entity will not consider 64174
the applicant for employment. The fee shall not exceed the amount 64175
of the fee, if any, the responsible entity pays for the report. 64176

(I)(1) Any report obtained pursuant to this section is not a 64177
public record for purposes of section 149.43 of the Revised Code 64178
and shall not be made available to any person, other than the 64179
following: 64180

(a) The applicant or employee who is the subject of the records check or criminal records check report or the applicant's or employee's representative, ~~the department;~~ 64181
64182
64183

(b) The responsible entity that requested the report or its representative, ~~a county board of developmental disabilities, and any;~~ 64184
64185
64186

(c) The department if a county board, provider, or subcontractor is the responsible entity that requested the report and the department requests the responsible entity to provide a copy of the report to the department; 64187
64188
64189
64190

(d) A county board if a provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board; 64191
64192
64193
64194

(e) Any court, hearing officer, or other necessary individual involved in a case dealing with the any of the following: 64195
64196

(i) The denial of employment to the applicant or the employee; 64197
64198

(ii) The denial, suspension, or revocation of a certificate or evidence of registration under section 5123.082 5123.166 or 5123.45 of the Revised Code; 64199
64200
64201

(iii) A civil or criminal action regarding the medicaid program or a program the department administers. 64202
64203

(2) An ~~individual~~ applicant or employee for whom ~~the director~~ responsible entity has obtained reports under this section may submit a written request to the ~~director~~ responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The ~~individual~~ applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the 64204
64205
64206
64207
64208
64209
64210

~~director~~ responsible entity shall send copies of the reports to 64211
the agencies or entities specified. 64212

~~The director~~ (3) A responsible entity may request that a 64213
state agency, entity of local government, or private entity send 64214
copies to the ~~director~~ responsible entity of any report regarding 64215
a records check or criminal records check that the agency or 64216
entity possesses, if the ~~director~~ responsible entity obtains the 64217
written consent of the individual who is the subject of the 64218
report. 64219

~~(I) The director shall request the registrar of motor 64220
vehicles to supply the director with a certified abstract 64221
regarding the record of convictions for violations of motor 64222
vehicle laws of each applicant who will be required by the 64223
applicant's employment to transport individuals with mental 64224
retardation or a developmental disability or to operate the 64225
department's vehicles for any other purpose. For each abstract 64226
provided under this section, the director shall pay the amount 64227
specified in section 4509.05 of the Revised Code. 64228~~

~~(J) The director~~ (4) A responsible entity shall provide each 64229
applicant and employee with a copy of any report ~~or abstract~~ 64230
obtained about the applicant or employee under this section. 64231

~~(K)(1) The director shall inform each person, at the time of 64232
the person's initial application for employment, that the person 64233
is required to provide a set of impressions of the person's 64234
fingerprints and that a criminal records check is required to be 64235
conducted and satisfactorily completed in accordance with section 64236
109.572 of the Revised Code if the person comes under final 64237
consideration for employment as a precondition to employment in a 64238
position. 64239~~

~~(2) The director may employ an applicant pending receipt of 64240
reports requested under this section. The director shall terminate 64241~~

~~employment of any such applicant if it is determined from the reports that the applicant failed to inform the director that the applicant had been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section.~~

~~(L) The director may charge an applicant a fee for costs the director incurs in obtaining reports, abstracts, or fingerprint impressions under this section. A fee charged under this division shall not exceed the amount of the fees the director pays under divisions (C) and (I) of this section. If a fee is charged under this division, the director shall notify the applicant of the amount of the fee at the time of the applicant's initial application for employment and that, unless the fee is paid, the director will not consider the applicant for employment.~~

~~(M)(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules specifying.~~

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of employees from the requirements.

(2) The rules shall do both of the following:

(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving

records are to be obtained; 64272

(b) Specify circumstances under which the director a 64273
responsible entity may employ a person who has an applicant or 64274
employee who is found by a criminal records check required by this 64275
section to have been convicted of or, pleaded guilty to an, or 64276
been found eligible for intervention in lieu of conviction for a 64277
disqualifying offense listed or described in division (E) of this 64278
section but who meets standards in regard to rehabilitation set by 64279
the director. 64280

Sec. 5123.16. (A) As used in sections 5123.16 to ~~5123.169~~ 64281
5123.1610 of the Revised Code: 64282

(1) "Applicant" means any of the following: 64283

(a) The chief executive officer of a business that applies 64284
under section 5123.161 of the Revised Code for a certificate to 64285
provide supported living; 64286

(b) The chief executive officer of a business that seeks 64287
renewal of the business's supported living certificate under 64288
section 5123.164 of the Revised Code; 64289

(c) An individual who applies under section 5123.161 of the 64290
Revised Code for a certificate to provide supported living as an 64291
independent provider; 64292

(d) An independent provider who seeks renewal of the 64293
independent provider's supported living certificate under section 64294
5123.164 of the Revised Code. 64295

(2)(a) "Business" means either of the following: 64296

(i) An association, corporation, nonprofit organization, 64297
partnership, trust, or other group of persons; 64298

(ii) An individual who employs, directly or through contract, 64299
one or more other individuals to provide supported living. 64300

| | |
|--|----------------------------------|
| <u>(b) "Business" does not mean an independent provider.</u> | 64301 |
| <u>(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.</u> | 64302 64303 |
| <u>(4) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.</u> | 64304 64305 64306 |
| <u>(5) "Independent provider" means a provider who provides supported living on a self-employed basis and does not employ, directly or through contract, another individual to provide the supported living.</u> | 64307 64308 64309 64310 |
| <u>(6) "Provider" means a person or government entity certified by the director of developmental disabilities to provide supported living.</u> | 64311 64312 64313 |
| (2) <u>(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.</u> | 64314 64315 |
| <u>(8) "Related party" means any of the following:</u> | 64316 |
| (a) In the case of a provider who is an individual, any of the following: | 64317 64318 |
| (i) The spouse of the provider; | 64319 |
| (ii) A parent or stepparent of the provider or provider's spouse; | 64320 64321 |
| (iii) A child of the provider or provider's spouse; | 64322 |
| (iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse; | 64323 64324 |
| (v) A grandparent of the provider or provider's spouse; | 64325 |
| (vi) A grandchild of the provider or provider's spouse; | 64326 |
| (vii) An employee or employer of the provider or provider's spouse. | 64327 64328 |

| | |
|--|-------------------------|
| (b) In the case of a provider that is a person other than an individual, any of the following: | 64329 64330 |
| (i) An employee of the person; | 64331 |
| (ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer; | 64332 64333 64334 |
| (iii) A member of the provider's board of directors or trustees; | 64335 64336 |
| (iv) A person owning a financial interest of five per cent or more in the provider; | 64337 64338 |
| (v) A corporation that has a subsidiary relationship with the provider; | 64339 64340 |
| (vi) A person or government entity that has control over the provider's day-to-day operation; | 64341 64342 |
| (vii) A person over which the provider has control of the day-to-day operation. | 64343 64344 |
| (c) In the case of a provider that is a government entity, any of the following: | 64345 64346 |
| (i) An employee of the provider; | 64347 |
| (ii) An officer of the provider; | 64348 |
| (iii) A member of the provider's governing board; | 64349 |
| (iv) A government entity that has control over the provider's day-to-day operation; | 64350 64351 |
| (v) A person or government entity over which the provider has control of the day-to-day operation. | 64352 64353 |
| (B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of developmental disabilities. | 64354 64355 64356 |

(C) A county board of developmental disabilities may provide supported living only to the extent permitted by rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code.

Sec. 5123.161. A person or government entity that seeks to provide supported living shall apply to the director of developmental disabilities for a supported living certificate.

Except as provided in ~~section~~ sections 5123.166 and 5123.169 of the Revised Code, the director shall issue to the applicant person or government entity a supported living certificate if the ~~applicant~~ person or government entity follows the application process established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules.

Sec. 5123.162. The director of developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director shall conduct the surveys in accordance with rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code.

The records of surveys conducted under this section are public records for the purpose of section 149.43 of the Revised Code and shall be made available on the request of any person or government entity.

Sec. 5123.163. A supported living certificate is valid for a period of time established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, unless any of the following occur before the end of that period of time:

| | |
|---|--|
| (A) The director of developmental disabilities issues an order requiring that action be taken against the certificate holder under section 5123.166 of the Revised Code. | 64387 64388 64389 |
| (B) The director issues an order terminating the certificate under section 5123.168 of the Revised Code. | 64390 64391 |
| (C) The certificate holder voluntarily surrenders the certificate to the director. | 64392 64393 |
| Sec. 5123.164. Except as provided in section <u>sections</u> 5123.166 <u>and 5123.169</u> of the Revised Code, the director of developmental disabilities shall renew a supported living certificate if the certificate holder follows the renewal process established in rules adopted under section 5123.169 <u>5123.1610</u> of the Revised Code, continues to meet the applicable certification standards established in those rules, and pays the renewal fee established in those rules. | 64394 64395 64396 64397 64398 64399 64400 64401 |
| Sec. 5123.166. (A) If good cause exists as specified in division (B) of this section and determined in accordance with procedures established in rules adopted under section 5123.169 <u>5123.1610</u> of the Revised Code, the director of developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person or government entity seeking or holding a supported living certificate: | 64402 64403 64404 64405 64406 64407 64408 |
| (1) Refusal to issue or renew a supported living certificate; | 64409 |
| (2) Revocation of a supported living certificate; | 64410 |
| (3) Suspension of a supported living certificate holder's authority to do either or both of the following: | 64411 64412 |
| (a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the | 64413 64414 64415 |

| | |
|---|----------------------------------|
| action; | 64416 |
| (b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action. | 64417 64418 64419 64420 |
| (B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate: | 64421 64422 64423 |
| (1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section 5123.169 <u>5123.1610</u> of the Revised Code; | 64424 64425 64426 64427 |
| (2) The person or government entity violates section 5123.165 of the Revised Code; | 64428 64429 |
| (3) The person or government entity's failure to satisfy the requirements of section <u>5123.081</u> or 5123.52, 5126.28 , or 5126.281 of the Revised Code; | 64430 64431 64432 |
| (4) Misfeasance; | 64433 |
| (5) Malfeasance; | 64434 |
| (6) Nonfeasance; | 64435 |
| (7) Confirmed abuse or neglect; | 64436 |
| (8) Financial irresponsibility; | 64437 |
| (9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity. | 64438 64439 64440 |
| (C) Except as provided in division (D) of this section, the director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code. | 64441 64442 64443 |
| (D)(1) The director may issue an order requiring that action | 64444 |

specified in division (A)(3) of this section be taken before a 64445
provider is provided notice and an opportunity for a hearing if 64446
all of the following are the case: 64447

(a) The director determines such action is warranted by the 64448
provider's failure to continue to meet the applicable 64449
certification standards; 64450

(b) The director determines that the failure either 64451
represents a pattern of serious noncompliance or creates a 64452
substantial risk to the health or safety of an individual who 64453
receives or would receive supported living from the provider; 64454

(c) If the order will suspend the provider's authority to 64455
continue to provide supported living to an individual who receives 64456
supported living from the provider at the time the director issues 64457
the order, both of the following are the case: 64458

(i) The director makes the individual, or the individual's 64459
guardian, aware of the director's determination under division 64460
(D)(1)(b) of this section and the individual or guardian does not 64461
select another provider. 64462

(ii) A county board of developmental disabilities has filed a 64463
complaint with a probate court under section ~~5123.33~~ 5126.33 of 64464
the Revised Code that includes facts describing the nature of 64465
abuse or neglect that the individual has suffered due to the 64466
provider's actions that are the basis for the director making the 64467
determination under division (D)(1)(b) of this section and the 64468
probate court does not issue an order authorizing the county board 64469
to arrange services for the individual pursuant to an 64470
individualized service plan developed for the individual under 64471
section ~~5123.31~~ 5126.31 of the Revised Code. 64472

(2) If the director issues an order under division (D)(1) of 64473
this section, sections 119.091 to 119.13 of the Revised Code and 64474
all of the following apply: 64475

(a) The director shall send the provider notice of the order 64476
by registered mail, return receipt requested, not later than 64477
twenty-four hours after issuing the order and shall include in the 64478
notice the reasons for the order, the citation to the law or rule 64479
directly involved, and a statement that the provider will be 64480
afforded a hearing if the provider requests it within ten days of 64481
the time of receiving the notice. 64482

(b) If the provider requests a hearing within the required 64483
time and the provider has provided the director the provider's 64484
current address, the director shall immediately set, and notify 64485
the provider of, the date, time, and place for the hearing. 64486

(c) The date of the hearing shall be not later than thirty 64487
days after the director receives the provider's timely request for 64488
the hearing. 64489

(d) The hearing shall be conducted in accordance with section 64490
119.09 of the Revised Code, except for all of the following: 64491

(i) The hearing shall continue uninterrupted until its close, 64492
except for weekends, legal holidays, and other interruptions the 64493
provider and director agree to. 64494

(ii) If the director appoints a referee or examiner to 64495
conduct the hearing, the referee or examiner, not later than ten 64496
days after the date the referee or examiner receives a transcript 64497
of the testimony and evidence presented at the hearing or, if the 64498
referee or examiner does not receive the transcript or no such 64499
transcript is made, the date that the referee or examiner closes 64500
the record of the hearing, shall submit to the director a written 64501
report setting forth the referee or examiner's findings of fact 64502
and conclusions of law and a recommendation of the action the 64503
director should take. 64504

(iii) The provider may, not later than five days after the 64505
date the director, in accordance with section 119.09 of the 64506

Revised Code, sends the provider or the provider's attorney or
other representative of record a copy of the referee or examiner's
report and recommendation, file with the director written
objections to the report and recommendation.

(iv) The director shall approve, modify, or disapprove the
referee or examiner's report and recommendation not earlier than
six days, and not later than fifteen days, after the date the
director, in accordance with section 119.09 of the Revised Code,
sends a copy of the report and recommendation to the provider or
the provider's attorney or other representative of record.

(3) The director may lift an order issued under division
(D)(1) of this section even though a hearing regarding the order
is occurring or pending if the director determines that the
provider has taken action eliminating the good cause for issuing
the order. The hearing shall proceed unless the provider withdraws
the request for the hearing in a written letter to the director.

(4) The director shall lift an order issued under division
(D)(1) of this section if both of the following are the case:

(a) The provider provides the director a plan of compliance
the director determines is acceptable.

(b) The director determines that the provider has implemented
the plan of compliance correctly.

Sec. 5123.169. (A) The director of developmental disabilities
shall not issue a supported living certificate to an applicant or
renew an applicant's supported living certificate if either of the
following applies:

(1) The applicant fails to comply with division (C)(2) of
this section;

(2) Except as provided in rules adopted under section
5123.1610 of the Revised Code, the applicant is found by a

criminal records check required by this section to have been 64537
convicted of, pleaded guilty to, or been found eligible for 64538
intervention in lieu of conviction for a disqualifying offense. 64539

(B) Before issuing a supported living certificate to an 64540
applicant or renewing an applicant's supported living certificate, 64541
the director shall require the applicant to submit a statement 64542
with the applicant's signature attesting that the applicant has 64543
not been convicted of, pleaded guilty to, or been found eligible 64544
for intervention in lieu of conviction for a disqualifying 64545
offense. The director also shall require the applicant to sign an 64546
agreement under which the applicant agrees to notify the director 64547
within fourteen calendar days if, while holding a supported living 64548
certificate, the applicant is formally charged with, is convicted 64549
of, pleads guilty to, or is found eligible for intervention in 64550
lieu of conviction for a disqualifying offense. The agreement 64551
shall provide that the applicant's failure to provide the 64552
notification may result in action being taken by the director 64553
against the applicant under section 5123.166 of the Revised Code. 64554

(C)(1) As a condition of receiving a supported living 64555
certificate or having a supported living certificate renewed, an 64556
applicant shall request the superintendent of the bureau of 64557
criminal identification and investigation to conduct a criminal 64558
records check of the applicant. If an applicant does not present 64559
proof to the director that the applicant has been a resident of 64560
this state for the five-year period immediately prior to the date 64561
that the applicant applies for issuance or renewal of the 64562
supported living certificate, the director shall require the 64563
applicant to request that the superintendent obtain information 64564
from the federal bureau of investigation as a part of the criminal 64565
records check. If the applicant presents proof to the director 64566
that the applicant has been a resident of this state for that 64567
five-year period, the director may require the applicant to 64568

request that the superintendent include information from the 64569
federal bureau of investigation in the criminal records check. For 64570
purposes of this division, an applicant may provide proof of 64571
residency in this state by presenting, with a notarized statement 64572
asserting that the applicant has been a resident of this state for 64573
that five-year period, a valid driver's license, notification of 64574
registration as an elector, a copy of an officially filed federal 64575
or state tax form identifying the applicant's permanent residence, 64576
or any other document the director considers acceptable. 64577

(2) Each applicant shall do all of the following: 64578

(a) Obtain a copy of the form prescribed pursuant to division 64579
(C)(1) of section 109.572 of the Revised Code and a standard 64580
impression sheet prescribed pursuant to division (C)(2) of section 64581
109.572 of the Revised Code; 64582

(b) Complete the form and provide the applicant's fingerprint 64583
impressions on the standard impression sheet; 64584

(c) Forward the completed form and standard impression sheet 64585
to the superintendent at the time the criminal records check is 64586
requested; 64587

(d) Instruct the superintendent to submit the completed 64588
report of the criminal records check directly to the director; 64589

(e) Pay to the bureau of criminal identification and 64590
investigation the fee prescribed pursuant to division (C)(3) of 64591
section 109.572 of the Revised Code for each criminal records 64592
check of the applicant requested and conducted pursuant to this 64593
section. 64594

(D) The director may request any other state or federal 64595
agency to supply the director with a written report regarding the 64596
criminal record of an applicant. The director may consider the 64597
reports when determining whether to issue a supported living 64598
certificate to the applicant or to renew an applicant's supported 64599

living certificate. 64600

(E) An applicant who seeks to be an independent provider or 64601
is an independent provider seeking renewal of the applicant's 64602
supported living certificate shall obtain the applicant's driving 64603
record from the bureau of motor vehicles and provide a copy of the 64604
record to the director if the supported living that the applicant 64605
will provide involves transporting individuals with mental 64606
retardation or developmental disabilities. The director may 64607
consider the applicant's driving record when determining whether 64608
to issue the applicant a supported living certificate or to renew 64609
the applicant's supported living certificate. 64610

(F)(1) A report obtained pursuant to this section is not a 64611
public record for purposes of section 149.43 of the Revised Code 64612
and shall not be made available to any person, other than the 64613
following: 64614

(a) The applicant who is the subject of the report or the 64615
applicant's representative; 64616

(b) The director or the director's representative; 64617

(c) Any court, hearing officer, or other necessary individual 64618
involved in a case dealing with any of the following: 64619

(i) The denial of a supported living certificate or refusal 64620
to renew a supported living certificate; 64621

(ii) The denial, suspension, or revocation of a certificate 64622
under section 5123.45 of the Revised Code; 64623

(iii) A civil or criminal action regarding the medicaid 64624
program. 64625

(2) An applicant for whom the director has obtained reports 64626
under this section may submit a written request to the director to 64627
have copies of the reports sent to any person or state or local 64628
government entity. The applicant shall specify in the request the 64629

person or entities to which the copies are to be sent. On 64630
receiving the request, the director shall send copies of the 64631
reports to the persons or entities specified. 64632

(3) The director may request that a person or state or local 64633
government entity send copies to the director of any report 64634
regarding a records check or criminal records check that the 64635
person or entity possesses, if the director obtains the written 64636
consent of the individual who is the subject of the report. 64637

(4) The director shall provide each applicant with a copy of 64638
any report obtained about the applicant under this section. 64639

Sec. ~~5123.169~~ 5123.1610. The director of developmental 64640
disabilities shall adopt rules under Chapter 119. of the Revised 64641
Code establishing all of the following: 64642

(A) The extent to which a county board of developmental 64643
disabilities may provide supported living; 64644

(B) The application process for obtaining a supported living 64645
certificate under section 5123.161 of the Revised Code; 64646

(C) The certification standards a person or government entity 64647
must meet to obtain a supported living certificate to provide 64648
supported living; 64649

(D) The certification fee for a supported living certificate, 64650
which shall be deposited into the program fee fund created under 64651
section 5123.033 of the Revised Code; 64652

(E) The period of time a supported living certificate is 64653
valid; 64654

(F) The process for renewing a supported living certificate 64655
under section 5123.164 of the Revised Code; 64656

(G) The renewal fee for a supported living certificate, which 64657
shall be deposited into the program fee fund created under section 64658

5123.033 of the Revised Code; 64659

(H) Procedures for conducting surveys under section 5123.162 64660
of the Revised Code; 64661

(I) Procedures for determining whether there is good cause to 64662
take action under section 5123.166 of the Revised Code against a 64663
person or government entity seeking or holding a supported living 64664
certificate; 64665

(J) Circumstances under which the director may issue a 64666
supported living certificate to an applicant or renew an 64667
applicant's supported living certificate if the applicant is found 64668
by a criminal records check required by section 5123.169 of the 64669
Revised Code to have been convicted of, pleaded guilty to, or been 64670
found eligible for intervention in lieu of conviction for a 64671
disqualifying offense but meets standards in regard to 64672
rehabilitation set by the director. 64673

Sec. 5123.171. As used in this section, "respite care" means 64674
appropriate, short-term, temporary care provided to a mentally 64675
retarded or developmentally disabled person to sustain the family 64676
structure or to meet planned or emergency needs of the family. 64677

The department of developmental disabilities shall provide 64678
respite care services to persons with mental retardation or a 64679
developmental disability for the purpose of promoting 64680
self-sufficiency and normalization, preventing or reducing 64681
inappropriate institutional care, and furthering the unity of the 64682
family by enabling the family to meet the special needs of a 64683
mentally retarded or developmentally disabled person. 64684

In order to be eligible for respite care services under this 64685
section, the mentally retarded or developmentally disabled person 64686
must be in need of habilitation services as defined in section 64687
5126.01 of the Revised Code. 64688

Respite care may be provided in a residential facility 64689
licensed under section 5123.19 of the Revised Code ~~or (including a~~ 64690
residential facility certified as an intermediate care facility 64691
for the mentally retarded under Title XIX of the "Social Security 64692
Act," 49 79 Stat. 620 344 (1935 1965), 42 U.S.C. 301 1396, et 64693
seq., as amended, ~~or certified as~~ and a respite care home 64694
certified under section 5126.05 of the Revised Code. 64695

The department shall develop a system for locating vacant 64696
beds that are available for respite care and for making 64697
information on vacant beds available to users of respite care 64698
services. Facilities certified as intermediate care facilities for 64699
the mentally retarded shall report vacant beds to the department 64700
but shall not be required to accept respite care clients. 64701

The director of developmental disabilities shall adopt, and 64702
may amend or rescind, rules in accordance with Chapter 119. of the 64703
Revised Code for both of the following: 64704

(A) Certification by county boards of developmental 64705
disabilities of respite care homes; 64706

(B) Provision of respite care services authorized by this 64707
section. Rules adopted under this division shall establish all of 64708
the following: 64709

(1) A formula for distributing funds appropriated for respite 64710
care services; 64711

(2) Standards for supervision, training and quality control 64712
in the provision of respite care services; 64713

(3) Eligibility criteria for emergency respite care services. 64714

Sec. 5123.19. (A) As used in ~~this section and in~~ sections 64715
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and~~ 5123.19 to 64716
5123.20 of the Revised Code: 64717

(1)(a) ~~"Residential facility" means a home or facility in~~ 64718

~~which a mentally retarded or developmentally disabled person 64719
resides, except the home of a relative or legal guardian in which 64720
a mentally retarded or developmentally disabled person resides, a 64721
respite care home certified under section 5126.05 of the Revised 64722
Code, a county home or district home operated pursuant to Chapter 64723
5155. of the Revised Code, or a dwelling in which the only 64724
mentally retarded or developmentally disabled residents are in an 64725
independent living arrangement or are being provided supported 64726
living. 64727~~

~~(b) "Intermediate care facility for the mentally retarded" 64728
means a residential facility that is considered an intermediate 64729
care facility for the mentally retarded for the purposes of 64730
Chapter 5111. of the Revised Code. 64731~~

~~(2) "Political subdivision" means a municipal corporation, 64732
county, or township. 64733~~

~~(3) "Independent living arrangement" means an arrangement in 64734
which a mentally retarded or developmentally disabled person 64735
resides in an individualized setting chosen by the person or the 64736
person's guardian, which is not dedicated principally to the 64737
provision of residential services for mentally retarded or 64738
developmentally disabled persons, and for which no financial 64739
support is received for rendering such service from any 64740
governmental agency by a provider of residential services. 64741~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 64742
has the same meaning as in section 1905(d) of the "Social Security 64743
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 64744~~

~~(3) "Licensee" means the person or government agency that has 64745
applied for a license to operate a residential facility and to 64746
which the license was issued under this section. 64747~~

~~(4) "Political subdivision" means a municipal corporation, 64748
county, or township. 64749~~

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or 5119.20~~, or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79~~

~~Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 64781
licensure of the portion of the home that is certified as an 64782
intermediate care facility for the mentally retarded. 64783~~

(C) Subject to section 5123.196 of the Revised Code, the 64784
director of developmental disabilities shall license the operation 64785
of residential facilities. An initial license shall be issued for 64786
a period that does not exceed one year, unless the director denies 64787
the license under division (D) of this section. A license shall be 64788
renewed for a period that does not exceed three years, unless the 64789
director refuses to renew the license under division (D) of this 64790
section. The director, when issuing or renewing a license, shall 64791
specify the period for which the license is being issued or 64792
renewed. A license remains valid for the length of the licensing 64793
period specified by the director, unless the license is 64794
terminated, revoked, or voluntarily surrendered. 64795

(D) If it is determined that an applicant or licensee is not 64796
in compliance with a provision of this chapter that applies to 64797
residential facilities or the rules adopted under such a 64798
provision, the director may deny issuance of a license, refuse to 64799
renew a license, terminate a license, revoke a license, issue an 64800
order for the suspension of admissions to a facility, issue an 64801
order for the placement of a monitor at a facility, issue an order 64802
for the immediate removal of residents, or take any other action 64803
the director considers necessary consistent with the director's 64804
authority under this chapter regarding residential facilities. In 64805
the director's selection and administration of the sanction to be 64806
imposed, all of the following apply: 64807

(1) The director may deny, refuse to renew, or revoke a 64808
license, if the director determines that the applicant or licensee 64809
has demonstrated a pattern of serious noncompliance or that a 64810
violation creates a substantial risk to the health and safety of 64811
residents of a residential facility. 64812

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this

chapter that applies to residential facilities or the rules 64845
adopted under such a provision. 64846

(6) When the director initiates license revocation 64847
proceedings, no opportunity for submitting a plan of correction 64848
shall be given. The director shall notify the licensee by letter 64849
of the initiation of the proceedings. The letter shall list the 64850
deficiencies of the residential facility and inform the licensee 64851
that no plan of correction will be accepted. The director shall 64852
also send a copy of the letter to the county board of 64853
developmental disabilities. The county board shall send a copy of 64854
the letter to each of the following: 64855

(a) Each resident who receives services from the licensee; 64856

(b) The guardian of each resident who receives services from 64857
the licensee if the resident has a guardian; 64858

(c) The parent or guardian of each resident who receives 64859
services from the licensee if the resident is a minor. 64860

(7) Pursuant to rules which shall be adopted in accordance 64861
with Chapter 119. of the Revised Code, the director may order the 64862
immediate removal of residents from a residential facility 64863
whenever conditions at the facility present an immediate danger of 64864
physical or psychological harm to the residents. 64865

(8) In determining whether a residential facility is being 64866
operated in compliance with a provision of this chapter that 64867
applies to residential facilities or the rules adopted under such 64868
a provision, or whether conditions at a residential facility 64869
present an immediate danger of physical or psychological harm to 64870
the residents, the director may rely on information obtained by a 64871
county board of developmental disabilities or other governmental 64872
agencies. 64873

(9) In proceedings initiated to deny, refuse to renew, or 64874
revoke licenses, the director may deny, refuse to renew, or revoke 64875

a license regardless of whether some or all of the deficiencies 64876
that prompted the proceedings have been corrected at the time of 64877
the hearing. 64878

(E) The director shall establish a program under which public 64879
notification may be made when the director has initiated license 64880
revocation proceedings or has issued an order for the suspension 64881
of admissions, placement of a monitor, or removal of residents. 64882
The director shall adopt rules in accordance with Chapter 119. of 64883
the Revised Code to implement this division. The rules shall 64884
establish the procedures by which the public notification will be 64885
made and specify the circumstances for which the notification must 64886
be made. The rules shall require that public notification be made 64887
if the director has taken action against the facility in the 64888
eighteen-month period immediately preceding the director's latest 64889
action against the facility and the latest action is being taken 64890
for the same or a substantially similar violation of a provision 64891
of this chapter that applies to residential facilities or the 64892
rules adopted under such a provision. The rules shall specify a 64893
method for removing or amending the public notification if the 64894
director's action is found to have been unjustified or the 64895
violation at the residential facility has been corrected. 64896

(F)(1) Except as provided in division (F)(2) of this section, 64897
appeals from proceedings initiated to impose a sanction under 64898
division (D) of this section shall be conducted in accordance with 64899
Chapter 119. of the Revised Code. 64900

(2) Appeals from proceedings initiated to order the 64901
suspension of admissions to a facility shall be conducted in 64902
accordance with Chapter 119. of the Revised Code, unless the order 64903
was issued before providing an opportunity for an adjudication, in 64904
which case all of the following apply: 64905

(a) The licensee may request a hearing not later than ten 64906
days after receiving the notice specified in section 119.07 of the 64907

Revised Code. 64908

(b) If a timely request for a hearing that includes the 64909
licensee's current address is made, the hearing shall commence not 64910
later than thirty days after the department receives the request. 64911

(c) After commencing, the hearing shall continue 64912
uninterrupted, except for Saturdays, Sundays, and legal holidays, 64913
unless other interruptions are agreed to by the licensee and the 64914
director. 64915

(d) If the hearing is conducted by a hearing examiner, the 64916
hearing examiner shall file a report and recommendations not later 64917
than ten days after the last of the following: 64918

(i) The close of the hearing; 64919

(ii) If a transcript of the proceedings is ordered, the 64920
hearing examiner receives the transcript; 64921

(iii) If post-hearing briefs are timely filed, the hearing 64922
examiner receives the briefs. 64923

(e) A copy of the written report and recommendation of the 64924
hearing examiner shall be sent, by certified mail, to the licensee 64925
and the licensee's attorney, if applicable, not later than five 64926
days after the report is filed. 64927

(f) Not later than five days after the hearing examiner files 64928
the report and recommendations, the licensee may file objections 64929
to the report and recommendations. 64930

(g) Not later than fifteen days after the hearing examiner 64931
files the report and recommendations, the director shall issue an 64932
order approving, modifying, or disapproving the report and 64933
recommendations. 64934

(h) Notwithstanding the pendency of the hearing, the director 64935
shall lift the order for the suspension of admissions when the 64936
director determines that the violation that formed the basis for 64937

the order has been corrected. 64938

(G) Neither a person or government agency whose application 64939
for a license to operate a residential facility is denied nor a 64940
related party of the person or government agency may apply for a 64941
license to operate a residential facility before the date that is 64942
one year after the date of the denial. Neither a licensee whose 64943
residential facility license is revoked nor a related party of the 64944
licensee may apply for a residential facility license before the 64945
date that is five years after the date of the revocation. 64946

(H) In accordance with Chapter 119. of the Revised Code, the 64947
director shall adopt and may amend and rescind rules for licensing 64948
and regulating the operation of residential facilities, ~~including~~ 64949
~~intermediate care facilities for the mentally retarded~~. The rules 64950
for residential facilities that are intermediate care facilities 64951
for the mentally retarded may differ from those for other 64952
residential facilities. The rules shall establish and specify the 64953
following: 64954

(1) Procedures and criteria for issuing and renewing 64955
licenses, including procedures and criteria for determining the 64956
length of the licensing period that the director must specify for 64957
each license when it is issued or renewed; 64958

(2) Procedures and criteria for denying, refusing to renew, 64959
terminating, and revoking licenses and for ordering the suspension 64960
of admissions to a facility, placement of a monitor at a facility, 64961
and the immediate removal of residents from a facility; 64962

(3) Fees for issuing and renewing licenses, which shall be 64963
deposited into the program fee fund created under section 5123.033 64964
of the Revised Code; 64965

(4) Procedures for surveying residential facilities; 64966

(5) Requirements for the training of residential facility 64967
personnel; 64968

| | |
|--|---|
| (6) Classifications for the various types of residential facilities; | 64969 64970 |
| (7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities; | 64971 64972 64973 64974 |
| (8) The maximum number of persons who may be served in a particular type of residential facility; | 64975 64976 |
| (9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities; | 64977 64978 |
| (10) Other standards for the operation of residential facilities and the services provided at residential facilities; | 64979 64980 |
| (11) Procedures for waiving any provision of any rule adopted under this section. | 64981 64982 |
| (I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. | 64983 64984 64985 64986 64987 64988 64989 64990 64991 |
| In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's | 64992 64993 64994 64995 64996 64997 64998 64999 |

designee in conducting the survey. 65000

Following each survey, unless the director initiates a 65001
license revocation proceeding, the director or the director's 65002
designee shall provide the licensee with a report listing any 65003
deficiencies, specifying a timetable within which the licensee 65004
shall submit a plan of correction describing how the deficiencies 65005
will be corrected, and, when appropriate, specifying a timetable 65006
within which the licensee must correct the deficiencies. After a 65007
plan of correction is submitted, the director or the director's 65008
designee shall approve or disapprove the plan. A copy of the 65009
report and any approved plan of correction shall be provided to 65010
any person who requests it. 65011

The director shall initiate disciplinary action against any 65012
department employee who notifies or causes the notification to any 65013
unauthorized person of an unannounced survey of a residential 65014
facility by an authorized representative of the department. 65015

(J) In addition to any other information which may be 65016
required of applicants for a license pursuant to this section, the 65017
director shall require each applicant to provide a copy of an 65018
approved plan for a proposed residential facility pursuant to 65019
section 5123.042 of the Revised Code. This division does not apply 65020
to renewal of a license or to an applicant for an initial or 65021
modified license who meets the requirements of section ~~5123.193~~ or 65022
5123.197 of the Revised Code. 65023

(K) A licensee shall notify the owner of the building in 65024
which the licensee's residential facility is located of any 65025
significant change in the identity of the licensee or management 65026
contractor before the effective date of the change if the licensee 65027
is not the owner of the building. 65028

Pursuant to rules which shall be adopted in accordance with 65029
Chapter 119. of the Revised Code, the director may require 65030

notification to the department of any significant change in the 65031
ownership of a residential facility or in the identity of the 65032
licensee or management contractor. If the director determines that 65033
a significant change of ownership is proposed, the director shall 65034
consider the proposed change to be an application for development 65035
by a new operator pursuant to section 5123.042 of the Revised Code 65036
and shall advise the applicant within sixty days of the 65037
notification that the current license shall continue in effect or 65038
a new license will be required pursuant to this section. If the 65039
director requires a new license, the director shall permit the 65040
facility to continue to operate under the current license until 65041
the new license is issued, unless the current license is revoked, 65042
refused to be renewed, or terminated in accordance with Chapter 65043
119. of the Revised Code. 65044

(L) A county board of developmental disabilities, the legal 65045
rights service, and any interested person may file complaints 65046
alleging violations of statute or department rule relating to 65047
residential facilities with the department. All complaints shall 65048
be in writing and shall state the facts constituting the basis of 65049
the allegation. The department shall not reveal the source of any 65050
complaint unless the complainant agrees in writing to waive the 65051
right to confidentiality or until so ordered by a court of 65052
competent jurisdiction. 65053

The department shall adopt rules in accordance with Chapter 65054
119. of the Revised Code establishing procedures for the receipt, 65055
referral, investigation, and disposition of complaints filed with 65056
the department under this division. 65057

(M) The department shall establish procedures for the 65058
notification of interested parties of the transfer or interim care 65059
of residents from residential facilities that are closing or are 65060
losing their license. 65061

(N) Before issuing a license under this section to a 65062

residential facility that will accommodate at any time more than 65063
one mentally retarded or developmentally disabled individual, the 65064
director shall, by first class mail, notify the following: 65065

(1) If the facility will be located in a municipal 65066
corporation, the clerk of the legislative authority of the 65067
municipal corporation; 65068

(2) If the facility will be located in unincorporated 65069
territory, the clerk of the appropriate board of county 65070
commissioners and the fiscal officer of the appropriate board of 65071
township trustees. 65072

The director shall not issue the license for ten days after 65073
mailing the notice, excluding Saturdays, Sundays, and legal 65074
holidays, in order to give the notified local officials time in 65075
which to comment on the proposed issuance. 65076

Any legislative authority of a municipal corporation, board 65077
of county commissioners, or board of township trustees that 65078
receives notice under this division of the proposed issuance of a 65079
license for a residential facility may comment on it in writing to 65080
the director within ten days after the director mailed the notice, 65081
excluding Saturdays, Sundays, and legal holidays. If the director 65082
receives written comments from any notified officials within the 65083
specified time, the director shall make written findings 65084
concerning the comments and the director's decision on the 65085
issuance of the license. If the director does not receive written 65086
comments from any notified local officials within the specified 65087
time, the director shall continue the process for issuance of the 65088
license. 65089

(O) Any person may operate a licensed residential facility 65090
that provides room and board, personal care, habilitation 65091
services, and supervision in a family setting for at least six but 65092
not more than eight persons with mental retardation or a 65093

developmental disability as a permitted use in any residential 65094
district or zone, including any single-family residential district 65095
or zone, of any political subdivision. These residential 65096
facilities may be required to comply with area, height, yard, and 65097
architectural compatibility requirements that are uniformly 65098
imposed upon all single-family residences within the district or 65099
zone. 65100

(P) Any person may operate a licensed residential facility 65101
that provides room and board, personal care, habilitation 65102
services, and supervision in a family setting for at least nine 65103
but not more than sixteen persons with mental retardation or a 65104
developmental disability as a permitted use in any multiple-family 65105
residential district or zone of any political subdivision, except 65106
that a political subdivision that has enacted a zoning ordinance 65107
or resolution establishing planned unit development districts may 65108
exclude these residential facilities from those districts, and a 65109
political subdivision that has enacted a zoning ordinance or 65110
resolution may regulate these residential facilities in 65111
multiple-family residential districts or zones as a conditionally 65112
permitted use or special exception, in either case, under 65113
reasonable and specific standards and conditions set out in the 65114
zoning ordinance or resolution to: 65115

(1) Require the architectural design and site layout of the 65116
residential facility and the location, nature, and height of any 65117
walls, screens, and fences to be compatible with adjoining land 65118
uses and the residential character of the neighborhood; 65119

(2) Require compliance with yard, parking, and sign 65120
regulation; 65121

(3) Limit excessive concentration of these residential 65122
facilities. 65123

(Q) This section does not prohibit a political subdivision 65124

from applying to residential facilities nondiscriminatory 65125
regulations requiring compliance with health, fire, and safety 65126
regulations and building standards and regulations. 65127

(R) Divisions (O) and (P) of this section are not applicable 65128
to municipal corporations that had in effect on June 15, 1977, an 65129
ordinance specifically permitting in residential zones licensed 65130
residential facilities by means of permitted uses, conditional 65131
uses, or special exception, so long as such ordinance remains in 65132
effect without any substantive modification. 65133

(S)(1) The director may issue an interim license to operate a 65134
residential facility to an applicant for a license under this 65135
section if either of the following is the case: 65136

(a) The director determines that an emergency exists 65137
requiring immediate placement of persons in a residential 65138
facility, that insufficient licensed beds are available, and that 65139
the residential facility is likely to receive a permanent license 65140
under this section within thirty days after issuance of the 65141
interim license. 65142

(b) The director determines that the issuance of an interim 65143
license is necessary to meet a temporary need for a residential 65144
facility. 65145

(2) To be eligible to receive an interim license, an 65146
applicant must meet the same criteria that must be met to receive 65147
a permanent license under this section, except for any differing 65148
procedures and time frames that may apply to issuance of a 65149
permanent license. 65150

(3) An interim license shall be valid for thirty days and may 65151
be renewed by the director for a period not to exceed one hundred 65152
fifty days. 65153

(4) The director shall adopt rules in accordance with Chapter 65154
119. of the Revised Code as the director considers necessary to 65155

administer the issuance of interim licenses. 65156

(T) Notwithstanding rules adopted pursuant to this section 65157
establishing the maximum number of persons who may be served in a 65158
particular type of residential facility, a residential facility 65159
shall be permitted to serve the same number of persons being 65160
served by the facility on the effective date of the rules or the 65161
number of persons for which the facility is authorized pursuant to 65162
a current application for a certificate of need with a letter of 65163
support from the department of developmental disabilities and 65164
which is in the review process prior to April 4, 1986. 65165

(U) The director or the director's designee may enter at any 65166
time, for purposes of investigation, any home, facility, or other 65167
structure that has been reported to the director or that the 65168
director has reasonable cause to believe is being operated as a 65169
residential facility without a license issued under this section. 65170

The director may petition the court of common pleas of the 65171
county in which an unlicensed residential facility is located for 65172
an order enjoining the person or governmental agency operating the 65173
facility from continuing to operate without a license. The court 65174
may grant the injunction on a showing that the person or 65175
governmental agency named in the petition is operating a 65176
residential facility without a license. The court may grant the 65177
injunction, regardless of whether the residential facility meets 65178
the requirements for receiving a license under this section. 65179

Sec. 5123.192. (A) A person or government agency operating, 65180
on the effective date of this section, an intermediate care 65181
facility for the mentally retarded pursuant to a nursing home 65182
license issued under Chapter 3721. of the Revised Code shall do 65183
both of the following as a condition of continuing to operate the 65184
facility on and after July 1, 2013: 65185

(1) Not later than February 1, 2013, apply to the director of 65186

developmental disabilities for a residential facility license 65187
under section 5123.19 of the Revised Code for the facility; 65188

(2) Not later than July 1, 2013, obtain the residential 65189
facility license for the facility. 65190

(B) The nursing home license of an intermediate care facility 65191
for the mentally retarded shall cease to be valid at the earliest 65192
of the following: 65193

(1) The date that the facility's nursing home license is 65194
revoked or voided under section 3721.07 of the Revised Code; 65195

(2) The date that a residential facility license is obtained 65196
for the facility under section 5123.19 of the Revised Code; 65197

(3) July 1, 2013. 65198

(C) Except for existing nursing home beds not certified as 65199
intermediate care facility for the mentally retarded beds and 65200
relocated in accordance with a move authorized by a certificate of 65201
need under Chapter 3702. of the Revised Code, no bed that is part 65202
of an intermediate care facility for the mentally retarded that is 65203
licensed as a nursing home on the effective date of this section 65204
may be used as part of a nursing home on and after the earlier of 65205
the following: 65206

(1) The date that a residential facility license is obtained 65207
for the facility under section 5123.19 of the Revised Code; 65208

(2) July 1, 2013. 65209

Sec. 5123.31. (A) The department of developmental 65210
disabilities shall keep in its office, accessible only to its 65211
employees, except by the consent of the department or the order of 65212
the judge of a court of record, a record showing the name, 65213
residence, sex, age, nativity, occupation, condition, and date of 65214
entrance or commitment of every resident in the institutions 65215
governed by it, the date, cause, and terms of discharge and the 65216

condition of such person at the time of leaving, and also a record 65217
of all transfers from one institution to another, and, if such 65218
person dies while in the care or custody of the department, the 65219
date and cause of death. These and such other facts as the 65220
department requires shall be furnished by the managing officer of 65221
each institution within ten days after the commitment, entrance, 65222
death, or discharge of a resident. 65223

Except as provided in division (C) of this section, the 65224
department shall maintain the records described in this division 65225
in its office. The department shall make the records accessible 65226
only to its employees, except by the consent of the department or 65227
the order of the judge of a court of record. 65228

(B) In case of an accident or injury or peculiar death of a 65229
an institution resident the managing officer shall make a special 65230
report to the department within twenty-four hours thereafter, 65231
giving the circumstances as fully as possible. 65232

(C) After a period of time determined by the department, the 65233
records described in division (A) of this section may be deposited 65234
with the Ohio historical society. Neither the records nor the 65235
information contained in them shall be disclosed by the historical 65236
society, except as provided in section 5123.89 of the Revised 65237
Code. 65238

Sec. 5123.38. (A) Except as provided in division (B) ~~and (C)~~ 65239
of this section, if an individual receiving supported living or 65240
home and community-based services funded by a county board of 65241
developmental disabilities is committed to a state-operated 65242
intermediate care facility for the mentally retarded pursuant to 65243
sections 5123.71 to 5123.76 of the Revised Code, ~~the department of~~ 65244
~~developmental disabilities shall use the funds otherwise allocated~~ 65245
~~to~~ the county board ~~as~~ is responsible for the nonfederal share of 65246
medicaid expenditures for the individual's care in the 65247

state-operated facility. The department of developmental 65248
disabilities shall collect the amount of the nonfederal share from 65249
the county board by either withholding that amount from funds the 65250
department has otherwise allocated to the county board or 65251
submitting an invoice for payment of that amount to the county 65252
board. 65253

(B) Division (A) of this section does not apply ~~if the~~ under 65254
any of the following circumstances: 65255

(1) The county board, not later than ninety days after the 65256
date of the commitment of a person receiving supported services 65257
living, commences funding of supported living for an individual 65258
who resides in a state-operated intermediate care facility for the 65259
mentally retarded on the date of the commitment or another 65260
eligible individual designated by the department. 65261

~~(C) Division (A) of this section does not apply if the~~ (2) 65262
The county board, not later than ninety days after the date of the 65263
commitment of a person receiving home and community-based 65264
services, commences funding of home and community-based services 65265
for an individual who resides in a state-operated intermediate 65266
care facility for the mentally retarded on the date of the 65267
commitment or another eligible individual designated by the 65268
department. 65269

(3) The director of developmental disabilities, after 65270
determining that circumstances warrant granting a waiver in an 65271
individual's case, grants the county board a waiver that exempts 65272
the county board from responsibility for the nonfederal share for 65273
that case. 65274

Sec. 5123.41. As used in this section and sections 5123.42 to 65275
5123.47 of the Revised Code: 65276

(A) "Adult services" has the same meaning as in section 65277

| | |
|--|----------------------------------|
| 5126.01 of the Revised Code. | 65278 |
| (B) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code. | 65279 65280 65281 |
| (C) "Drug" has the same meaning as in section 4729.01 of the Revised Code. | 65282 65283 |
| (D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code. | 65284 65285 |
| (E) "Health-related activities" means the following: | 65286 |
| (1) Taking vital signs; | 65287 |
| (2) Application of clean dressings that do not require health assessment; | 65288 65289 |
| (3) Basic measurement of bodily intake and output; | 65290 |
| (4) Oral suctioning; | 65291 |
| (5) Use of glucometers; | 65292 |
| (6) External urinary catheter care; | 65293 |
| (7) Emptying and replacing colostomy bags; | 65294 |
| (8) Collection of specimens by noninvasive means. | 65295 |
| (F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code. | 65296 65297 65298 |
| (G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows: | 65299 65300 65301 65302 |
| (1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities; | 65303 65304 65305 |

(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities; 65306
65307
65308

(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities. 65309
65310
65311

(H) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task. 65312
65313
65314
65315
65316
65317
65318

(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs. 65319
65320
65321

(J) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code ~~or subject to section 5123.192 of the Revised Code.~~ 65322
65323
65324

(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 65325
65326

(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube. 65327
65328

Sec. 5123.50. As used in ~~this section and sections 5123.51, 5123.52, and 5123.541~~ 5123.50 to 5123.542 of the Revised Code: 65329
65330

(A) "Abuse" means all of the following: 65331

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm; 65332
65333

(2) Sexual abuse; 65334

| | |
|--|----------------------------------|
| (3) Verbal abuse. | 65335 |
| (B) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code. | 65336 65337 65338 65339 |
| (C) "MR/DD employee" means all of the following: | 65340 |
| (1) An employee of the department of developmental disabilities; | 65341 65342 |
| (2) An employee of a county board of developmental disabilities; | 65343 65344 |
| (3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability; | 65345 65346 65347 |
| <u>(4) An independent provider as defined in section 5123.16 of the Revised Code.</u> | 65348 65349 |
| (D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual. | 65350 65351 65352 65353 |
| (E) <u>"Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.</u> | 65354 65355 |
| <u>(F)</u> "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code. | 65356 65357 |
| (F) (G) <u>"Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code.</u> | 65358 65359 |
| <u>(H)</u> "Sexual abuse" means unlawful sexual conduct or sexual contact. | 65360 65361 |
| (G) <u>(I)</u> "Specialized services" means any program or service designed and operated to serve primarily individuals with mental | 65362 65363 |

retardation or a developmental disability, including a program or 65364
service provided by an entity licensed or certified by the 65365
department of developmental disabilities. A program or service 65366
available to the general public is not a specialized service. 65367

~~(H)~~(J) "Verbal abuse" means purposely using words to 65368
threaten, coerce, intimidate, harass, or humiliate an individual. 65369

~~(I)~~(K) "Sexual conduct," "sexual contact," and "spouse" have 65370
the same meanings as in section 2907.01 of the Revised Code. 65371

Sec. 5123.51. (A) In addition to any other action required by 65372
sections 5123.61 and 5126.31 of the Revised Code, the department 65373
of developmental disabilities shall review each report the 65374
department receives of abuse or neglect of an individual with 65375
mental retardation or a developmental disability or 65376
misappropriation of an individual's property that includes an 65377
allegation that an MR/DD employee committed or was responsible for 65378
the abuse, neglect, or misappropriation. The department shall 65379
review a report it receives from a public children services agency 65380
only after the agency completes its investigation pursuant to 65381
section 2151.421 of the Revised Code. On receipt of a notice under 65382
section 2930.061 or 5123.541 of the Revised Code, the department 65383
shall review the notice. 65384

(B) The department shall do both of the following: 65385

(1) Investigate the allegation or adopt the findings of an 65386
investigation or review of the allegation conducted by another 65387
person or government entity and determine whether there is a 65388
reasonable basis for the allegation; 65389

(2) If the department determines that there is a reasonable 65390
basis for the allegation, conduct an adjudication pursuant to 65391
Chapter 119. of the Revised Code. 65392

(C)(1) The department shall appoint an independent hearing 65393

officer to conduct any hearing conducted pursuant to division 65394
(B)(2) of this section, except that, if the hearing is regarding 65395
an employee of the department who is represented by a union, the 65396
department and a representative of the union shall jointly select 65397
the hearing officer. 65398

(2)(a) Except as provided in division (C)(2)(b) of this 65399
section, no hearing shall be conducted under division (B)(2) of 65400
this section until any criminal proceeding or collective 65401
bargaining arbitration concerning the same allegation has 65402
concluded. 65403

(b) The department may conduct a hearing pursuant to division 65404
(B)(2) of this section before a criminal proceeding concerning the 65405
same allegation is concluded if both of the following are the 65406
case: 65407

(i) The department notifies the prosecutor responsible for 65408
the criminal proceeding that the department proposes to conduct a 65409
hearing. 65410

(ii) The prosecutor consents to the hearing. 65411

(3) In conducting a hearing pursuant to division (B)(2) of 65412
this section, the hearing officer shall do all of the following: 65413

(a) Determine whether there is clear and convincing evidence 65414
that the MR/DD employee has done any of the following: 65415

(i) Misappropriated property of one or more individuals with 65416
mental retardation or a developmental disability that has a value, 65417
either separately or taken together, of one hundred dollars or 65418
more; 65419

(ii) Misappropriated property of an individual with mental 65420
retardation or a developmental disability that is designed to be 65421
used as a check, draft, negotiable instrument, credit card, charge 65422
card, or device for initiating an electronic fund transfer at a 65423

| | |
|---|-------|
| point of sale terminal, automated teller machine, or cash | 65424 |
| dispensing machine; | 65425 |
| <u>(iii) Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;</u> | 65426 |
| <u>(iii) Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;</u> | 65427 |
| <u>(iv) Knowingly abused such an individual;</u> | 65428 |
| (iv) <u>(v) Recklessly abused or neglected such an individual, with resulting physical harm;</u> | 65429 |
| (iv) <u>(v) Recklessly abused or neglected such an individual, with resulting physical harm;</u> | 65430 |
| (v) <u>(vi) Negligently abused or neglected such an individual, with resulting serious physical harm;</u> | 65431 |
| (v) <u>(vi) Negligently abused or neglected such an individual, with resulting serious physical harm;</u> | 65432 |
| (vi) <u>(vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;</u> | 65433 |
| (vi) <u>(vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;</u> | 65434 |
| (vii) <u>(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;</u> | 65435 |
| (vii) <u>(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;</u> | 65436 |
| (vii) <u>(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;</u> | 65437 |
| (vii) <u>(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;</u> | 65438 |
| (vii) <u>(viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;</u> | 65439 |
| (viii) <u>(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;</u> | 65440 |
| (viii) <u>(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;</u> | 65441 |
| (viii) <u>(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;</u> | 65442 |
| (viii) <u>(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;</u> | 65443 |
| (viii) <u>(ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability;</u> | 65444 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65445 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65446 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65447 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65448 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65449 |
| <u>(x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65450 |
| (b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation; | 65451 |
| (b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation; | 65452 |
| (c) Give weight to any relevant facts presented at the | 65453 |

hearing. 65454

(D)(1) Unless the director of developmental disabilities 65455
determines that there are extenuating circumstances and except as 65456
provided in division (E) of this section, if the director, after 65457
considering all of the factors listed in division (C)(3) of this 65458
section, finds that there is clear and convincing evidence that an 65459
MR/DD employee has done one or more of the things described in 65460
division (C)(3)(a) of this section the director shall include the 65461
name of the employee in the registry established under section 65462
5123.52 of the Revised Code. 65463

(2) Extenuating circumstances the director must consider 65464
include the use of physical force by an MR/DD employee that was 65465
necessary as self-defense. 65466

(3) If the director includes an MR/DD employee in the 65467
registry established under section 5123.52 of the Revised Code, 65468
the director shall notify the employee, the person or government 65469
entity that employs or contracts with the employee, the individual 65470
with mental retardation or a developmental disability who was the 65471
subject of the report and that individual's legal guardian, if 65472
any, the attorney general, and the prosecuting attorney or other 65473
law enforcement agency. If the MR/DD employee holds a license, 65474
certificate, registration, or other authorization to engage in a 65475
profession issued pursuant to Title XLVII of the Revised Code, the 65476
director shall notify the appropriate agency, board, department, 65477
or other entity responsible for regulating the employee's 65478
professional practice. 65479

(4) If an individual whose name appears on the registry is 65480
involved in a court proceeding or arbitration arising from the 65481
same facts as the allegation resulting in the individual's 65482
placement on the registry, the disposition of the proceeding or 65483
arbitration shall be noted in the registry next to the 65484
individual's name. 65485

(E) In the case of an allegation concerning an employee of 65486
the department, after the hearing conducted pursuant to division 65487
(B)(2) of this section, the director of health or that director's 65488
designee shall review the decision of the hearing officer to 65489
determine whether the standard described in division (C)(3) of 65490
this section has been met. If the director or designee determines 65491
that the standard has been met and that no extenuating 65492
circumstances exist, the director or designee shall notify the 65493
director of developmental disabilities that the MR/DD employee is 65494
to be included in the registry established under section 5123.52 65495
of the Revised Code. If the director of developmental disabilities 65496
receives such notification, the director shall include the MR/DD 65497
employee in the registry and shall provide the notification 65498
described in division (D)(3) of this section. 65499

(F) If the department is required by Chapter 119. of the 65500
Revised Code to give notice of an opportunity for a hearing and 65501
the MR/DD employee subject to the notice does not timely request a 65502
hearing in accordance with section 119.07 or 5123.0414 of the 65503
Revised Code, the department is not required to hold a hearing. 65504

(G) Files and records of investigations conducted pursuant to 65505
this section are not public records as defined in section 149.43 65506
of the Revised Code, but, on request, the department shall provide 65507
copies of those files and records to the attorney general, a 65508
prosecuting attorney, or a law enforcement agency. 65509

Sec. 5123.542. (A) Each of the following shall annually 65510
provide a written notice to each of its MR/DD employees explaining 65511
the conduct for which an MR/DD employee may be included in the 65512
registry established under section 5123.52 of the Revised Code: 65513

(1) The department of developmental disabilities; 65514

(2) Each county board of developmental disabilities; 65515

| | |
|---|---|
| (3) Each contracting entity <u>provider and subcontractor</u> , as defined in section 5126.281 <u>5123.081</u> of the Revised Code; | 65516 65517 |
| (4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code; | 65518 65519 |
| (5) Each owner, operator, or administrator of a program certified by the department to provide supported living. | 65520 65521 |
| (B) <u>The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to an MR/DD employee who is an independent provider as defined in section 5123.16 of the Revised Code.</u> | 65522 65523 65524 65525 65526 |
| (C) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of developmental disabilities. The form shall be the same for all persons and entities required to provide notice under division (A) of this section. | 65527 65528 65529 65530 65531 |
| (C) The fact that an MR/DD employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code. | 65532 65533 65534 65535 |
| Sec. 5123.61. (A) As used in this section: | 65536 |
| (1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff. | 65537 65538 65539 |
| (2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section. | 65540 65541 65542 |
| (3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. | 65543 65544 |

(B) The department of developmental disabilities shall 65545
establish a registry office for the purpose of maintaining reports 65546
of abuse, neglect, and other major unusual incidents made to the 65547
department under this section and reports received from county 65548
boards of developmental disabilities under section 5126.31 of the 65549
Revised Code. The department shall establish committees to review 65550
reports of abuse, neglect, and other major unusual incidents. 65551

(C)(1) Any person listed in division (C)(2) of this section, 65552
having reason to believe that a person with mental retardation or 65553
a developmental disability has suffered or faces a substantial 65554
risk of suffering any wound, injury, disability, or condition of 65555
such a nature as to reasonably indicate abuse or neglect of that 65556
person, shall immediately report or cause reports to be made of 65557
such information to the entity specified in this division. Except 65558
as provided in section 5120.173 of the Revised Code or as 65559
otherwise provided in this division, the person making the report 65560
shall make it to a law enforcement agency or to the county board 65561
of developmental disabilities. If the report concerns a resident 65562
of a facility operated by the department of developmental 65563
disabilities the report shall be made either to a law enforcement 65564
agency or to the department. If the report concerns any act or 65565
omission of an employee of a county board of developmental 65566
disabilities, the report immediately shall be made to the 65567
department and to the county board. 65568

(2) All of the following persons are required to make a 65569
report under division (C)(1) of this section: 65570

(a) Any physician, including a hospital intern or resident, 65571
any dentist, podiatrist, chiropractor, practitioner of a limited 65572
branch of medicine as specified in section 4731.15 of the Revised 65573
Code, hospital administrator or employee of a hospital, nurse 65574
licensed under Chapter 4723. of the Revised Code, employee of an 65575
ambulatory health facility as defined in section 5101.61 of the 65576

Revised Code, employee of a home health agency, employee of an 65577
~~adult-care residential~~ facility licensed under ~~Chapter 3722.~~ 65578
section 5119.22 of the Revised Code that provides accommodations, 65579
supervision, and personal care services for three to sixteen 65580
unrelated adults, or employee of a community mental health 65581
facility; 65582

(b) Any school teacher or school authority, social worker, 65583
psychologist, attorney, peace officer, coroner, or residents' 65584
rights advocate as defined in section 3721.10 of the Revised Code; 65585

(c) A superintendent, board member, or employee of a county 65586
board of developmental disabilities; an administrator, board 65587
member, or employee of a residential facility licensed under 65588
section 5123.19 of the Revised Code; an administrator, board 65589
member, or employee of any other public or private provider of 65590
services to a person with mental retardation or a developmental 65591
disability, or any MR/DD employee, as defined in section 5123.50 65592
of the Revised Code; 65593

(d) A member of a citizen's advisory council established at 65594
an institution or branch institution of the department of 65595
developmental disabilities under section 5123.092 of the Revised 65596
Code; 65597

(e) A ~~clergyman~~ member of the clergy who is employed in a 65598
position that includes providing specialized services to an 65599
individual with mental retardation or another developmental 65600
disability, while acting in an official or professional capacity 65601
in that position, or a person who is employed in a position that 65602
includes providing specialized services to an individual with 65603
mental retardation or another developmental disability and who, 65604
while acting in an official or professional capacity, renders 65605
spiritual treatment through prayer in accordance with the tenets 65606
of an organized religion. 65607

(3)(a) The reporting requirements of this division do not 65608
apply to members of the legal rights service commission or to 65609
employees of the legal rights service. 65610

(b) An attorney or physician is not required to make a report 65611
pursuant to division (C)(1) of this section concerning any 65612
communication the attorney or physician receives from a client or 65613
patient in an attorney-client or physician-patient relationship, 65614
if, in accordance with division (A) or (B) of section 2317.02 of 65615
the Revised Code, the attorney or physician could not testify with 65616
respect to that communication in a civil or criminal proceeding, 65617
except that the client or patient is deemed to have waived any 65618
testimonial privilege under division (A) or (B) of section 2317.02 65619
of the Revised Code with respect to that communication and the 65620
attorney or physician shall make a report pursuant to division 65621
(C)(1) of this section, if both of the following apply: 65622

(i) The client or patient, at the time of the communication, 65623
is a person with mental retardation or a developmental disability. 65624

(ii) The attorney or physician knows or suspects, as a result 65625
of the communication or any observations made during that 65626
communication, that the client or patient has suffered or faces a 65627
substantial risk of suffering any wound, injury, disability, or 65628
condition of a nature that reasonably indicates abuse or neglect 65629
of the client or patient. 65630

(4) Any person who fails to make a report required under 65631
division (C) of this section and who is an MR/DD employee, as 65632
defined in section 5123.50 of the Revised Code, shall be eligible 65633
to be included in the registry regarding misappropriation, abuse, 65634
neglect, or other specified misconduct by MR/DD employees 65635
established under section 5123.52 of the Revised Code. 65636

(D) The reports required under division (C) of this section 65637
shall be made forthwith by telephone or in person and shall be 65638

followed by a written report. The reports shall contain the 65639
following: 65640

(1) The names and addresses of the person with mental 65641
retardation or a developmental disability and the person's 65642
custodian, if known; 65643

(2) The age of the person with mental retardation or a 65644
developmental disability; 65645

(3) Any other information that would assist in the 65646
investigation of the report. 65647

(E) When a physician performing services as a member of the 65648
staff of a hospital or similar institution has reason to believe 65649
that a person with mental retardation or a developmental 65650
disability has suffered injury, abuse, or physical neglect, the 65651
physician shall notify the person in charge of the institution or 65652
that person's designated delegate, who shall make the necessary 65653
reports. 65654

(F) Any person having reasonable cause to believe that a 65655
person with mental retardation or a developmental disability has 65656
suffered or faces a substantial risk of suffering abuse or neglect 65657
may report or cause a report to be made of that belief to the 65658
entity specified in this division. Except as provided in section 65659
5120.173 of the Revised Code or as otherwise provided in this 65660
division, the person making the report shall make it to a law 65661
enforcement agency or the county board of developmental 65662
disabilities. If the person is a resident of a facility operated 65663
by the department of developmental disabilities, the report shall 65664
be made to a law enforcement agency or to the department. If the 65665
report concerns any act or omission of an employee of a county 65666
board of developmental disabilities, the report immediately shall 65667
be made to the department and to the county board. 65668

(G)(1) Upon the receipt of a report concerning the possible 65669

abuse or neglect of a person with mental retardation or a 65670
developmental disability, the law enforcement agency shall inform 65671
the county board of developmental disabilities or, if the person 65672
is a resident of a facility operated by the department of 65673
developmental disabilities, the director of the department or the 65674
director's designee. 65675

(2) On receipt of a report under this section that includes 65676
an allegation of action or inaction that may constitute a crime 65677
under federal law or the law of this state, the department of 65678
developmental disabilities shall notify the law enforcement 65679
agency. 65680

(3) When a county board of developmental disabilities 65681
receives a report under this section that includes an allegation 65682
of action or inaction that may constitute a crime under federal 65683
law or the law of this state, the superintendent of the board or 65684
an individual the superintendent designates under division (H) of 65685
this section shall notify the law enforcement agency. The 65686
superintendent or individual shall notify the department of 65687
developmental disabilities when it receives any report under this 65688
section. 65689

(4) When a county board of developmental disabilities 65690
receives a report under this section and believes that the degree 65691
of risk to the person is such that the report is an emergency, the 65692
superintendent of the board or an employee of the board the 65693
superintendent designates shall attempt a face-to-face contact 65694
with the person with mental retardation or a developmental 65695
disability who allegedly is the victim within one hour of the 65696
board's receipt of the report. 65697

(H) The superintendent of the board may designate an 65698
individual to be responsible for notifying the law enforcement 65699
agency and the department when the county board receives a report 65700
under this section. 65701

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code

and the law enforcement agency shall make the written report of 65734
its findings to the county board. 65735

(K) Any person or any hospital, institution, school, health 65736
department, or agency participating in the making of reports 65737
pursuant to this section, any person participating as a witness in 65738
an administrative or judicial proceeding resulting from the 65739
reports, or any person or governmental entity that discharges 65740
responsibilities under sections 5126.31 to 5126.33 of the Revised 65741
Code shall be immune from any civil or criminal liability that 65742
might otherwise be incurred or imposed as a result of such actions 65743
except liability for perjury, unless the person or governmental 65744
entity has acted in bad faith or with malicious purpose. 65745

(L) No employer or any person with the authority to do so 65746
shall discharge, demote, transfer, prepare a negative work 65747
performance evaluation, reduce pay or benefits, terminate work 65748
privileges, or take any other action detrimental to an employee or 65749
retaliate against an employee as a result of the employee's having 65750
made a report under this section. This division does not preclude 65751
an employer or person with authority from taking action with 65752
regard to an employee who has made a report under this section if 65753
there is another reasonable basis for the action. 65754

(M) Reports made under this section are not public records as 65755
defined in section 149.43 of the Revised Code. Information 65756
contained in the reports on request shall be made available to the 65757
person who is the subject of the report, to the person's legal 65758
counsel, and to agencies authorized to receive information in the 65759
report by the department or by a county board of developmental 65760
disabilities. 65761

(N) Notwithstanding section 4731.22 of the Revised Code, the 65762
physician-patient privilege shall not be a ground for excluding 65763
evidence regarding the injuries or physical neglect of a person 65764
with mental retardation or a developmental disability or the cause 65765

thereof in any judicial proceeding resulting from a report 65766
submitted pursuant to this section. 65767

Sec. 5123.89. (A) All certificates, applications, records, 65768
and reports made for the purpose of this chapter, other than court 65769
journal entries or court docket entries, which directly or 65770
indirectly identify a resident or former resident of an 65771
institution for the mentally retarded or person whose 65772
institutionalization has been sought under this chapter shall be 65773
kept confidential and shall not be disclosed by any person except 65774
in the following situations: 65775

(1) It is the judgment of the court for judicial records, and 65776
the managing officer for institution records, that disclosure is 65777
in the best interest of the person identified, and that person or 65778
that person's guardian or, if that person is a minor, that 65779
person's parent or guardian consents. 65780

(2) Disclosure is provided for in other sections of this 65781
chapter. 65782

(3) It is the judgment of the managing officer for 65783
institution records that disclosure to a mental health facility is 65784
in the best interest of the person identified. 65785

(4) Disclosure is of a record deposited with the Ohio 65786
historical society pursuant to division (C) of section 5123.31 of 65787
the Revised Code and the disclosure is made to the closest living 65788
relative of the person identified, on the relative's request. 65789

(B) The department of developmental disabilities shall adopt 65790
rules with respect to the systematic and periodic destruction of 65791
residents' records. 65792

(C)(1) As used in this division, "family" means a parent, 65793
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 65794
or cousin. 65795

(2) Upon the death of a resident or former resident of an institution for the mentally retarded or a person whose institutionalization was sought under this chapter, the managing officer of an institution shall provide access to the certificates, applications, records, and reports made for the purposes of this chapter to the resident's, former resident's, or person's guardian if the guardian makes a written request. If a deceased resident, former resident, or person whose institutionalization was sought under this chapter did not have a guardian at the time of death, the managing officer shall provide access to the certificates, applications, records, and reports made for purposes of this chapter to a member of the person's family, upon that family member's written request.

(D) No person shall reveal the contents of a record of a resident except as authorized by this chapter.

Sec. 5126.023. ~~(A)~~ None of the following individuals may serve as a member of a county board of developmental disabilities:

~~(1)~~(A) An elected public official, except for a township trustee, township fiscal officer, or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;

~~(2)~~(B) An immediate family member of ~~another~~ a member of the same county board ~~member~~;

~~(3)~~ ~~A county board~~ (C) An employee of any county board;

(D) An immediate family member of a county board ~~an~~ employee of the same county board;

~~(4)~~(E) A former employee of ~~the~~ a county board whose employment ~~with the county board~~ ceased less than ~~one~~ four calendar ~~year~~ years before the former employee would begin to serve as a member of the same county board;

~~(5) An (F) A former employee of a county board whose
employment ceased less than two years before the former employee
would begin to serve as a member of a different county board;~~ 65826
65827
65828

~~(G) Unless there is no conflict of interest, an individual
who or whose immediate family member is a board member or an
employee of an agency licensed or certified by the department of
developmental disabilities to provide services to individuals with
mental retardation or developmental disabilities or an individual
who or whose immediate family member is an employee of such an
agency;~~ 65829
65830
65831
65832
65833
65834
65835

~~(6) An individual who or whose immediate family member is a
board member or employee of an agency contracting with the county
board that is not licensed or certified by the department of
developmental disabilities to provide services to individuals with
mental retardation or developmental disabilities unless there is
no conflict of interest;~~ 65836
65837
65838
65839
65840
65841

~~(7)(H) An individual with an immediate family member who
serves as a county commissioner of a county served by the county
board unless the individual was a member of the county board
before October 31, 1980.~~ 65842
65843
65844
65845

~~(B) All questions relating to the existence of a conflict of
interest for the purpose of division (A)(6) of this section shall
be submitted to the local prosecuting attorney for resolution. The
Ohio ethics commission may examine any issues arising under
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the
Revised Code.~~ 65846
65847
65848
65849
65850
65851

Sec. 5126.0220. (A) The superintendent of the county board of 65852
developmental disabilities shall do all of the following: 65853

~~(A)(1) Administer the work of the board, subject to the
board's rules;~~ 65854
65855

~~(B)~~(2) Recommend to the board the changes necessary to 65856
increase the effectiveness of the programs and services offered 65857
pursuant to Chapters 3323. and 5126. of the Revised Code; 65858

~~(C)~~(3) Employ persons for all positions authorized by the 65859
board, approve contracts of employment for management employees 65860
that are for a term of one year or less, and approve personnel 65861
actions that involve employees in the classified civil service as 65862
may be necessary for the work of the board; 65863

~~(D)~~(4) Approve compensation for employees within the limits 65864
set by the salary schedule and budget set by the board ~~and in~~ 65865
~~accordance with section 5126.26 of the Revised Code~~, and ensure 65866
that all employees and consultants are properly reimbursed for 65867
actual and necessary expenses incurred in the performance of 65868
official duties; 65869

~~(E)~~(5) Provide consultation to public agencies as defined in 65870
division (C) of section 102.01 of the Revised Code, including 65871
other county boards of developmental disabilities, and to 65872
individuals, agencies, or organizations providing services 65873
supported by the board. 65874

(B) The superintendent may authorize the payment of board 65875
obligations by the county auditor. 65876

Sec. 5126.0221. (A) As used in this section, "specialized 65877
services" has the same meaning as in section ~~5126.281~~ 5123.081 of 65878
the Revised Code. 65879

(B) Except as provided in division (C) of section 5126.033 of 65880
the Revised Code, none of the following individuals may be 65881
employed by a county board of developmental disabilities: 65882

(1) An employee of an agency contracting with the county 65883
board; 65884

(2) An immediate family member of an employee of an agency 65885

contracting with the county board unless the county board adopts a 65886
resolution authorizing the immediate family member's employment 65887
with the county board or the employment is consistent with a 65888
policy adopted by the board establishing parameters for such 65889
employment and the policy is consistent with Chapter 102. and 65890
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 65891

(3) An individual with an immediate family member who serves 65892
as a county commissioner of any of the counties served by the 65893
county board unless the individual was an employee of the county 65894
board before October 31, 1980; 65895

(4) An individual who is employed by, has an ownership 65896
interest in, performs or provides administrative duties for, or is 65897
a member of the governing board of an entity that provides 65898
specialized services, regardless of whether the entity contracts 65899
with the county board to provide specialized services. 65900

~~Sec. 5126.043. When an individual with mental retardation or 65901
other developmental disability is required within this chapter to 65902
consent, refuse to give consent, or withdraw consent for services 65903
and the individual has been adjudicated incompetent pursuant to 65904
Chapter 2111. of the Revised Code, the guardian for the individual 65905
appointed under that chapter and functioning in accordance with 65906
the appointment shall be responsible for giving, refusing to give, 65907
or withdrawing the consent for services. 65908~~

Individuals (A) Unless a guardian has been appointed for the 65909
individual, when a decision regarding receipt of a service or 65910
participation in a program provided for or funded under this 65911
chapter or Chapter 5123. of the Revised Code by an individual with 65912
mental retardation or other developmental disability must be made, 65913
the individual shall be permitted to make the decision. The 65914
individual may obtain support and guidance from an adult family 65915
member or other person, but doing so does not affect the right of 65916

the individual to make the decision. 65917

(B) An individual with mental retardation or other 65918
developmental disability may authorize an adult to make a decision 65919
described in division (A) of this section on the individual's 65920
behalf, as long as the adult does not have a financial interest in 65921
the decision. The authorization shall be made in writing. 65922

(C) If a guardian has been appointed for an individual with 65923
mental retardation or other developmental disability, the guardian 65924
shall make any decision described in division (A) of this section 65925
on behalf of the individual. This section does not require 65926
appointment of a guardian. 65927

(D) Individuals with mental retardation and other 65928
developmental disabilities, including those who have been 65929
adjudicated incompetent pursuant to Chapter 2111. of the Revised 65930
Code, have the right to participate in decisions that affect their 65931
lives and to have their needs, desires, and preferences 65932
considered. An adult or guardian who makes a decision pursuant to 65933
division (B) or (C) of this section shall make a decision that is 65934
in the best interests of the individual on whose behalf the 65935
decision is made and that is consistent with the needs, desires, 65936
and preferences of that individual. 65937

Sec. 5126.046. ~~(A) Each county board of developmental 65938~~
~~disabilities that has medicaid local administrative authority 65939~~
~~under division (A) of section 5126.055 of the Revised Code for 65940~~
~~habilitation, vocational, or community employment services 65941~~
~~provided as part of home and community based services shall create 65942~~
~~a list of all persons and government entities eligible to provide 65943~~
~~such habilitation, vocational, or community employment services. 65944~~
~~If the county board chooses and is eligible to provide such 65945~~
~~habilitation, vocational, or community employment services, the 65946~~
~~county board shall include itself on the list. The county board 65947~~

~~shall make the list available to each individual with mental 65948
retardation or other developmental disability who resides in the 65949
county and is eligible for such habilitation, vocational, or 65950
community employment services. The county board shall also make 65951
the list available to such individuals' families. 65952~~

~~An Except as otherwise provided by 42 C.F.R. 431.51, an 65953
individual with mental retardation or other developmental 65954
disability who is eligible for habilitation, vocational, or 65955
community employment home and community-based services may choose 65956
the has the right to obtain the services from any provider of the 65957
services. 65958~~

~~(B) Each month, the department of developmental disabilities 65959
shall create a list of all persons and government entities 65960
eligible to provide residential services and supported living. The 65961
department shall include on the list all residential facilities 65962
licensed under section 5123.19 of the Revised Code and all 65963
supported living providers certified under section 5123.161 of the 65964
Revised Code. The department shall distribute the monthly lists to 65965
county boards that have local administrative authority under 65966
division (A) of section 5126.055 of the Revised Code for 65967
residential services and supported living provided as part of home 65968
and community-based services. A county board that receives a list 65969
shall make it available to each individual with mental retardation 65970
or other developmental disability who resides in the county and is 65971
eligible for such residential services or supported living. The 65972
county board shall also make the list available to the families of 65973
those individuals that is qualified to furnish the services and is 65974
willing to furnish the services to the individual. A county board 65975
of developmental disabilities that has medicaid local 65976
administrative authority under division (A) of section 5126.055 of 65977
the Revised Code for home and community-based services and refuses 65978
to permit an individual to obtain home and community-based 65979~~

services from a qualified and willing provider shall provide the 65980
individual timely notice that the individual may request a hearing 65981
under section 5101.35 of the Revised Code. 65982

(B) An individual with mental retardation or other 65983
developmental disability who is eligible for nonmedicaid 65984
residential services or nonmedicaid supported living may choose 65985
the has the right to obtain the services from any provider of the 65986
residential services or supported living that is qualified to 65987
furnish the residential services or supported living and is 65988
willing to furnish the residential services or supported living to 65989
the individual. 65990

(C) If a county board that has medicaid local administrative 65991
authority under division (A) of section 5126.055 of the Revised 65992
Code for home and community based services violates the right 65993
established by this section of an individual to choose a provider 65994
that is qualified and willing to provide services to the 65995
individual, the individual shall receive timely notice that the 65996
individual may request a hearing under section 5101.35 of the 65997
Revised Code. The department of developmental disabilities shall 65998
make available to the public on its internet web site an 65999
up-to-date list of all providers of home and community-based 66000
services, nonmedicaid residential services, and nonmedicaid 66001
supported living. County boards shall assist individuals with 66002
mental retardation or other developmental disabilities and the 66003
families of such individuals access the list on the department's 66004
internet web site. 66005

(D) The departments director of developmental disabilities 66006
and job and family services shall adopt rules in accordance with 66007
Chapter 119. of the Revised Code governing the implementation of 66008
this section. The rules shall include procedures for individuals 66009
to choose their service providers. The rules shall not be limited 66010
by a provider selection system established under section 5126.42 66011

of the Revised Code, including any pool of providers created 66012
pursuant to a provider selection system. 66013

Sec. 5126.055. (A) Except as provided in section 5126.056 of 66014
the Revised Code, a county board of developmental disabilities has 66015
medicaid local administrative authority to, and shall, do all of 66016
the following for an individual with mental retardation or other 66017
developmental disability who resides in the county that the county 66018
board serves and seeks or receives home and community-based 66019
services: 66020

(1) Perform assessments and evaluations of the individual. As 66021
part of the assessment and evaluation process, the county board 66022
shall do all of the following: 66023

(a) Make a recommendation to the department of developmental 66024
disabilities on whether the department should approve or deny the 66025
individual's application for the services, including on the basis 66026
of whether the individual needs the level of care an intermediate 66027
care facility for the mentally retarded provides; 66028

(b) If the individual's application is denied because of the 66029
county board's recommendation and the individual requests a 66030
hearing under section 5101.35 of the Revised Code, present, with 66031
the department of developmental disabilities or department of job 66032
and family services, whichever denies the application, the reasons 66033
for the recommendation and denial at the hearing; 66034

(c) If the individual's application is approved, recommend to 66035
the departments of developmental disabilities and job and family 66036
services the services that should be included in the individual's 66037
individualized service plan and, if either department approves, 66038
reduces, denies, or terminates a service included in the 66039
individual's individualized service plan under section 5111.871 of 66040
the Revised Code because of the county board's recommendation, 66041
present, with the department that made the approval, reduction, 66042

denial, or termination, the reasons for the recommendation and 66043
approval, reduction, denial, or termination at a hearing under 66044
section 5101.35 of the Revised Code. 66045

(2) ~~In accordance with the rules adopted under section~~ 66046
~~5126.046 of the Revised Code, perform the county board's~~ Perform 66047
any duties assigned to the county board in rules adopted 66048
~~that~~ section 5126.046 of the Revised Code regarding ~~assisting~~ the 66049
individual's right to choose a qualified and willing provider of 66050
the services and, at a hearing under section 5101.35 of the 66051
Revised Code, present evidence of the process for appropriate 66052
assistance in choosing providers; 66053

(3) If the county board is certified under section 5123.161 66054
of the Revised Code to provide the services and agrees to provide 66055
the services to the individual and the individual chooses the 66056
county board to provide the services, furnish, in accordance with 66057
the county board's medicaid provider agreement and for the 66058
authorized reimbursement rate, the services the individual 66059
requires; 66060

(4) Monitor the services provided to the individual and 66061
ensure the individual's health, safety, and welfare. The 66062
monitoring shall include quality assurance activities. If the 66063
county board provides the services, the department of 66064
developmental disabilities shall also monitor the services. 66065

(5) Develop, with the individual and the provider of the 66066
individual's services, an effective individualized service plan 66067
that includes coordination of services, recommend that the 66068
departments of developmental disabilities and job and family 66069
services approve the plan, and implement the plan unless either 66070
department disapproves it. The individualized service plan shall 66071
include a summary page, agreed to by the county board, provider, 66072
and individual receiving services, that clearly outlines the 66073
amount, duration, and scope of services to be provided under the 66074

plan. 66075

(6) Have an investigative agent conduct investigations under 66076
section 5126.313 of the Revised Code that concern the individual; 66077

(7) Have a service and support administrator perform the 66078
duties under division (B)(9) of section 5126.15 of the Revised 66079
Code that concern the individual. 66080

(B) A county board shall perform its medicaid local 66081
administrative authority under this section in accordance with all 66082
of the following: 66083

(1) The county board's plan that the department of 66084
developmental disabilities approves under section 5123.046 of the 66085
Revised Code; 66086

(2) All applicable federal and state laws; 66087

(3) All applicable policies of the departments of 66088
developmental disabilities and job and family services and the 66089
United States department of health and human services; 66090

(4) The department of job and family services' supervision 66091
under its authority under section 5111.01 of the Revised Code to 66092
act as the single state medicaid agency; 66093

(5) The department of developmental disabilities' oversight. 66094

(C) The departments of developmental disabilities and job and 66095
family services shall communicate with and provide training to 66096
county boards regarding medicaid local administrative authority 66097
granted by this section. The communication and training shall 66098
include issues regarding audit protocols and other standards 66099
established by the United States department of health and human 66100
services that the departments determine appropriate for 66101
communication and training. County boards shall participate in the 66102
training. The departments shall assess the county board's 66103
compliance against uniform standards that the departments shall 66104

establish. 66105

(D) A county board may not delegate its medicaid local 66106
administrative authority granted under this section but may 66107
contract with a person or government entity, including a council 66108
of governments, for assistance with its medicaid local 66109
administrative authority. A county board that enters into such a 66110
contract shall notify the director of developmental disabilities. 66111
The notice shall include the tasks and responsibilities that the 66112
contract gives to the person or government entity. The person or 66113
government entity shall comply in full with all requirements to 66114
which the county board is subject regarding the person or 66115
government entity's tasks and responsibilities under the contract. 66116
The county board remains ultimately responsible for the tasks and 66117
responsibilities. 66118

(E) A county board that has medicaid local administrative 66119
authority under this section shall, through the departments of 66120
developmental disabilities and job and family services, reply to, 66121
and cooperate in arranging compliance with, a program or fiscal 66122
audit or program violation exception that a state or federal audit 66123
or review discovers. The department of job and family services 66124
shall timely notify the department of developmental disabilities 66125
and the county board of any adverse findings. After receiving the 66126
notice, the county board, in conjunction with the department of 66127
developmental disabilities, shall cooperate fully with the 66128
department of job and family services and timely prepare and send 66129
to the department a written plan of correction or response to the 66130
adverse findings. The county board is liable for any adverse 66131
findings that result from an action it takes or fails to take in 66132
its implementation of medicaid local administrative authority. 66133

(F) If the department of developmental disabilities or 66134
department of job and family services determines that a county 66135
board's implementation of its medicaid local administrative 66136

authority under this section is deficient, the department that 66137
makes the determination shall require that county board do the 66138
following: 66139

(1) If the deficiency affects the health, safety, or welfare 66140
of an individual with mental retardation or other developmental 66141
disability, correct the deficiency within twenty-four hours; 66142

(2) If the deficiency does not affect the health, safety, or 66143
welfare of an individual with mental retardation or other 66144
developmental disability, receive technical assistance from the 66145
department or submit a plan of correction to the department that 66146
is acceptable to the department within sixty days and correct the 66147
deficiency within the time required by the plan of correction. 66148

Sec. 5126.13. (A) A county board of developmental 66149
disabilities may enter into an agreement with one or more other 66150
county boards of developmental disabilities to establish a 66151
regional council in accordance with Chapter 167. of the Revised 66152
Code. The agreement shall specify the duties and functions to be 66153
performed by the council, which may include any duty or function a 66154
county board is required or authorized to perform under this 66155
chapter. ~~If directed to do so by a resolution adopted by a county 66156
board that is a member of a regional council, the department of 66157
developmental disabilities shall make any distributions of money 66158
for that county for the duties or functions performed by the 66159
council pursuant to its agreement that are otherwise required to 66160
be made to the county board under this chapter to the fiscal 66161
officer of the council designated under section 167.04 of the 66162
Revised Code.~~ 66163

A county board may also enter into an agreement with one or 66164
more school districts or other political subdivisions to establish 66165
a regional council in accordance with Chapter 167. of the Revised 66166
Code. 66167

(B) On or before the thirtieth day of March, the fiscal officer of a regional council described in this section shall report to the department of developmental disabilities, in the format specified by the department, all income and operating expenditures of the council for the immediately preceding calendar year.

Sec. 5126.15. (A) A county board of developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be

employed by or serve in a decision-making or policy-making 66199
capacity for any other entity that provides programs or services 66200
to individuals with mental retardation or developmental 66201
disabilities. An individual employed as a conditional status 66202
service and support administrator shall perform the duties of 66203
service and support administration only under the supervision of a 66204
management employee who is a service and support administration 66205
supervisor. 66206

(B) The individuals employed by or under contract with a 66207
board to provide service and support administration shall do all 66208
of the following: 66209

(1) Establish an individual's eligibility for the services of 66210
the county board of developmental disabilities; 66211

(2) Assess individual needs for services; 66212

(3) Develop individual service plans with the active 66213
participation of the individual to be served, other persons 66214
selected by the individual, and, when applicable, the provider 66215
selected by the individual, and recommend the plans for approval 66216
by the department of developmental disabilities when services 66217
included in the plans are funded through medicaid; 66218

(4) Establish budgets for services based on the individual's 66219
assessed needs and preferred ways of meeting those needs; 66220

(5) Assist individuals in making selections from among the 66221
providers they have chosen; 66222

(6) Ensure that services are effectively coordinated and 66223
provided by appropriate providers; 66224

(7) Establish and implement an ongoing system of monitoring 66225
the implementation of individual service plans to achieve 66226
consistent implementation and the desired outcomes for the 66227
individual; 66228

(8) Perform quality assurance reviews as a distinct function of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;

~~(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day to day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.~~

Sec. 5126.20. As used in this section and sections 5126.21 to ~~5126.29~~ 5126.25 of the Revised Code:

(A) "Service employee" means a person employed by a county board of developmental disabilities in a position which may require ~~evidence of~~ registration under section 5126.25 of the Revised Code but for which a bachelor's degree from an accredited college or university is not required, and includes employees in the positions listed in division (C) of section 5126.22 of the Revised Code.

(B)(1) "Professional employee" means both of the following:

(a) A person employed by a board in a position for which either a bachelor's degree from an accredited college or

university or a license or certificate issued under Title XLVII of 66259
the Revised Code is a minimum requirement; 66260

(b) A person employed by a board as a conditional status 66261
service and support administrator. 66262

(2) "Professional employee" includes employees in the 66263
positions listed in division (B) of section 5126.22 of the Revised 66264
Code. 66265

(C) "Management employee" means a person employed by a board 66266
in a position having supervisory or managerial responsibilities 66267
and duties, and includes employees in the positions listed in 66268
division (A) of section 5126.22 of the Revised Code. 66269

(D) "Limited contract" means a contract of limited duration 66270
which is renewable at the discretion of the superintendent. 66271

~~(E) "Continuing contract" means a contract of employment that 66272
was issued prior to June 24, 1988, to a classified employee under 66273
which the employee has completed the employee's probationary 66274
period and under which the employee retains employment until the 66275
employee retires or resigns, is removed pursuant to section 66276
5126.23 of the Revised Code, or is laid off. 66277~~

~~(F)~~ "Supervisory responsibilities and duties" includes the 66278
authority to hire, transfer, suspend, lay off, recall, promote, 66279
discharge, assign, reward, or discipline other employees of the 66280
board; to responsibly direct them; to adjust their grievances; or 66281
to effectively recommend such action, if the exercise of that 66282
authority is not of a merely routine or clerical nature but 66283
requires the use of independent judgment. 66284

~~(G)~~(F) "Managerial responsibilities and duties" includes 66285
formulating policy on behalf of the board, responsibly directing 66286
the implementation of policy, assisting in the preparation for the 66287
conduct of collective negotiations, administering collectively 66288
negotiated agreements, or having a major role in personnel 66289

administration. 66290

~~(H)~~(G) "Investigative agent" means an individual who conducts 66291
investigations under section 5126.313 of the Revised Code. 66292

Sec. 5126.21. As used in this section, "management employee" 66293
does not include the superintendent of a county board of 66294
developmental disabilities. 66295

(A)(1) Each management employee of a county board of 66296
developmental disabilities shall hold a limited contract for a 66297
period of not less than one year and not more than five years, 66298
except that a management employee hired after the beginning of a 66299
program year may be employed under a limited contract expiring at 66300
the end of the program year. The board shall approve all contracts 66301
of employment for management employees that are for a term of more 66302
than one year. A management employee shall receive notice of the 66303
superintendent's intention not to rehire the employee at least 66304
ninety days prior to the expiration of the contract. ~~If the 66305
superintendent fails to notify a management employee, the employee 66306
shall be reemployed under a limited contract of one year at the 66307
same salary plus any authorized salary increases. 66308~~

(2) During the term of a contract a management employee's 66309
salary may be increased, but shall not be reduced unless the 66310
reduction is part of a uniform plan affecting all employees of the 66311
board. 66312

(B) All management employees may be removed, suspended, or 66313
demoted for cause pursuant to section 5126.23 of the Revised Code. 66314

(C) All management employees shall receive employee benefits 66315
~~that shall include sick leave, vacation leave, holiday pay, and 66316
such other benefits~~ as are established by the board. Sections 66317
124.38 and 325.19 of the Revised Code do not apply to management 66318
employees. 66319

(D) The superintendent of a county board of developmental disabilities shall notify all management employees of the board of their salary no later than thirty days before the first day of the new contract year. 66320
66321
66322
66323

~~(E) All management employees of a county board of developmental disabilities who were given continuing contract status prior to the effective date of this section have continuing contract status so long as they maintain employment with the board.~~ 66324
66325
66326
66327
66328

~~(F) All management employees who were probationary employees on the effective date of this section shall, upon completion of their probationary period, be granted continuing contract status if retained in employment.~~ 66329
66330
66331
66332

~~(G) Each county board of developmental disabilities shall establish a lay-off policy to be followed if it determines a reduction in the number of management employees is necessary.~~ 66333
66334
66335

Sec. 5126.22. (A) Employees who hold the following positions in a county board of developmental disabilities are management employees: 66336
66337
66338

assistant superintendent 66339

director of business 66340

director of personnel 66341

adult services director 66342

workshop director 66343

habilitation manager 66344

director of residential services 66345

principal (director of children services) 66346

program or service supervisor 66347

| | |
|--|-------------------------|
| plant manager | 66348 |
| production manager | 66349 |
| service and support administration supervisor | 66350 |
| investigative agent | 66351 |
| confidential employees as defined in section 4117.01 of the Revised Code | 66352 66353 |
| positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties | 66354 66355 66356 |
| positions designated by the county board in accordance with division (D) of this section. | 66357 66358 |
| (B) Employees who hold the following positions in a board are professional employees: | 66359 66360 |
| personnel <u>licensed or</u> certified pursuant to Chapter 3319. of the Revised Code | 66361 66362 |
| early intervention specialist | 66363 |
| physical development specialist | 66364 |
| habilitation specialist | 66365 |
| work adjustment specialist | 66366 |
| placement specialist | 66367 |
| vocational evaluator | 66368 |
| psychologist | 66369 |
| occupational therapist | 66370 |
| speech and language pathologist | 66371 |
| recreation specialist | 66372 |
| behavior management specialist | 66373 |
| physical therapist | 66374 |

| | |
|--|----------------------------------|
| supportive home services specialist | 66375 |
| licensed practical nurse or registered nurse | 66376 |
| rehabilitation counselor | 66377 |
| doctor of medicine and surgery or of osteopathic medicine and surgery | 66378 66379 |
| dentist | 66380 |
| service and support administrator | 66381 |
| conditional status service and support administrator | 66382 |
| social worker | 66383 |
| any position that is not a management position and for which the standards for certification established by the director of developmental disabilities under section 5126.25 of the Revised Code require a bachelor's or higher degree | 66384 66385 66386 66387 |
| professional positions designated by the director | 66388 |
| professional positions designated by the county board in accordance with division (D) of this section. | 66389 66390 |
| (C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include: | 66391 66392 66393 |
| workshop specialist | 66394 |
| workshop specialist assistant | 66395 |
| contract procurement specialist | 66396 |
| community employment specialist | 66397 |
| any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration | 66398 66399 66400 |
| service positions designated by the director | 66401 |

service positions designated by a county board in accordance 66402
with division (D) of this section. 66403

(D) A county board may designate a position only if the 66404
position does not include directly providing, or supervising 66405
employees who directly provide, service or instruction to 66406
individuals with mental retardation or developmental disabilities. 66407

(E) If a county board desires to have a position established 66408
that is not specifically listed in this section that includes 66409
directly providing, or supervising employees who directly provide, 66410
services or instruction to individuals with mental retardation or 66411
developmental disabilities, the board shall submit to the director 66412
a written description of the position and request that the 66413
director designate the position as a management, professional, or 66414
service position under this section. The director shall consider 66415
each request submitted under this division and respond within 66416
thirty days. If the director approves the request, the director 66417
shall designate the position as a management, professional, or 66418
service position. 66419

(F) A county board shall not terminate its employment of any 66420
management, professional, or service employee solely because a 66421
position is added to or eliminated from those positions listed in 66422
this section or because a position is designated or no longer 66423
designated by the director or a county board. 66424

Sec. 5126.25. (A) The director of developmental disabilities 66425
shall adopt rules ~~in accordance with Chapter 119. of the Revised~~ 66426
~~Code~~ under division (C) of this section establishing uniform 66427
standards and procedures for the certification and registration of 66428
persons ~~for employment by county boards of developmental~~ 66429
~~disabilities as superintendents, management employees, and~~ 66430
~~professional employees and uniform standards and procedures for~~ 66431
~~the registration of persons for employment by county boards as~~ 66432

~~registered service employees. As part of the rules, the director 66433
may establish continuing education and professional training 66434
requirements for renewal of certificates and evidence of 66435
registration and shall establish such requirements for renewal of 66436
an investigative agent certificate. In the rules, the director 66437
shall establish certification standards for employment in the 66438
position of investigative agent that require an individual to have 66439
or obtain no less than an associate degree from an accredited 66440
college or university or have or obtain comparable experience or 66441
training. The director shall not adopt rules that require any 66442
service employee to have or obtain a bachelor's or higher degree. 66443~~

~~The director shall adopt the rules in a manner that provides 66444
for the issuance of certificates and evidence of registration 66445
according to categories, levels, and grades. The rules shall 66446
describe each category, level, and grade. 66447~~

~~The rules adopted under this division shall apply to persons 66448
employed or seeking employment in a position that includes 66449
directly providing, or supervising persons who directly provide, 66450
services or instruction to or on behalf of individuals with mental 66451
retardation or developmental disabilities, except that the rules 66452
shall not apply to persons who hold a valid license issued under 66453
Chapter 3319. of the Revised Code and perform no duties other than 66454
teaching or supervision of a teaching program or persons who hold 66455
a valid license or certificate issued under Title XLVII of the 66456
Revised Code and perform only those duties governed by the license 66457
or certificate. The rules shall specify the positions that require 66458
certification or registration. The rules shall specify that the 66459
position of investigative agent requires certification, other than 66460
the persons described in division (I) of this section, who are 66461
seeking employment with or are employed by either of the 66462
following: 66463~~

(1) A county board of developmental disabilities; 66464

(2) An entity that contracts with a county board to operate programs and services for individuals with mental retardation or developmental disabilities. 66465
66466
66467

(B) No person shall be employed in a position for which certification or registration is required pursuant to the rules adopted under this section without the certification or registration that is required for that position. The person shall not be employed or shall not continue to be employed if the required certification or registration is denied, revoked, or not renewed. 66468
66469
66470
66471
66472
66473
66474

~~(B)(C)~~ The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approval of courses of study to prepare persons to meet certification requirements. The director shall approve courses of study meeting the standards and provide for the inspection of the courses to ensure the maintenance of satisfactory training procedures. The director shall approve courses of study only if given by a state university or college as defined in section 3345.32 of the Revised Code, a state university or college of another state, or an institution that has received a certificate of authorization to confer degrees from the board of regents pursuant to Chapter 1713. of the Revised Code or from a comparable agency of another state as the director considers necessary to implement and administer this section, including rules establishing all of the following: 66475
66476
66477
66478
66479
66480
66481
66482
66483
66484
66485
66486
66487
66488
66489

(1) Positions of employment that are subject to this section and, for each position, whether a person must receive certification or receive registration to be employed in that position; 66490
66491
66492
66493

(2) Requirements that must be met to receive the certification or registration required to be employed in a particular position, including standards regarding education, 66494
66495
66496

specialized training, and experience, taking into account the 66497
needs of individuals with mental retardation or developmental 66498
disabilities and the specialized techniques needed to serve them, 66499
except that the rules shall not require a person designated as a 66500
service employee under section 5126.22 of the Revised Code to have 66501
or obtain a bachelor's or higher degree; 66502

(3) Procedures to be followed in applying for initial 66503
certification or registration and for renewing the certification 66504
or registration. 66505

(4) Requirements that must be met for renewal of 66506
certification or registration, which may include continuing 66507
education and professional training requirements; 66508

(5) Subject to section 5126.23 of the Revised Code, grounds 66509
for which certification or registration may be denied, suspended, 66510
or revoked and procedures for appealing the denial, suspension, or 66511
revocation. 66512

~~(C)(D) Each applicant for a certificate for employment or~~ 66513
~~evidence of person seeking certification or registration for~~ 66514
~~employment by a county board shall apply to the department of~~ 66515
~~developmental disabilities on forms that the director of the~~ 66516
~~department shall prescribe and provide. The application shall be~~ 66517
~~accompanied by the application fee in the manner established in~~ 66518
~~rules adopted under this section.~~ 66519

~~(D) The director shall issue a certificate for employment to~~ 66520
~~each applicant who meets the standards for certification~~ 66521
~~established under this section and shall issue evidence of~~ 66522
~~registration for employment to each applicant who meets the~~ 66523
~~standards for registration established under this section. Each~~ 66524
~~certificate or evidence of registration shall state the category,~~ 66525
~~level, and grade for which it is issued.~~ 66526

~~The director shall issue, renew, deny, suspend, or revoke~~ 66527

~~certificates and evidence of registration in accordance with rules 66528
adopted under this section. The director shall deny, suspend, or 66529
revoke a certificate or evidence of registration if the director 66530
finds, pursuant to an adjudication conducted in accordance with 66531
Chapter 119. of the Revised Code, that the applicant for or holder 66532
of the certificate or evidence of registration is guilty of 66533
intemperate, immoral, or other conduct unbecoming to the 66534
applicant's or holder's position, or is guilty of incompetence or 66535
negligence within the scope of the applicant's or holder's duties. 66536
The director shall deny or revoke a certificate or evidence of 66537
registration if the director finds, pursuant to an adjudication 66538
conducted in accordance with Chapter 119. of the Revised Code, 66539
that the applicant for or holder of the certificate or evidence of 66540
registration has been convicted of or pleaded guilty to any of the 66541
offenses described in division (E) of section 5126.28 of the 66542
Revised Code, unless the individual meets standards for 66543
rehabilitation that the director establishes in the rules adopted 66544
under that section. Evidence supporting such allegations shall be 66545
presented to the director in writing and the director shall 66546
provide prompt notice of the allegations to the person who is the 66547
subject of the allegations. A denial, suspension, or revocation 66548
may be appealed in accordance with procedures the director shall 66549
establish in the rules adopted under this section. 66550~~

(E)(1) Except as provided in division (E)(2) of this section, 66551
the superintendent of each county board is responsible for taking 66552
all actions regarding certification and registration of employees, 66553
other than the position of superintendent or investigative agent. 66554
For the position of superintendent or investigative agent, the 66555
director of developmental disabilities is responsible for taking 66556
all such actions. 66557

Actions that may be taken by the superintendent or director 66558
include issuing, renewing, denying, suspending, and revoking 66559

certification and registration. All actions shall be taken in 66560
accordance with the rules adopted under this section. 66561

The superintendent may charge a fee to persons applying for 66562
certification or registration. The superintendent shall establish 66563
the amount of the fee according to the costs the county board 66564
incurs in administering its program for certification and 66565
registration of employees. 66566

A person subject to the denial, suspension, or revocation of 66567
certification or registration may appeal the decision. The appeal 66568
shall be made in accordance with the rules adopted under this 66569
section. 66570

(2) Pursuant to division (C) of section 5126.05 of the 66571
Revised Code, the superintendent may enter into a contract with 66572
any other entity under which the entity is given authority to 66573
carry out all or part of the superintendent's responsibilities 66574
under division (E)(1) of this section. 66575

(F) A person ~~holding a~~ with valid certificate certification 66576
or registration under this section on the effective date of any 66577
rules adopted under this section that increase the standards 66578
applicable to the certification ~~standards~~ or registration shall 66579
have such period as the rules prescribe, but not less than one 66580
year after the effective date of the rules, to meet the new 66581
certification or registration standards. 66582

~~A person who is registered under this section on the~~ 66583
~~effective date of any rule that changes the standards adopted~~ 66584
~~under this section shall have such period as the rules prescribe,~~ 66585
~~but not less than one year, to meet the new registration~~ 66586
~~standards.~~ 66587

~~(2) If an applicant for a certificate for employment has not~~ 66588
~~completed the courses of instruction necessary to meet the~~ 66589
~~department's standards for certification, the department shall~~ 66590

~~inform the applicant of the courses the applicant must 66591
successfully complete to meet the standards and shall specify the 66592
time within which the applicant must complete the courses. The 66593
department shall grant the applicant at least one year to complete 66594
the courses and shall not require the applicant to complete more 66595
than four courses in any one year. The applicant is not subject to 66596
any changes regarding the courses required for certification that 66597
are made after the department informs the applicant of the courses 66598
the applicant must complete, unless the applicant does not 66599
successfully complete the courses within the time specified by the 66600
department. 66601~~

~~(F)(G) A person who holds a certificate with valid 66602
certification or evidence of registration, other than one 66603
designated as temporary, is qualified to be employed according to 66604
that ~~certificate~~ certification or evidence of registration by any 66605
county board or entity contracting with a county board. 66606~~

~~(G)(H) The director shall monitor county boards to ensure 66607
that their employees ~~who must be certified or registered~~ are 66608
~~appropriately certified or registered~~ and and the employees of 66609
their contracting entities have the applicable certification or 66610
registration required under this section and that the employees 66611
are performing only those functions they are authorized to perform 66612
under ~~their certificate~~ the certification or evidence of 66613
registration. 66614~~

~~(H) A county board superintendent or the superintendent's 66615
designee may certify to the director that county board employees 66616
who are required to meet continuing education or professional 66617
training requirements as a condition of renewal of certificates or 66618
evidence of registration have met the requirements. The 66619
superintendent of each county board or the superintendent's 66620
designee shall maintain in appropriate personnel files evidence 66621
acceptable to the director that the employees have met the 66622~~

requirements ~~and permit.~~ On request, representatives of the 66623
department of developmental disabilities shall be given access to 66624
the evidence ~~on request.~~ 66625

~~(I) All fees collected pursuant to this section shall be~~ 66626
~~deposited in the state treasury to the credit of the program fee~~ 66627
~~fund created under section 5123.033 of the Revised Code.~~ 66628

~~(J) Employees of entities that contract with county boards of~~ 66629
~~developmental disabilities to operate programs and services for~~ 66630
~~individuals with mental retardation and developmental disabilities~~ 66631
~~are subject to the certification and registration requirements~~ 66632
~~established under section 5123.082 of the Revised Code~~ The 66633
certification and registration requirements of this section and 66634
the rules adopted under it do not apply to either of the 66635
following: 66636

(1) A person who holds a valid license issued or certificate 66637
issued under Chapter 3319. of the Revised Code and performs no 66638
duties other than teaching or supervision of a teaching program; 66639

(2) A person who holds a valid license or certificate issued 66640
under Title XLVII of the Revised Code and performs only those 66641
duties governed by the license or certificate. 66642

Sec. 5126.251. On receipt of a notice pursuant to section 66643
3123.43 of the Revised Code, the director of developmental 66644
disabilities or the superintendent of a county board of 66645
developmental disabilities shall comply with sections 3123.41 to 66646
3123.50 of the Revised Code and any applicable rules adopted under 66647
section 3123.63 of the Revised Code with respect to ~~a certificate~~ 66648
a person's certification or evidence of registration issued 66649
~~pursuant to this chapter~~ under section 5126.25 of the Revised 66650
Code. 66651

Sec. 5126.51. As used in sections 5126.51 to 5126.62 of the 66652

Revised Code: 66653

(A) "Develop" or "development," in contexts not referring to 66654
developmental disabilities, means construction or rehabilitation. 66655

(B) "Eligible lending institution" means a financial 66656
institution that meets all of the following requirements: 66657

(1) Is eligible to make commercial loans; 66658

(2) Has an office located within the territorial limits of 66659
the county; 66660

(3) Is an institution into which the county's investing 66661
authority may deposit the public moneys of the county; 66662

(4) Holds itself out as participating in the residential 66663
facility linked deposit program. 66664

(C) "Eligible organization" means ~~either of the following:~~ 66665

~~(1) A~~ a nonprofit corporation that has as its primary 66666
activity the development or operation of a residential facility; 66667

~~(2) A nonprofit corporation certified under section 5123.192~~ 66668
~~of the Revised Code.~~ 66669

(D) "Investing authority" has the same meaning as in section 66670
135.31 of the Revised Code. 66671

(E) "Residential facility" has the same meaning as in section 66672
5123.19 of the Revised Code ~~and also includes a residence where a~~ 66673
~~nonprofit corporation certified under section 5123.192 of the~~ 66674
~~Revised Code provides or proposes to provide supported living for~~ 66675
~~individuals with mental retardation or developmental disabilities.~~ 66676

(F) "Residential facility linked deposit program" means the 66677
linked deposit program provided for in sections 5126.51 to 5126.62 66678
of the Revised Code. A "residential facility linked deposit" is a 66679
deposit of public moneys of the county under, and for the purposes 66680
of, the residential facility linked deposit program. A 66681

"residential facility linked deposit loan" is a loan under, and 66682
for the purposes of, the residential facility linked deposit 66683
program. 66684

Sec. 5139.41. The appropriation made to the department of 66685
youth services for care and custody of felony delinquents shall be 66686
expended in accordance with the following procedure that the 66687
department shall use for each year of a biennium. The procedure 66688
shall be consistent with sections 5139.41 to 5139.43 of the 66689
Revised Code and shall be developed in accordance with the 66690
following guidelines: 66691

(A) The line item appropriation for the care and custody of 66692
felony delinquents shall provide funding for operational costs for 66693
the following: 66694

(1) Institutions and the diagnosis, care, or treatment of 66695
felony delinquents at facilities pursuant to contracts entered 66696
into under section 5139.08 of the Revised Code; 66697

(2) Community corrections facilities constructed, 66698
reconstructed, improved, or financed as described in section 66699
5139.36 of the Revised Code for the purpose of providing 66700
alternative placement and services for felony delinquents who have 66701
been diverted from care and custody in institutions; 66702

(3) County juvenile courts that administer programs and 66703
services for prevention, early intervention, diversion, treatment, 66704
and rehabilitation services and programs that are provided for 66705
alleged or adjudicated unruly or delinquent children or for 66706
children who are at risk of becoming unruly or delinquent 66707
children; 66708

(4) Administrative expenses the department incurs in 66709
connection with the felony delinquent care and custody programs 66710
described in section 5139.43 of the Revised Code. 66711

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action.

(C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's ~~four-year~~ average of felony adjudications, as specified in the following formula:

(1) The department shall give to each county a proportional allocation of commitment credits. The proportional allocation of commitment credits shall be calculated by the following procedures:

(a) The department shall determine for each county and for the state ~~a four-year~~ an average of felony adjudications. Beginning July 1, 2012, the average shall include felony adjudications for fiscal year 2007 and for each subsequent fiscal year through fiscal year 2016. Beginning July 1, 2017, the most recent felony adjudication data shall be included and the oldest fiscal year data shall be removed so that a ten-year average of

felony adjudication data will be maintained. 66744

(b) The department shall determine for each county and for 66745
the state the number of charged bed days, for both the department 66746
and community correctional facilities, from the previous year. 66747

(c) The department shall divide the statewide total number of 66748
charged bed days by the statewide total number of felony 66749
adjudications, which quotient shall then be multiplied by a factor 66750
determined by the department. 66751

(d) The department shall calculate the county's allocation of 66752
credits by multiplying the number of adjudications for each court 66753
by the result determined pursuant to division (C)(1)(c) of this 66754
section. 66755

(2) The department shall subtract from the allocation 66756
determined pursuant to division (C)(1) of this section a credit 66757
for every chargeable bed day a youth stays in a department 66758
institution and two-thirds of credit for every chargeable bed day 66759
a youth stays in a community correctional facility, except for 66760
public safety beds. At the end of the year, the department shall 66761
divide the amount of remaining credits of that county's allocation 66762
by the total number of remaining credits to all counties, to 66763
determine the county's percentage, which shall then be applied to 66764
the total county allocation to determine the county's payment for 66765
the fiscal year. 66766

(3) The department shall pay counties three times during the 66767
fiscal year to allow for credit reporting and audit adjustments, 66768
and modifications to the appropriated line item for the care and 66769
custody of felony delinquents, as described in this section. The 66770
department shall pay fifty per cent of the payment by the 66771
fifteenth of July of each fiscal year, twenty-five per cent by the 66772
fifteenth of January of that fiscal year, and twenty-five per cent 66773
of the payment by the fifteenth of June of that fiscal year. 66774

~~(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:~~ 66775
66776

~~(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.~~ 66777
66778
66779

~~(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's total payment.~~ 66780
66781
66782
66783

~~(3) The department shall make payments in accordance with the schedule established in division (C)(3) of this section.~~ 66784
66785

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section. 66786
66787
66788
66789
66790

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not 66791
66792
66793
66794
66795
66796
66797
66798
66799
66800
66801
66802
66803
66804
66805

be commingled with any other county funds except state subsidy 66806
funds granted to the county pursuant to section 5139.34 of the 66807
Revised Code; shall not be used for any capital construction 66808
projects; upon an order of the juvenile court and subject to 66809
appropriation by the board of county commissioners, shall be 66810
disbursed to the juvenile court for use in accordance with the 66811
applicable provisions of division (B)(2) of this section; shall 66812
not revert to the county general fund at the end of any fiscal 66813
year; and shall carry over in the felony delinquent care and 66814
custody fund from the end of any fiscal year to the next fiscal 66815
year. The maximum balance carry-over at the end of each respective 66816
fiscal year in the felony delinquent care and custody fund in any 66817
county from funds allocated to the county pursuant to sections 66818
5139.34 and 5139.41 of the Revised Code in the previous fiscal 66819
year shall not exceed an amount to be calculated as provided in 66820
the formula set forth in this division, unless that county has 66821
applied for and been granted an exemption by the director of youth 66822
services. Beginning June 30, 2008, the maximum balance carry-over 66823
at the end of each respective fiscal year shall be determined by 66824
the following formula: for fiscal year 2008, the maximum balance 66825
carry-over shall be one hundred per cent of the allocation for 66826
fiscal year 2007, to be applied in determining the fiscal year 66827
2009 allocation; for fiscal year 2009, it shall be fifty per cent 66828
of the allocation for fiscal year 2008, to be applied in 66829
determining the fiscal year 2010 allocation; for fiscal year 2010, 66830
it shall be twenty-five per cent of the allocation for fiscal year 66831
2009, to be applied in determining the fiscal year 2011 66832
allocation; and for each fiscal year subsequent to fiscal year 66833
2010, it shall be twenty-five per cent of the allocation for the 66834
immediately preceding fiscal year, to be applied in determining 66835
the allocation for the next immediate fiscal year. The department 66836
shall withhold from future payments to a county an amount equal to 66837
any moneys in the felony delinquent care and custody fund of the 66838

county that exceed the total maximum balance carry-over that 66839
applies for that county for the fiscal year in which the payments 66840
are being made and shall reallocate the withheld amount. The 66841
department shall adopt rules for the withholding and reallocation 66842
of moneys disbursed under sections 5139.34 and 5139.41 of the 66843
Revised Code and for the criteria and process for a county to 66844
obtain an exemption from the withholding requirement. The moneys 66845
disbursed to the juvenile court pursuant to division (B) of 66846
section 5139.41 of the Revised Code and deposited pursuant to this 66847
division in the felony delinquent care and custody fund shall be 66848
in addition to, and shall not be used to reduce, any usual annual 66849
increase in county funding that the juvenile court is eligible to 66850
receive or the current level of county funding of the juvenile 66851
court and of any programs or services for delinquent children, 66852
unruly children, or juvenile traffic offenders. 66853

(2)(a) A county and the juvenile court that serves the county 66854
shall use the moneys in its felony delinquent care and custody 66855
fund in accordance with rules that the department of youth 66856
services adopts pursuant to division (D) of section 5139.04 of the 66857
Revised Code and as follows: 66858

(i) The moneys in the fund that represent state subsidy funds 66859
granted to the county pursuant to section 5139.34 of the Revised 66860
Code shall be used to aid in the support of prevention, early 66861
intervention, diversion, treatment, and rehabilitation programs 66862
that are provided for alleged or adjudicated unruly children or 66863
delinquent children or for children who are at risk of becoming 66864
unruly children or delinquent children. The county shall not use 66865
for capital improvements more than fifteen per cent of the moneys 66866
in the fund that represent the applicable annual grant of those 66867
state subsidy funds. 66868

(ii) The moneys in the fund that were disbursed to the 66869
juvenile court pursuant to division (B) of section 5139.41 of the 66870

Revised Code and deposited pursuant to division (B)(1) of this 66871
section in the fund shall be used to provide programs and services 66872
for the training, treatment, or rehabilitation of felony 66873
delinquents that are alternatives to their commitment to the 66874
department, including, but not limited to, community residential 66875
programs, day treatment centers, services within the home, and 66876
electronic monitoring, and shall be used in connection with 66877
training, treatment, rehabilitation, early intervention, or other 66878
programs or services for any delinquent child, unruly child, or 66879
juvenile traffic offender who is under the jurisdiction of the 66880
juvenile court. 66881

The fund also may be used for prevention, early intervention, 66882
diversion, treatment, and rehabilitation programs that are 66883
provided for alleged or adjudicated unruly children, delinquent 66884
children, or juvenile traffic offenders or for children who are at 66885
risk of becoming unruly children, delinquent children, or juvenile 66886
traffic offenders. Consistent with division (B)(1) of this 66887
section, a county and the juvenile court of a county shall not use 66888
any of those moneys for capital construction projects. 66889

(iii) Moneys in the fund shall not be used to support 66890
programs or services that do not comply with federal juvenile 66891
justice and delinquency prevention core requirements or to support 66892
programs or services that research has shown to be ineffective. 66893
~~Moneys in the fund shall be prioritized to research-supported~~ 66894
Research-supported, outcome-based programs and services, to the 66895
extent they are available, shall be encouraged. 66896

(iv) The county and the juvenile court that serves the county 66897
may use moneys in the fund to provide out-of-home placement of 66898
children only in detention centers, community rehabilitation 66899
centers, or community corrections facilities approved by the 66900
department pursuant to standards adopted by the department, 66901
licensed by an authorized state agency, or accredited by the 66902

American correctional association or another national organization 66903
recognized by the department. 66904

(b) Each juvenile court shall comply with division (B)(3)(d) 66905
of this section as implemented by the department. If a juvenile 66906
court fails to comply with division (B)(3)(d) of this section, the 66907
department shall not be required to make any disbursements in 66908
accordance with division (C) ~~or (D)~~ of section 5139.41 or division 66909
(C)(2) of section 5139.34 of the Revised Code. 66910

(3) In accordance with rules adopted by the department 66911
pursuant to division (D) of section 5139.04 of the Revised Code, 66912
each juvenile court and the county served by that juvenile court 66913
shall do all of the following that apply: 66914

(a) The juvenile court shall prepare an annual grant 66915
agreement and application for funding that satisfies the 66916
requirements of this section and section 5139.34 of the Revised 66917
Code and that pertains to the use, upon an order of the juvenile 66918
court and subject to appropriation by the board of county 66919
commissioners, of the moneys in its felony delinquent care and 66920
custody fund for specified programs, care, and services as 66921
described in division (B)(2)(a) of this section, shall submit that 66922
agreement and application to the county family and children first 66923
council, the regional family and children first council, or the 66924
local intersystem services to children cluster as described in 66925
sections 121.37 and 121.38 of the Revised Code, whichever is 66926
applicable, and shall file that agreement and application with the 66927
department for its approval. The annual grant agreement and 66928
application for funding shall include a method of ensuring equal 66929
access for minority youth to the programs, care, and services 66930
specified in it. 66931

The department may approve an annual grant agreement and 66932
application for funding only if the juvenile court involved has 66933
complied with the preparation, submission, and filing requirements 66934

described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division

(B)(3)(c) of this section. If the juvenile court fails to prepare 66967
and submit those monthly statistical reports within one hundred 66968
eighty days of the date the department establishes for their 66969
submission, the department shall not disburse any payment of state 66970
subsidy funds to which the county otherwise is entitled pursuant 66971
to section 5139.34 of the Revised Code and shall not disburse 66972
pursuant to division (B) of section 5139.41 of the Revised Code 66973
the applicable allocation, and the state subsidy funds and the 66974
remainder of the applicable allocation shall revert to the 66975
department. If a juvenile court states in a monthly statistical 66976
report that the juvenile court adjudicated within a state fiscal 66977
year five hundred or more children to be delinquent children for 66978
committing acts that would be felonies if committed by adults and 66979
if the department determines that the data in the report may be 66980
inaccurate, the juvenile court shall have an independent auditor 66981
or other qualified entity certify the accuracy of the data on a 66982
date determined by the department. 66983

(d) If the department requires the juvenile court and the 66984
county to participate in a fiscal monitoring program or another 66985
monitoring program that is conducted by the department to ensure 66986
compliance by the juvenile court and the county with division (B) 66987
of this section, the juvenile court and the county shall 66988
participate in the program and fully comply with any guidelines 66989
for the performance of audits adopted by the department pursuant 66990
to that program and all requests made by the department pursuant 66991
to that program for information necessary to reconcile fiscal 66992
accounting. If an audit that is performed pursuant to a fiscal 66993
monitoring program or another monitoring program described in this 66994
division determines that the juvenile court or the county used 66995
moneys in the county's felony delinquent care and custody fund for 66996
expenses that are not authorized under division (B) of this 66997
section, within forty-five days after the department notifies the 66998
county of the unauthorized expenditures, the county either shall 66999

repay the amount of the unauthorized expenditures from the county 67000
general revenue fund to the state's general revenue fund or shall 67001
file a written appeal with the department. If an appeal is timely 67002
filed, the director of the department shall render a decision on 67003
the appeal and shall notify the appellant county or its juvenile 67004
court of that decision within forty-five days after the date that 67005
the appeal is filed. If the director denies an appeal, the 67006
county's fiscal agent shall repay the amount of the unauthorized 67007
expenditures from the county general revenue fund to the state's 67008
general revenue fund within thirty days after receiving the 67009
director's notification of the appeal decision. 67010

(C) The determination of which county a reduction of the care 67011
and custody allocation will be charged against for a particular 67012
youth shall be made as outlined below for all youths who do not 67013
qualify as public safety beds. The determination of which county a 67014
reduction of the care and custody allocation will be charged 67015
against shall be made as follows until each youth is released: 67016

(1) In the event of a commitment, the reduction shall be 67017
charged against the committing county. 67018

(2) In the event of a recommitment, the reduction shall be 67019
charged against the original committing county until the 67020
expiration of the minimum period of institutionalization under the 67021
original order of commitment or until the date on which the youth 67022
is admitted to the department of youth services pursuant to the 67023
order of recommitment, whichever is later. Reductions of the 67024
allocation shall be charged against the county that recommitted 67025
the youth after the minimum expiration date of the original 67026
commitment. 67027

(3) In the event of a revocation of a release on parole, the 67028
reduction shall be charged against the county that revokes the 67029
youth's parole. 67030

(D) A juvenile court is not precluded by its allocation 67031
amount for the care and custody of felony delinquents from 67032
committing a felony delinquent to the department of youth services 67033
for care and custody in an institution or a community corrections 67034
facility when the juvenile court determines that the commitment is 67035
appropriate. 67036

Sec. 5139.511. Before a youth is released from a secure 67037
facility under the control of the department of youth services, 67038
the department of youth services shall attempt to verify the 67039
youth's identification and social security number. If the 67040
department is able to verify the youth's identity with a verified 67041
birth certificate and social security number, the department shall 67042
issue an identification card that the youth may present to the 67043
registrar or deputy registrar of motor vehicles. If the department 67044
is not able to verify the youth's identity with both a verified 67045
birth certificate and social security number, the youth shall not 67046
receive an identification card under this section. 67047

Sec. 5149.311. (A) The department of rehabilitation and 67048
correction shall establish and administer the probation 67049
improvement grant and the probation incentive grant for ~~court of~~ 67050
~~common pleas~~ probation departments that supervise ~~felony~~ offenders 67051
sentenced by courts of common pleas or municipal courts. 67052

(B)(1) The probation improvement grant shall provide funding 67053
to ~~court of common pleas~~ probation departments to adopt policies 67054
and practices based on the latest research on how to reduce the 67055
number of ~~felony~~ offenders on probation supervision who violate 67056
the conditions of their supervision. 67057

(2) The department shall adopt rules for the distribution of 67058
the probation improvement grant, including the formula for the 67059
allocation of the subsidy based on the number of ~~felony~~ offenders 67060

placed on probation annually in each jurisdiction. 67061

(C)(1) The probation incentive grant shall provide a 67062
performance-based level of funding to court ~~of common pleas~~ 67063
probation departments that are successful in reducing the number 67064
of felony offenders on probation supervision whose terms of 67065
supervision are revoked. 67066

(2) The department shall calculate annually any cost savings 67067
realized by the state from a reduction in the percentage of people 67068
who are incarcerated because their terms of supervised probation 67069
were revoked. The cost savings estimate shall be calculated for 67070
each ~~county~~ jurisdiction served by the probation department 67071
eligible for a grant under this section and be based on the 67072
difference from fiscal year 2010 and the fiscal year under 67073
examination. 67074

(3) The department shall adopt rules that specify the subsidy 67075
amount to be appropriated to court ~~of common pleas~~ probation 67076
departments that successfully reduce the percentage of people on 67077
probation who are incarcerated because their terms of supervision 67078
are revoked. 67079

(D) The following stipulations apply to both the probation 67080
improvement grant and the probation incentive grant: 67081

(1) In order to be eligible for the probation improvement 67082
grant and the probation incentive grant, courts of common pleas 67083
must satisfy all requirements under sections 2301.27 and 2301.30 67084
of the Revised Code ~~and, except.~~ Except for sentencing decisions 67085
made by a court when use of the risk assessment tool is 67086
discretionary, in order to be eligible for the probation 67087
improvement grant and the probation incentive grant, a court must 67088
utilize the single validated risk assessment tool selected by the 67089
department of rehabilitation and correction under section 5120.114 67090
of the Revised Code. 67091

(2) The department may deny a subsidy under this section to any applicant if the applicant fails to comply with the terms of any agreement entered into pursuant to any of the provisions of this section.

(3) The department shall evaluate or provide for the evaluation of the policies, practices, and programs the court of ~~common pleas~~ probation departments utilize with the programs of subsidies established under this section and establish means of measuring their effectiveness.

(4) The department shall specify the policies, practices, and programs for which court of ~~common pleas~~ probation departments may use the program subsidy and shall establish minimum standards of quality and efficiency that recipients of the subsidy must follow. The department shall give priority to supporting evidence-based policies and practices, as defined by the department.

Sec. 5155.14. At the request of the superintendent or administrator of the county home, the board of county commissioners or operator shall set apart from the county home fund, a reserve fund not to exceed ~~four hundred~~ five thousand dollars at any time, which, upon the order of the board or operator shall be paid to the superintendent or administrator and expended as needed for emergency supplies and expenses. The superintendent or administrator shall keep an accurate account of the reserve fund, in a book to be provided at the expense of the county for that purpose, and all expenditures from it shall be audited by the board or operator. The county home fund shall be reimbursed by the superintendent or administrator, in full, for any items expended by the superintendent or administrator from the reserve fund, which items are not allowed by the board or operator. When, and as often as such amount is entirely disbursed, on the order of the board or operator, the county auditor shall

pay to the superintendent or administrator the amount so 67123
appropriated. 67124

~~Sec. 5501.04. The following divisions are hereby established 67125
in the department of transportation: 67126~~

~~(A) The division of business services; 67127~~

~~(B) The division of engineering policy; 67128~~

~~(C) The division of finance; 67129~~

~~(D) The division of human resources; 67130~~

~~(E) The division of information technology; 67131~~

~~(F) The division of multi-modal planning and programs; 67132~~

~~(G) The division of project management; 67133~~

~~(H) The division of equal opportunity. 67134~~

~~The Pursuant to section 5501.02 of the Revised Code, the 67135
director of transportation shall distribute the duties, powers, 67136
and functions of the department among the divisions of the 67137
department. 67138~~

Each division shall be headed by a deputy director, whose 67139
title shall be designated by the director, and shall include those 67140
other officers and employees as may be necessary to carry out the 67141
work of the division. ~~The director shall appoint the~~ Each deputy 67142
director of each division, ~~who~~ shall be in the unclassified civil 67143
service of the state and shall serve at the pleasure of the 67144
director. ~~The director shall supervise the work of each division~~ 67145
~~and~~ shall be responsible for the determination of general policies 67146
in the performance of the duties, powers, and functions of the 67147
department and of each division. The director shall have complete 67148
executive charge of the department, shall be responsible for the 67149
organization, direction, and supervision of the work of the 67150
department and the performance of the duties, powers, and 67151

functions assigned to each division, and may establish necessary 67152
administrative units therein. ~~The~~ Each deputy director of each 67153
division, with the approval of the director and subject to Chapter 67154
124. of the Revised Code, shall appoint the necessary employees of 67155
the division and may remove such employees for cause. 67156

~~The division of equal opportunity shall ensure that minority 67157
groups and all groups protected by state and federal civil rights 67158
laws are afforded equal opportunity to be recruited, trained, and 67159
work in the employment of or on projects of the department of 67160
transportation, and to participate in contracts awarded by the 67161
department. The director of transportation each year shall report 67162
to the governor and the general assembly on the division's 67163
activities and accomplishments. 67164~~

Sec. 5501.07. In addition to those duties, powers, and 67165
functions the director of transportation assigns to it, the office 67166
of ~~public transportation of the division of multi modal planning 67167
and programs~~ transit: 67168

(A) May issue grants from any public transportation grant 67169
appropriation to county transit boards, regional transit 67170
authorities, regional transit commissions, counties, municipal 67171
corporations, and private nonprofit organizations that operate or 67172
will operate a public transportation system. 67173

The director shall establish criteria for the distribution of 67174
such grants. These criteria may include and the director may 67175
consider each of the following: 67176

(1) The degree to which comprehensive regional transportation 67177
planning goals may be attained through a program for which a grant 67178
will be used; 67179

(2) The amount of local financial or other support of public 67180
transportation operations and facilities affected by the program; 67181

| | |
|---|--|
| (3) The levels of existing service and fare; | 67182 |
| (4) The degree to which the proposed plan demonstrates approaches of potential value to other local transit boards, authorities, commissions, counties, municipal corporations, and private nonprofit organizations operating public transportation systems; | 67183 67184 67185 67186 67187 |
| (5) The degree to which the grant applicant will use state and local funds to match a federal grant; | 67188 67189 |
| (6) Such other factors as the director determines. | 67190 |
| Any criteria established by the director for the distribution of such grants shall be consistent with the requirements of the United States department of transportation, or any administration in the department, including, but not limited to, the federal transit administration. The director may designate in the criteria certain dates after which applications for specified portions of the appropriations made for this purpose will not be accepted. | 67191 67192 67193 67194 67195 67196 67197 |
| (B) May issue grants from any elderly and handicapped transit fare assistance grant appropriation to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems for the purpose of reducing the transit or paratransit fares of elderly or handicapped persons. The director shall establish criteria for the distribution of such grants. | 67198 67199 67200 67201 67202 67203 67204 67205 |
| (C) May administer provisions of federal public transportation acts or programs applicable within the state, pursuant to an agreement entered into by the director with an appropriate official of the federal agency responsible for implementation of the federal acts or programs. The federal acts or programs shall include, but are not limited to, programs authorized under the "Act of July 5, 1994," 108 Stat. 785, 49 | 67206 67207 67208 67209 67210 67211 67212 |

U.S.C.A. 5301, as amended. 67213

(D) Shall furnish, upon request and within the limits of 67214
appropriated funds, guidance in technical or policy matters to a 67215
county transit board, regional transit authority, regional transit 67216
commission, county, municipal corporation, or private nonprofit 67217
organization that operates or proposes to operate a public 67218
transportation system, and provide assistance and liaison in the 67219
preparation and submission of applications for federal and state 67220
funds; 67221

(E) May apply for and accept grants or loans from any federal 67222
agency for the purpose of providing for the development or 67223
improvement of public transportation facilities or for the 67224
coordination of any activities related to the development or 67225
improvement of such facilities, and may provide any consideration 67226
from any public transportation grant appropriation and enter into 67227
any contracts that may be required in order to obtain such grants 67228
or loans from a federal agency. 67229

Sec. 5502.01. (A) The department of public safety shall 67230
administer and enforce the laws relating to the registration, 67231
licensing, sale, and operation of motor vehicles and the laws 67232
pertaining to the licensing of drivers of motor vehicles. 67233

The department shall compile, analyze, and publish statistics 67234
relative to motor vehicle accidents and the causes of them, 67235
prepare and conduct educational programs for the purpose of 67236
promoting safety in the operation of motor vehicles on the 67237
highways, and conduct research and studies for the purpose of 67238
promoting safety on the highways of this state. 67239

(B) The department shall administer the laws and rules 67240
relative to trauma and emergency medical services specified in 67241
Chapter 4765. of the Revised Code. 67242

(C) The department shall administer and enforce the laws 67243
contained in Chapters 4301. and 4303. of the Revised Code and 67244
enforce the rules and orders of the liquor control commission 67245
pertaining to retail liquor permit holders. 67246

(D) The department shall administer the laws governing the 67247
state emergency management agency and shall enforce all additional 67248
duties and responsibilities as prescribed in the Revised Code 67249
related to emergency management services. 67250

(E) The department shall conduct investigations pursuant to 67251
Chapter 5101. of the Revised Code in support of the duty of the 67252
department of job and family services to administer the 67253
supplemental nutrition assistance program throughout this state. 67254
The department of public safety shall conduct investigations 67255
necessary to protect the state's property rights and interests in 67256
the supplemental nutrition assistance program. 67257

(F) The department of public safety shall enforce compliance 67258
with orders and rules of the public utilities commission and 67259
applicable laws in accordance with Chapters ~~4919.~~ 4905., 4921., 67260
and 4923. of the Revised Code regarding commercial motor vehicle 67261
transportation safety, economic, and hazardous materials 67262
requirements. 67263

(G) Notwithstanding Chapter 4117. of the Revised Code, the 67264
department of public safety may establish requirements for its 67265
enforcement personnel, including its enforcement agents described 67266
in section 5502.14 of the Revised Code, that include standards of 67267
conduct, work rules and procedures, and criteria for eligibility 67268
as law enforcement personnel. 67269

(H) The department shall administer, maintain, and operate 67270
the Ohio criminal justice network. The Ohio criminal justice 67271
network shall be a computer network that supports state and local 67272
criminal justice activities. The network shall be an electronic 67273

repository for various data, which may include arrest warrants, 67274
notices of persons wanted by law enforcement agencies, criminal 67275
records, prison inmate records, stolen vehicle records, vehicle 67276
operator's licenses, and vehicle registrations and titles. 67277

(I) The department shall coordinate all homeland security 67278
activities of all state agencies and shall be a liaison between 67279
state agencies and local entities for those activities and related 67280
purposes. 67281

(J) Beginning July 1, 2004, the department shall administer 67282
and enforce the laws relative to private investigators and 67283
security service providers specified in Chapter 4749. of the 67284
Revised Code. 67285

(K) The department shall administer criminal justice services 67286
in accordance with sections 5502.61 to 5502.66 of the Revised 67287
Code. 67288

Sec. 5502.011. (A) As used in this section, "department of 67289
public safety" and "department" include all divisions within the 67290
department of public safety. 67291

(B) The director ~~of the department~~ of public safety is the 67292
chief executive and administrative officer of the department. The 67293
director may establish policies governing the department, the 67294
performance of its employees and officers, the conduct of its 67295
business, and the custody, use, and preservation of departmental 67296
records, papers, books, documents, and property. The director also 67297
may authorize and approve investigations to be conducted by any of 67298
the department's divisions. Whenever the Revised Code imposes a 67299
duty upon or requires an action of the department, the director 67300
may perform the action or duty in the name of the department or 67301
direct such performance to be performed by the director's 67302
designee. 67303

(C) In addition to any other duties enumerated in the Revised Code, the director or the director's designee shall do all of the following:

(1) Administer and direct the performance of the duties of the department;

(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;

(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;

(4) Make appointments for the department as needed to comply with requirements of the Revised Code;

(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;

(6) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law;

(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

(8) Do all other acts necessary or desirable to carry out this chapter.

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:

(a) A check, draft, or money order that is returned or dishonored; 67334
67335

(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason; 67336
67337

(c) Any financial transaction device that is returned or dishonored for any reason. 67338
67339

(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid. 67340
67341
67342

(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code. 67343
67344

(E) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The advisory council shall include, but not be limited to, state and local government officials who have homeland security or emergency management responsibilities and who represent first responders. The director shall appoint the members of the council, who shall serve without compensation. 67345
67346
67347
67348
67349
67350
67351
67352

~~(F) The director of public safety shall adopt rules in accordance with Chapter 119. of the Revised Code as required by section 2909.28 of the Revised Code and division (A)(1) of section 2909.32 of the Revised Code. The director shall adopt rules as required by division (D) of section 2909.32 of the Revised Code, division (E) of section 2909.33 of the Revised Code, and division (D) of section 2909.34 of the Revised Code. The director may adopt rules pursuant to division (A)(2) of section 2909.32 of the Revised Code, division (A)(2) of section 2909.33 of the Revised Code, and division (A)(2) of section 2909.34 of the Revised Code.~~ 67353
67354
67355
67356
67357
67358
67359
67360
67361
67362

Sec. ~~5503.21~~ 5502.05. There is hereby created in the 67363

department of public safety, ~~division of state highway patrol~~, a 67364
driver's license examination section ~~to be administered by the~~ 67365
~~superintendent of the state highway patrol.~~ 67366

The ~~superintendent~~, with the approval of the director of 67367
public safety, may appoint necessary driver's license examiners 67368
and clerical personnel necessary to carry out the duties assigned 67369
under this section. The examiners shall be citizens of the United 67370
States and residents of the state and shall have such additional 67371
qualifications as the ~~superintendent~~, with the approval of the 67372
director, prescribes. 67373

The salaries and classifications of examiners and personnel 67374
shall be fixed in accordance with section 124.15 or 124.152 of the 67375
Revised Code. 67376

Sec. ~~5503.22~~ 5502.06. Driver's license examiners assigned to 67377
the driver's license examination section shall conduct all 67378
examinations for driver's licenses as required by sections 4507.01 67379
to 4507.36 of the Revised Code, subject to the ~~regulations~~ rules 67380
issued by the registrar of motor vehicles. 67381

Sec. ~~5503.23~~ 5502.07. The ~~superintendent of the state highway~~ 67382
~~patrol~~, with the approval of the director of public safety, may 67383
conduct training schools for prospective driver's license 67384
examiners. ~~The superintendent~~ and may establish rules governing 67385
the qualifications for admission to such schools and provide for 67386
competitive examinations to determine the fitness of such students 67387
for prospective examiners, not inconsistent with the rules of the 67388
director of administrative services. 67389

Sec. 5503.02. (A) The state highway patrol shall enforce the 67390
laws of the state relating to the titling, registration, and 67391
licensing of motor vehicles; enforce on all roads and highways, 67392
notwithstanding section 4513.39 of the Revised Code, the laws 67393

relating to the operation and use of vehicles on the highways; 67394
enforce and prevent the violation of the laws relating to the 67395
size, weight, and speed of commercial motor vehicles and all laws 67396
designed for the protection of the highway pavements and 67397
structures on the highways; investigate and enforce rules and laws 67398
of the public utilities commission governing the transportation of 67399
persons and property by motor carriers and report violations of 67400
such rules and laws to the commission; enforce against any motor 67401
~~transportation company~~ carrier as defined in section ~~4921.02~~ 67402
4923.01 of the Revised Code, ~~any contract carrier by motor vehicle~~ 67403
~~as defined in section 4923.02 of the Revised Code, any private~~ 67404
~~motor carrier as defined in section 4923.20 of the Revised Code,~~ 67405
~~and any motor carrier as defined in section 4919.75 of the Revised~~ 67406
~~Code~~ those rules and laws that, if violated, may result in a 67407
forfeiture as provided in section ~~4905.83, 4919.99, 4921.99, or~~ 67408
4923.99 of the Revised Code; investigate and report violations of 67409
all laws relating to the collection of excise taxes on motor 67410
vehicle fuels; and regulate the movement of traffic on the roads 67411
and highways of the state, notwithstanding section 4513.39 of the 67412
Revised Code. 67413

The patrol, whenever possible, shall determine the identity 67414
of the persons who are causing or who are responsible for the 67415
breaking, damaging, or destruction of any improved surfaced 67416
roadway, structure, sign, marker, guardrail, or other appurtenance 67417
constructed or maintained by the department of transportation and 67418
shall arrest the persons who are responsible for the breaking, 67419
damaging, or destruction and bring them before the proper 67420
officials for prosecution. 67421

State highway patrol troopers shall investigate and report 67422
all motor vehicle accidents on all roads and highways outside of 67423
municipal corporations. The superintendent of the patrol or any 67424
state highway patrol trooper may arrest, without a warrant, any 67425

person, who is the driver of or a passenger in any vehicle 67426
operated or standing on a state highway, whom the superintendent 67427
or trooper has reasonable cause to believe is guilty of a felony, 67428
under the same circumstances and with the same power that any 67429
peace officer may make such an arrest. 67430

The superintendent or any state highway patrol trooper may 67431
enforce the criminal laws on all state properties and state 67432
institutions, owned or leased by the state, and, when so ordered 67433
by the governor in the event of riot, civil disorder, or 67434
insurrection, may, pursuant to sections 2935.03 to 2935.05 of the 67435
Revised Code, arrest offenders against the criminal laws wherever 67436
they may be found within the state if the violations occurred 67437
upon, or resulted in injury to person or property on, state 67438
properties or state institutions, or under the conditions 67439
described in division (B) of this section. This authority of the 67440
superintendent and any state highway patrol trooper to enforce the 67441
criminal laws shall extend to the Lake Erie Correctional 67442
Institution, to the same extent as if that prison were owned by 67443
this state. 67444

(B) In the event of riot, civil disorder, or insurrection, or 67445
the reasonable threat of riot, civil disorder, or insurrection, 67446
and upon request, as provided in this section, of the sheriff of a 67447
county or the mayor or other chief executive of a municipal 67448
corporation, the governor may order the state highway patrol to 67449
enforce the criminal laws within the area threatened by riot, 67450
civil disorder, or insurrection, as designated by the governor, 67451
upon finding that law enforcement agencies within the counties 67452
involved will not be reasonably capable of controlling the riot, 67453
civil disorder, or insurrection and that additional assistance is 67454
necessary. In cities in which the sheriff is under contract to 67455
provide exclusive police services pursuant to section 311.29 of 67456
the Revised Code, in villages, and in the unincorporated areas of 67457

the county, the sheriff has exclusive authority to request the use 67458
of the patrol. In cities in which the sheriff does not exclusively 67459
provide police services, the mayor, or other chief executive 67460
performing the duties of mayor, has exclusive authority to request 67461
the use of the patrol. 67462

The superintendent or any state highway patrol trooper may 67463
enforce the criminal laws within the area designated by the 67464
governor during the emergency arising out of the riot, civil 67465
disorder, or insurrection until released by the governor upon 67466
consultation with the requesting authority. State highway patrol 67467
troopers shall never be used as peace officers in connection with 67468
any strike or labor dispute. 67469

When a request for the use of the patrol is made pursuant to 67470
this division, the requesting authority shall notify the law 67471
enforcement authorities in contiguous communities and the sheriff 67472
of each county within which the threatened area, or any part of 67473
the threatened area, lies of the request, but the failure to 67474
notify the authorities or a sheriff shall not affect the validity 67475
of the request. 67476

(C) Any person who is arrested by the superintendent or a 67477
state highway patrol trooper shall be taken before any court or 67478
magistrate having jurisdiction of the offense with which the 67479
person is charged. Any person who is arrested or apprehended 67480
within the limits of a municipal corporation shall be brought 67481
before the municipal court or other tribunal of the municipal 67482
corporation. 67483

(D)(1) State highway patrol troopers have the same right and 67484
power of search and seizure as other peace officers. 67485

No state official shall command, order, or direct any state 67486
highway patrol trooper to perform any duty or service that is not 67487
authorized by law. The powers and duties conferred on the patrol 67488

are supplementary to, and in no way a limitation on, the powers 67489
and duties of sheriffs or other peace officers of the state. 67490

(2)(a) A state highway patrol trooper, pursuant to the policy 67491
established by the superintendent of the state highway patrol 67492
under division (D)(2)(b) of this section, may render emergency 67493
assistance to any other peace officer who has arrest authority 67494
under section 2935.03 of the Revised Code, if both of the 67495
following apply: 67496

(i) There is a threat of imminent physical danger to the 67497
peace officer, a threat of physical harm to another person, or any 67498
other serious emergency situation; 67499

(ii) Either the peace officer requests emergency assistance, 67500
or it appears that the peace officer is unable to request 67501
emergency assistance and the circumstances observed by the state 67502
highway patrol trooper reasonably indicate that emergency 67503
assistance is appropriate, or the peace officer requests emergency 67504
assistance and in the request the peace officer specifies a 67505
particular location and the state highway patrol trooper arrives 67506
at that location prior to the time that the peace officer arrives 67507
at that location and the circumstances observed by the state 67508
highway patrol trooper reasonably indicate that emergency 67509
assistance is appropriate. 67510

(b) The superintendent of the state highway patrol shall 67511
establish, within sixty days of August 8, 1991, a policy that sets 67512
forth the manner and procedures by which a state highway patrol 67513
trooper may render emergency assistance to any other peace officer 67514
under division (D)(2)(a) of this section. The policy shall include 67515
a provision that a state highway patrol trooper never be used as a 67516
peace officer in connection with any strike or labor dispute. 67517

(3)(a) A state highway patrol trooper who renders emergency 67518
assistance to any other peace officer under the policy established 67519

by the superintendent pursuant to division (D)(2)(b) of this 67520
section shall be considered to be performing regular employment 67521
for the purposes of compensation, pension, indemnity fund rights, 67522
workers' compensation, and other rights or benefits to which the 67523
trooper may be entitled as incident to regular employment. 67524

(b) A state highway patrol trooper who renders emergency 67525
assistance to any other peace officer under the policy established 67526
by the superintendent pursuant to division (D)(2)(b) of this 67527
section retains personal immunity from liability as specified in 67528
section 9.86 of the Revised Code. 67529

(c) A state highway patrol trooper who renders emergency 67530
assistance under the policy established by the superintendent 67531
pursuant to division (D)(2)(b) of this section has the same 67532
authority as the peace officer for or with whom the state highway 67533
patrol trooper is providing emergency assistance. 67534

(E)(1) Subject to the availability of funds specifically 67535
appropriated by the general assembly for security detail purposes, 67536
the state highway patrol shall provide security as follows: 67537

(a) For the governor; 67538

(b) At the direction of the governor, for other officials of 67539
the state government of this state; officials of the state 67540
governments of other states who are visiting this state; officials 67541
of the United States government who are visiting this state; 67542
officials of the governments of foreign countries or their 67543
political subdivisions who are visiting this state; or other 67544
officials or dignitaries who are visiting this state, including, 67545
but not limited to, members of trade missions; 67546

(c) For the capitol square, as defined in section 105.41 of 67547
the Revised Code; 67548

(d) For other state property. 67549

(2) To carry out the security responsibilities of the patrol listed in division (E)(1) of this section, the superintendent may assign state highway patrol troopers to a separate unit that is responsible for security details. The number of troopers assigned to particular security details shall be determined by the superintendent.

(3) The superintendent and any state highway patrol trooper, when providing security pursuant to division (E)(1)(a) or (b) of this section, have the same arrest powers as other peace officers to apprehend offenders against the criminal laws who endanger or threaten the security of any person being protected, no matter where the offense occurs.

The superintendent, any state highway patrol trooper, and any special police officer designated under section 5503.09 of the Revised Code, when providing security pursuant to division (E)(1)(c) of this section, shall enforce any rules governing capitol square adopted by the capitol square review and advisory board.

(F) The governor may order the state highway patrol to undertake major criminal investigations that involve state property interests. If an investigation undertaken pursuant to this division results in either the issuance of a no bill or the filing of an indictment, the superintendent shall file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives within fifteen days after the issuance of the no bill or the filing of an indictment. If the investigation does not have as its result any prosecutorial action, the superintendent shall, upon reporting this fact to the governor, file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority

leader of the senate, and the minority leader of the house of 67582
representatives. 67583

(G) The superintendent may purchase or lease real property 67584
and buildings needed by the patrol, negotiate the sale of real 67585
property owned by the patrol, rent or lease real property owned or 67586
leased by the patrol, and make or cause to be made repairs to all 67587
property owned or under the control of the patrol. Any instrument 67588
by which real property is acquired pursuant to this division shall 67589
identify the agency of the state that has the use and benefit of 67590
the real property as specified in section 5301.012 of the Revised 67591
Code. 67592

Sections 123.01 and 125.02 of the Revised Code do not limit 67593
the powers granted to the superintendent by this division. 67594

Sec. 5503.04. Forty-five per cent of the fines collected from 67595
or moneys arising from bail forfeited by persons apprehended or 67596
arrested by state highway patrol troopers shall be paid into the 67597
state treasury to be credited to the general revenue fund, five 67598
per cent shall be paid into the state treasury to be credited to 67599
the trauma and emergency medical services ~~grants~~ fund created by 67600
~~division (E) of~~ section 4513.263 of the Revised Code, and fifty 67601
per cent shall be paid into the treasury of the municipal 67602
corporation where the case is prosecuted, if in a mayor's court. 67603
If the prosecution is in a trial court outside a municipal 67604
corporation, or outside the territorial jurisdiction of a 67605
municipal court, the fifty per cent of the fines and moneys that 67606
is not paid into the state treasury shall be paid into the 67607
treasury of the county where the case is prosecuted. The fines and 67608
moneys paid into a county treasury and the fines and moneys paid 67609
into the treasury of a municipal corporation shall be deposited 67610
one-half to the same fund and expended in the same manner as is 67611
the revenue received from the registration of motor vehicles, and 67612

one-half to the general fund of such county or municipal corporation. 67613
67614

If the prosecution is in a municipal court, forty-five per cent of the fines and moneys shall be paid into the state treasury to be credited to the general revenue fund, five per cent shall be paid into the state treasury to be credited to the trauma and emergency medical services grants fund created by division (E) of section 4513.263 of the Revised Code, ten per cent shall be paid into the county treasury to be credited to the general fund of the county, and forty per cent shall be paid into the municipal treasury to be credited to the general fund of the municipal corporation. In the Auglaize county, Clermont county, Crawford county, Hocking county, Jackson county, Lawrence county, Madison county, Miami county, Ottawa county, Portage county, and Wayne county municipal courts, that portion of money otherwise paid into the municipal treasury shall be paid into the county treasury. 67615
67616
67617
67618
67619
67620
67621
67622
67623
67624
67625
67626
67627
67628

The trial court shall make remittance of the fines and moneys as prescribed in this section, and at the same time as the remittance is made of the state's portion to the state treasury, the trial court shall notify the superintendent of the state highway patrol of the case and the amount covered by the remittance. 67629
67630
67631
67632
67633
67634

This section does not apply to fines for violations of division (B) of section 4513.263 of the Revised Code, or for violations of any municipal ordinance that is substantively comparable to that division, all of which shall be delivered to the treasurer of state as provided in division (E) of section 4513.263 of the Revised Code. 67635
67636
67637
67638
67639
67640

Sec. 5503.34. There is hereby created in the department of public safety, division of state highway patrol, a motor carrier enforcement unit, to be administered by the superintendent of the 67641
67642
67643

state highway patrol. This unit shall be responsible for 67644
enforcement of commercial motor vehicle transportation safety, 67645
~~economic~~, and hazardous materials requirements. 67646

The superintendent, with the approval of the director of 67647
public safety, may appoint and maintain necessary staff to carry 67648
out the duties assigned under this section. 67649

Employees of the motor carrier enforcement unit shall 67650
cooperate with the public utilities commission to enforce 67651
compliance with orders and rules of the commission, applicable 67652
laws under Chapters ~~4919~~ 4905., 4921., and 4923. of the Revised 67653
Code, and any other applicable laws or rules. 67654

Uniformed employees of the motor carrier enforcement unit may 67655
stop commercial motor vehicles for the exclusive purpose of 67656
inspecting such vehicles to enforce compliance with orders and 67657
rules of the public utilities commission as required by division 67658
(F) of section 5502.01 of the Revised Code. 67659

Sec. 5701.13. (A) As used in this section: 67660

(1) "Nursing home" means a nursing home or a home for the 67661
aging, as those terms are defined in section 3721.01 of the 67662
Revised Code, that is issued a license pursuant to section 3721.02 67663
of the Revised Code. 67664

(2) "Residential care facility" means a residential care 67665
facility, as defined in section 3721.01 of the Revised Code, that 67666
is issued a license pursuant to section 3721.02 of the Revised 67667
Code. 67668

(3) "~~Adult care~~ Residential facility" means ~~an adult care a~~ 67669
residential facility ~~as defined in licensed under~~ section ~~5119.70~~ 67670
5119.22 of the Revised Code that ~~is issued a license pursuant to~~ 67671
~~section 5119.73 of the Revised Code~~ provides accommodations, 67672
supervision, and personal care services for three to sixteen 67673

unrelated adults. 67674

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or ~~adult care~~ residential facility.

(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home" or "residential care facility" under section

3721.01 of the Revised Code or the definition of "~~adult care~~
residential facility" under ~~section 5119.70 of the Revised Code~~
division (A)(3) of this section regardless of whether it is
licensed as such a home or facility; and that is provided at no
charge to individuals on account of their service without
compensation to a charitable, religious, fraternal, or educational
institution, which individuals are aged or infirm and are members
of the corporation, association, or trust that owns the place of
residence. For the purposes of division (B)(2) of this section,
"compensation" does not include furnishing room and board,
clothing, health care, or other necessities, or stipends or other
de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper
application, only to those homes or parts of homes which meet the
standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a
home from requiring a resident with financial need to apply for
any applicable financial assistance or requiring a home to retain
a resident who willfully refuses to pay for services for which the
resident has contracted even though the resident has sufficient
resources to do so.

(C)(1) If a corporation, unincorporated association, or trust
described in division (B)(1)(b) of this section is granted a
certificate of need pursuant to section 3702.52 of the Revised
Code to construct, add to, or otherwise modify a nursing home, or
is given approval pursuant to section 3791.04 of the Revised Code
to construct, add to, or otherwise modify a residential care
facility or ~~adult care~~ residential facility and if the
corporation, association, or trust submits an affidavit to the tax
commissioner stating that, commencing on the date of licensure and
continuing thereafter, the home or facility will be operated in
accordance with the requirements of divisions (B)(1)(a) to (e) of

this section, the corporation, association, or trust shall be 67736
considered to be operating a "home for the aged" within the 67737
meaning of division (B)(1) of this section, beginning on the first 67738
day of January of the year in which such certificate is granted or 67739
approval is given. 67740

(2) If a corporation, association, or trust is considered to 67741
be operating a "home for the aged" pursuant to division (C)(1) of 67742
this section, the corporation, association, or trust shall notify 67743
the tax commissioner in writing upon the occurrence of any of the 67744
following events: 67745

(a) The corporation, association, or trust no longer intends 67746
to complete the construction of, addition to, or modification of 67747
the home or facility, to obtain the appropriate license for the 67748
home or facility, or to commence operation of the home or facility 67749
in accordance with the requirements of divisions (B)(1)(a) to (e) 67750
of this section; 67751

(b) The certificate of approval referred to in division 67752
(C)(1) of this section expires, is revoked, or is otherwise 67753
terminated prior to the completion of the construction of, 67754
addition to, or modification of the home or facility; 67755

(c) The license to operate the home or facility is not 67756
granted by the director of health within one year following 67757
completion of the construction of, addition to, or modification of 67758
the home or facility; 67759

(d) The license to operate the home or facility is not 67760
granted by the director of health within four years following the 67761
date upon which the certificate or approval referred to in 67762
division (C)(1) of this section was granted or given; 67763

(e) The home or facility is granted a license to operate as a 67764
nursing home, residential care facility, or ~~adult-care~~ residential 67765
facility. 67766

(3) Upon the occurrence of any of the events referred to in divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the corporation, association, or trust shall no longer be considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, except that the tax commissioner, for good cause shown and to the extent the commissioner considers appropriate, may extend the time period specified in division (C)(2)(c) or (d) of this section, or both. Nothing in division (C)(3) of this section shall be construed to prevent a nursing home, residential care facility, or ~~adult-care~~ residential facility from qualifying as a "home for the aged" if, upon proper application made pursuant to division (B) of this section, it is found to meet the requirements of divisions (A) and (B) of this section.

Sec. 5703.05. All powers, duties, and functions of the department of taxation are vested in and shall be performed by the tax commissioner, which powers, duties, and functions shall include, but shall not be limited to, the following:

(A) Prescribing all blank forms which the department is authorized to prescribe, and to provide such forms and distribute the same as required by law and the rules of the department.

(B) Exercising the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes or assessments, including penalties and interest thereon, illegally or erroneously assessed or collected, or for any other reason overpaid, and in addition, the commissioner may on written application of any person, firm, or corporation claiming to have overpaid to the treasurer of state at any time within five years prior to the making of such application any tax payable under any law which the department of taxation is required to administer which does not contain any provision for refund, or on the commissioner's own motion investigate the facts and make in

triplicate a written statement of the commissioner's findings, 67798
and, if the commissioner finds that there has been an overpayment, 67799
issue in triplicate a certificate of abatement payable to the 67800
taxpayer, the taxpayer's assigns, or legal representative which 67801
shows the amount of the overpayment and the kind of tax overpaid. 67802
One copy of such statement shall be entered on the journal of the 67803
commissioner, one shall be certified to the attorney general, and 67804
one certified copy shall be delivered to the taxpayer. All copies 67805
of the certificate of abatement shall be transmitted to the 67806
attorney general, and if the attorney general finds it to be 67807
correct the attorney general shall so certify on each copy, and 67808
deliver one copy to the taxpayer, one copy to the commissioner, 67809
and the third copy to the treasurer of state. Except as provided 67810
in ~~sections~~ section 5725.08 ~~and 5725.16~~ of the Revised Code, the 67811
taxpayer's copy of any certificates of abatement may be tendered 67812
by the payee or transferee thereof to the treasurer of state, or 67813
to the commissioner on behalf of the treasurer, as payment, to the 67814
extent of the amount thereof, of any tax payable to the treasurer 67815
of state. 67816

(C) Exercising the authority provided by law relative to 67817
consenting to the compromise and settlement of tax claims; 67818

(D) Exercising the authority provided by law relative to the 67819
use of alternative tax bases by taxpayers in the making of 67820
personal property tax returns; 67821

(E) Exercising the authority provided by law relative to 67822
authorizing the prepayment of taxes on retail sales of tangible 67823
personal property or on the storage, use, or consumption of 67824
personal property, and waiving the collection of such taxes from 67825
the consumers; 67826

(F) Exercising the authority provided by law to revoke 67827
licenses; 67828

(G) Maintaining a continuous study of the practical operation 67829
of all taxation and revenue laws of the state, the manner in which 67830
and extent to which such laws provide revenues for the support of 67831
the state and its political subdivisions, the probable effect upon 67832
such revenue of possible changes in existing laws, and the 67833
possible enactment of measures providing for other forms of 67834
taxation. For this purpose the commissioner may establish and 67835
maintain a division of research and statistics, and may appoint 67836
necessary employees who shall be in the unclassified civil 67837
service; the results of such study shall be available to the 67838
members of the general assembly and the public. 67839

(H) Making all tax assessments, valuations, findings, 67840
determinations, computations, and orders the department of 67841
taxation is by law authorized and required to make and, pursuant 67842
to time limitations provided by law, on the commissioner's own 67843
motion, reviewing, redetermining, or correcting any tax 67844
assessments, valuations, findings, determinations, computations, 67845
or orders the commissioner has made, but the commissioner shall 67846
not review, redetermine, or correct any tax assessment, valuation, 67847
finding, determination, computation, or order which the 67848
commissioner has made as to which an appeal or application for 67849
rehearing, review, redetermination, or correction has been filed 67850
with the board of tax appeals, unless such appeal or application 67851
is withdrawn by the appellant or applicant or dismissed; 67852

(I) Appointing not more than five deputy tax commissioners, 67853
who, under such regulations as the rules of the department of 67854
taxation prescribe, may act for the commissioner in the 67855
performance of such duties as the commissioner prescribes in the 67856
administration of the laws which the commissioner is authorized 67857
and required to administer, and who shall serve in the 67858
unclassified civil service at the pleasure of the commissioner, 67859
but if a person who holds a position in the classified service is 67860

appointed, it shall not affect the civil service status of such 67861
person. The commissioner may designate not more than two of the 67862
deputy commissioners to act as commissioner in case of the 67863
absence, disability, or recusal of the commissioner or vacancy in 67864
the office of commissioner. The commissioner may adopt rules 67865
relating to the order of precedence of such designated deputy 67866
commissioners and to their assumption and administration of the 67867
office of commissioner. 67868

(J) Appointing and prescribing the duties of all other 67869
employees of the department of taxation necessary in the 67870
performance of the work of the department which the tax 67871
commissioner is by law authorized and required to perform, and 67872
creating such divisions or sections of employees as, in the 67873
commissioner's judgment, is proper; 67874

(K) Organizing the work of the department, which the 67875
commissioner is by law authorized and required to perform, so 67876
that, in the commissioner's judgment, an efficient and economical 67877
administration of the laws will result; 67878

(L) Maintaining a journal, which is open to public 67879
inspection, in which the tax commissioner shall keep a record of 67880
all final determinations of the commissioner; 67881

(M) Adopting and promulgating, in the manner provided by 67882
section 5703.14 of the Revised Code, all rules of the department, 67883
including rules for the administration of sections 3517.16, 67884
3517.17, and 5747.081 of the Revised Code; 67885

(N) Destroying any or all returns or assessment certificates 67886
in the manner authorized by law; 67887

(O) Adopting rules, in accordance with division (B) of 67888
section 325.31 of the Revised Code, governing the expenditure of 67889
moneys from the real estate assessment fund under that division. 67890

Sec. 5705.08. On or before the first Monday in May of each year, the fiscal officer of each subdivision ~~that is not a, except~~ school ~~district~~ districts and the city of Cincinnati, shall certify to its taxing authority the amount necessary to provide for the payment of final judgments against the subdivision, except in condemnation of property cases. The taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

On or before the first Monday in November of each year, the fiscal officer of the city of Cincinnati and of each school district shall certify to its ~~board of education~~ taxing authority the amount necessary to provide for the payment of final judgments against the ~~district~~ subdivision, except in condemnation of property cases. The ~~board of education~~ taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

Sec. 5705.19. This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code

shall not exceed two mills and that the total levy for current 67921
expenses of a combined district organized under sections 2151.65 67922
and 2152.41 of the Revised Code shall not exceed four mills; 67923

(B) For the payment of debt charges on certain described 67924
bonds, notes, or certificates of indebtedness of the subdivision 67925
issued subsequent to January 1, 1925; 67926

(C) For the debt charges on all bonds, notes, and 67927
certificates of indebtedness issued and authorized to be issued 67928
prior to January 1, 1925; 67929

(D) For a public library of, or supported by, the subdivision 67930
under whatever law organized or authorized to be supported; 67931

(E) For a municipal university, not to exceed two mills over 67932
the limitation of one mill prescribed in section 3349.13 of the 67933
Revised Code; 67934

(F) For the construction or acquisition of any specific 67935
permanent improvement or class of improvements that the taxing 67936
authority of the subdivision may include in a single bond issue; 67937

(G) For the general construction, reconstruction, 67938
resurfacing, and repair of streets, roads, and bridges in 67939
municipal corporations, counties, or townships; 67940

(H) For parks and recreational purposes; 67941

(I) For the purpose of providing and maintaining fire 67942
apparatus, appliances, buildings, or sites therefor, or sources of 67943
water supply and materials therefor, or the establishment and 67944
maintenance of lines of fire alarm telegraph, or the payment of 67945
firefighting companies or permanent, part-time, or volunteer 67946
firefighting, emergency medical service, administrative, or 67947
communications personnel to operate the same, including the 67948
payment of any employer contributions required for such personnel 67949
under section 145.48 or 742.34 of the Revised Code, or the 67950

purchase of ambulance equipment, or the provision of ambulance, 67951
paramedic, or other emergency medical services operated by a fire 67952
department or firefighting company; 67953

(J) For the purpose of providing and maintaining motor 67954
vehicles, communications, other equipment, buildings, and sites 67955
for such buildings used directly in the operation of a police 67956
department, or the payment of salaries of permanent or part-time 67957
police, communications, or administrative personnel to operate the 67958
same, including the payment of any employer contributions required 67959
for such personnel under section 145.48 or 742.33 of the Revised 67960
Code, or the payment of the costs incurred by townships as a 67961
result of contracts made with other political subdivisions in 67962
order to obtain police protection, or the provision of ambulance 67963
or emergency medical services operated by a police department; 67964

(K) For the maintenance and operation of a county home or 67965
detention facility; 67966

(L) For community mental retardation and developmental 67967
disabilities programs and services pursuant to Chapter 5126. of 67968
the Revised Code, except that the procedure for such levies shall 67969
be as provided in section 5705.222 of the Revised Code; 67970

(M) For regional planning; 67971

(N) For a county's share of the cost of maintaining and 67972
operating schools, district detention facilities, forestry camps, 67973
or other facilities, or any combination thereof, established under 67974
section 2151.65 or 2152.41 of the Revised Code or both of those 67975
sections; 67976

(O) For providing for flood defense, providing and 67977
maintaining a flood wall or pumps, and other purposes to prevent 67978
floods; 67979

(P) For maintaining and operating sewage disposal plants and 67980
facilities; 67981

(Q) For the purpose of purchasing, acquiring, constructing, 67982
enlarging, improving, equipping, repairing, maintaining, or 67983
operating, or any combination of the foregoing, a county transit 67984
system pursuant to sections 306.01 to 306.13 of the Revised Code, 67985
or of making any payment to a board of county commissioners 67986
operating a transit system or a county transit board pursuant to 67987
section 306.06 of the Revised Code; 67988

(R) For the subdivision's share of the cost of acquiring or 67989
constructing any schools, forestry camps, detention facilities, or 67990
other facilities, or any combination thereof, under section 67991
2151.65 or 2152.41 of the Revised Code or both of those sections; 67992

(S) For the prevention, control, and abatement of air 67993
pollution; 67994

(T) For maintaining and operating cemeteries; 67995

(U) For providing ambulance service, emergency medical 67996
service, or both; 67997

(V) For providing for the collection and disposal of garbage 67998
or refuse, including yard waste; 67999

(W) For the payment of the police officer employers' 68000
contribution or the firefighter employers' contribution required 68001
under sections 742.33 and 742.34 of the Revised Code; 68002

(X) For the construction and maintenance of a drainage 68003
improvement pursuant to section 6131.52 of the Revised Code; 68004

(Y) For providing or maintaining senior citizens services or 68005
facilities as authorized by section 307.694, 307.85, 505.70, or 68006
505.706 or division (EE) of section 717.01 of the Revised Code; 68007

(Z) For the provision and maintenance of zoological park 68008
services and facilities as authorized under section 307.76 of the 68009
Revised Code; 68010

(AA) For the maintenance and operation of a free public 68011

museum of art, science, or history; 68012

(BB) For the establishment and operation of a 9-1-1 system, 68013
as defined in section 4931.40 of the Revised Code; 68014

(CC) For the purpose of acquiring, rehabilitating, or 68015
developing rail property or rail service. As used in this 68016
division, "rail property" and "rail service" have the same 68017
meanings as in section 4981.01 of the Revised Code. This division 68018
applies only to a county, township, or municipal corporation. 68019

(DD) For the purpose of acquiring property for, constructing, 68020
operating, and maintaining community centers as provided for in 68021
section 755.16 of the Revised Code; 68022

(EE) For the creation and operation of an office or joint 68023
office of economic development, for any economic development 68024
purpose of the office, and to otherwise provide for the 68025
establishment and operation of a program of economic development 68026
pursuant to sections 307.07 and 307.64 of the Revised Code, or to 68027
the extent that the expenses of a county land reutilization 68028
corporation organized under Chapter 1724. of the Revised Code are 68029
found by the board of county commissioners to constitute the 68030
promotion of economic development, for the payment of such 68031
operations and expenses; 68032

(FF) For the purpose of acquiring, establishing, 68033
constructing, improving, equipping, maintaining, or operating, or 68034
any combination of the foregoing, a township airport, landing 68035
field, or other air navigation facility pursuant to section 505.15 68036
of the Revised Code; 68037

(GG) For the payment of costs incurred by a township as a 68038
result of a contract made with a county pursuant to section 68039
505.263 of the Revised Code in order to pay all or any part of the 68040
cost of constructing, maintaining, repairing, or operating a water 68041
supply improvement; 68042

(HH) For a board of township trustees to acquire, other than 68043
by appropriation, an ownership interest in land, water, or 68044
wetlands, or to restore or maintain land, water, or wetlands in 68045
which the board has an ownership interest, not for purposes of 68046
recreation, but for the purposes of protecting and preserving the 68047
natural, scenic, open, or wooded condition of the land, water, or 68048
wetlands against modification or encroachment resulting from 68049
occupation, development, or other use, which may be styled as 68050
protecting or preserving "greenspace" in the resolution, notice of 68051
election, or ballot form. Except as otherwise provided in this 68052
division, land is not acquired for purposes of recreation, even if 68053
the land is used for recreational purposes, so long as no 68054
building, structure, or fixture used for recreational purposes is 68055
permanently attached or affixed to the land. Except as otherwise 68056
provided in this division, land that previously has been acquired 68057
in a township for these greenspace purposes may subsequently be 68058
used for recreational purposes if the board of township trustees 68059
adopts a resolution approving that use and no building, structure, 68060
or fixture used for recreational purposes is permanently attached 68061
or affixed to the land. The authorization to use greenspace land 68062
for recreational use does not apply to land located in a township 68063
that had a population, at the time it passed its first greenspace 68064
levy, of more than thirty-eight thousand within a county that had 68065
a population, at that time, of at least eight hundred sixty 68066
thousand. 68067

(II) For the support by a county of a crime victim assistance 68068
program that is provided and maintained by a county agency or a 68069
private, nonprofit corporation or association under section 307.62 68070
of the Revised Code; 68071

(JJ) For any or all of the purposes set forth in divisions 68072
(I) and (J) of this section. This division applies only to a 68073
township. 68074

| | |
|---|-------|
| (KK) For a countywide public safety communications system | 68075 |
| under section 307.63 of the Revised Code. This division applies | 68076 |
| only to counties. | 68077 |
| (LL) For the support by a county of criminal justice services | 68078 |
| under section 307.45 of the Revised Code; | 68079 |
| (MM) For the purpose of maintaining and operating a jail or | 68080 |
| other detention facility as defined in section 2921.01 of the | 68081 |
| Revised Code; | 68082 |
| (NN) For purchasing, maintaining, or improving, or any | 68083 |
| combination of the foregoing, real estate on which to hold | 68084 |
| agricultural fairs. This division applies only to a county. | 68085 |
| (OO) For constructing, rehabilitating, repairing, or | 68086 |
| maintaining sidewalks, walkways, trails, bicycle pathways, or | 68087 |
| similar improvements, or acquiring ownership interests in land | 68088 |
| necessary for the foregoing improvements; | 68089 |
| (PP) For both of the purposes set forth in divisions (G) and | 68090 |
| (OO) of this section. | 68091 |
| (QQ) For both of the purposes set forth in divisions (H) and | 68092 |
| (HH) of this section. This division applies only to a township. | 68093 |
| (RR) For the legislative authority of a municipal | 68094 |
| corporation, board of county commissioners of a county, or board | 68095 |
| of township trustees of a township to acquire agricultural | 68096 |
| easements, as defined in section 5301.67 of the Revised Code, and | 68097 |
| to supervise and enforce the easements. | 68098 |
| (SS) For both of the purposes set forth in divisions (BB) and | 68099 |
| (KK) of this section. This division applies only to a county. | 68100 |
| (TT) For the maintenance and operation of a facility that is | 68101 |
| organized in whole or in part to promote the sciences and natural | 68102 |
| history under section 307.761 of the Revised Code. | 68103 |
| (UU) For the creation and operation of a county land | 68104 |

reutilization corporation and for any programs or activities of 68105
the corporation found by the board of directors of the corporation 68106
to be consistent with the purposes for which the corporation is 68107
organized; 68108

(VV) For construction and maintenance of improvements and 68109
expenses of soil and water conservation district programs under 68110
Chapter 1515. of the Revised Code; 68111

(WW) For the Ohio cooperative extension service fund created 68112
under section 3335.35 of the Revised Code for the purposes 68113
prescribed under section 3335.36 of the Revised Code for the 68114
benefit of the citizens of a county. This division applies only to 68115
a county. 68116

(XX) For a municipal corporation that withdraws or proposes 68117
by resolution to withdraw from a regional transit authority under 68118
section 306.55 of the Revised Code to provide transportation 68119
services for the movement of persons within, from, or to the 68120
municipal corporation. 68121

The resolution shall be confined to the purpose or purposes 68122
described in one division of this section, to which the revenue 68123
derived therefrom shall be applied. The existence in any other 68124
division of this section of authority to levy a tax for any part 68125
or all of the same purpose or purposes does not preclude the use 68126
of such revenues for any part of the purpose or purposes of the 68127
division under which the resolution is adopted. 68128

The resolution shall specify the amount of the increase in 68129
rate that it is necessary to levy, the purpose of that increase in 68130
rate, and the number of years during which the increase in rate 68131
shall be in effect, which may or may not include a levy upon the 68132
duplicate of the current year. The number of years may be any 68133
number not exceeding five, except as follows: 68134

(1) When the additional rate is for the payment of debt 68135

charges, the increased rate shall be for the life of the 68136
indebtedness. 68137

(2) When the additional rate is for any of the following, the 68138
increased rate shall be for a continuing period of time: 68139

(a) For the current expenses for a detention facility 68140
district, a district organized under section 2151.65 of the 68141
Revised Code, or a combined district organized under sections 68142
2151.65 and 2152.41 of the Revised Code; 68143

(b) For providing a county's share of the cost of maintaining 68144
and operating schools, district detention facilities, forestry 68145
camps, or other facilities, or any combination thereof, 68146
established under section 2151.65 or 2152.41 of the Revised Code 68147
or under both of those sections. 68148

(3) When the additional rate is for either of the following, 68149
the increased rate may be for a continuing period of time: 68150

(a) For the purposes set forth in division (I), (J), (U), or 68151
(KK) of this section; 68152

(b) For the maintenance and operation of a joint recreation 68153
district. 68154

(4) When the increase is for the purpose or purposes set 68155
forth in division (D), (G), (H), (CC), or (PP) of this section, 68156
the tax levy may be for any specified number of years or for a 68157
continuing period of time, as set forth in the resolution. 68158

(5) When the additional rate is for the purpose described in 68159
division (Z) of this section, the increased rate shall be for any 68160
number of years not exceeding ten. 68161

A levy for one of the purposes set forth in division (G), 68162
(I), (J), or (U) of this section may be reduced pursuant to 68163
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 68164
the purposes set forth in division (G), (I), (J), or (U) of this 68165

section may also be terminated or permanently reduced by the 68166
taxing authority if it adopts a resolution stating that the 68167
continuance of the levy is unnecessary and the levy shall be 68168
terminated or that the millage is excessive and the levy shall be 68169
decreased by a designated amount. 68170

A resolution of a detention facility district, a district 68171
organized under section 2151.65 of the Revised Code, or a combined 68172
district organized under both sections 2151.65 and 2152.41 of the 68173
Revised Code may include both current expenses and other purposes, 68174
provided that the resolution shall apportion the annual rate of 68175
levy between the current expenses and the other purpose or 68176
purposes. The apportionment need not be the same for each year of 68177
the levy, but the respective portions of the rate actually levied 68178
each year for the current expenses and the other purpose or 68179
purposes shall be limited by the apportionment. 68180

Whenever a board of county commissioners, acting either as 68181
the taxing authority of its county or as the taxing authority of a 68182
sewer district or subdistrict created under Chapter 6117. of the 68183
Revised Code, by resolution declares it necessary to levy a tax in 68184
excess of the ten-mill limitation for the purpose of constructing, 68185
improving, or extending sewage disposal plants or sewage systems, 68186
the tax may be in effect for any number of years not exceeding 68187
twenty, and the proceeds of the tax, notwithstanding the general 68188
provisions of this section, may be used to pay debt charges on any 68189
obligations issued and outstanding on behalf of the subdivision 68190
for the purposes enumerated in this paragraph, provided that any 68191
such obligations have been specifically described in the 68192
resolution. 68193

A resolution adopted by the legislative authority of a 68194
municipal corporation that is for the purpose in division (XX) of 68195
this section may be combined with the purpose provided in section 68196
306.55 of the Revised Code, by vote of two-thirds of all members 68197

of the legislative authority. The legislative authority may 68198
certify the resolution to the board of elections as a combined 68199
question. The question appearing on the ballot shall be as 68200
provided in section 5705.252 of the Revised Code. 68201

The resolution shall go into immediate effect upon its 68202
passage, and no publication of the resolution is necessary other 68203
than that provided for in the notice of election. 68204

When the electors of a subdivision have approved a tax levy 68205
under this section, the taxing authority of the subdivision may 68206
anticipate a fraction of the proceeds of the levy and issue 68207
anticipation notes in accordance with section 5705.191 or 5705.193 68208
of the Revised Code. 68209

Sec. 5705.25. (A) A copy of any resolution adopted as 68210
provided in section 5705.19 or 5705.2111 of the Revised Code shall 68211
be certified by the taxing authority to the board of elections of 68212
the proper county not less than ninety days before the general 68213
election in any year, and the board shall submit the proposal to 68214
the electors of the subdivision at the succeeding November 68215
election. Except as otherwise provided in this division, a 68216
resolution to renew an existing levy, regardless of the section of 68217
the Revised Code under which the tax was imposed, shall not be 68218
placed on the ballot unless the question is submitted at the 68219
general election held during the last year the tax to be renewed 68220
or replaced may be extended on the real and public utility 68221
property tax list and duplicate, or at any election held in the 68222
ensuing year. The limitation of the foregoing sentence does not 68223
apply to a resolution to renew and increase or to renew part of an 68224
existing levy that was imposed under section 5705.191 of the 68225
Revised Code to supplement the general fund for the purpose of 68226
making appropriations for one or more of the following purposes: 68227
for public assistance, human or social services, relief, welfare, 68228

hospitalization, health, and support of general hospitals. The 68229
limitation of the second preceding sentence also does not apply to 68230
a resolution that proposes to renew two or more existing levies 68231
imposed under section 5705.21 of the Revised Code, in which case 68232
the question shall be submitted on the date of the general or 68233
primary election held during the last year at least one of the 68234
levies to be renewed may be extended on the real and public 68235
utility property tax list and duplicate, or at any election held 68236
during the ensuing year. For purposes of this section, a levy 68237
shall be considered to be an "existing levy" through the year 68238
following the last year it can be placed on that tax list and 68239
duplicate. 68240

The board shall make the necessary arrangements for the 68241
submission of such questions to the electors of such subdivision, 68242
and the election shall be conducted, canvassed, and certified in 68243
the same manner as regular elections in such subdivision for the 68244
election of county officers. Notice of the election shall be 68245
published in a newspaper of general circulation in the subdivision 68246
once a week for two consecutive weeks, or as provided in section 68247
7.16 of the Revised Code, prior to the election. If the board of 68248
elections operates and maintains a web site, the board of 68249
elections shall post notice of the election on its web site for 68250
thirty days prior to the election. The notice shall state the 68251
purpose, the proposed increase in rate expressed in dollars and 68252
cents for each one hundred dollars of valuation as well as in 68253
mills for each one dollar of valuation, the number of years during 68254
which the increase will be in effect, the first month and year in 68255
which the tax will be levied, and the time and place of the 68256
election. 68257

(B) The form of the ballots cast at an election held pursuant 68258
to division (A) of this section shall be as follows: 68259

"An additional tax for the benefit of (name of subdivision or 68260

public library) for the purpose of (purpose stated in 68261
the resolution) at a rate not exceeding mills 68262
for each one dollar of valuation, which amounts to (rate expressed 68263
in dollars and cents) for each one hundred dollars of 68264
valuation, for (life of indebtedness or number of years the 68265
levy is to run). 68266

| | | |
|--|----------------------|---|
| | For the Tax Levy | |
| | Against the Tax Levy | " |

68267
68268
68269
68270

(C) If the levy is to be in effect for a continuing period of 68271
time, the notice of election and the form of ballot shall so state 68272
instead of setting forth a specified number of years for the levy. 68273

If the tax is to be placed on the current tax list, the form 68274
of the ballot shall be modified by adding, after the statement of 68275
the number of years the levy is to run, the phrase ", commencing 68276
in (first year the tax is to be levied), first due in 68277
calendar year (first calendar year in which the tax 68278
shall be due)." 68279

If the levy submitted is a proposal to renew, increase, or 68280
decrease an existing levy, the form of the ballot specified in 68281
division (B) of this section may be changed by substituting for 68282
the words "An additional" at the beginning of the form, the words 68283
"A renewal of a" in case of a proposal to renew an existing levy 68284
in the same amount; the words "A renewal of mills and an 68285
increase of mills to constitute a" in the case of an 68286
increase; or the words "A renewal of part of an existing levy, 68287
being a reduction of mills, to constitute a" in the case of 68288
a decrease in the proposed levy. 68289

If the levy submitted is a proposal to renew two or more 68290
existing levies imposed under section 5705.21 of the Revised Code, 68291

the form of the ballot specified in division (B) of this section 68292
shall be modified by substituting for the words "an additional 68293
tax" the words "a renewal of(insert the number of levies to 68294
be renewed) existing taxes." 68295

If the levy submitted is a levy under section 5705.72 of the 68296
Revised Code or a proposal to renew, increase, or decrease an 68297
existing levy imposed under that section, the name of the 68298
subdivision shall be "the unincorporated area of (name 68299
of township)." 68300

The question covered by such resolution shall be submitted as 68301
a separate proposition but may be printed on the same ballot with 68302
any other proposition submitted at the same election, other than 68303
the election of officers. More than one such question may be 68304
submitted at the same election. 68305

(D) A levy voted in excess of the ten-mill limitation under 68306
this section shall be certified to the tax commissioner. In the 68307
first year of the levy, it shall be extended on the tax lists 68308
after the February settlement succeeding the election. If the 68309
additional tax is to be placed upon the tax list of the current 68310
year, as specified in the resolution providing for its submission, 68311
the result of the election shall be certified immediately after 68312
the canvass by the board of elections to the taxing authority, who 68313
shall make the necessary levy and certify it to the county 68314
auditor, who shall extend it on the tax lists for collection. 68315
After the first year, the tax levy shall be included in the annual 68316
tax budget that is certified to the county budget commission. 68317

Sec. 5705.252. (A) If the legislative authority of a 68318
municipal corporation adopts a resolution for the purposes 68319
provided in section 306.55 of the Revised Code and division (XX) 68320
of section 5705.19 of the Revised Code and certifies the 68321
resolution to the board of elections as a combined question, the 68322

question appearing on the ballot shall read: 68323

"Shall the territory within the (name of municipal corporation) be withdrawn from (name of regional transit authority) and shall an additional tax be levied for the benefit of (name of municipal corporation) for the purpose of providing transportation services for the movement of persons within, from, or to the (name of municipal corporation) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (number of years the levy is to run)?" 68324
68325
68326
68327
68328
68329
68330
68331
68332
68333

(B) If the board of trustees of a township adopts a resolution for the purposes provided in sections 306.55 and 5705.72 of the Revised Code and certifies the resolution to the board of elections as a combined question, the question appearing on the ballot in the unincorporated area of the township shall read: 68334
68335
68336
68337
68338
68339

"Shall the territory within the unincorporated area of (name of township) be withdrawn from (name of regional transit authority) and shall an additional tax be levied for the benefit of the unincorporated area of (name of township) for the purpose of providing transportation services for the movement of persons within, from, or to the unincorporated area of (name of township) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (number of years the levy is to run)?" 68340
68341
68342
68343
68344
68345
68346
68347
68348
68349

Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year: 68350
68351
68352
68353

(1) On or before the fifteenth day of January in the case of 68354
a school ~~district~~ districts and the city of Cincinnati; 68355

(2) On or before the fifteenth day of July in the case of all 68356
other subdivisions and taxing units. 68357

(B)(1) Before the first day of June in each year, the board 68358
of trustees of a school library district entitled to participate 68359
in any appropriation or revenue of a school district or to have a 68360
tax proposed by the board of education of a school district shall 68361
file with the board of education of the school district a tax 68362
budget for the ensuing fiscal year. On or before the fifteenth day 68363
of July in each year, the board of education of a school district 68364
to which a school library district tax budget was submitted under 68365
this division shall adopt such tax budget on behalf of the library 68366
district, but such budget shall not be part of the school 68367
district's tax budget. 68368

(2)(a) The taxing authority of a taxing unit that does not 68369
levy a tax is not required to adopt a tax budget pursuant to 68370
division (A) of this section. Instead, on or before the fifteenth 68371
day of July each year, such taxing authority shall adopt an 68372
operating budget for the taxing unit for the ensuing fiscal year. 68373
The operating budget shall include an estimate of receipts from 68374
all sources, a statement of all taxing unit expenses that are 68375
anticipated to occur, and the amount required for debt charges 68376
during the fiscal year. The operating budget is not required to be 68377
filed with the county auditor or the county budget commission. 68378

(b) Except for this section and sections 5705.36, 5705.38, 68379
5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised 68380
Code, a taxing unit that does not levy a tax is not a taxing unit 68381
for purposes of Chapter 5705. of the Revised Code. Documents 68382
prepared in accordance with such sections are not required to be 68383
filed with the county auditor or county budget commission. 68384

(c) The total appropriations from each fund of a taxing unit 68385
that does not levy a tax shall not exceed the total estimated 68386
revenue available for expenditures from the fund, and 68387
appropriations shall be made from each fund only for the purposes 68388
for which the fund is established. 68389

(C)(1) To assist in the preparation of the tax budget, the 68390
head of each department, board, commission, and district authority 68391
entitled to participate in any appropriation or revenue of a 68392
subdivision shall file with the taxing authority, or in the case 68393
of a municipal corporation, with its chief executive officer, 68394
before the forty-fifth day prior to the date on which the budget 68395
must be adopted, an estimate of contemplated revenue and 68396
expenditures for the ensuing fiscal year, in such form as is 68397
prescribed by the taxing authority of the subdivision or by the 68398
auditor of state. The taxing authority shall include in its budget 68399
of expenditures the full amounts requested by district 68400
authorities, not to exceed the amount authorized by law, if such 68401
authorities may fix the amount of revenue they are to receive from 68402
the subdivision. In a municipal corporation in which a special 68403
levy for a municipal university has been authorized to be levied 68404
in excess of the ten-mill limitation, or is required by the 68405
charter of the municipal corporation, the taxing authority shall 68406
include an amount not less than the estimated yield of such levy, 68407
if such amount is requested by the board of directors of the 68408
municipal university. 68409

(2) A county board of developmental disabilities may include 68410
within its estimate of contemplated revenue and expenditures a 68411
reserve balance account in the community developmental 68412
disabilities residential services fund. The account shall contain 68413
money that is not needed to pay for current expenses for 68414
residential services and supported living but will be needed to 68415
pay for expenses for such services in the future or may be needed 68416

for unanticipated emergency expenses. On the request of the county board of developmental disabilities, the board of county commissioners shall include such an account in its budget of expenditures and appropriate money to the account from residential service moneys for the county board.

(D) The board of trustees of any public library desiring to participate in the distribution of the county public library fund shall adopt appropriate rules extending the benefits of the library service of such library to all the inhabitants of the county on equal terms, unless such library service is by law available to all such inhabitants, and shall certify a copy of such rules to the taxing authority with its estimate of contemplated revenue and expenditures. Where such rules have been so certified or where the adoption of such rules is not required, the taxing authority shall include in its budget of receipts such amounts as are specified by such board as contemplated revenue from the county public library fund, and in its budget of expenditures the full amounts requested therefrom by such board. No library association, incorporated or unincorporated, is entitled to participate in the proceeds of the county public library fund unless such association both was organized and operating prior to January 1, 1968, and participated in the distribution of the proceeds of the county public library fund prior to December 31, 2005.

Sec. 5705.30. This section does not apply to a subdivision for which the county budget commission has waived the requirement to adopt a tax budget under section 5705.281 of the Revised Code.

In addition to the information required by section 5705.29 of the Revised Code, the budget of each subdivision and school library district shall include such other information as is prescribed by the auditor of state. At least two copies of the

budget shall be filed in the office of the fiscal officer of the 68448
subdivision for public inspection not less than ten days before 68449
its adoption by the taxing authority, and such taxing authority 68450
shall hold at least one public hearing thereon, of which public 68451
notice shall be given by at least one publication not less than 68452
ten days prior to the date of hearing in the official publication 68453
of such subdivision, or in a newspaper having general circulation 68454
in the subdivision. The budget, after adoption, shall be submitted 68455
to the county auditor on or before the twentieth day of July, or 68456
in the case of a school district or the city of Cincinnati, by the 68457
twentieth day of January. The tax commissioner may prescribe a 68458
later date for the submission of a subdivision's tax budget. Any 68459
subdivision that fails to submit its budget to the county auditor 68460
on or before the ~~twentieth day of July, unless the commissioner on~~ 68461
~~or before the twentieth day of July prescribes~~ date prescribed by 68462
this section or a later date for submission of the budget by that 68463
~~subdivision, prescribed by the commissioner~~ shall not receive an 68464
apportionment from the undivided local government fund 68465
distribution for the ensuing calendar year, ~~unless upon review of~~ 68466
~~the matter~~ the commissioner determines that the budget was adopted 68467
by the subdivision on or before the ~~fifteenth~~ fifth day ~~of July~~ 68468
before the date prescribed by this section for submitting the 68469
budget, but was not submitted ~~to the county auditor~~ by the 68470
~~twentieth day of July~~ date so prescribed or the later time 68471
prescribed by the commissioner because of ministerial error by the 68472
subdivision or its officers, employees, or other representatives. 68473

Sec. 5705.34. When the budget commission has completed its 68474
work with respect to a tax budget or other information required to 68475
be provided under section 5705.281 of the Revised Code, it shall 68476
certify its action to the taxing authority, together with an 68477
estimate by the county auditor of the rate of each tax necessary 68478
to be levied by the taxing authority within its subdivision or 68479

taxing unit, and what part thereof is in excess of, and what part 68480
within, the ten-mill tax limitation. The certification shall also 68481
indicate the date on which each tax levied by the taxing authority 68482
will expire. 68483

If a taxing authority levies a tax for a fixed sum of money 68484
or to pay debt charges for the tax year for which the tax budget 68485
is prepared, and a payment on account of that tax is payable to 68486
the taxing authority for the tax year under section 5727.85, 68487
5727.86, 5751.21, or 5751.22 of the Revised Code, the county 68488
auditor, when estimating the rate at which the tax shall be levied 68489
in the current year, shall estimate the rate necessary to raise 68490
the required sum less the estimated amount of any payments made 68491
for the tax year to a taxing unit for fixed-sum levies under those 68492
sections. The estimated rate shall be the rate of the levy that 68493
the budget commission certifies with its action under this 68494
section. 68495

Each taxing authority, by ordinance or resolution, shall 68496
authorize the necessary tax levies and certify them to the county 68497
auditor before the first day of October in each year, or at such 68498
later date as is approved by the tax commissioner, except that the 68499
certification by the legislative authority of the city of 68500
Cincinnati or by a board of education shall be made by the first 68501
day of April or at such later date as is approved by the 68502
commissioner, and except that a township board of park 68503
commissioners that is appointed by the board of township trustees 68504
and oversees a township park district that contains only 68505
unincorporated territory shall authorize only those taxes approved 68506
by, and only at the rate approved by, the board of township 68507
trustees as required by division (C) of section 511.27 of the 68508
Revised Code. If the levying of a tax to be placed on the 68509
duplicate of the current year is approved by the electors of the 68510
subdivision under sections 5705.01 to 5705.47 of the Revised Code; 68511

if the rate of a school district tax is increased due to the 68512
repeal of a school district income tax and property tax rate 68513
reduction at an election held pursuant to section 5748.04 of the 68514
Revised Code; or if refunding bonds to refund all or a part of the 68515
principal of bonds payable from a tax levy for the ensuing fiscal 68516
year are issued or sold and in the process of delivery, the budget 68517
commission shall reconsider and revise its action on the budget of 68518
the subdivision or school library district for whose benefit the 68519
tax is to be levied after the returns of such election are fully 68520
canvassed, or after the issuance or sale of such refunding bonds 68521
is certified to it. 68522

Sec. 5705.35. (A) The certification of the budget commission 68523
to the taxing authority of each subdivision or taxing unit, as set 68524
forth in section 5705.34 of the Revised Code, shall show the 68525
various funds of such subdivisions other than funds to be created 68526
by transfer and shall be filed by the county budget commission 68527
with such taxing authority on or before the first day of March in 68528
the case of school districts and the city of Cincinnati and on or 68529
before the first day of September in each year in the case of all 68530
other taxing authorities. There shall be set forth on the credit 68531
side of each fund the estimated unencumbered balances and 68532
receipts, and if a tax is to be levied for such fund, the 68533
estimated revenue to be derived therefrom, the rate of the levy, 68534
and what portion thereof is within, and what in excess of, the 68535
ten-mill tax limitation, and on the debit side, the total 68536
appropriations that may be made therefrom. Subject to division (G) 68537
of section 5705.29 of the Revised Code, any reserve balance in an 68538
account established under section 5705.13 of the Revised Code for 68539
the purpose described in division (A)(1) of that section, and the 68540
principal of a nonexpendable trust fund established under section 68541
5705.131 of the Revised Code and any additions to principal 68542
arising from sources other than the reinvestment of investment 68543

earnings arising from that fund, are not unencumbered balances for 68544
the purposes of this section. The balance in a reserve balance 68545
account established under section 5705.132 of the Revised Code is 68546
not an unencumbered balance for the purposes of this division. 68547

There shall be attached to the certification a summary, which 68548
shall be known as the "official certificate of estimated 68549
resources," that shall state the total estimated resources of each 68550
fund of the subdivision that are available for appropriation in 68551
the fiscal year, other than funds to be created by transfer, and a 68552
statement of the amount of the total tax duplicate of the school 68553
district to be used in the collection of taxes for the following 68554
calendar year. Before the end of the fiscal year, the taxing 68555
authority of each subdivision and other taxing unit shall revise 68556
its tax budget, if one was adopted, so that the total contemplated 68557
expenditures from any fund during the ensuing fiscal year will not 68558
exceed the total appropriations that may be made from such fund, 68559
as determined by the budget commission in its certification; and 68560
such revised budget shall be the basis of the annual appropriation 68561
measure. 68562

(B)(1) Except as otherwise provided in division (B)(2) of 68563
this section, revenues from real property taxes scheduled to be 68564
settled on or before the tenth day of August and the fifteenth day 68565
of February of a fiscal year under divisions (A) and (C) of 68566
section 321.24 of the Revised Code, and revenue from taxes levied 68567
on personal property used in business scheduled to be settled on 68568
or before the thirty-first day of October and the thirtieth day of 68569
June of a fiscal year under divisions (B) and (D) of section 68570
321.24 of the Revised Code shall not be available for 68571
appropriation by a board of education prior to the fiscal year in 68572
which such latest scheduled settlement date occurs, except that 68573
moneys advanced to the treasurer of a board of education under 68574
division (A)(2)(b) of section 321.34 of the Revised Code shall be 68575

available for appropriation in the fiscal year in which they are 68576
paid to the treasurer under such section. If the date for any 68577
settlement of taxes is extended under division (E) of section 68578
321.24 of the Revised Code, the latest date set forth in divisions 68579
(A) to (D) of that section shall be used to determine in which 68580
fiscal year the revenues are first available for appropriation. 68581

(2) Revenues available for appropriation by a school district 68582
during a fiscal year may include amounts borrowed in that fiscal 68583
year under section 133.301 of the Revised Code in anticipation of 68584
the collection of taxes that are to be included in the settlements 68585
made under divisions (C) and (D) of section 321.24 of the Revised 68586
Code in the ensuing fiscal year. 68587

Sec. 5705.38. (A) This division does not apply to school 68588
district appropriation measures. On or about the first day of each 68589
fiscal year, the taxing authority of each subdivision or other 68590
taxing unit shall pass an appropriation measure, and thereafter 68591
during the year it may pass any supplemental appropriation 68592
measures as it finds necessary, based on the revised tax budget or 68593
the official certificate of estimated resources or amendments of 68594
the certificate. If it desires to postpone the passage of the 68595
annual appropriation measure until an amended certificate is 68596
received based on the actual balances, it may pass a temporary 68597
appropriation measure for meeting the ordinary expenses of the 68598
taxing unit until no later than the first day of April or, in the 68599
case of the city of Cincinnati, the first day of October, of the 68600
current year, and the appropriations made in the temporary measure 68601
shall be chargeable to the appropriations in the annual 68602
appropriation measure for that fiscal year when passed. 68603

(B) A board of education shall pass its annual appropriation 68604
measure by the first day of October. If, by the first day of 68605
October, a board has not received either the amended certificates 68606

of estimated resources required by division (B) of section 5705.36 68607
of the Revised Code or certifications that no amended certificates 68608
need be issued, the adoption of the annual appropriation measure 68609
shall be delayed until the amended certificates or certifications 68610
are received. Prior to the passage of the annual appropriation 68611
measure, the board may pass a temporary appropriation measure for 68612
meeting the ordinary expenses of the district until it passes an 68613
annual appropriation measure, and appropriations made in the 68614
temporary measure shall be chargeable to the appropriations in the 68615
annual appropriation measure for that fiscal year when passed. 68616
During the fiscal year and after the passage of the annual 68617
appropriation measure, a district may pass any supplemental 68618
appropriation measures as it finds necessary, based on the revised 68619
tax budget or the official certificate of estimated resources or 68620
amendments of the certificate. School district appropriation 68621
measures shall be in the form as the auditor of state, after 68622
consultation with the tax commissioner, prescribes. 68623

(C) Appropriation measures shall be classified so as to set 68624
forth separately the amounts appropriated for each office, 68625
department, and division, and, within each, the amount 68626
appropriated for personal services. In the case of a municipal 68627
university, the board of directors of which have assumed, in the 68628
manner provided by law, custody and control of the funds of the 68629
university, funds shall be appropriated as a lump sum for the use 68630
of the university. 68631

Sec. 5705.72. (A) As used in this section and in section 68632
5705.25 of the Revised Code with regard to a levy submitted under 68633
this section, "electors" means electors of the unincorporated area 68634
of a township. 68635

(B) The board of trustees of any township that withdraws or 68636
proposes by resolution to withdraw the unincorporated area of the 68637

township from a regional transit authority under section 306.55 of 68638
the Revised Code, by vote of two-thirds of all the members of the 68639
board of trustees, may declare by resolution that the amount of 68640
taxes that may be raised within the ten-mill limitation will be 68641
insufficient to provide transportation services to the 68642
unincorporated area of the township and that it is necessary to 68643
levy a tax in excess of that limitation within the unincorporated 68644
area of that township for the purpose of providing transportation 68645
services for the movement of persons within, from, or to the 68646
unincorporated area of that township. 68647

The resolution shall specify the necessary amount of the 68648
increase in rate to levy, the purpose of such increase, and the 68649
number of years, not exceeding ten, during which the rate increase 68650
shall be in effect, which may or may not include a levy upon the 68651
tax list of the current year. 68652

The resolution shall be submitted to the proper county board 68653
of elections not less than ninety days before the date of the 68654
election at which the question will appear on the ballot and in 68655
the manner provided by section 5705.25 of the Revised Code, except 68656
that the question may be submitted to electors at a general 68657
election or a special election held on a date consistent with 68658
section 3501.01 of the Revised Code. 68659

A resolution adopted by the board of trustees of a township 68660
under this section may be combined with a resolution for the 68661
withdrawal of the unincorporated area of the township from a 68662
regional transit authority as provided in section 306.55 of the 68663
Revised Code, by vote of two-thirds of all members of the board. 68664
The board may certify the combined resolution to the board of 68665
elections as a combined question. The question appearing on the 68666
ballot shall be as provided in section 5705.252 of the Revised 68667
Code. 68668

When electors have approved a tax levy under this section, 68669

the board of township trustees may anticipate a fraction of the proceeds of the levy and issue anticipation notes as authorized by section 5705.191 of the Revised Code for a current expense levy with a fixed term, and may anticipate the collection of current revenue under section 133.10 of the Revised Code. 68670
68671
68672
68673
68674

Sec. 5709.084. Real and personal property comprising a 68675
convention center that is constructed or, in the case of personal 68676
property, acquired, after January 1, 2010, are exempt from 68677
taxation if the convention center is located in a county having a 68678
population, when construction of the convention center commences, 68679
of more than one million two hundred thousand according to the 68680
most recent federal decennial census, and if the convention 68681
center, or the land upon which the convention center is situated, 68682
is owned or leased by the county. For the purposes of this 68683
section, construction of the convention center commences upon the 68684
earlier of issuance of debt to finance all or a portion of the 68685
convention center, demolition of existing structures on the site, 68686
or grading of the site in preparation for construction. 68687

Real and personal property comprising a convention center 68688
owned by the largest city in a county having a population greater 68689
than seven hundred thousand but less than nine hundred thousand 68690
according to the most recent federal decennial census is exempt 68691
from taxation, regardless of whether the property is leased to or 68692
otherwise operated or managed by a person other than the city. 68693

Real and personal property comprising a convention center owned by a convention facilities authority in a county having a population greater than one million according to the most recent federal decennial census is exempt from taxation, regardless of whether the property is leased to or otherwise operated or managed by a person other than the convention facilities authority. 68694
68695
68696
68697
68698
68699

As used in this section, "convention center" has the same 68700

meaning as in section 307.695 of the Revised Code. 68701

Sec. 5709.12. (A) As used in this section, "independent 68702
living facilities" means any residential housing facilities and 68703
related property that are not a nursing home, residential care 68704
facility, or ~~adult care~~ residential facility as defined in 68705
division (A) of section 5701.13 of the Revised Code. 68706

(B) Lands, houses, and other buildings belonging to a county, 68707
township, or municipal corporation and used exclusively for the 68708
accommodation or support of the poor, or leased to the state or 68709
any political subdivision for public purposes shall be exempt from 68710
taxation. Real and tangible personal property belonging to 68711
institutions that is used exclusively for charitable purposes 68712
shall be exempt from taxation, including real property belonging 68713
to an institution that is a nonprofit corporation that receives a 68714
grant under the Thomas Alva Edison grant program authorized by 68715
division (C) of section 122.33 of the Revised Code at any time 68716
during the tax year and being held for leasing or resale to 68717
others. If, at any time during a tax year for which such property 68718
is exempted from taxation, the corporation ceases to qualify for 68719
such a grant, the director of development shall notify the tax 68720
commissioner, and the tax commissioner shall cause the property to 68721
be restored to the tax list beginning with the following tax year. 68722
All property owned and used by a nonprofit organization 68723
exclusively for a home for the aged, as defined in section 5701.13 68724
of the Revised Code, also shall be exempt from taxation. 68725

(C)(1) If a home for the aged described in division (B)(1) of 68726
section 5701.13 of the Revised Code is operated in conjunction 68727
with or at the same site as independent living facilities, the 68728
exemption granted in division (B) of this section shall include 68729
kitchen, dining room, clinic, entry ways, maintenance and storage 68730
areas, and land necessary for access commonly used by both 68731

residents of the home for the aged and residents of the 68732
independent living facilities. Other facilities commonly used by 68733
both residents of the home for the aged and residents of 68734
independent living units shall be exempt from taxation only if the 68735
other facilities are used primarily by the residents of the home 68736
for the aged. Vacant land currently unused by the home, and 68737
independent living facilities and the lands connected with them 68738
are not exempt from taxation. Except as provided in division 68739
(A)(1) of section 5709.121 of the Revised Code, property of a home 68740
leased for nonresidential purposes is not exempt from taxation. 68741

(2) Independent living facilities are exempt from taxation if 68742
they are operated in conjunction with or at the same site as a 68743
home for the aged described in division (B)(2) of section 5701.13 68744
of the Revised Code; operated by a corporation, association, or 68745
trust described in division (B)(1)(b) of that section; operated 68746
exclusively for the benefit of members of the corporation, 68747
association, or trust who are retired, aged, or infirm; and 68748
provided to those members without charge in consideration of their 68749
service, without compensation, to a charitable, religious, 68750
fraternal, or educational institution. For the purposes of 68751
division (C)(2) of this section, "compensation" does not include 68752
furnishing room and board, clothing, health care, or other 68753
necessities, or stipends or other de minimis payments to defray 68754
the cost thereof. 68755

(D)(1) A private corporation established under federal law, 68756
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 68757
amended, the objects of which include encouraging the advancement 68758
of science generally, or of a particular branch of science, the 68759
promotion of scientific research, the improvement of the 68760
qualifications and usefulness of scientists, or the increase and 68761
diffusion of scientific knowledge is conclusively presumed to be a 68762
charitable or educational institution. A private corporation 68763

established as a nonprofit corporation under the laws of a state, 68764
that is exempt from federal income taxation under section 68765
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 68766
U.S.C.A. 1, as amended, and has as its principal purpose one or 68767
more of the foregoing objects, also is conclusively presumed to be 68768
a charitable or educational institution. 68769

The fact that an organization described in this division 68770
operates in a manner that results in an excess of revenues over 68771
expenses shall not be used to deny the exemption granted by this 68772
section, provided such excess is used, or is held for use, for 68773
exempt purposes or to establish a reserve against future 68774
contingencies; and, provided further, that such excess may not be 68775
distributed to individual persons or to entities that would not be 68776
entitled to the tax exemptions provided by this chapter. Nor shall 68777
the fact that any scientific information diffused by the 68778
organization is of particular interest or benefit to any of its 68779
individual members be used to deny the exemption granted by this 68780
section, provided that such scientific information is available to 68781
the public for purchase or otherwise. 68782

(2) Division (D)(2) of this section does not apply to real 68783
property exempted from taxation under this section and division 68784
(A)(3) of section 5709.121 of the Revised Code and belonging to a 68785
nonprofit corporation described in division (D)(1) of this section 68786
that has received a grant under the Thomas Alva Edison grant 68787
program authorized by division (C) of section 122.33 of the 68788
Revised Code during any of the tax years the property was exempted 68789
from taxation. 68790

When a private corporation described in division (D)(1) of 68791
this section sells all or any portion of a tract, lot, or parcel 68792
of real estate that has been exempt from taxation under this 68793
section and section 5709.121 of the Revised Code, the portion sold 68794
shall be restored to the tax list for the year following the year 68795

of the sale and, except in connection with a sale and transfer of 68796
such a tract, lot, or parcel to a county land reutilization 68797
corporation organized under Chapter 1724. of the Revised Code, a 68798
charge shall be levied against the sold property in an amount 68799
equal to the tax savings on such property during the four tax 68800
years preceding the year the property is placed on the tax list. 68801
The tax savings equals the amount of the additional taxes that 68802
would have been levied if such property had not been exempt from 68803
taxation. 68804

The charge constitutes a lien of the state upon such property 68805
as of the first day of January of the tax year in which the charge 68806
is levied and continues until discharged as provided by law. The 68807
charge may also be remitted for all or any portion of such 68808
property that the tax commissioner determines is entitled to 68809
exemption from real property taxation for the year such property 68810
is restored to the tax list under any provision of the Revised 68811
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 68812
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 68813
upon an application for exemption covering the year such property 68814
is restored to the tax list filed under section 5715.27 of the 68815
Revised Code. 68816

(E) Real property held by an organization organized and 68817
operated exclusively for charitable purposes as described under 68818
section 501(c)(3) of the Internal Revenue Code and exempt from 68819
federal taxation under section 501(a) of the Internal Revenue 68820
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 68821
of constructing or rehabilitating residences for eventual transfer 68822
to qualified low-income families through sale, lease, or land 68823
installment contract, shall be exempt from taxation. 68824

The exemption shall commence on the day title to the property 68825
is transferred to the organization and shall continue to the end 68826
of the tax year in which the organization transfers title to the 68827

property to a qualified low-income family. In no case shall the 68828
exemption extend beyond the second succeeding tax year following 68829
the year in which the title was transferred to the organization. 68830
If the title is transferred to the organization and from the 68831
organization to a qualified low-income family in the same tax 68832
year, the exemption shall continue to the end of that tax year. 68833
The proportionate amount of taxes that are a lien but not yet 68834
determined, assessed, and levied for the tax year in which title 68835
is transferred to the organization shall be remitted by the county 68836
auditor for each day of the year that title is held by the 68837
organization. 68838

Upon transferring the title to another person, the 68839
organization shall file with the county auditor an affidavit 68840
affirming that the title was transferred to a qualified low-income 68841
family or that the title was not transferred to a qualified 68842
low-income family, as the case may be; if the title was 68843
transferred to a qualified low-income family, the affidavit shall 68844
identify the transferee by name. If the organization transfers 68845
title to the property to anyone other than a qualified low-income 68846
family, the exemption, if it has not previously expired, shall 68847
terminate, and the property shall be restored to the tax list for 68848
the year following the year of the transfer and a charge shall be 68849
levied against the property in an amount equal to the amount of 68850
additional taxes that would have been levied if such property had 68851
not been exempt from taxation. The charge constitutes a lien of 68852
the state upon such property as of the first day of January of the 68853
tax year in which the charge is levied and continues until 68854
discharged as provided by law. 68855

The application for exemption shall be filed as otherwise 68856
required under section 5715.27 of the Revised Code, except that 68857
the organization holding the property shall file with its 68858
application documentation substantiating its status as an 68859

organization organized and operated exclusively for charitable 68860
purposes under section 501(c)(3) of the Internal Revenue Code and 68861
its qualification for exemption from federal taxation under 68862
section 501(a) of the Internal Revenue Code, and affirming its 68863
intention to construct or rehabilitate the property for the 68864
eventual transfer to qualified low-income families. 68865

As used in this division, "qualified low-income family" means 68866
a family whose income does not exceed two hundred per cent of the 68867
official federal poverty guidelines as revised annually in 68868
accordance with section 673(2) of the "Omnibus Budget 68869
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 68870
amended, for a family size equal to the size of the family whose 68871
income is being determined. 68872

(F) Real property held by a county land reutilization 68873
corporation organized under Chapter 1724. of the Revised Code 68874
shall be exempt from taxation. Notwithstanding section 5715.27 of 68875
the Revised Code, a county land reutilization corporation is not 68876
required to apply to any county or state agency in order to 68877
qualify for the exemption. 68878

The exemption shall commence on the day title to the property 68879
is transferred to the corporation and shall continue to the end of 68880
the tax year in which the instrument transferring title from the 68881
corporation to another owner is recorded, if the use to which the 68882
other owner puts the property does not qualify for an exemption 68883
under this section or any other section of the Revised Code. If 68884
the title to the property is transferred to the corporation and 68885
from the corporation in the same tax year, the exemption shall 68886
continue to the end of that tax year. The proportionate amount of 68887
taxes that are a lien but not yet determined, assessed, and levied 68888
for the tax year in which title is transferred to the corporation 68889
shall be remitted by the county auditor for each day of the year 68890
that title is held by the corporation. 68891

Upon transferring the title to another person, the 68892
corporation shall file with the county auditor an affidavit 68893
affirming that the title was transferred to such other person and 68894
shall identify the transferee by name. If the corporation 68895
transfers title to the property to anyone that does not qualify or 68896
the use to which the property is put does not qualify the property 68897
for an exemption under this section or any other section of the 68898
Revised Code, the exemption, if it has not previously expired, 68899
shall terminate, and the property shall be restored to the tax 68900
list for the year following the year of the transfer. A charge 68901
shall be levied against the property in an amount equal to the 68902
amount of additional taxes that would have been levied if such 68903
property had not been exempt from taxation. The charge constitutes 68904
a lien of the state upon such property as of the first day of 68905
January of the tax year in which the charge is levied and 68906
continues until discharged as provided by law. 68907

In lieu of the application for exemption otherwise required 68908
to be filed as required under section 5715.27 of the Revised Code, 68909
a count land reutilization corporation holding the property shall, 68910
upon the request of any county or state agency, submit its 68911
articles of incorporation substantiating its status as a county 68912
land reutilization corporation. 68913

Sec. 5709.121. (A) Real property and tangible personal 68914
property belonging to a charitable or educational institution or 68915
to the state or a political subdivision, shall be considered as 68916
used exclusively for charitable or public purposes by such 68917
institution, the state, or political subdivision, if it meets one 68918
of the following requirements: 68919

(1) It is used by such institution, the state, or political 68920
subdivision, or by one or more other such institutions, the state, 68921
or political subdivisions under a lease, sublease, or other 68922

contractual arrangement: 68923

(a) As a community or area center in which presentations in 68924
music, dramatics, the arts, and related fields are made in order 68925
to foster public interest and education therein; 68926

(b) For other charitable, educational, or public purposes. 68927

(2) It is made available under the direction or control of 68928
such institution, the state, or political subdivision for use in 68929
furtherance of or incidental to its charitable, educational, or 68930
public purposes and not with the view to profit. 68931

(3) It is used by an organization described in division (D) 68932
of section 5709.12 of the Revised Code. If the organization is a 68933
corporation that receives a grant under the Thomas Alva Edison 68934
grant program authorized by division (C) of section 122.33 of the 68935
Revised Code at any time during the tax year, "used," for the 68936
purposes of this division, includes holding property for lease or 68937
resale to others. 68938

(B)(1) Property described in division (A)(1)(a) of this 68939
section shall continue to be considered as used exclusively for 68940
charitable or public purposes even if the property is conveyed 68941
through one conveyance or a series of conveyances to an entity 68942
that is not a charitable or educational institution and is not the 68943
state or a political subdivision, provided that all of the 68944
following conditions apply with respect to that property: 68945

(a) The property has been listed as exempt on the county 68946
auditor's tax list and duplicate for the county in which it is 68947
located for the ten tax years immediately preceding the year in 68948
which the property is conveyed through one conveyance or a series 68949
of conveyances; 68950

(b) ~~The owner to which the~~ property is conveyed through one 68951
conveyance or a series of conveyances ~~leases~~ to an owner that does 68952
any of the following: 68953

(i) Leases the property through one lease or a series of 68954
leases to the entity that owned or occupied the property for the 68955
ten tax years immediately preceding the year in which the property 68956
is conveyed or to an affiliate of ~~such prior owner or occupant~~ 68957
that entity; 68958

(ii) Contracts to have renovations performed as described in 68959
division (B)(1)(d) of this section and is at least partially owned 68960
by a nonprofit organization described in section 501(c)(3) of the 68961
Internal Revenue Code that is exempt from taxation under section 68962
501(a) of that code. 68963

(c) The property includes improvements that are at least 68964
fifty years old; 68965

(d) The property is being renovated in connection with a 68966
claim for historic preservation tax credits available under 68967
federal law; 68968

(e) The property continues to be used for the purposes 68969
described in division (A)(1)(a) of this section after its 68970
conveyance; and 68971

(f) The property is certified by the United States secretary 68972
of the interior as a "certified historic structure" or certified 68973
as part of a certified historic structure. 68974

(2) Notwithstanding section 5715.27 of the Revised Code, an 68975
application for exemption from taxation of property described in 68976
division (B)(1) of this section may be filed by either the owner 68977
of the property or its occupant. 68978

(C) For purposes of this section, an institution that meets 68979
all of the following requirements is conclusively presumed to be a 68980
charitable institution: 68981

(1) The institution is a nonprofit corporation or 68982
association, no part of the net earnings of which inures to the 68983

benefit of any private shareholder or individual; 68984

(2) The institution is exempt from federal income taxation 68985
under section 501(a) of the Internal Revenue Code; 68986

(3) The majority of the institution's board of directors are 68987
appointed by the mayor or legislative authority of a municipal 68988
corporation or a board of county commissioners, or a combination 68989
thereof; 68990

(4) The primary purpose of the institution is to assist in 68991
the development and revitalization of downtown urban areas. 68992

Sec. 5709.212. (A) With every application for an exempt 68993
facility certificate filed pursuant to section 5709.21 of the 68994
Revised Code, the applicant shall pay a fee equal to one-half of 68995
one per cent of the total exempt facility project cost, not to 68996
exceed two thousand dollars. One-half of the fee received with 68997
applications for exempt facility certificates shall be credited to 68998
the exempt facility administrative fund, which is hereby created 68999
in the state treasury, for appropriation to the department of 69000
taxation for use in administering sections 5709.20 to 5709.27 of 69001
the Revised Code. If the director of environmental protection is 69002
required to provide the opinion for an application, one-half of 69003
the fee shall be credited to the non-Title V clean air fund 69004
created in section 3704.035 of the Revised Code for use in 69005
administering section 5709.211 of the Revised Code, unless the 69006
application is for an industrial water pollution control facility. 69007
If the application is for an industrial water pollution control 69008
facility, one-half of the fee shall be credited to the surface 69009
water protection fund created in section 6111.038 of the Revised 69010
Code for use in administering section 5709.211 of the Revised 69011
Code. If the director of development is required to provide the 69012
opinion for an application, one-half of the fee for each exempt 69013
facility application shall be credited to the exempt facility 69014

inspection fund, which is hereby created in the state treasury, 69015
for appropriation to the department of development for use in 69016
administering section 5709.211 of the Revised Code. 69017

An applicant is not entitled to any tax exemption under 69018
section 5709.25 of the Revised Code until the fee required by this 69019
section is paid. The fee required by this section is not 69020
refundable, and is due with the application for an exempt facility 69021
certificate even if an exempt facility certificate ultimately is 69022
not issued or is withdrawn. Any application submitted without 69023
payment of the fee shall be deemed incomplete until the fee is 69024
paid. 69025

(B) The application fee imposed under division (A) of this 69026
section for a jointly owned facility shall be equal to one-half of 69027
one per cent of the total exempt facility project cost, not to 69028
exceed two thousand dollars for each facility that is the subject 69029
of the application. 69030

Sec. 5709.62. (A) In any municipal corporation that is 69031
defined by the United States office of management and budget as a 69032
principal city of a metropolitan statistical area, the legislative 69033
authority of the municipal corporation may designate one or more 69034
areas within its municipal corporation as proposed enterprise 69035
zones. Upon designating an area, the legislative authority shall 69036
petition the director of development for certification of the area 69037
as having the characteristics set forth in division (A)(1) of 69038
section 5709.61 of the Revised Code as amended by Substitute 69039
Senate Bill No. 19 of the 120th general assembly. Except as 69040
otherwise provided in division (E) of this section, on and after 69041
July 1, 1994, legislative authorities shall not enter into 69042
agreements under this section unless the legislative authority has 69043
petitioned the director and the director has certified the zone 69044
under this section as amended by that act; however, all agreements 69045

entered into under this section as it existed prior to July 1, 69046
1994, and the incentives granted under those agreements shall 69047
remain in effect for the period agreed to under those agreements. 69048
Within sixty days after receiving such a petition, the director 69049
shall determine whether the area has the characteristics set forth 69050
in division (A)(1) of section 5709.61 of the Revised Code, and 69051
shall forward the findings to the legislative authority of the 69052
municipal corporation. If the director certifies the area as 69053
having those characteristics, and thereby certifies it as a zone, 69054
the legislative authority may enter into an agreement with an 69055
enterprise under division (C) of this section. 69056

(B) Any enterprise that wishes to enter into an agreement 69057
with a municipal corporation under division (C) of this section 69058
shall submit a proposal to the legislative authority of the 69059
municipal corporation on a form prescribed by the director of 69060
development, together with the application fee established under 69061
section 5709.68 of the Revised Code. The form shall require the 69062
following information: 69063

(1) An estimate of the number of new employees whom the 69064
enterprise intends to hire, or of the number of employees whom the 69065
enterprise intends to retain, within the zone at a facility that 69066
is a project site, and an estimate of the amount of payroll of the 69067
enterprise attributable to these employees; 69068

(2) An estimate of the amount to be invested by the 69069
enterprise to establish, expand, renovate, or occupy a facility, 69070
including investment in new buildings, additions or improvements 69071
to existing buildings, machinery, equipment, furniture, fixtures, 69072
and inventory; 69073

(3) A listing of the enterprise's current investment, if any, 69074
in a facility as of the date of the proposal's submission. 69075

The enterprise shall review and update the listings required 69076

under this division to reflect material changes, and any agreement 69077
entered into under division (C) of this section shall set forth 69078
final estimates and listings as of the time the agreement is 69079
entered into. The legislative authority may, on a separate form 69080
and at any time, require any additional information necessary to 69081
determine whether an enterprise is in compliance with an agreement 69082
and to collect the information required to be reported under 69083
section 5709.68 of the Revised Code. 69084

(C) Upon receipt and investigation of a proposal under 69085
division (B) of this section, if the legislative authority finds 69086
that the enterprise submitting the proposal is qualified by 69087
financial responsibility and business experience to create and 69088
preserve employment opportunities in the zone and improve the 69089
economic climate of the municipal corporation, the legislative 69090
authority, on or before October 15, ~~2012~~ 2013, may do one of the 69091
following: 69092

(1) Enter into an agreement with the enterprise under which 69093
the enterprise agrees to establish, expand, renovate, or occupy a 69094
facility and hire new employees, or preserve employment 69095
opportunities for existing employees, in return for one or more of 69096
the following incentives: 69097

(a) Exemption for a specified number of years, not to exceed 69098
fifteen, of a specified portion, up to seventy-five per cent, of 69099
the assessed value of tangible personal property first used in 69100
business at the project site as a result of the agreement. If an 69101
exemption for inventory is specifically granted in the agreement 69102
pursuant to this division, the exemption applies to inventory 69103
required to be listed pursuant to sections 5711.15 and 5711.16 of 69104
the Revised Code, except that, in the instance of an expansion or 69105
other situations in which an enterprise was in business at the 69106
facility prior to the establishment of the zone, the inventory 69107
that is exempt is that amount or value of inventory in excess of 69108

the amount or value of inventory required to be listed in the 69109
personal property tax return of the enterprise in the return for 69110
the tax year in which the agreement is entered into. 69111

(b) Exemption for a specified number of years, not to exceed 69112
fifteen, of a specified portion, up to seventy-five per cent, of 69113
the increase in the assessed valuation of real property 69114
constituting the project site subsequent to formal approval of the 69115
agreement by the legislative authority; 69116

(c) Provision for a specified number of years, not to exceed 69117
fifteen, of any optional services or assistance that the municipal 69118
corporation is authorized to provide with regard to the project 69119
site. 69120

(2) Enter into an agreement under which the enterprise agrees 69121
to remediate an environmentally contaminated facility, to spend an 69122
amount equal to at least two hundred fifty per cent of the true 69123
value in money of the real property of the facility prior to 69124
remediation as determined for the purposes of property taxation to 69125
establish, expand, renovate, or occupy the remediated facility, 69126
and to hire new employees or preserve employment opportunities for 69127
existing employees at the remediated facility, in return for one 69128
or more of the following incentives: 69129

(a) Exemption for a specified number of years, not to exceed 69130
fifteen, of a specified portion, not to exceed fifty per cent, of 69131
the assessed valuation of the real property of the facility prior 69132
to remediation; 69133

(b) Exemption for a specified number of years, not to exceed 69134
fifteen, of a specified portion, not to exceed one hundred per 69135
cent, of the increase in the assessed valuation of the real 69136
property of the facility during or after remediation; 69137

(c) The incentive under division (C)(1)(a) of this section, 69138
except that the percentage of the assessed value of such property 69139

exempted from taxation shall not exceed one hundred per cent; 69140

(d) The incentive under division (C)(1)(c) of this section. 69141

(3) Enter into an agreement with an enterprise that plans to 69142
purchase and operate a large manufacturing facility that has 69143
ceased operation or announced its intention to cease operation, in 69144
return for exemption for a specified number of years, not to 69145
exceed fifteen, of a specified portion, up to one hundred per 69146
cent, of the assessed value of tangible personal property used in 69147
business at the project site as a result of the agreement, or of 69148
the assessed valuation of real property constituting the project 69149
site, or both. 69150

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 69151
section, the portion of the assessed value of tangible personal 69152
property or of the increase in the assessed valuation of real 69153
property exempted from taxation under those divisions may exceed 69154
seventy-five per cent in any year for which that portion is 69155
exempted if the average percentage exempted for all years in which 69156
the agreement is in effect does not exceed sixty per cent, or if 69157
the board of education of the city, local, or exempted village 69158
school district within the territory of which the property is or 69159
will be located approves a percentage in excess of seventy-five 69160
per cent. 69161

(2) Notwithstanding any provision of the Revised Code to the 69162
contrary, the exemptions described in divisions (C)(1)(a), (b), 69163
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 69164
be for up to fifteen years if the board of education of the city, 69165
local, or exempted village school district within the territory of 69166
which the property is or will be located approves a number of 69167
years in excess of ten. 69168

(3) For the purpose of obtaining the approval of a city, 69169
local, or exempted village school district under division (D)(1) 69170

or (2) of this section, the legislative authority shall deliver to 69171
the board of education a notice not later than forty-five days 69172
prior to approving the agreement, excluding Saturdays, Sundays, 69173
and legal holidays as defined in section 1.14 of the Revised Code. 69174
The notice shall state the percentage to be exempted, an estimate 69175
of the true value of the property to be exempted, and the number 69176
of years the property is to be exempted. The board of education, 69177
by resolution adopted by a majority of the board, shall approve or 69178
disapprove the agreement and certify a copy of the resolution to 69179
the legislative authority not later than fourteen days prior to 69180
the date stipulated by the legislative authority as the date upon 69181
which approval of the agreement is to be formally considered by 69182
the legislative authority. The board of education may include in 69183
the resolution conditions under which the board would approve the 69184
agreement, including the execution of an agreement to compensate 69185
the school district under division (B) of section 5709.82 of the 69186
Revised Code. The legislative authority may approve the agreement 69187
at any time after the board of education certifies its resolution 69188
approving the agreement to the legislative authority, or, if the 69189
board approves the agreement conditionally, at any time after the 69190
conditions are agreed to by the board and the legislative 69191
authority. 69192

If a board of education has adopted a resolution waiving its 69193
right to approve agreements and the resolution remains in effect, 69194
approval of an agreement by the board is not required under this 69195
division. If a board of education has adopted a resolution 69196
allowing a legislative authority to deliver the notice required 69197
under this division fewer than forty-five business days prior to 69198
the legislative authority's approval of the agreement, the 69199
legislative authority shall deliver the notice to the board not 69200
later than the number of days prior to such approval as prescribed 69201
by the board in its resolution. If a board of education adopts a 69202
resolution waiving its right to approve agreements or shortening 69203

the notification period, the board shall certify a copy of the 69204
resolution to the legislative authority. If the board of education 69205
rescinds such a resolution, it shall certify notice of the 69206
rescission to the legislative authority. 69207

(4) The legislative authority shall comply with section 69208
5709.83 of the Revised Code unless the board of education has 69209
adopted a resolution under that section waiving its right to 69210
receive such notice. 69211

(E) This division applies to zones certified by the director 69212
of development under this section prior to July 22, 1994. 69213

On or before October 15, ~~2012~~ 2013, the legislative authority 69214
that designated a zone to which this division applies may enter 69215
into an agreement with an enterprise if the legislative authority 69216
finds that the enterprise satisfies one of the criteria described 69217
in divisions (E)(1) to (5) of this section: 69218

(1) The enterprise currently has no operations in this state 69219
and, subject to approval of the agreement, intends to establish 69220
operations in the zone; 69221

(2) The enterprise currently has operations in this state 69222
and, subject to approval of the agreement, intends to establish 69223
operations at a new location in the zone that would not result in 69224
a reduction in the number of employee positions at any of the 69225
enterprise's other locations in this state; 69226

(3) The enterprise, subject to approval of the agreement, 69227
intends to relocate operations, currently located in another 69228
state, to the zone; 69229

(4) The enterprise, subject to approval of the agreement, 69230
intends to expand operations at an existing site in the zone that 69231
the enterprise currently operates; 69232

(5) The enterprise, subject to approval of the agreement, 69233

intends to relocate operations, currently located in this state, 69234
to the zone, and the director of development has issued a waiver 69235
for the enterprise under division (B) of section 5709.633 of the 69236
Revised Code. 69237

The agreement shall require the enterprise to agree to 69238
establish, expand, renovate, or occupy a facility in the zone and 69239
hire new employees, or preserve employment opportunities for 69240
existing employees, in return for one or more of the incentives 69241
described in division (C) of this section. 69242

(F) All agreements entered into under this section shall be 69243
in the form prescribed under section 5709.631 of the Revised Code. 69244
After an agreement is entered into under this section, if the 69245
legislative authority revokes its designation of a zone, or if the 69246
director of development revokes a zone's certification, any 69247
entitlements granted under the agreement shall continue for the 69248
number of years specified in the agreement. 69249

(G) Except as otherwise provided in this division, an 69250
agreement entered into under this section shall require that the 69251
enterprise pay an annual fee equal to the greater of one per cent 69252
of the dollar value of incentives offered under the agreement or 69253
five hundred dollars; provided, however, that if the value of the 69254
incentives exceeds two hundred fifty thousand dollars, the fee 69255
shall not exceed two thousand five hundred dollars. The fee shall 69256
be payable to the legislative authority once per year for each 69257
year the agreement is effective on the days and in the form 69258
specified in the agreement. Fees paid shall be deposited in a 69259
special fund created for such purpose by the legislative authority 69260
and shall be used by the legislative authority exclusively for the 69261
purpose of complying with section 5709.68 of the Revised Code and 69262
by the tax incentive review council created under section 5709.85 69263
of the Revised Code exclusively for the purposes of performing the 69264
duties prescribed under that section. The legislative authority 69265

may waive or reduce the amount of the fee charged against an 69266
enterprise, but such a waiver or reduction does not affect the 69267
obligations of the legislative authority or the tax incentive 69268
review council to comply with section 5709.68 or 5709.85 of the 69269
Revised Code. 69270

(H) When an agreement is entered into pursuant to this 69271
section, the legislative authority authorizing the agreement shall 69272
forward a copy of the agreement to the director of development and 69273
to the tax commissioner within fifteen days after the agreement is 69274
entered into. If any agreement includes terms not provided for in 69275
section 5709.631 of the Revised Code affecting the revenue of a 69276
city, local, or exempted village school district or causing 69277
revenue to be forgone by the district, including any compensation 69278
to be paid to the school district pursuant to section 5709.82 of 69279
the Revised Code, those terms also shall be forwarded in writing 69280
to the director of development along with the copy of the 69281
agreement forwarded under this division. 69282

(I) After an agreement is entered into, the enterprise shall 69283
file with each personal property tax return required to be filed, 69284
or annual report required to be filed under section 5727.08 of the 69285
Revised Code, while the agreement is in effect, an informational 69286
return, on a form prescribed by the tax commissioner for that 69287
purpose, setting forth separately the property, and related costs 69288
and values, exempted from taxation under the agreement. 69289

(J) Enterprises may agree to give preference to residents of 69290
the zone within which the agreement applies relative to residents 69291
of this state who do not reside in the zone when hiring new 69292
employees under the agreement. 69293

(K) An agreement entered into under this section may include 69294
a provision requiring the enterprise to create one or more 69295
temporary internship positions for students enrolled in a course 69296
of study at a school or other educational institution in the 69297

vicinity, and to create a scholarship or provide another form of 69298
educational financial assistance for students holding such a 69299
position in exchange for the student's commitment to work for the 69300
enterprise at the completion of the internship. 69301

(L) The tax commissioner's authority in determining the 69302
accuracy of any exemption granted by an agreement entered into 69303
under this section is limited to divisions (C)(1)(a) and (b), 69304
(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 69305
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 69306
and, as authorized by law, to enforcing any modification to, or 69307
revocation of, that agreement by the legislative authority of a 69308
municipal corporation or the director of development. 69309

Sec. 5709.63. (A) With the consent of the legislative 69310
authority of each affected municipal corporation or of a board of 69311
township trustees, a board of county commissioners may, in the 69312
manner set forth in section 5709.62 of the Revised Code, designate 69313
one or more areas in one or more municipal corporations or in 69314
unincorporated areas of the county as proposed enterprise zones. A 69315
board of county commissioners may designate no more than one area 69316
within a township, or within adjacent townships, as a proposed 69317
enterprise zone. The board shall petition the director of 69318
development for certification of the area as having the 69319
characteristics set forth in division (A)(1) or (2) of section 69320
5709.61 of the Revised Code as amended by Substitute Senate Bill 69321
No. 19 of the 120th general assembly. Except as otherwise provided 69322
in division (D) of this section, on and after July 1, 1994, boards 69323
of county commissioners shall not enter into agreements under this 69324
section unless the board has petitioned the director and the 69325
director has certified the zone under this section as amended by 69326
that act; however, all agreements entered into under this section 69327
as it existed prior to July 1, 1994, and the incentives granted 69328
under those agreements shall remain in effect for the period 69329

agreed to under those agreements. The director shall make the 69330
determination in the manner provided under section 5709.62 of the 69331
Revised Code. 69332

Any enterprise wishing to enter into an agreement with the 69333
board under division (B) or (D) of this section shall submit a 69334
proposal to the board on the form and accompanied by the 69335
application fee prescribed under division (B) of section 5709.62 69336
of the Revised Code. The enterprise shall review and update the 69337
estimates and listings required by the form in the manner required 69338
under that division. The board may, on a separate form and at any 69339
time, require any additional information necessary to determine 69340
whether an enterprise is in compliance with an agreement and to 69341
collect the information required to be reported under section 69342
5709.68 of the Revised Code. 69343

(B) If the board of county commissioners finds that an 69344
enterprise submitting a proposal is qualified by financial 69345
responsibility and business experience to create and preserve 69346
employment opportunities in the zone and to improve the economic 69347
climate of the municipal corporation or municipal corporations or 69348
the unincorporated areas in which the zone is located and to which 69349
the proposal applies, the board, on or before October 15, ~~2012~~ 69350
2013, and with the consent of the legislative authority of each 69351
affected municipal corporation or of the board of township 69352
trustees may do either of the following: 69353

(1) Enter into an agreement with the enterprise under which 69354
the enterprise agrees to establish, expand, renovate, or occupy a 69355
facility in the zone and hire new employees, or preserve 69356
employment opportunities for existing employees, in return for the 69357
following incentives: 69358

(a) When the facility is located in a municipal corporation, 69359
the board may enter into an agreement for one or more of the 69360
incentives provided in division (C) of section 5709.62 of the 69361

Revised Code, subject to division (D) of that section; 69362

(b) When the facility is located in an unincorporated area, 69363
the board may enter into an agreement for one or more of the 69364
following incentives: 69365

(i) Exemption for a specified number of years, not to exceed 69366
fifteen, of a specified portion, up to sixty per cent, of the 69367
assessed value of tangible personal property first used in 69368
business at a project site as a result of the agreement. If an 69369
exemption for inventory is specifically granted in the agreement 69370
pursuant to this division, the exemption applies to inventory 69371
required to be listed pursuant to sections 5711.15 and 5711.16 of 69372
the Revised Code, except, in the instance of an expansion or other 69373
situations in which an enterprise was in business at the facility 69374
prior to the establishment of the zone, the inventory that is 69375
exempt is that amount or value of inventory in excess of the 69376
amount or value of inventory required to be listed in the personal 69377
property tax return of the enterprise in the return for the tax 69378
year in which the agreement is entered into. 69379

(ii) Exemption for a specified number of years, not to exceed 69380
fifteen, of a specified portion, up to sixty per cent, of the 69381
increase in the assessed valuation of real property constituting 69382
the project site subsequent to formal approval of the agreement by 69383
the board; 69384

(iii) Provision for a specified number of years, not to 69385
exceed fifteen, of any optional services or assistance the board 69386
is authorized to provide with regard to the project site; 69387

(iv) The incentive described in division (C)(2) of section 69388
5709.62 of the Revised Code. 69389

(2) Enter into an agreement with an enterprise that plans to 69390
purchase and operate a large manufacturing facility that has 69391
ceased operation or has announced its intention to cease 69392

operation, in return for exemption for a specified number of 69393
years, not to exceed fifteen, of a specified portion, up to one 69394
hundred per cent, of tangible personal property used in business 69395
at the project site as a result of the agreement, or of real 69396
property constituting the project site, or both. 69397

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 69398
this section, the portion of the assessed value of tangible 69399
personal property or of the increase in the assessed valuation of 69400
real property exempted from taxation under those divisions may 69401
exceed sixty per cent in any year for which that portion is 69402
exempted if the average percentage exempted for all years in which 69403
the agreement is in effect does not exceed fifty per cent, or if 69404
the board of education of the city, local, or exempted village 69405
school district within the territory of which the property is or 69406
will be located approves a percentage in excess of sixty per cent. 69407

(b) Notwithstanding any provision of the Revised Code to the 69408
contrary, the exemptions described in divisions (B)(1)(b)(i), 69409
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 69410
fifteen years if the board of education of the city, local, or 69411
exempted village school district within the territory of which the 69412
property is or will be located approves a number of years in 69413
excess of ten. 69414

(c) For the purpose of obtaining the approval of a city, 69415
local, or exempted village school district under division 69416
(C)(1)(a) or (b) of this section, the board of county 69417
commissioners shall deliver to the board of education a notice not 69418
later than forty-five days prior to approving the agreement, 69419
excluding Saturdays, Sundays, and legal holidays as defined in 69420
section 1.14 of the Revised Code. The notice shall state the 69421
percentage to be exempted, an estimate of the true value of the 69422
property to be exempted, and the number of years the property is 69423
to be exempted. The board of education, by resolution adopted by a 69424

majority of the board, shall approve or disapprove the agreement 69425
and certify a copy of the resolution to the board of county 69426
commissioners not later than fourteen days prior to the date 69427
stipulated by the board of county commissioners as the date upon 69428
which approval of the agreement is to be formally considered by 69429
the board of county commissioners. The board of education may 69430
include in the resolution conditions under which the board would 69431
approve the agreement, including the execution of an agreement to 69432
compensate the school district under division (B) of section 69433
5709.82 of the Revised Code. The board of county commissioners may 69434
approve the agreement at any time after the board of education 69435
certifies its resolution approving the agreement to the board of 69436
county commissioners, or, if the board of education approves the 69437
agreement conditionally, at any time after the conditions are 69438
agreed to by the board of education and the board of county 69439
commissioners. 69440

If a board of education has adopted a resolution waiving its 69441
right to approve agreements and the resolution remains in effect, 69442
approval of an agreement by the board of education is not required 69443
under division (C) of this section. If a board of education has 69444
adopted a resolution allowing a board of county commissioners to 69445
deliver the notice required under this division fewer than 69446
forty-five business days prior to approval of the agreement by the 69447
board of county commissioners, the board of county commissioners 69448
shall deliver the notice to the board of education not later than 69449
the number of days prior to such approval as prescribed by the 69450
board of education in its resolution. If a board of education 69451
adopts a resolution waiving its right to approve agreements or 69452
shortening the notification period, the board of education shall 69453
certify a copy of the resolution to the board of county 69454
commissioners. If the board of education rescinds such a 69455
resolution, it shall certify notice of the rescission to the board 69456
of county commissioners. 69457

(2) The board of county commissioners shall comply with 69458
section 5709.83 of the Revised Code unless the board of education 69459
has adopted a resolution under that section waiving its right to 69460
receive such notice. 69461

(D) This division applies to zones certified by the director 69462
of development under this section prior to July 22, 1994. 69463

On or before October 15, ~~2012~~ 2013, and with the consent of 69464
the legislative authority of each affected municipal corporation 69465
or board of township trustees of each affected township, the board 69466
of county commissioners that designated a zone to which this 69467
division applies may enter into an agreement with an enterprise if 69468
the board finds that the enterprise satisfies one of the criteria 69469
described in divisions (D)(1) to (5) of this section: 69470

(1) The enterprise currently has no operations in this state 69471
and, subject to approval of the agreement, intends to establish 69472
operations in the zone; 69473

(2) The enterprise currently has operations in this state 69474
and, subject to approval of the agreement, intends to establish 69475
operations at a new location in the zone that would not result in 69476
a reduction in the number of employee positions at any of the 69477
enterprise's other locations in this state; 69478

(3) The enterprise, subject to approval of the agreement, 69479
intends to relocate operations, currently located in another 69480
state, to the zone; 69481

(4) The enterprise, subject to approval of the agreement, 69482
intends to expand operations at an existing site in the zone that 69483
the enterprise currently operates; 69484

(5) The enterprise, subject to approval of the agreement, 69485
intends to relocate operations, currently located in this state, 69486
to the zone, and the director of development has issued a waiver 69487
for the enterprise under division (B) of section 5709.633 of the 69488

Revised Code. 69489

The agreement shall require the enterprise to agree to 69490
establish, expand, renovate, or occupy a facility in the zone and 69491
hire new employees, or preserve employment opportunities for 69492
existing employees, in return for one or more of the incentives 69493
described in division (B) of this section. 69494

(E) All agreements entered into under this section shall be 69495
in the form prescribed under section 5709.631 of the Revised Code. 69496
After an agreement under this section is entered into, if the 69497
board of county commissioners revokes its designation of a zone, 69498
or if the director of development revokes a zone's certification, 69499
any entitlements granted under the agreement shall continue for 69500
the number of years specified in the agreement. 69501

(F) Except as otherwise provided in this division, an 69502
agreement entered into under this section shall require that the 69503
enterprise pay an annual fee equal to the greater of one per cent 69504
of the dollar value of incentives offered under the agreement or 69505
five hundred dollars; provided, however, that if the value of the 69506
incentives exceeds two hundred fifty thousand dollars, the fee 69507
shall not exceed two thousand five hundred dollars. The fee shall 69508
be payable to the board of county commissioners once per year for 69509
each year the agreement is effective on the days and in the form 69510
specified in the agreement. Fees paid shall be deposited in a 69511
special fund created for such purpose by the board and shall be 69512
used by the board exclusively for the purpose of complying with 69513
section 5709.68 of the Revised Code and by the tax incentive 69514
review council created under section 5709.85 of the Revised Code 69515
exclusively for the purposes of performing the duties prescribed 69516
under that section. The board may waive or reduce the amount of 69517
the fee charged against an enterprise, but such waiver or 69518
reduction does not affect the obligations of the board or the tax 69519
incentive review council to comply with section 5709.68 or 5709.85 69520

of the Revised Code, respectively. 69521

(G) With the approval of the legislative authority of a 69522
municipal corporation or the board of township trustees of a 69523
township in which a zone is designated under division (A) of this 69524
section, the board of county commissioners may delegate to that 69525
legislative authority or board any powers and duties of the board 69526
of county commissioners to negotiate and administer agreements 69527
with regard to that zone under this section. 69528

(H) When an agreement is entered into pursuant to this 69529
section, the board of county commissioners authorizing the 69530
agreement or the legislative authority or board of township 69531
trustees that negotiates and administers the agreement shall 69532
forward a copy of the agreement to the director of development and 69533
to the tax commissioner within fifteen days after the agreement is 69534
entered into. If any agreement includes terms not provided for in 69535
section 5709.631 of the Revised Code affecting the revenue of a 69536
city, local, or exempted village school district or causing 69537
revenue to be foregone by the district, including any compensation 69538
to be paid to the school district pursuant to section 5709.82 of 69539
the Revised Code, those terms also shall be forwarded in writing 69540
to the director of development along with the copy of the 69541
agreement forwarded under this division. 69542

(I) After an agreement is entered into, the enterprise shall 69543
file with each personal property tax return required to be filed, 69544
or annual report that is required to be filed under section 69545
5727.08 of the Revised Code, while the agreement is in effect, an 69546
informational return, on a form prescribed by the tax commissioner 69547
for that purpose, setting forth separately the property, and 69548
related costs and values, exempted from taxation under the 69549
agreement. 69550

(J) Enterprises may agree to give preference to residents of 69551
the zone within which the agreement applies relative to residents 69552

of this state who do not reside in the zone when hiring new 69553
employees under the agreement. 69554

(K) An agreement entered into under this section may include 69555
a provision requiring the enterprise to create one or more 69556
temporary internship positions for students enrolled in a course 69557
of study at a school or other educational institution in the 69558
vicinity, and to create a scholarship or provide another form of 69559
educational financial assistance for students holding such a 69560
position in exchange for the student's commitment to work for the 69561
enterprise at the completion of the internship. 69562

(L) The tax commissioner's authority in determining the 69563
accuracy of any exemption granted by an agreement entered into 69564
under this section is limited to divisions (B)(1)(b)(i) and (ii), 69565
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 69566
this section as it pertains to divisions (C)(2)(a), (b), and (c) 69567
of section 5709.62 of the Revised Code, and divisions (B)(1) to 69568
(10) of section 5709.631 of the Revised Code and, as authorized by 69569
law, to enforcing any modification to, or revocation of, that 69570
agreement by the board of county commissioners or the director of 69571
development or, if the board's powers and duties are delegated 69572
under division (G) of this section, by the legislative authority 69573
of a municipal corporation or board of township trustees. 69574

Sec. 5709.632. (A)(1) The legislative authority of a 69575
municipal corporation defined by the United States office of 69576
management and budget as a principal city of a metropolitan 69577
statistical area may, in the manner set forth in section 5709.62 69578
of the Revised Code, designate one or more areas in the municipal 69579
corporation as a proposed enterprise zone. 69580

(2) With the consent of the legislative authority of each 69581
affected municipal corporation or of a board of township trustees, 69582
a board of county commissioners may, in the manner set forth in 69583

section 5709.62 of the Revised Code, designate one or more areas 69584
in one or more municipal corporations or in unincorporated areas 69585
of the county as proposed urban jobs and enterprise zones, except 69586
that a board of county commissioners may designate no more than 69587
one area within a township, or within adjacent townships, as a 69588
proposed urban jobs and enterprise zone. 69589

(3) The legislative authority or board of county 69590
commissioners may petition the director of development for 69591
certification of the area as having the characteristics set forth 69592
in division (A)(3) of section 5709.61 of the Revised Code. Within 69593
sixty days after receiving such a petition, the director shall 69594
determine whether the area has the characteristics set forth in 69595
that division and forward the findings to the legislative 69596
authority or board of county commissioners. If the director 69597
certifies the area as having those characteristics and thereby 69598
certifies it as a zone, the legislative authority or board may 69599
enter into agreements with enterprises under division (B) of this 69600
section. Any enterprise wishing to enter into an agreement with a 69601
legislative authority or board of county commissioners under this 69602
section and satisfying one of the criteria described in divisions 69603
(B)(1) to (5) of this section shall submit a proposal to the 69604
legislative authority or board on the form prescribed under 69605
division (B) of section 5709.62 of the Revised Code and shall 69606
review and update the estimates and listings required by the form 69607
in the manner required under that division. The legislative 69608
authority or board may, on a separate form and at any time, 69609
require any additional information necessary to determine whether 69610
an enterprise is in compliance with an agreement and to collect 69611
the information required to be reported under section 5709.68 of 69612
the Revised Code. 69613

(B) Prior to entering into an agreement with an enterprise, 69614
the legislative authority or board of county commissioners shall 69615

determine whether the enterprise submitting the proposal is 69616
qualified by financial responsibility and business experience to 69617
create and preserve employment opportunities in the zone and to 69618
improve the economic climate of the municipal corporation or 69619
municipal corporations or the unincorporated areas in which the 69620
zone is located and to which the proposal applies, and whether the 69621
enterprise satisfies one of the following criteria: 69622

(1) The enterprise currently has no operations in this state 69623
and, subject to approval of the agreement, intends to establish 69624
operations in the zone; 69625

(2) The enterprise currently has operations in this state 69626
and, subject to approval of the agreement, intends to establish 69627
operations at a new location in the zone that would not result in 69628
a reduction in the number of employee positions at any of the 69629
enterprise's other locations in this state; 69630

(3) The enterprise, subject to approval of the agreement, 69631
intends to relocate operations, currently located in another 69632
state, to the zone; 69633

(4) The enterprise, subject to approval of the agreement, 69634
intends to expand operations at an existing site in the zone that 69635
the enterprise currently operates; 69636

(5) The enterprise, subject to approval of the agreement, 69637
intends to relocate operations, currently located in this state, 69638
to the zone, and the director of development has issued a waiver 69639
for the enterprise under division (B) of section 5709.633 of the 69640
Revised Code. 69641

(C) If the legislative authority or board determines that the 69642
enterprise is so qualified and satisfies one of the criteria 69643
described in divisions (B)(1) to (5) of this section, the 69644
legislative authority or board may, after complying with section 69645
5709.83 of the Revised Code and on or before October 15, ~~2012~~ 69646

2013, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall

be payable to the legislative authority or board of commissioners 69679
once per year for each year the agreement is effective on the days 69680
and in the form specified in the agreement. Fees paid shall be 69681
deposited in a special fund created for such purpose by the 69682
legislative authority or board and shall be used by the 69683
legislative authority or board exclusively for the purpose of 69684
complying with section 5709.68 of the Revised Code and by the tax 69685
incentive review council created under section 5709.85 of the 69686
Revised Code exclusively for the purposes of performing the duties 69687
prescribed under that section. The legislative authority or board 69688
may waive or reduce the amount of the fee charged against an 69689
enterprise, but such waiver or reduction does not affect the 69690
obligations of the legislative authority or board or the tax 69691
incentive review council to comply with section 5709.68 or 5709.85 69692
of the Revised Code, respectively. 69693

(F) With the approval of the legislative authority of a 69694
municipal corporation or the board of township trustees of a 69695
township in which a zone is designated under division (A)(2) of 69696
this section, the board of county commissioners may delegate to 69697
that legislative authority or board any powers and duties of the 69698
board to negotiate and administer agreements with regard to that 69699
zone under this section. 69700

(G) When an agreement is entered into pursuant to this 69701
section, the legislative authority or board of commissioners 69702
authorizing the agreement shall forward a copy of the agreement to 69703
the director of development and to the tax commissioner within 69704
fifteen days after the agreement is entered into. If any agreement 69705
includes terms not provided for in section 5709.631 of the Revised 69706
Code affecting the revenue of a city, local, or exempted village 69707
school district or causing revenue to be forgone by the district, 69708
including any compensation to be paid to the school district 69709
pursuant to section 5709.82 of the Revised Code, those terms also 69710

shall be forwarded in writing to the director of development along 69711
with the copy of the agreement forwarded under this division. 69712

(H) After an agreement is entered into, the enterprise shall 69713
file with each personal property tax return required to be filed 69714
while the agreement is in effect, an informational return, on a 69715
form prescribed by the tax commissioner for that purpose, setting 69716
forth separately the property, and related costs and values, 69717
exempted from taxation under the agreement. 69718

(I) An agreement entered into under this section may include 69719
a provision requiring the enterprise to create one or more 69720
temporary internship positions for students enrolled in a course 69721
of study at a school or other educational institution in the 69722
vicinity, and to create a scholarship or provide another form of 69723
educational financial assistance for students holding such a 69724
position in exchange for the student's commitment to work for the 69725
enterprise at the completion of the internship. 69726

Sec. 5709.73. (A) As used in this section and section 5709.74 69727
of the Revised Code: 69728

(1) "Business day" means a day of the week excluding 69729
Saturday, Sunday, and a legal holiday as defined in section 1.14 69730
of the Revised Code. 69731

(2) "Further improvements" or "improvements" means the 69732
increase in the assessed value of real property that would first 69733
appear on the tax list and duplicate of real and public utility 69734
property after the effective date of a resolution adopted under 69735
this section were it not for the exemption granted by that 69736
resolution. For purposes of division (B) of this section, 69737
"improvements" do not include any property used or to be used for 69738
residential purposes. 69739

(3) "Housing renovation" means a project carried out for 69740

residential purposes. 69741

(4) "Incentive district" has the same meaning as in section 69742
5709.40 of the Revised Code, except that a blighted area is in the 69743
unincorporated area of a township. 69744

(5) "Project" and "public infrastructure improvement" have 69745
the same meanings as in section 5709.40 of the Revised Code. 69746

(B) A board of township trustees may, by unanimous vote, 69747
adopt a resolution that declares to be a public purpose any public 69748
infrastructure improvements made that are necessary for the 69749
development of certain parcels of land located in the 69750
unincorporated area of the township. Except with the approval 69751
under division (D) of this section of the board of education of 69752
each city, local, or exempted village school district within which 69753
the improvements are located, the resolution may exempt from real 69754
property taxation not more than seventy-five per cent of further 69755
improvements to a parcel of land that directly benefits from the 69756
public infrastructure improvements, for a period of not more than 69757
ten years. The resolution shall specify the percentage of the 69758
further improvements to be exempted and the life of the exemption. 69759

(C)(1) A board of township trustees may adopt, by unanimous 69760
vote, a resolution creating an incentive district and declaring 69761
improvements to parcels within the district to be a public purpose 69762
and, except as provided in division (F) of this section, exempt 69763
from taxation as provided in this section, but no board of 69764
township trustees of a township that has a population that exceeds 69765
twenty-five thousand, as shown by the most recent federal 69766
decennial census, shall adopt a resolution that creates an 69767
incentive district if the sum of the taxable value of real 69768
property in the proposed district for the preceding tax year and 69769
the taxable value of all real property in the township that would 69770
have been taxable in the preceding year were it not for the fact 69771
that the property was in an existing incentive district and 69772

therefore exempt from taxation exceeds twenty-five per cent of the 69773
taxable value of real property in the township for the preceding 69774
tax year. The district shall be located within the unincorporated 69775
area of the township and shall not include any territory that is 69776
included within a district created under division (B) of section 69777
5709.78 of the Revised Code. The resolution shall delineate the 69778
boundary of the district and specifically identify each parcel 69779
within the district. A district may not include any parcel that is 69780
or has been exempted from taxation under division (B) of this 69781
section or that is or has been within another district created 69782
under this division. A resolution may create more than one 69783
district, and more than one resolution may be adopted under 69784
division (C)(1) of this section. 69785

(2) Not later than thirty days prior to adopting a resolution 69786
under division (C)(1) of this section, if the township intends to 69787
apply for exemptions from taxation under section 5709.911 of the 69788
Revised Code on behalf of owners of real property located within 69789
the proposed incentive district, the board shall conduct a public 69790
hearing on the proposed resolution. Not later than thirty days 69791
prior to the public hearing, the board shall give notice of the 69792
public hearing and the proposed resolution by first class mail to 69793
every real property owner whose property is located within the 69794
boundaries of the proposed incentive district that is the subject 69795
of the proposed resolution. 69796

(3)(a) A resolution adopted under division (C)(1) of this 69797
section shall specify the life of the incentive district and the 69798
percentage of the improvements to be exempted, shall designate the 69799
public infrastructure improvements made, to be made, or in the 69800
process of being made, that benefit or serve, or, once made, will 69801
benefit or serve parcels in the district. The resolution also 69802
shall identify one or more specific projects being, or to be, 69803
undertaken in the district that place additional demand on the 69804

public infrastructure improvements designated in the resolution. 69805
The project identified may, but need not be, the project under 69806
division (C)(3)(b) of this section that places real property in 69807
use for commercial or industrial purposes. 69808

A resolution adopted under division (C)(1) of this section on 69809
or after March 30, 2006, shall not designate police or fire 69810
equipment as public infrastructure improvements, and no service 69811
payment provided for in section 5709.74 of the Revised Code and 69812
received by the township under the resolution shall be used for 69813
police or fire equipment. 69814

(b) A resolution adopted under division (C)(1) of this 69815
section may authorize the use of service payments provided for in 69816
section 5709.74 of the Revised Code for the purpose of housing 69817
renovations within the incentive district, provided that the 69818
resolution also designates public infrastructure improvements that 69819
benefit or serve the district, and that a project within the 69820
district places real property in use for commercial or industrial 69821
purposes. Service payments may be used to finance or support 69822
loans, deferred loans, and grants to persons for the purpose of 69823
housing renovations within the district. The resolution shall 69824
designate the parcels within the district that are eligible for 69825
housing renovations. The resolution shall state separately the 69826
amount or the percentages of the expected aggregate service 69827
payments that are designated for each public infrastructure 69828
improvement and for the purpose of housing renovations. 69829

(4) Except with the approval of the board of education of 69830
each city, local, or exempted village school district within the 69831
territory of which the incentive district is or will be located, 69832
and subject to division (E) of this section, the life of an 69833
incentive district shall not exceed ten years, and the percentage 69834
of improvements to be exempted shall not exceed seventy-five per 69835
cent. With approval of the board of education, the life of a 69836

district may be not more than thirty years, and the percentage of 69837
improvements to be exempted may be not more than one hundred per 69838
cent. The approval of a board of education shall be obtained in 69839
the manner provided in division (D) of this section. 69840

(D) Improvements with respect to a parcel may be exempted 69841
from taxation under division (B) of this section, and improvements 69842
to parcels within an incentive district may be exempted from 69843
taxation under division (C) of this section, for up to ten years 69844
or, with the approval of the board of education of the city, 69845
local, or exempted village school district within which the parcel 69846
or district is located, for up to thirty years. The percentage of 69847
the improvements exempted from taxation may, with such approval, 69848
exceed seventy-five per cent, but shall not exceed one hundred per 69849
cent. Not later than forty-five business days prior to adopting a 69850
resolution under this section declaring improvements to be a 69851
public purpose that is subject to approval by a board of education 69852
under this division, the board of township trustees shall deliver 69853
to the board of education a notice stating its intent to adopt a 69854
resolution making that declaration. The notice regarding 69855
improvements with respect to a parcel under division (B) of this 69856
section shall identify the parcels for which improvements are to 69857
be exempted from taxation, provide an estimate of the true value 69858
in money of the improvements, specify the period for which the 69859
improvements would be exempted from taxation and the percentage of 69860
the improvements that would be exempted, and indicate the date on 69861
which the board of township trustees intends to adopt the 69862
resolution. The notice regarding improvements made under division 69863
(C) of this section to parcels within an incentive district shall 69864
delineate the boundaries of the district, specifically identify 69865
each parcel within the district, identify each anticipated 69866
improvement in the district, provide an estimate of the true value 69867
in money of each such improvement, specify the life of the 69868
district and the percentage of improvements that would be 69869

exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to

certify a resolution to the board of township trustees within the 69903
time prescribed by this section, the board of township trustees 69904
thereupon may adopt the resolution and may declare the 69905
improvements a public purpose for up to thirty years or, in the 69906
case of exemption percentages proposed in excess of seventy-five 69907
per cent, for the exemption percentage specified in the 69908
resolution. The board of township trustees may adopt the 69909
resolution at any time after the board of education certifies its 69910
resolution approving the exemption to the board of township 69911
trustees, or, if the board of education approves the exemption on 69912
the condition that a mutually acceptable compensation agreement be 69913
negotiated, at any time after the compensation agreement is agreed 69914
to by the board of education and the board of township trustees. 69915
If a mutually acceptable compensation agreement is negotiated 69916
between the board of township trustees and the board of education, 69917
including agreements for payments in lieu of taxes under section 69918
5709.74 of the Revised Code, the board of township trustees shall 69919
compensate the joint vocational school district within which the 69920
parcel or district is located at the same rate and under the same 69921
terms received by the city, local, or exempted village school 69922
district. 69923

If a board of education has adopted a resolution waiving its 69924
right to approve exemptions from taxation under this section and 69925
the resolution remains in effect, approval of such exemptions by 69926
the board of education is not required under division (D) of this 69927
section. If a board of education has adopted a resolution allowing 69928
a board of township trustees to deliver the notice required under 69929
division (D) of this section fewer than forty-five business days 69930
prior to adoption of the resolution by the board of township 69931
trustees, the board of township trustees shall deliver the notice 69932
to the board of education not later than the number of days prior 69933
to the adoption as prescribed by the board of education in its 69934
resolution. If a board of education adopts a resolution waiving 69935

its right to approve exemptions or shortening the notification 69936
period, the board of education shall certify a copy of the 69937
resolution to the board of township trustees. If the board of 69938
education rescinds the resolution, it shall certify notice of the 69939
rescission to the board of township trustees. 69940

If the board of township trustees is not required by division 69941
(D) of this section to notify the board of education of the board 69942
of township trustees' intent to declare improvements to be a 69943
public purpose, the board of township trustees shall comply with 69944
the notice requirements imposed under section 5709.83 of the 69945
Revised Code before taking formal action to adopt the resolution 69946
making that declaration, unless the board of education has adopted 69947
a resolution under that section waiving its right to receive the 69948
notice. 69949

(E)(1) If a proposed resolution under division (C)(1) of this 69950
section exempts improvements with respect to a parcel within an 69951
incentive district for more than ten years, or the percentage of 69952
the improvement exempted from taxation exceeds seventy-five per 69953
cent, not later than forty-five business days prior to adopting 69954
the resolution the board of township trustees shall deliver to the 69955
board of county commissioners of the county within which the 69956
incentive district is or will be located a notice that states its 69957
intent to adopt a resolution creating an incentive district. The 69958
notice shall include a copy of the proposed resolution, identify 69959
the parcels for which improvements are to be exempted from 69960
taxation, provide an estimate of the true value in money of the 69961
improvements, specify the period of time for which the 69962
improvements would be exempted from taxation, specify the 69963
percentage of the improvements that would be exempted from 69964
taxation, and indicate the date on which the board of township 69965
trustees intends to adopt the resolution. 69966

(2) The board of county commissioners, by resolution adopted 69967

by a majority of the board, may object to the exemption for the 69968
number of years in excess of ten, may object to the exemption for 69969
the percentage of the improvement to be exempted in excess of 69970
seventy-five per cent, or both. If the board of county 69971
commissioners objects, the board may negotiate a mutually 69972
acceptable compensation agreement with the board of township 69973
trustees. In no case shall the compensation provided to the board 69974
of county commissioners exceed the property taxes foregone due to 69975
the exemption. If the board of county commissioners objects, and 69976
the board of county commissioners and board of township trustees 69977
fail to negotiate a mutually acceptable compensation agreement, 69978
the resolution adopted under division (C)(1) of this section shall 69979
provide to the board of county commissioners compensation in the 69980
eleventh and subsequent years of the exemption period equal in 69981
value to not more than fifty per cent of the taxes that would be 69982
payable to the county or, if the board of county commissioner's 69983
objection includes an objection to an exemption percentage in 69984
excess of seventy-five per cent, compensation equal in value to 69985
not more than fifty per cent of the taxes that would be payable to 69986
the county, on the portion of the improvement in excess of 69987
seventy-five per cent, were that portion to be subject to 69988
taxation. The board of county commissioners shall certify its 69989
resolution to the board of township trustees not later than thirty 69990
days after receipt of the notice. 69991

(3) If the board of county commissioners does not object or 69992
fails to certify its resolution objecting to an exemption within 69993
thirty days after receipt of the notice, the board of township 69994
trustees may adopt its resolution, and no compensation shall be 69995
provided to the board of county commissioners. If the board of 69996
county commissioners timely certifies its resolution objecting to 69997
the trustees' resolution, the board of township trustees may adopt 69998
its resolution at any time after a mutually acceptable 69999
compensation agreement is agreed to by the board of county 70000

commissioners and the board of township trustees, or, if no 70001
compensation agreement is negotiated, at any time after the board 70002
of township trustees agrees in the proposed resolution to provide 70003
compensation to the board of county commissioners of fifty per 70004
cent of the taxes that would be payable to the county in the 70005
eleventh and subsequent years of the exemption period or on the 70006
portion of the improvement in excess of seventy-five per cent, 70007
were that portion to be subject to taxation. 70008

(F) Service payments in lieu of taxes that are attributable 70009
to any amount by which the effective tax rate of either a renewal 70010
levy with an increase or a replacement levy exceeds the effective 70011
tax rate of the levy renewed or replaced, or that are attributable 70012
to an additional levy, for a levy authorized by the voters for any 70013
of the following purposes on or after January 1, 2006, and which 70014
are provided pursuant to a resolution creating an incentive 70015
district under division (C)(1) of this section that is adopted on 70016
or after January 1, 2006, shall be distributed to the appropriate 70017
taxing authority as required under division (C) of section 5709.74 70018
of the Revised Code in an amount equal to the amount of taxes from 70019
that additional levy or from the increase in the effective tax 70020
rate of such renewal or replacement levy that would have been 70021
payable to that taxing authority from the following levies were it 70022
not for the exemption authorized under division (C) of this 70023
section: 70024

(1) A tax levied under division (L) of section 5705.19 or 70025
section 5705.191 of the Revised Code for community mental 70026
retardation and developmental disabilities programs and services 70027
pursuant to Chapter 5126. of the Revised Code; 70028

(2) A tax levied under division (Y) of section 5705.19 of the 70029
Revised Code for providing or maintaining senior citizens services 70030
or facilities; 70031

(3) A tax levied under section 5705.22 of the Revised Code 70032

| | |
|--|-------|
| for county hospitals; | 70033 |
| (4) A tax levied by a joint-county district or by a county | 70034 |
| under section 5705.19, 5705.191, or 5705.221 of the Revised Code | 70035 |
| for alcohol, drug addiction, and mental health services or | 70036 |
| families; | 70037 |
| (5) A tax levied under section 5705.23 of the Revised Code | 70038 |
| for library purposes; | 70039 |
| (6) A tax levied under section 5705.24 of the Revised Code | 70040 |
| for the support of children services and the placement and care of | 70041 |
| children; | 70042 |
| (7) A tax levied under division (Z) of section 5705.19 of the | 70043 |
| Revised Code for the provision and maintenance of zoological park | 70044 |
| services and facilities under section 307.76 of the Revised Code; | 70045 |
| (8) A tax levied under section 511.27 or division (H) of | 70046 |
| section 5705.19 of the Revised Code for the support of township | 70047 |
| park districts; | 70048 |
| (9) A tax levied under division (A), (F), or (H) of section | 70049 |
| 5705.19 of the Revised Code for parks and recreational purposes of | 70050 |
| a joint recreation district organized pursuant to division (B) of | 70051 |
| section 755.14 of the Revised Code; | 70052 |
| (10) A tax levied under section 1545.20 or 1545.21 of the | 70053 |
| Revised Code for park district purposes; | 70054 |
| (11) A tax levied under section 5705.191 of the Revised Code | 70055 |
| for the purpose of making appropriations for public assistance; | 70056 |
| human or social services; public relief; public welfare; public | 70057 |
| health and hospitalization; and support of general hospitals; | 70058 |
| (12) A tax levied under section 3709.29 of the Revised Code | 70059 |
| for a general health district program. | 70060 |
| (G) An exemption from taxation granted under this section | 70061 |
| commences with the tax year specified in the resolution so long as | 70062 |

the year specified in the resolution commences after the effective 70063
date of the resolution. If the resolution specifies a year 70064
commencing before the effective date of the resolution or 70065
specifies no year whatsoever, the exemption commences with the tax 70066
year in which an exempted improvement first appears on the tax 70067
list and duplicate of real and public utility property and that 70068
commences after the effective date of the resolution. Except as 70069
otherwise provided in this division, the exemption ends on the 70070
date specified in the resolution as the date the improvement 70071
ceases to be a public purpose or the incentive district expires, 70072
or ends on the date on which the public infrastructure 70073
improvements and housing renovations are paid in full from the 70074
township public improvement tax increment equivalent fund 70075
established under section 5709.75 of the Revised Code, whichever 70076
occurs first. The exemption of an improvement with respect to a 70077
parcel or within an incentive district may end on a later date, as 70078
specified in the resolution, if the board of township trustees and 70079
the board of education of the city, local, or exempted village 70080
school district within which the parcel or district is located 70081
have entered into a compensation agreement under section 5709.82 70082
of the Revised Code with respect to the improvement and the board 70083
of education has approved the term of the exemption under division 70084
(D) of this section, but in no case shall the improvement be 70085
exempted from taxation for more than thirty years. The board of 70086
township trustees may, by majority vote, adopt a resolution 70087
permitting the township to enter into such agreements as the board 70088
finds necessary or appropriate to provide for the construction or 70089
undertaking of public infrastructure improvements and housing 70090
renovations. Any exemption shall be claimed and allowed in the 70091
same or a similar manner as in the case of other real property 70092
exemptions. If an exemption status changes during a tax year, the 70093
procedure for the apportionment of the taxes for that year is the 70094
same as in the case of other changes in tax exemption status 70095

during the year. 70096

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

(K) A board of township trustees that adopted a resolution 70128
under this section prior to July 21, 1994, may amend that 70129
resolution to include any additional public infrastructure 70130
improvement. A board of township trustees that seeks by the 70131
amendment to utilize money from its township public improvement 70132
tax increment equivalent fund for land acquisition in aid of 70133
industry, commerce, distribution, or research, demolition on 70134
private property, or stormwater and flood remediation projects may 70135
do so provided that the board currently is a party to a 70136
hold-harmless agreement with the board of education of the city, 70137
local, or exempted village school district within the territory of 70138
which are located the parcels that are subject to an exemption. 70139
For the purposes of this division, a "hold-harmless agreement" 70140
means an agreement under which the board of township trustees 70141
agrees to compensate the school district for one hundred per cent 70142
of the tax revenue that the school district would have received 70143
from further improvements to parcels designated in the resolution 70144
were it not for the exemption granted by the resolution. 70145

(L) With respect to improvements resulting from projects, for 70146
which construction commences on or after April 1, 2012, and on or 70147
before December 31, 2013, and for which an exemption has been or 70148
will be sought pursuant to a resolution adopted under this section 70149
before December 14, 2001, "property used or to be used for 70150
residential purposes," as used in division (A)(2) of this section, 70151
means only that property that, as improved, the tax commissioner 70152
would classify as residential land and improvements pursuant to 70153
rules adopted by the tax commissioner under section 5713.041 of 70154
the Revised Code. 70155

Sec. 5713.012. (A) For purposes of this section: 70156

(1) "Mass appraisal project" means any sexennial reappraisal, 70157
triennial update, or other revaluation of all real property or the 70158

valuation of newly constructed real property in accordance with 70159
section 5713.01 of the Revised Code. 70160

(2) "Qualified project manager" means a person who plans, 70161
manages, coordinates, and controls the execution of a mass 70162
appraisal project under the direction of the county auditor and 70163
who has all of the following qualifications: 70164

(a) Has passed a comprehensive final examination that 70165
corresponds to a course, approved by the superintendent of real 70166
estate and professional licensing, that consists of at least 70167
thirty hours of instruction, quizzes, and learning aids. The 70168
superintendent shall not approve a course under this division that 70169
does not address the following topics in both the instruction and 70170
the examination: 70171

(i) Concepts and principles of mass appraisal as they relate 70172
to the assessment of real property for the purposes of ad valorem 70173
taxation; 70174

(ii) Methods of data collection and data management relative 70175
to parcels of real property, including modern alternative data 70176
collection methods and currently utilized computer-assisted mass 70177
appraisal systems; 70178

(iii) Assessment sales-ratio study including various measures 70179
of central tendency, the various measures of dispersion of data 70180
about the mean, median, and dollar-weighted mean, and the 70181
advantages and disadvantages of various analysis techniques; 70182

(iv) Traditional approaches of property valuation, including 70183
the cost approach, the sales comparison approach, and the income 70184
approach, as they are implemented in a mass appraisal project; 70185

(v) Methods and systems for model building and model 70186
calibration as related to mass appraisal of real property; 70187

(vi) Methods of production management and project analysis 70188

such as Gantt charts, program evaluation and review technique (PERT) charts, frequency distribution charts, line graphs, bar charts, and scatter diagrams, as they are utilized in the mass appraisal area. 70189
70190
70191
70192

(b) Has completed at least seven hours of continuing education courses in mass appraisal during the two-year period immediately succeeding the year in which the person passed the examination required in division (A)(2)(a) of this section, and during each two-year period thereafter. 70193
70194
70195
70196
70197

(B)(1) The county auditor, in acting as the assessor of all real property in the auditor's county for taxation purposes in accordance with section 5713.01 of the Revised Code, shall involve at least one qualified project manager in each mass assessment project that originates more than two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly. 70198
70199
70200
70201
70202
70203
70204

(2) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not approve any contract entered into by the auditor under division (E) of section 5713.01 of the Revised Code, with a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor unless that person designates an officer or employee of that person, with the appropriate credentials, to act as a qualified project manager. 70205
70206
70207
70208
70209
70210
70211
70212
70213

(3) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not include any person that has not designated an officer or employee, with the appropriate credentials, to act as a qualified project manager on a list generated by the commissioner for either of the following purposes: 70214
70215
70216
70217
70218
70219
70220

(a) To assist county auditors in selecting a person to do all 70221
or any part of the work necessary to the performance of the 70222
auditor's duties as assessor of all real property under section 70223
5713.01 of the Revised Code; 70224

(b) To assist the commissioner in the consideration of 70225
whether to approve or disapprove the auditor's application 70226
requesting authority to employ an appraisal firm or individual 70227
appraiser. 70228

Sec. 5713.03. The county auditor, from the best sources of 70229
information available, shall determine, as nearly as practicable, 70230
the true value of the fee simple estate, as if unencumbered, of 70231
each separate tract, lot, or parcel of real property and of 70232
buildings, structures, and improvements located thereon and the 70233
current agricultural use value of land valued for tax purposes in 70234
accordance with section 5713.31 of the Revised Code, in every 70235
district, according to the rules prescribed by this chapter and 70236
section 5715.01 of the Revised Code, and in accordance with the 70237
uniform rules and methods of valuing and assessing real property 70238
as adopted, prescribed, and promulgated by the tax commissioner. 70239
~~He~~ The auditor shall determine the taxable value of all real 70240
property by reducing its true or current agricultural use value by 70241
the percentage ordered by the commissioner. In determining the 70242
true value of any tract, lot, or parcel of real estate under this 70243
section, if such tract, lot, or parcel has been the subject of an 70244
arm's length sale between a willing seller and a willing buyer 70245
within a reasonable length of time, either before or after the tax 70246
lien date, the auditor ~~shall~~ may consider the sale price of such 70247
tract, lot, or parcel to be the true value for taxation purposes. 70248
However, the sale price in an arm's length transaction between a 70249
willing seller and a willing buyer shall not be considered the 70250
true value of the property sold if subsequent to the sale: 70251

(A) The tract, lot, or parcel of real estate loses value due 70252
to some casualty; 70253

(B) An improvement is added to the property. Nothing in this 70254
section or section 5713.01 of the Revised Code and no rule adopted 70255
under section 5715.01 of the Revised Code shall require the county 70256
auditor to change the true value in money of any property in any 70257
year except a year in which the tax commissioner is required to 70258
determine under section 5715.24 of the Revised Code whether the 70259
property has been assessed as required by law. 70260

The county auditor shall adopt and use a real property record 70261
approved by the commissioner for each tract, lot, or parcel of 70262
real property, setting forth the true and taxable value of land 70263
and, in the case of land valued in accordance with section 5713.31 70264
of the Revised Code, its current agricultural use value, the 70265
number of acres of arable land, permanent pasture land, woodland, 70266
and wasteland in each tract, lot, or parcel. ~~He~~ The auditor shall 70267
record pertinent information and the true and taxable value of 70268
each building, structure, or improvement to land, which value 70269
shall be included as a separate part of the total value of each 70270
tract, lot, or parcel of real property. 70271

Sec. 5719.13. Taxes assessed on the shares of stock of a 70272
dealer in intangibles shall be a lien on such shares from the 70273
first day of January in each year until they are paid. Each dealer 70274
in intangibles shall collect the taxes due from the owners of such 70275
shares and ~~pay~~ remit the same to the tax commissioner, who shall 70276
accept the remittance on behalf of the treasurer of state. The 70277
remittance shall be made payable to the treasurer of state and 70278
shall be made in the form prescribed by the commissioner. Any 70279
dealer in intangibles who fails to pay said taxes as provided in 70280
this section shall be liable by way of penalty for the gross 70281
amount of the taxes due from all the owners of shares, and for an 70282

additional amount of one hundred dollars for each day of delay in 70283
the payment of said taxes. 70284

A dealer in intangibles who ~~pays to the treasurer of state~~ 70285
the taxes assessed upon its shares in the hands of its 70286
shareholders, as provided in this section, may deduct the amount 70287
thereof from dividends or distributions that are due or thereafter 70288
become due on such shares, and shall have a lien on the shares of 70289
stock and all funds belonging to such shareholders in its 70290
possession, or which come into its possession, for reimbursement 70291
of such tax paid on account of the shareholders, with legal 70292
interest. Such lien may be enforced in any appropriate manner. 70293

Sec. 5725.14. (A) As used in this section and section 5725.15 70294
of the Revised Code: 70295

(1) "Billing address" of a customer means one of the 70296
following: 70297

(a) The customer's address as set forth in any notice, 70298
statement, bill, or similar acknowledgment shall be presumed to be 70299
the address where the customer is located with respect to the 70300
transaction for which the dealer issued the notice, statement, 70301
bill, or acknowledgment. 70302

(b) If the dealer issues any notice, statement, bill, or 70303
similar acknowledgment electronically to an address other than a 70304
street address or post office box address or if the dealer does 70305
not issue such a notice, statement, bill, or acknowledgment, the 70306
customer's street address as set forth in the records of the 70307
dealer at the time of the transaction shall be presumed to be the 70308
address where the customer is located. 70309

(2) "Commissions" includes but is not limited to brokerage 70310
commissions, asset management fees, and similar fees charged in 70311
the regular course of business to a customer for the maintenance 70312

and management of the customer's account. 70313

(3) "Gross receipts" means one of the following: 70314

(a) In the case of a dealer in intangibles principally 70315
engaged in the business of lending money or discounting loans, the 70316
aggregate amount of loans effected or discounted; 70317

(b) In the case of a dealer in intangibles principally 70318
engaged in the business of selling or buying stocks, bonds, or 70319
other similar securities either on the dealer's own account or as 70320
agent for another, the aggregate amount of all commissions 70321
charged. 70322

(B) Each dealer in intangibles shall return to the tax 70323
commissioner between the first and second Mondays of March, 70324
annually, a report exhibiting in detail, and under appropriate 70325
heads, the dealer's resources and liabilities at the close of 70326
business on the thirty-first day of December next preceding, 70327
together with remittance made payable to the treasurer of state of 70328
the tax levied under division (D) of section 5707.03 of the 70329
Revised Code. In the case of an unincorporated dealer in 70330
intangibles, such report shall also exhibit the amount or value as 70331
of the date of conversion of all property within the year 70332
preceding the date of listing, and on or after the first day of 70333
November converted into bonds or other securities not taxed to the 70334
extent such nontaxable bonds or securities may be shown in the 70335
dealer's resources on such date, without deduction for 70336
indebtedness created in the purchase of such nontaxable bonds or 70337
securities. 70338

If a dealer in intangibles maintains separate business 70339
offices, whether within this state only or within and without this 70340
state, the report shall also show the gross receipts from business 70341
done at each such office during the year ending on the 70342
thirty-first day of December next preceding. 70343

For the purposes of this section and section 5725.15 of the Revised Code, business is considered done at an office when it originates at such office, but the receipts from business originating at one office and consummated at another office shall be divided equitably between such offices.

(C) For the purposes of this section and section 5725.15 of the Revised Code, in the case of a dealer in intangibles principally engaged in the business of selling or buying stocks, bonds, or other similar securities either on the dealer's own account or as agent for another, the dealer's capital, surplus, and undivided profits employed in this state shall bear the same ratio to the dealer's total capital, surplus, and undivided profits employed everywhere as the amount described in division (C)(1) of this section bears to the amount described in division (C)(2) of this section:

(1) The sum of the commissions earned during the year covered by the ~~report~~ return from transactions with respect to brokerage accounts owned by customers having billing addresses in this state;

(2) The sum of the commissions earned during that year from transactions with respect to brokerage accounts owned by all of the dealer's customers.

(D) An incorporated dealer in intangibles which owns or controls fifty-one per cent or more of the common stock of another incorporated dealer in intangibles may, under uniform regulations prescribed by the tax commissioner, make a consolidated return for the purpose of sections 5725.01 to 5725.26, ~~inclusive,~~ of the Revised Code. In such case the parent corporation making such return is not required to include in its resources any of the stocks, securities, or other obligations of its subsidiary dealers, nor permitted to include in its liabilities any of its own securities or other obligations belonging to its subsidiaries.

Sec. 5725.15. ~~Upon receiving the~~ The report required by 70376
section 5725.14 of the Revised Code, ~~the tax commissioner~~ shall 70377
~~ascertain and assess~~ include as taxable property all the shares of 70378
~~such dealers~~ the dealer in intangibles, the capital stock of which 70379
is divided into shares, representing capital employed in this 70380
state, and the value of the property representing the capital, not 70381
divided into shares, employed in this state by such dealer in 70382
intangibles, according to the aggregate fair value of the capital, 70383
surplus, and undivided profits as shown in such report, including 70384
in the case of an unincorporated dealer, the value of property 70385
converted into nontaxable bonds or securities within the preceding 70386
year, without deduction for indebtedness created in the purchase 70387
of such nontaxable bonds or securities. 70388

The filing by a dealer of the report required by section 70389
5725.14 of the Revised Code shall be the preliminary assessment of 70390
the shares and property listed therein. 70391

If a dealer has separate offices, whether within this state 70392
only or within and without this state, the ~~commissioner~~ dealer 70393
shall ~~find~~ list the amount of capital employed in each office in 70394
this state, which shall bear the same ratio to the entire capital 70395
of such dealer, wherever employed, as the gross receipts of such 70396
office bears to the entire gross receipts of such dealer, wherever 70397
arising. 70398

The aggregate book value of the capital, surplus, and 70399
undivided profits of a dealer in intangibles as shown in such 70400
report shall be taken as the fair value thereof for the purpose of 70401
the assessment required by this section, unless the commissioner 70402
finds that such book value is greater or less than the then fair 70403
value of said capital, surplus, and undivided profits. Claim for 70404
any deduction from book value of capital, surplus, and undivided 70405
profits must be made in writing by the dealer in intangibles at 70406

the time of making ~~his~~ the dealer's return. 70407

Whenever the commissioner assesses the fair value of the 70408
capital, surplus, and undivided profits of a dealer in intangibles 70409
at an amount in excess of the ~~book~~ value thereof as ~~shown by its~~ 70410
~~report, or disallows any claim for deduction from book value of~~ 70411
~~such capital, surplus, and undivided profits~~ listed in the 70412
dealer's report, or assesses the shares or property of a dealer 70413
that fails to file a return, he the commissioner shall give notice 70414
and proceed as provided in section 5711.31 of the Revised Code. 70415

Sec. 5725.16. On or before the first Monday of May, annually 70416
, the tax commissioner shall certify to the treasurer of state the 70417
assessment of the shares or property representing capital, or 70418
apportionment of either, of each dealer in intangibles doing 70419
business in the state, showing separately the amount representing 70420
capital employed in each county. 70421

The treasurer of state shall place the amounts certified on 70422
the intangible property tax list in ~~his~~ the treasurer of state's 70423
office in the names of the dealers represented by those 70424
certificates. 70425

~~Any certificate of abatement issued pursuant to section~~ 70426
~~5703.05 of the Revised Code for the overpayment of the tax on~~ 70427
~~shares or property representing capital of a~~ The commissioner 70428
shall collect, on behalf of the treasurer, the taxes due on the 70429
assessments certified pursuant to this section, together with any 70430
applicable penalties or interest, in the manner prescribed by 70431
section 5725.22 of the Revised Code. The commissioner shall 70432
immediately forward to the treasurer any payments received under 70433
this section or section 5719.13 of the Revised Code. The treasurer 70434
shall credit all such payments against the appropriate amounts on 70435
the intangible property tax list in the treasurer's office. 70436

A dealer in intangibles may be tendered by the payee or 70437

~~transferee thereof to the treasurer of state as payment for any~~ 70438
~~taxes allocable to the county in which the claim for a refund of~~ 70439
~~any overpayment arose of the tax levied under division (D) of~~ 70440
~~section 5707.03 of the Revised Code by filing an application for~~ 70441
~~final assessment in accordance with section 5711.26 of the Revised~~ 70442
~~Code.~~ 70443

Sec. 5725.17. (A) In addition to any other penalty imposed by 70444
this chapter or Chapter 5703. of the Revised Code, the following 70445
penalties shall apply: 70446

(1) If a dealer in intangibles fails to make and furnish to 70447
the tax commissioner the report required by section 5725.14 of the 70448
Revised Code, within the time fixed by that section, a penalty 70449
shall be imposed equal to the greater of fifty dollars per month 70450
or fraction of a month, not to exceed five hundred dollars, or 70451
five per cent per month or fraction of a month, not to exceed 70452
fifty per cent, of the tax required to be shown on the report, for 70453
each month or fraction of a month elapsing between the due date, 70454
including extensions of the due date, and the date on which the 70455
report is filed. 70456

(2) If a dealer in intangibles fails to pay any amounts of 70457
the tax levied by division (D) of section 5707.03 of the Revised 70458
Code by the dates prescribed for payment, a penalty shall be 70459
imposed equal to the greater of the penalty due under division 70460
~~(C)~~(F) of section 5725.22 of the Revised Code, for which this 70461
penalty shall be a substitute, or two times the interest charged 70462
under section 5725.221 of the Revised Code for the delinquent 70463
payment. 70464

(3) If a dealer in intangibles submits a report required by 70465
section 5725.14 of the Revised Code that is marked, defaced, or 70466
otherwise designed by the dealer to be a frivolous protest or an 70467
attempt to delay or impede the administration of the tax levied by 70468

division (D) of section 5707.03 of the Revised Code, a penalty 70469
shall be imposed equal to the greater of one hundred dollars or 70470
twenty-five per cent of the tax required to be shown on the 70471
report. 70472

(4) If a dealer in intangibles makes a fraudulent attempt to 70473
evade the reporting or payment of the tax levied by division (D) 70474
of section 5707.03 of the Revised Code, a penalty shall be imposed 70475
equal to the greater of one thousand dollars or one hundred per 70476
cent of the tax required to be shown on the report required by 70477
section 5725.14 of the Revised Code. 70478

(5) If any person makes a false or fraudulent claim for 70479
abatement or refund of the tax levied by division (D) of section 70480
5707.03 of the Revised Code, a penalty shall be imposed equal to 70481
the greater of one thousand dollars or one hundred per cent of the 70482
claim. The penalty imposed by this division, any abatement or 70483
refund on the claim, and interest on any refund from the date of 70484
the refund, may be assessed under section 5725.15 of the Revised 70485
Code or added by the ~~treasurer of state~~ tax commissioner as tax, 70486
penalty, and interest due from the tax levied by division (D) of 70487
section 5707.03 of the Revised Code, without regard to whether the 70488
person making the claim is otherwise subject to the tax, and 70489
without regard to any time limitation for assessment. 70490

(B) Each penalty imposed under division (A) of this section 70491
shall be in addition to any other penalty imposed under that 70492
division. All or part of any penalty imposed under division (A) of 70493
this section may be abated by the commissioner ~~or the treasurer of~~
~~state, as appropriate.~~ 70494
70495

Sec. 5725.22. (A) The treasurer of state shall maintain an 70496
intangible property tax list of taxes levied by section 5707.03 of 70497
the Revised Code and certified by the tax commissioner pursuant to 70498
sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised 70499

Code, and a separate list of taxes levied by section 5725.18 of 70500
the Revised Code and certified by the superintendent of insurance 70501
pursuant to section 5725.20 of the Revised Code. ~~Upon receipt of~~ 70502
~~any assessment certified to him~~ 70503

(B)(1) With respect to taxes levied under section 5725.18 of 70504
the Revised Code, the treasurer of state, upon receipt of an 70505
assessment, shall compute the taxes at the rates prescribed by law 70506
and enter the taxes on the proper tax list. ~~He~~ The treasurer shall 70507
collect, and the taxpayer shall pay, all such taxes and any 70508
interest applicable thereto. Payments may be made by mail, in 70509
person, or by any other means authorized by the treasurer of 70510
~~state~~. The treasurer ~~of state~~ shall render a daily itemized 70511
statement to the ~~tax commissioner~~ superintendent of insurance of 70512
the amount of taxes collected and the name of the domestic 70513
insurance company ~~or assessment certificate number of the person~~ 70514
from whom collected. The treasurer of state may adopt rules 70515
concerning the methods and timeliness of ~~payment~~ payments under 70516
this division. 70517

(2) With respect to taxes levied under section 5707.03 of the 70518
Revised Code, any assessment certified to the treasurer of state 70519
shall reflect the taxes computed at the rates prescribed by law. 70520
Upon receipt of such an assessment, the treasurer shall enter the 70521
taxes on the proper tax list. The tax commissioner shall collect, 70522
and the taxpayer shall pay, all such taxes and any interest 70523
applicable thereto. Payments may be made by mail, in person, or by 70524
any other means authorized by the commissioner. The commissioner 70525
shall immediately forward to the treasurer any payments received 70526
under this division, together with any information necessary for 70527
the treasurer to properly credit such payments. The commissioner 70528
may adopt rules concerning the method and timeliness of payments 70529
under this division. 70530

(C) Each tax bill issued pursuant to this section shall 70531

separately reflect the taxes due, interest, if any, due date, and 70532
any other information considered necessary. The last day on which 70533
payment may be made without penalty shall be at least twenty but 70534
not more than thirty days from the date of mailing the tax bill. 70535
The treasurer of state or tax commissioner, as appropriate, shall 70536
mail the tax bill, and the mailing thereof shall be prima-facie 70537
evidence of receipt thereof by the taxpayer. 70538

The treasurer ~~of state or commissioner, as appropriate,~~ shall 70539
refund taxes as provided in this section, but no refund shall be 70540
made to a taxpayer having a delinquent claim certified pursuant to 70541
this section that remains unpaid. The treasurer ~~of state or~~ 70542
commissioner may consult the attorney general regarding such 70543
claims. Refunds shall be paid from the tax refund fund created by 70544
section 5703.052 of the Revised Code. 70545

~~(A)(D)(1)~~ Within twenty days after receipt of any preliminary 70546
assessment ~~certified to him of taxes levied under section 5725.18~~ 70547
of the Revised Code, the treasurer of state shall issue a tax 70548
bill, but if such preliminary assessment reflects a late filed tax 70549
return, the treasurer of state shall add interest as provided in 70550
division (A) of section 5725.221 of the Revised Code and issue a 70551
tax bill. 70552

~~(B)(2)~~ Within twenty days after receipt of any amended or 70553
final assessment ~~certified to him of taxes levied under section~~ 70554
5725.18 of the Revised Code, the treasurer of state shall 70555
ascertain the difference between the total taxes computed on such 70556
assessment and the total taxes computed on the most recent 70557
assessment certified for the same tax year. If the difference is a 70558
deficiency, the treasurer of state shall add interest as provided 70559
in division (B)(1) of section 5725.221 of the Revised Code and 70560
issue a tax bill. If the difference is an excess, the treasurer of 70561
state shall add interest as provided in division (B)(2) of section 70562
5725.221 of the Revised Code and certify the name of the taxpayer 70563

and the amount to be refunded to the director of budget and 70564
management for payment to the taxpayer. If the taxpayer has a 70565
deficiency for one tax year and an excess for another tax year, or 70566
any combination thereof for more than two tax years, the treasurer 70567
of state may determine the net result after adding interest, if 70568
applicable, and, depending on such result, proceed to mail a tax 70569
bill or certify a refund. 70570

~~(C)~~(E)(1) Except as provided in division (E)(2) of this 70571
section, within twenty days after certifying to the treasurer of 70572
state an amended or final assessment, or a preliminary assessment 70573
of a dealer in intangibles that has failed to file a report or 70574
disclose taxable property, the tax commissioner shall ascertain 70575
the difference between the total taxes computed on such assessment 70576
and the total taxes computed on the most recent assessment 70577
certified for the same tax year, if any. If the difference is a 70578
deficiency, the commissioner shall add interest as provided in 70579
division (B)(1) of section 5725.221 of the Revised Code and issue 70580
a tax bill. If the difference is an excess, the commissioner shall 70581
add interest as provided in division (B)(2) of section 5725.221 of 70582
the Revised Code and certify the name of the taxpayer and the 70583
amount to be refunded to the director of budget and management for 70584
payment to the taxpayer. If the taxpayer has a deficiency for one 70585
tax year and excess for another tax year, or any combination 70586
thereof for more than two tax years, the commissioner may 70587
determine the net result after adding interest, if applicable, 70588
and, depending on such result, proceed to mail a tax bill or 70589
certify a refund. 70590

(2) The tax commissioner may issue a tax bill for any 70591
deficiency resulting from an assessment at the time the 70592
commissioner issues the assessment. 70593

(F) If a taxpayer fails to pay all taxes and interest, if 70594
any, on or before the due date shown on the tax bill but makes 70595

payment within ten calendar days of such date, the treasurer of 70596
state or tax commissioner, as appropriate, shall add a penalty 70597
equal to five per cent of the taxes due. If payment is not made 70598
within ten days of such date, the treasurer ~~of state or~~ 70599
commissioner shall add a penalty equal to ten per cent of the 70600
taxes due. The treasurer ~~of state or commissioner~~ shall prepare a 70601
delinquent claim for each tax bill on which penalties were added 70602
and certify such claims to the attorney general for collection. 70603
The attorney general shall transmit a copy of each claim certified 70604
by the treasurer to the ~~tax commissioner or the~~ superintendent of 70605
insurance ~~and~~. For each claim certified by the treasurer or 70606
commissioner, the attorney general shall proceed to collect the 70607
delinquent taxes, penalties, and interest thereon in the manner 70608
prescribed by law. 70609

Sec. 5725.221. For the purposes of this section, interest 70610
shall be computed at a rate per calendar month, rounded to the 70611
nearest one-hundredth of one per cent, equal to one-twelfth of the 70612
rate per annum prescribed by section 5703.47 of the Revised Code 70613
for the calendar year that includes the month for which the 70614
interest accrues. 70615

(A) When taxes levied by section 3737.71, 5707.03, or 5725.18 70616
of the Revised Code are assessed as the result of a tax return 70617
being filed late, the treasurer of state or tax commissioner, as 70618
appropriate, shall add interest to the taxes due. The interest 70619
shall accrue from the first day of the month following the last 70620
day on which such taxes were required to be paid, had the 70621
assessment been certified by the date prescribed, to the last day 70622
of the month preceding the date on which the assessment was 70623
certified, and shall be computed on the taxes due. 70624

(B) If an assessment has been certified pursuant to section 70625
5711.13, 5725.08, 5725.16, 5725.20, or 5725.222 of the Revised 70626

Code and an amended or final assessment is certified for the same 70627
taxpayer and the same tax year, the treasurer of state or tax 70628
commissioner, as appropriate, shall add interest to the deficiency 70629
or excess. The interest shall be computed on the excess or 70630
deficiency, and shall be accrued in the following manner: 70631

(1) On a deficiency, interest shall accrue from the first day 70632
of the month following the last day on which the previous 70633
assessment was required to be paid, to the last day of the month 70634
preceding the date on which the amended or final assessment is 70635
certified; 70636

(2) On an excess, interest shall be allowed from the first 70637
day of the month following the date of payment of the previous 70638
assessment, to the last day of the month preceding the date on 70639
which the amended or final assessment is certified. 70640

Sec. 5731.39. (A) No corporation organized or existing under 70641
the laws of this state shall transfer on its books or issue a new 70642
certificate for any share of its capital stock registered in the 70643
name of a decedent, or in trust for a decedent, or in the name of 70644
a decedent and another person or persons, without the written 70645
consent of the tax commissioner. 70646

(B) No safe deposit company, trust company, financial 70647
institution as defined in division (A) of section 5725.01 of the 70648
Revised Code or other corporation or person, having in possession, 70649
control, or custody a deposit standing in the name of a decedent, 70650
or in trust for a decedent, or in the name of a decedent and 70651
another person or persons, shall deliver or transfer an amount in 70652
excess of three-fourths of the total value of such deposit, 70653
including accrued interest and dividends, as of the date of 70654
decedent's death, without the written consent of the tax 70655
commissioner. The written consent of the tax commissioner need not 70656
be obtained prior to the delivery or transfer of amounts having a 70657

value of three-fourths or less of said total value. 70658

(C) No life insurance company shall pay the proceeds of an 70659
annuity or matured endowment contract, or of a life insurance 70660
contract payable to the estate of a decedent, or of any other 70661
insurance contract taxable under Chapter 5731. of the Revised 70662
Code, without the written consent of the tax commissioner. Any 70663
life insurance company may pay the proceeds of any insurance 70664
contract not specified in this division (C) without the written 70665
consent of the tax commissioner. 70666

(D) No trust company or other corporation or person shall pay 70667
the proceeds of any death benefit, retirement, pension or profit 70668
sharing plan in excess of two thousand dollars, without the 70669
written consent of the tax commissioner. Such trust company or 70670
other corporation or person, however, may pay the proceeds of any 70671
death benefit, retirement, pension, or profit-sharing plan which 70672
consists of insurance on the life of the decedent payable to a 70673
beneficiary other than the estate of the insured without the 70674
written consent of the tax commissioner. 70675

(E) No safe deposit company, trust company, financial 70676
institution as defined in division (A) of section 5725.01 of the 70677
Revised Code, or other corporation or person, having in 70678
possession, control, or custody securities, assets, or other 70679
property (including the shares of the capital stock of, or other 70680
interest in, such safe deposit company, trust company, financial 70681
institution as defined in division (A) of section 5725.01 of the 70682
Revised Code, or other corporation), standing in the name of a 70683
decedent, or in trust for a decedent, or in the name of a decedent 70684
and another person or persons, and the transfer of which is 70685
taxable under Chapter 5731. of the Revised Code, shall deliver or 70686
transfer any such securities, assets, or other property which have 70687
a value as of the date of decedent's death in excess of 70688
three-fourths of the total value thereof, without the written 70689

consent of the tax commissioner. The written consent of the tax 70690
commissioner need not be obtained prior to the delivery or 70691
transfer of any such securities, assets, or other property having 70692
a value of three-fourths or less of said total value. 70693

(F) No safe deposit company, financial institution as defined 70694
in division (A) of section 5725.01 of the Revised Code, or other 70695
corporation or person having possession or control of a safe 70696
deposit box or similar receptacle standing in the name of a 70697
decedent or in the name of the decedent and another person or 70698
persons, or to which the decedent had a right of access, except 70699
when such safe deposit box or other receptacle stands in the name 70700
of a corporation or partnership, or in the name of the decedent as 70701
guardian or executor, shall deliver any of the contents thereof 70702
unless the safe deposit box or similar receptacle has been opened 70703
and inventoried in the presence of the tax commissioner or the 70704
commissioner's agent, and a written consent to transfer issued; 70705
provided, however, that a safe deposit company, financial 70706
institution, or other corporation or person having possession or 70707
control of a safe deposit box may deliver wills, deeds to burial 70708
lots, and insurance policies to a representative of the decedent, 70709
but that a representative of the safe deposit company, financial 70710
institution, or other corporation or person must supervise the 70711
opening of the box and make a written record of the wills, deeds, 70712
and policies removed. Such written record shall be included in the 70713
tax commissioner's inventory records. 70714

(G) Notwithstanding any provision of this section: 70715

(1) The tax commissioner may authorize any delivery or 70716
transfer or waive any of the foregoing requirements under such 70717
terms and conditions as the commissioner may prescribe; 70718

(2) ~~An adult care facility, as defined in section 5119.70 of~~ 70719
~~the Revised Code, or a~~ A home, as defined in section 3721.10 of 70720
the Revised Code, or a residential facility licensed under section 70721

5119.22 of the Revised Code that provides accommodations, 70722
supervision, and personal care services for three to sixteen 70723
unrelated adults, may transfer or use the money in a personal 70724
needs allowance account in accordance with section 5111.113 of the 70725
Revised Code without the written consent of the tax commissioner, 70726
and without the account having been opened and inventoried in the 70727
presence of the commissioner or the commissioner's agent. 70728

Failure to comply with this section shall render such safe 70729
deposit company, trust company, life insurance company, financial 70730
institution as defined in division (A) of section 5725.01 of the 70731
Revised Code, or other corporation or person liable for the amount 70732
of the taxes and interest due under the provisions of Chapter 70733
5731. of the Revised Code on the transfer of such stock, deposit, 70734
proceeds of an annuity or matured endowment contract or of a life 70735
insurance contract payable to the estate of a decedent, or other 70736
insurance contract taxable under Chapter 5731. of the Revised 70737
Code, proceeds of any death benefit, retirement, pension, or 70738
profit sharing plan in excess of two thousand dollars, or 70739
securities, assets, or other property of any resident decedent, 70740
and in addition thereto, to a penalty of not less than five 70741
hundred or more than five thousand dollars. 70742

Sec. 5733.064. There is hereby allowed a credit against the 70743
tax imposed under sections 5733.06, 5733.065, and 5733.066 of the 70744
Revised Code. The credit shall equal the lesser of fifty per cent 70745
of any cash donations made during the taxable year by the taxpayer 70746
to an Ohio corporation organized prior to January 1, 1987, whose 70747
sole purpose is to promote and encourage recycling and that has 70748
been determined by the internal revenue service to be a nonprofit 70749
corporation regardless of whether the nonprofit corporation 70750
received a grant under section ~~1502.05~~ 3736.05 of the Revised 70751
Code, or to municipal corporations, counties, townships, park 70752
districts, and boards of education that received grants pursuant 70753

to that section, or one-half of the amount of the taxpayer's 70754
additional tax liability for the tax year resulting from the 70755
additional rates imposed by sections 5733.065 and 5733.066 of the 70756
Revised Code to provide funding for ~~the division of~~ recycling and 70757
litter prevention under Chapter ~~1502.~~ 3736. of the Revised Code. 70758
The taxpayer shall claim the nonrefundable credit in the order 70759
required under section 5733.98 of the Revised Code. 70760

The tax commissioner may require the taxpayer to furnish such 70761
information as is necessary to support a claim for a credit under 70762
this section, and no credit shall be allowed unless the 70763
information is provided. 70764

Sec. 5739.01. As used in this chapter: 70765

(A) "Person" includes individuals, receivers, assignees, 70766
trustees in bankruptcy, estates, firms, partnerships, 70767
associations, joint-stock companies, joint ventures, clubs, 70768
societies, corporations, the state and its political subdivisions, 70769
and combinations of individuals of any form. 70770

(B) "Sale" and "selling" include all of the following 70771
transactions for a consideration in any manner, whether absolutely 70772
or conditionally, whether for a price or rental, in money or by 70773
exchange, and by any means whatsoever: 70774

(1) All transactions by which title or possession, or both, 70775
of tangible personal property, is or is to be transferred, or a 70776
license to use or consume tangible personal property is or is to 70777
be granted; 70778

(2) All transactions by which lodging by a hotel is or is to 70779
be furnished to transient guests; 70780

(3) All transactions by which: 70781

(a) An item of tangible personal property is or is to be 70782
repaired, except property, the purchase of which would not be 70783

subject to the tax imposed by section 5739.02 of the Revised Code; 70784

(b) An item of tangible personal property is or is to be 70785
installed, except property, the purchase of which would not be 70786
subject to the tax imposed by section 5739.02 of the Revised Code 70787
or property that is or is to be incorporated into and will become 70788
a part of a production, transmission, transportation, or 70789
distribution system for the delivery of a public utility service; 70790

(c) The service of washing, cleaning, waxing, polishing, or 70791
painting a motor vehicle is or is to be furnished; 70792

(d) Until August 1, 2003, industrial laundry cleaning 70793
services are or are to be provided and, on and after August 1, 70794
2003, laundry and dry cleaning services are or are to be provided; 70795

(e) Automatic data processing, computer services, or 70796
electronic information services are or are to be provided for use 70797
in business when the true object of the transaction is the receipt 70798
by the consumer of automatic data processing, computer services, 70799
or electronic information services rather than the receipt of 70800
personal or professional services to which automatic data 70801
processing, computer services, or electronic information services 70802
are incidental or supplemental. Notwithstanding any other 70803
provision of this chapter, such transactions that occur between 70804
members of an affiliated group are not sales. An "affiliated 70805
group" means two or more persons related in such a way that one 70806
person owns or controls the business operation of another member 70807
of the group. In the case of corporations with stock, one 70808
corporation owns or controls another if it owns more than fifty 70809
per cent of the other corporation's common stock with voting 70810
rights. 70811

(f) Telecommunications service, including prepaid calling 70812
service, prepaid wireless calling service, or ancillary service, 70813
is or is to be provided, but not including coin-operated telephone 70814

| | |
|---|--|
| service; | 70815 |
| (g) Landscaping and lawn care service is or is to be provided; | 70816 70817 |
| (h) Private investigation and security service is or is to be provided; | 70818 70819 |
| (i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call; | 70820 70821 |
| (j) Building maintenance and janitorial service is or is to be provided; | 70822 70823 |
| (k) Employment service is or is to be provided; | 70824 |
| (l) Employment placement service is or is to be provided; | 70825 |
| (m) Exterminating service is or is to be provided; | 70826 |
| (n) Physical fitness facility service is or is to be provided; | 70827 70828 |
| (o) Recreation and sports club service is or is to be provided; | 70829 70830 |
| (p) On and after August 1, 2003, satellite broadcasting service is or is to be provided; | 70831 70832 |
| (q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair. | 70833 70834 70835 70836 70837 70838 70839 70840 |
| (r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for | 70841 70842 70843 |

transportation provided by an ambulance service, by a transit bus, 70844
as defined in section 5735.01 of the Revised Code, and 70845
transportation provided by a citizen of the United States holding 70846
a certificate of public convenience and necessity issued under 49 70847
U.S.C. 41102; 70848

(s) On and after August 1, 2003, motor vehicle towing service 70849
is or is to be provided. As used in this division, "motor vehicle 70850
towing service" means the towing or conveyance of a wrecked, 70851
disabled, or illegally parked motor vehicle. 70852

(t) On and after August 1, 2003, snow removal service is or 70853
is to be provided. As used in this division, "snow removal 70854
service" means the removal of snow by any mechanized means, but 70855
does not include the providing of such service by a person that 70856
has less than five thousand dollars in sales of such service 70857
during the calendar year. 70858

(u) Electronic publishing service is or is to be provided to 70859
a consumer for use in business, except that such transactions 70860
occurring between members of an affiliated group, as defined in 70861
division (B)(3)(e) of this section, are not sales. 70862

(4) All transactions by which printed, imprinted, 70863
overprinted, lithographic, multilithic, blueprinted, photostatic, 70864
or other productions or reproductions of written or graphic matter 70865
are or are to be furnished or transferred; 70866

(5) The production or fabrication of tangible personal 70867
property for a consideration for consumers who furnish either 70868
directly or indirectly the materials used in the production of 70869
fabrication work; and include the furnishing, preparing, or 70870
serving for a consideration of any tangible personal property 70871
consumed on the premises of the person furnishing, preparing, or 70872
serving such tangible personal property. Except as provided in 70873
section 5739.03 of the Revised Code, a construction contract 70874

pursuant to which tangible personal property is or is to be 70875
incorporated into a structure or improvement on and becoming a 70876
part of real property is not a sale of such tangible personal 70877
property. The construction contractor is the consumer of such 70878
tangible personal property, provided that the sale and 70879
installation of carpeting, the sale and installation of 70880
agricultural land tile, the sale and erection or installation of 70881
portable grain bins, or the provision of landscaping and lawn care 70882
service and the transfer of property as part of such service is 70883
never a construction contract. 70884

As used in division (B)(5) of this section: 70885

(a) "Agricultural land tile" means fired clay or concrete 70886
tile, or flexible or rigid perforated plastic pipe or tubing, 70887
incorporated or to be incorporated into a subsurface drainage 70888
system appurtenant to land used or to be used primarily in 70889
production by farming, agriculture, horticulture, or floriculture. 70890
The term does not include such materials when they are or are to 70891
be incorporated into a drainage system appurtenant to a building 70892
or structure even if the building or structure is used or to be 70893
used in such production. 70894

(b) "Portable grain bin" means a structure that is used or to 70895
be used by a person engaged in farming or agriculture to shelter 70896
the person's grain and that is designed to be disassembled without 70897
significant damage to its component parts. 70898

(6) All transactions in which all of the shares of stock of a 70899
closely held corporation are transferred, if the corporation is 70900
not engaging in business and its entire assets consist of boats, 70901
planes, motor vehicles, or other tangible personal property 70902
operated primarily for the use and enjoyment of the shareholders; 70903

(7) All transactions in which a warranty, maintenance or 70904
service contract, or similar agreement by which the vendor of the 70905

warranty, contract, or agreement agrees to repair or maintain the 70906
tangible personal property of the consumer is or is to be 70907
provided; 70908

(8) The transfer of copyrighted motion picture films used 70909
solely for advertising purposes, except that the transfer of such 70910
films for exhibition purposes is not a sale; 70911

(9) On and after August 1, 2003, all transactions by which 70912
tangible personal property is or is to be stored, except such 70913
property that the consumer of the storage holds for sale in the 70914
regular course of business; 70915

(10) All transactions in which "guaranteed auto protection" 70916
is provided whereby a person promises to pay to the consumer the 70917
difference between the amount the consumer receives from motor 70918
vehicle insurance and the amount the consumer owes to a person 70919
holding title to or a lien on the consumer's motor vehicle in the 70920
event the consumer's motor vehicle suffers a total loss under the 70921
terms of the motor vehicle insurance policy or is stolen and not 70922
recovered, if the protection and its price are included in the 70923
purchase or lease agreement; 70924

(11)(a) Except as provided in division (B)(11)(b) of this 70925
section, on and after October 1, 2009, all transactions by which 70926
health care services are paid for, reimbursed, provided, 70927
delivered, arranged for, or otherwise made available by a medicaid 70928
health insuring corporation pursuant to the corporation's contract 70929
with the state. 70930

(b) If the centers for medicare and medicaid services of the 70931
United States department of health and human services determines 70932
that the taxation of transactions described in division (B)(11)(a) 70933
of this section constitutes an impermissible health care-related 70934
tax under section 1903(w) of the "Social Security Act," 49 Stat. 70935
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 70936

adopted thereunder, the director of job and family services shall 70937
notify the tax commissioner of that determination. Beginning with 70938
the first day of the month following that notification, the 70939
transactions described in division (B)(11)(a) of this section are 70940
not sales for the purposes of this chapter or Chapter 5741. of the 70941
Revised Code. The tax commissioner shall order that the collection 70942
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 70943
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 70944
shall cease for transactions occurring on or after that date. 70945

Except as provided in this section, "sale" and "selling" do 70946
not include transfers of interest in leased property where the 70947
original lessee and the terms of the original lease agreement 70948
remain unchanged, or professional, insurance, or personal service 70949
transactions that involve the transfer of tangible personal 70950
property as an inconsequential element, for which no separate 70951
charges are made. 70952

(C) "Vendor" means the person providing the service or by 70953
whom the transfer effected or license given by a sale is or is to 70954
be made or given and, for sales described in division (B)(3)(i) of 70955
this section, the telecommunications service vendor that provides 70956
the nine hundred telephone service; if two or more persons are 70957
engaged in business at the same place of business under a single 70958
trade name in which all collections on account of sales by each 70959
are made, such persons shall constitute a single vendor. 70960

Physicians, dentists, hospitals, and veterinarians who are 70961
engaged in selling tangible personal property as received from 70962
others, such as eyeglasses, mouthwashes, dentifrices, or similar 70963
articles, are vendors. Veterinarians who are engaged in 70964
transferring to others for a consideration drugs, the dispensing 70965
of which does not require an order of a licensed veterinarian or 70966
physician under federal law, are vendors. 70967

(D)(1) "Consumer" means the person for whom the service is 70968

provided, to whom the transfer effected or license given by a sale 70969
is or is to be made or given, to whom the service described in 70970
division (B)(3)(f) or (i) of this section is charged, or to whom 70971
the admission is granted. 70972

(2) Physicians, dentists, hospitals, and blood banks operated 70973
by nonprofit institutions and persons licensed to practice 70974
veterinary medicine, surgery, and dentistry are consumers of all 70975
tangible personal property and services purchased by them in 70976
connection with the practice of medicine, dentistry, the rendition 70977
of hospital or blood bank service, or the practice of veterinary 70978
medicine, surgery, and dentistry. In addition to being consumers 70979
of drugs administered by them or by their assistants according to 70980
their direction, veterinarians also are consumers of drugs that 70981
under federal law may be dispensed only by or upon the order of a 70982
licensed veterinarian or physician, when transferred by them to 70983
others for a consideration to provide treatment to animals as 70984
directed by the veterinarian. 70985

(3) A person who performs a facility management, or similar 70986
service contract for a contractee is a consumer of all tangible 70987
personal property and services purchased for use in connection 70988
with the performance of such contract, regardless of whether title 70989
to any such property vests in the contractee. The purchase of such 70990
property and services is not subject to the exception for resale 70991
under division (E)(1) of this section. 70992

(4)(a) In the case of a person who purchases printed matter 70993
for the purpose of distributing it or having it distributed to the 70994
public or to a designated segment of the public, free of charge, 70995
that person is the consumer of that printed matter, and the 70996
purchase of that printed matter for that purpose is a sale. 70997

(b) In the case of a person who produces, rather than 70998
purchases, printed matter for the purpose of distributing it or 70999
having it distributed to the public or to a designated segment of 71000

the public, free of charge, that person is the consumer of all 71001
tangible personal property and services purchased for use or 71002
consumption in the production of that printed matter. That person 71003
is not entitled to claim exemption under division (B)(42)(f) of 71004
section 5739.02 of the Revised Code for any material incorporated 71005
into the printed matter or any equipment, supplies, or services 71006
primarily used to produce the printed matter. 71007

(c) The distribution of printed matter to the public or to a 71008
designated segment of the public, free of charge, is not a sale to 71009
the members of the public to whom the printed matter is 71010
distributed or to any persons who purchase space in the printed 71011
matter for advertising or other purposes. 71012

(5) A person who makes sales of any of the services listed in 71013
division (B)(3) of this section is the consumer of any tangible 71014
personal property used in performing the service. The purchase of 71015
that property is not subject to the resale exception under 71016
division (E)(1) of this section. 71017

(6) A person who engages in highway transportation for hire 71018
is the consumer of all packaging materials purchased by that 71019
person and used in performing the service, except for packaging 71020
materials sold by such person in a transaction separate from the 71021
service. 71022

(7) In the case of a transaction for health care services 71023
under division (B)(11) of this section, a medicaid health insuring 71024
corporation is the consumer of such services. The purchase of such 71025
services by a medicaid health insuring corporation is not subject 71026
to the exception for resale under division (E)(1) of this section 71027
or to the exemptions provided under divisions (B)(12), (18), (19), 71028
and (22) of section 5739.02 of the Revised Code. 71029

(E) "Retail sale" and "sales at retail" include all sales, 71030
except those in which the purpose of the consumer is to resell the 71031

thing transferred or benefit of the service provided, by a person 71032
engaging in business, in the form in which the same is, or is to 71033
be, received by the person. 71034

(F) "Business" includes any activity engaged in by any person 71035
with the object of gain, benefit, or advantage, either direct or 71036
indirect. "Business" does not include the activity of a person in 71037
managing and investing the person's own funds. 71038

(G) "Engaging in business" means commencing, conducting, or 71039
continuing in business, and liquidating a business when the 71040
liquidator thereof holds itself out to the public as conducting 71041
such business. Making a casual sale is not engaging in business. 71042

(H)(1)(a) "Price," except as provided in divisions (H)(2), 71043
(3), and (4) of this section, means the total amount of 71044
consideration, including cash, credit, property, and services, for 71045
which tangible personal property or services are sold, leased, or 71046
rented, valued in money, whether received in money or otherwise, 71047
without any deduction for any of the following: 71048

(i) The vendor's cost of the property sold; 71049

(ii) The cost of materials used, labor or service costs, 71050
interest, losses, all costs of transportation to the vendor, all 71051
taxes imposed on the vendor, including the tax imposed under 71052
Chapter 5751. of the Revised Code, and any other expense of the 71053
vendor; 71054

(iii) Charges by the vendor for any services necessary to 71055
complete the sale; 71056

(iv) On and after August 1, 2003, delivery charges. As used 71057
in this division, "delivery charges" means charges by the vendor 71058
for preparation and delivery to a location designated by the 71059
consumer of tangible personal property or a service, including 71060
transportation, shipping, postage, handling, crating, and packing. 71061

| | |
|--|-------|
| (v) Installation charges; | 71062 |
| (vi) Credit for any trade-in. | 71063 |
| (b) "Price" includes consideration received by the vendor | 71064 |
| from a third party, if the vendor actually receives the | 71065 |
| consideration from a party other than the consumer, and the | 71066 |
| consideration is directly related to a price reduction or discount | 71067 |
| on the sale; the vendor has an obligation to pass the price | 71068 |
| reduction or discount through to the consumer; the amount of the | 71069 |
| consideration attributable to the sale is fixed and determinable | 71070 |
| by the vendor at the time of the sale of the item to the consumer; | 71071 |
| and one of the following criteria is met: | 71072 |
| (i) The consumer presents a coupon, certificate, or other | 71073 |
| document to the vendor to claim a price reduction or discount | 71074 |
| where the coupon, certificate, or document is authorized, | 71075 |
| distributed, or granted by a third party with the understanding | 71076 |
| that the third party will reimburse any vendor to whom the coupon, | 71077 |
| certificate, or document is presented; | 71078 |
| (ii) The consumer identifies the consumer's self to the | 71079 |
| seller as a member of a group or organization entitled to a price | 71080 |
| reduction or discount. A preferred customer card that is available | 71081 |
| to any patron does not constitute membership in such a group or | 71082 |
| organization. | 71083 |
| (iii) The price reduction or discount is identified as a | 71084 |
| third party price reduction or discount on the invoice received by | 71085 |
| the consumer, or on a coupon, certificate, or other document | 71086 |
| presented by the consumer. | 71087 |
| (c) "Price" does not include any of the following: | 71088 |
| (i) Discounts, including cash, term, or coupons that are not | 71089 |
| reimbursed by a third party that are allowed by a vendor and taken | 71090 |
| by a consumer on a sale; | 71091 |

(ii) Interest, financing, and carrying charges from credit 71092
extended on the sale of tangible personal property or services, if 71093
the amount is separately stated on the invoice, bill of sale, or 71094
similar document given to the purchaser; 71095

(iii) Any taxes legally imposed directly on the consumer that 71096
are separately stated on the invoice, bill of sale, or similar 71097
document given to the consumer. For the purpose of this division, 71098
the tax imposed under Chapter 5751. of the Revised Code is not a 71099
tax directly on the consumer, even if the tax or a portion thereof 71100
is separately stated. 71101

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 71102
section, any discount allowed by an automobile manufacturer to its 71103
employee, or to the employee of a supplier, on the purchase of a 71104
new motor vehicle from a new motor vehicle dealer in this state. 71105

(v) The dollar value of a gift card that is not sold by a 71106
vendor or purchased by a consumer and that is redeemed by the 71107
consumer in purchasing tangible personal property or services if 71108
the vendor is not reimbursed and does not receive compensation 71109
from a third party to cover all or part of the gift card value. 71110
For the purposes of this division, a gift card is not sold by a 71111
vendor or purchased by a consumer if it is distributed pursuant to 71112
an awards, loyalty, or promotional program. Past and present 71113
purchases of tangible personal property or services by the 71114
consumer shall not be treated as consideration exchanged for a 71115
gift card. 71116

(2) In the case of a sale of any new motor vehicle by a new 71117
motor vehicle dealer, as defined in section 4517.01 of the Revised 71118
Code, in which another motor vehicle is accepted by the dealer as 71119
part of the consideration received, "price" has the same meaning 71120
as in division (H)(1) of this section, reduced by the credit 71121
afforded the consumer by the dealer for the motor vehicle received 71122
in trade. 71123

(3) In the case of a sale of any watercraft or outboard motor 71124
by a watercraft dealer licensed in accordance with section 71125
1547.543 of the Revised Code, in which another watercraft, 71126
watercraft and trailer, or outboard motor is accepted by the 71127
dealer as part of the consideration received, "price" has the same 71128
meaning as in division (H)(1) of this section, reduced by the 71129
credit afforded the consumer by the dealer for the watercraft, 71130
watercraft and trailer, or outboard motor received in trade. As 71131
used in this division, "watercraft" includes an outdrive unit 71132
attached to the watercraft. 71133

(4) In the case of transactions for health care services 71134
under division (B)(11) of this section, "price" means the amount 71135
of managed care premiums received each month by a medicaid health 71136
insuring corporation. 71137

(I) "Receipts" means the total amount of the prices of the 71138
sales of vendors, provided that the dollar value of gift cards 71139
distributed pursuant to an awards, loyalty, or promotional 71140
program, and cash discounts allowed and taken on sales at the time 71141
they are consummated are not included, minus any amount deducted 71142
as a bad debt pursuant to section 5739.121 of the Revised Code. 71143
"Receipts" does not include the sale price of property returned or 71144
services rejected by consumers when the full sale price and tax 71145
are refunded either in cash or by credit. 71146

(J) "Place of business" means any location at which a person 71147
engages in business. 71148

(K) "Premises" includes any real property or portion thereof 71149
upon which any person engages in selling tangible personal 71150
property at retail or making retail sales and also includes any 71151
real property or portion thereof designated for, or devoted to, 71152
use in conjunction with the business engaged in by such person. 71153

(L) "Casual sale" means a sale of an item of tangible 71154

personal property that was obtained by the person making the sale, 71155
through purchase or otherwise, for the person's own use and was 71156
previously subject to any state's taxing jurisdiction on its sale 71157
or use, and includes such items acquired for the seller's use that 71158
are sold by an auctioneer employed directly by the person for such 71159
purpose, provided the location of such sales is not the 71160
auctioneer's permanent place of business. As used in this 71161
division, "permanent place of business" includes any location 71162
where such auctioneer has conducted more than two auctions during 71163
the year. 71164

(M) "Hotel" means every establishment kept, used, maintained, 71165
advertised, or held out to the public to be a place where sleeping 71166
accommodations are offered to guests, in which five or more rooms 71167
are used for the accommodation of such guests, whether the rooms 71168
are in one or several structures, except as otherwise provided in 71169
division (G) of section 5739.09 of the Revised Code. 71170

(N) "Transient guests" means persons occupying a room or 71171
rooms for sleeping accommodations for less than thirty consecutive 71172
days. 71173

(O) "Making retail sales" means the effecting of transactions 71174
wherein one party is obligated to pay the price and the other 71175
party is obligated to provide a service or to transfer title to or 71176
possession of the item sold. "Making retail sales" does not 71177
include the preliminary acts of promoting or soliciting the retail 71178
sales, other than the distribution of printed matter which 71179
displays or describes and prices the item offered for sale, nor 71180
does it include delivery of a predetermined quantity of tangible 71181
personal property or transportation of property or personnel to or 71182
from a place where a service is performed, regardless of whether 71183
the vendor is a delivery vendor. 71184

(P) "Used directly in the rendition of a public utility 71185
service" means that property that is to be incorporated into and 71186

will become a part of the consumer's production, transmission, 71187
transportation, or distribution system and that retains its 71188
classification as tangible personal property after such 71189
incorporation; fuel or power used in the production, transmission, 71190
transportation, or distribution system; and tangible personal 71191
property used in the repair and maintenance of the production, 71192
transmission, transportation, or distribution system, including 71193
only such motor vehicles as are specially designed and equipped 71194
for such use. Tangible personal property and services used 71195
primarily in providing highway transportation for hire are not 71196
used directly in the rendition of a public utility service. In 71197
this definition, "public utility" includes a citizen of the United 71198
States holding, and required to hold, a certificate of public 71199
convenience and necessity issued under 49 U.S.C. 41102. 71200

(Q) "Refining" means removing or separating a desirable 71201
product from raw or contaminated materials by distillation or 71202
physical, mechanical, or chemical processes. 71203

(R) "Assembly" and "assembling" mean attaching or fitting 71204
together parts to form a product, but do not include packaging a 71205
product. 71206

(S) "Manufacturing operation" means a process in which 71207
materials are changed, converted, or transformed into a different 71208
state or form from which they previously existed and includes 71209
refining materials, assembling parts, and preparing raw materials 71210
and parts by mixing, measuring, blending, or otherwise committing 71211
such materials or parts to the manufacturing process. 71212
"Manufacturing operation" does not include packaging. 71213

(T) "Fiscal officer" means, with respect to a regional 71214
transit authority, the secretary-treasurer thereof, and with 71215
respect to a county that is a transit authority, the fiscal 71216
officer of the county transit board if one is appointed pursuant 71217
to section 306.03 of the Revised Code or the county auditor if the 71218

board of county commissioners operates the county transit system. 71219

(U) "Transit authority" means a regional transit authority 71220
created pursuant to section 306.31 of the Revised Code or a county 71221
in which a county transit system is created pursuant to section 71222
306.01 of the Revised Code. For the purposes of this chapter, a 71223
transit authority must extend to at least the entire area of a 71224
single county. A transit authority that includes territory in more 71225
than one county must include all the area of the most populous 71226
county that is a part of such transit authority. County population 71227
shall be measured by the most recent census taken by the United 71228
States census bureau. 71229

(V) "Legislative authority" means, with respect to a regional 71230
transit authority, the board of trustees thereof, and with respect 71231
to a county that is a transit authority, the board of county 71232
commissioners. 71233

(W) "Territory of the transit authority" means all of the 71234
area included within the territorial boundaries of a transit 71235
authority as they from time to time exist. Such territorial 71236
boundaries must at all times include all the area of a single 71237
county or all the area of the most populous county that is a part 71238
of such transit authority. County population shall be measured by 71239
the most recent census taken by the United States census bureau. 71240

(X) "Providing a service" means providing or furnishing 71241
anything described in division (B)(3) of this section for 71242
consideration. 71243

(Y)(1)(a) "Automatic data processing" means processing of 71244
others' data, including keypunching or similar data entry services 71245
together with verification thereof, or providing access to 71246
computer equipment for the purpose of processing data. 71247

(b) "Computer services" means providing services consisting 71248
of specifying computer hardware configurations and evaluating 71249

technical processing characteristics, computer programming, and 71250
training of computer programmers and operators, provided in 71251
conjunction with and to support the sale, lease, or operation of 71252
taxable computer equipment or systems. 71253

(c) "Electronic information services" means providing access 71254
to computer equipment by means of telecommunications equipment for 71255
the purpose of either of the following: 71256

(i) Examining or acquiring data stored in or accessible to 71257
the computer equipment; 71258

(ii) Placing data into the computer equipment to be retrieved 71259
by designated recipients with access to the computer equipment. 71260

For transactions occurring on or after the effective date of 71261
the amendment of this section by H.B. 157 of the 127th general 71262
assembly, December 21, 2007, "electronic information services" 71263
does not include electronic publishing as defined in division 71264
(LLL) of this section. 71265

(d) "Automatic data processing, computer services, or 71266
electronic information services" shall not include personal or 71267
professional services. 71268

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 71269
section, "personal and professional services" means all services 71270
other than automatic data processing, computer services, or 71271
electronic information services, including but not limited to: 71272

(a) Accounting and legal services such as advice on tax 71273
matters, asset management, budgetary matters, quality control, 71274
information security, and auditing and any other situation where 71275
the service provider receives data or information and studies, 71276
alters, analyzes, interprets, or adjusts such material; 71277

(b) Analyzing business policies and procedures; 71278

(c) Identifying management information needs; 71279

| | |
|--|--|
| (d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives; | 71280 71281 71282 |
| (e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management; | 71283 71284 71285 71286 |
| (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled; | 71287 71288 71289 |
| (g) Testing of business procedures; | 71290 |
| (h) Training personnel in business procedure applications; | 71291 |
| (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium; | 71292 71293 71294 71295 71296 71297 |
| (j) Providing debt collection services by any oral, written, graphic, or electronic means. | 71298 71299 |
| The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services. | 71300 71301 |
| (Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following: | 71302 71303 71304 |
| (1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare; | 71305 71306 71307 71308 71309 |

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third

| | |
|---|--|
| parties; | 71341 |
| (f) Internet access service; | 71342 |
| (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; | 71343 71344 71345 71346 71347 71348 71349 71350 |
| (h) Ancillary service; | 71351 |
| (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones. | 71352 71353 |
| (2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: | 71354 71355 71356 71357 71358 |
| (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge. | 71359 71360 71361 71362 71363 |
| (b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. | 71364 71365 71366 |
| (c) "Directory assistance" means an ancillary service of providing telephone number or address information. | 71367 71368 |
| (d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications | 71369 71370 |

services, which offers advanced calling features that allow 71371
customers to identify callers and manage multiple calls and call 71372
connections, including conference bridging service. 71373

(e) "Voice mail service" means an ancillary service that 71374
enables the customer to store, send, or receive recorded messages. 71375
"Voice mail service" does not include any vertical services that 71376
the customer may be required to have in order to utilize the voice 71377
mail service. 71378

(3) "900 service" means an inbound toll telecommunications 71379
service purchased by a subscriber that allows the subscriber's 71380
customers to call in to the subscriber's prerecorded announcement 71381
or live service, and which is typically marketed under the name 71382
"900" service and any subsequent numbers designated by the federal 71383
communications commission. "900 service" does not include the 71384
charge for collection services provided by the seller of the 71385
telecommunications service to the subscriber, or services or 71386
products sold by the subscriber to the subscriber's customer. 71387

(4) "Prepaid calling service" means the right to access 71388
exclusively telecommunications services, which must be paid for in 71389
advance and which enables the origination of calls using an access 71390
number or authorization code, whether manually or electronically 71391
dialed, and that is sold in predetermined units of ~~of~~ or dollars of 71392
which the number declines with use in a known amount. 71393

(5) "Prepaid wireless calling service" means a 71394
telecommunications service that provides the right to utilize 71395
mobile telecommunications service as well as other 71396
non-telecommunications services, including the download of digital 71397
products delivered electronically, and content and ancillary 71398
services, that must be paid for in advance and that is sold in 71399
predetermined units of ~~of~~ or dollars of which the number declines 71400
with use in a known amount. 71401

(6) "Value-added non-voice data service" means a 71402
telecommunications service in which computer processing 71403
applications are used to act on the form, content, code, or 71404
protocol of the information or data primarily for a purpose other 71405
than transmission, conveyance, or routing. 71406

(7) "Coin-operated telephone service" means a 71407
telecommunications service paid for by inserting money into a 71408
telephone accepting direct deposits of money to operate. 71409

(8) "Customer" has the same meaning as in section 5739.034 of 71410
the Revised Code. 71411

(BB) "Laundry and dry cleaning services" means removing soil 71412
or dirt from towels, linens, articles of clothing, or other fabric 71413
items that belong to others and supplying towels, linens, articles 71414
of clothing, or other fabric items. "Laundry and dry cleaning 71415
services" does not include the provision of self-service 71416
facilities for use by consumers to remove soil or dirt from 71417
towels, linens, articles of clothing, or other fabric items. 71418

(CC) "Magazines distributed as controlled circulation 71419
publications" means magazines containing at least twenty-four 71420
pages, at least twenty-five per cent editorial content, issued at 71421
regular intervals four or more times a year, and circulated 71422
without charge to the recipient, provided that such magazines are 71423
not owned or controlled by individuals or business concerns which 71424
conduct such publications as an auxiliary to, and essentially for 71425
the advancement of the main business or calling of, those who own 71426
or control them. 71427

(DD) "Landscaping and lawn care service" means the services 71428
of planting, seeding, sodding, removing, cutting, trimming, 71429
pruning, mulching, aerating, applying chemicals, watering, 71430
fertilizing, and providing similar services to establish, promote, 71431
or control the growth of trees, shrubs, flowers, grass, ground 71432

cover, and other flora, or otherwise maintaining a lawn or 71433
landscape grown or maintained by the owner for ornamentation or 71434
other nonagricultural purpose. However, "landscaping and lawn care 71435
service" does not include the providing of such services by a 71436
person who has less than five thousand dollars in sales of such 71437
services during the calendar year. 71438

(EE) "Private investigation and security service" means the 71439
performance of any activity for which the provider of such service 71440
is required to be licensed pursuant to Chapter 4749. of the 71441
Revised Code, or would be required to be so licensed in performing 71442
such services in this state, and also includes the services of 71443
conducting polygraph examinations and of monitoring or overseeing 71444
the activities on or in, or the condition of, the consumer's home, 71445
business, or other facility by means of electronic or similar 71446
monitoring devices. "Private investigation and security service" 71447
does not include special duty services provided by off-duty police 71448
officers, deputy sheriffs, and other peace officers regularly 71449
employed by the state or a political subdivision. 71450

(FF) "Information services" means providing conversation, 71451
giving consultation or advice, playing or making a voice or other 71452
recording, making or keeping a record of the number of callers, 71453
and any other service provided to a consumer by means of a nine 71454
hundred telephone call, except when the nine hundred telephone 71455
call is the means by which the consumer makes a contribution to a 71456
recognized charity. 71457

(GG) "Research and development" means designing, creating, or 71458
formulating new or enhanced products, equipment, or manufacturing 71459
processes, and also means conducting scientific or technological 71460
inquiry and experimentation in the physical sciences with the goal 71461
of increasing scientific knowledge which may reveal the bases for 71462
new or enhanced products, equipment, or manufacturing processes. 71463

(HH) "Qualified research and development equipment" means 71464

capitalized tangible personal property, and leased personal 71465
property that would be capitalized if purchased, used by a person 71466
primarily to perform research and development. Tangible personal 71467
property primarily used in testing, as defined in division (A)(4) 71468
of section 5739.011 of the Revised Code, or used for recording or 71469
storing test results, is not qualified research and development 71470
equipment unless such property is primarily used by the consumer 71471
in testing the product, equipment, or manufacturing process being 71472
created, designed, or formulated by the consumer in the research 71473
and development activity or in recording or storing such test 71474
results. 71475

(II) "Building maintenance and janitorial service" means 71476
cleaning the interior or exterior of a building and any tangible 71477
personal property located therein or thereon, including any 71478
services incidental to such cleaning for which no separate charge 71479
is made. However, "building maintenance and janitorial service" 71480
does not include the providing of such service by a person who has 71481
less than five thousand dollars in sales of such service during 71482
the calendar year. 71483

(JJ) "Employment service" means providing or supplying 71484
personnel, on a temporary or long-term basis, to perform work or 71485
labor under the supervision or control of another, when the 71486
personnel so provided or supplied receive their wages, salary, or 71487
other compensation from the provider or supplier of the employment 71488
service or from a third party that provided or supplied the 71489
personnel to the provider or supplier. "Employment service" does 71490
not include: 71491

(1) Acting as a contractor or subcontractor, where the 71492
personnel performing the work are not under the direct control of 71493
the purchaser. 71494

(2) Medical and health care services. 71495

(3) Supplying personnel to a purchaser pursuant to a contract 71496
of at least one year between the service provider and the 71497
purchaser that specifies that each employee covered under the 71498
contract is assigned to the purchaser on a permanent basis. 71499

(4) Transactions between members of an affiliated group, as 71500
defined in division (B)(3)(e) of this section. 71501

(5) Transactions where the personnel so provided or supplied 71502
by a provider or supplier to a purchaser of an employment service 71503
are then provided or supplied by that purchaser to a third party 71504
as an employment service, except "employment service" does include 71505
the transaction between that purchaser and the third party. 71506

(KK) "Employment placement service" means locating or finding 71507
employment for a person or finding or locating an employee to fill 71508
an available position. 71509

(LL) "Exterminating service" means eradicating or attempting 71510
to eradicate vermin infestations from a building or structure, or 71511
the area surrounding a building or structure, and includes 71512
activities to inspect, detect, or prevent vermin infestation of a 71513
building or structure. 71514

(MM) "Physical fitness facility service" means all 71515
transactions by which a membership is granted, maintained, or 71516
renewed, including initiation fees, membership dues, renewal fees, 71517
monthly minimum fees, and other similar fees and dues, by a 71518
physical fitness facility such as an athletic club, health spa, or 71519
gymnasium, which entitles the member to use the facility for 71520
physical exercise. 71521

(NN) "Recreation and sports club service" means all 71522
transactions by which a membership is granted, maintained, or 71523
renewed, including initiation fees, membership dues, renewal fees, 71524
monthly minimum fees, and other similar fees and dues, by a 71525
recreation and sports club, which entitles the member to use the 71526

facilities of the organization. "Recreation and sports club" means 71527
an organization that has ownership of, or controls or leases on a 71528
continuing, long-term basis, the facilities used by its members 71529
and includes an aviation club, gun or shooting club, yacht club, 71530
card club, swimming club, tennis club, golf club, country club, 71531
riding club, amateur sports club, or similar organization. 71532

(OO) "Livestock" means farm animals commonly raised for food, 71533
food production, or other agricultural purposes, including, but 71534
not limited to, cattle, sheep, goats, swine, poultry, and captive 71535
deer. "Livestock" does not include invertebrates, amphibians, 71536
reptiles, domestic pets, animals for use in laboratories or for 71537
exhibition, or other animals not commonly raised for food or food 71538
production. 71539

(PP) "Livestock structure" means a building or structure used 71540
exclusively for the housing, raising, feeding, or sheltering of 71541
livestock, and includes feed storage or handling structures and 71542
structures for livestock waste handling. 71543

(QQ) "Horticulture" means the growing, cultivation, and 71544
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 71545
and nursery stock. As used in this division, "nursery stock" has 71546
the same meaning as in section 927.51 of the Revised Code. 71547

(RR) "Horticulture structure" means a building or structure 71548
used exclusively for the commercial growing, raising, or 71549
overwintering of horticultural products, and includes the area 71550
used for stocking, storing, and packing horticultural products 71551
when done in conjunction with the production of those products. 71552

(SS) "Newspaper" means an unbound publication bearing a title 71553
or name that is regularly published, at least as frequently as 71554
biweekly, and distributed from a fixed place of business to the 71555
public in a specific geographic area, and that contains a 71556
substantial amount of news matter of international, national, or 71557

local events of interest to the general public. 71558

(TT) "Professional racing team" means a person that employs 71559
at least twenty full-time employees for the purpose of conducting 71560
a motor vehicle racing business for profit. The person must 71561
conduct the business with the purpose of racing one or more motor 71562
racing vehicles in at least ten competitive professional racing 71563
events each year that comprise all or part of a motor racing 71564
series sanctioned by one or more motor racing sanctioning 71565
organizations. A "motor racing vehicle" means a vehicle for which 71566
the chassis, engine, and parts are designed exclusively for motor 71567
racing, and does not include a stock or production model vehicle 71568
that may be modified for use in racing. For the purposes of this 71569
division: 71570

(1) A "competitive professional racing event" is a motor 71571
vehicle racing event sanctioned by one or more motor racing 71572
sanctioning organizations, at which aggregate cash prizes in 71573
excess of eight hundred thousand dollars are awarded to the 71574
competitors. 71575

(2) "Full-time employee" means an individual who is employed 71576
for consideration for thirty-five or more hours a week, or who 71577
renders any other standard of service generally accepted by custom 71578
or specified by contract as full-time employment. 71579

(UU)(1) "Lease" or "rental" means any transfer of the 71580
possession or control of tangible personal property for a fixed or 71581
indefinite term, for consideration. "Lease" or "rental" includes 71582
future options to purchase or extend, and agreements described in 71583
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 71584
the amount of consideration may be increased or decreased by 71585
reference to the amount realized upon the sale or disposition of 71586
the property. "Lease" or "rental" does not include: 71587

(a) A transfer of possession or control of tangible personal 71588

property under a security agreement or a deferred payment plan 71589
that requires the transfer of title upon completion of the 71590
required payments; 71591

(b) A transfer of possession or control of tangible personal 71592
property under an agreement that requires the transfer of title 71593
upon completion of required payments and payment of an option 71594
price that does not exceed the greater of one hundred dollars or 71595
one per cent of the total required payments; 71596

(c) Providing tangible personal property along with an 71597
operator for a fixed or indefinite period of time, if the operator 71598
is necessary for the property to perform as designed. For purposes 71599
of this division, the operator must do more than maintain, 71600
inspect, or set-up the tangible personal property. 71601

(2) "Lease" and "rental," as defined in division (UU) of this 71602
section, shall not apply to leases or rentals that exist before 71603
June 26, 2003. 71604

(3) "Lease" and "rental" have the same meaning as in division 71605
(UU)(1) of this section regardless of whether a transaction is 71606
characterized as a lease or rental under generally accepted 71607
accounting principles, the Internal Revenue Code, Title XIII of 71608
the Revised Code, or other federal, state, or local laws. 71609

(VV) "Mobile telecommunications service" has the same meaning 71610
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 71611
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 71612
on and after August 1, 2003, includes related fees and ancillary 71613
services, including universal service fees, detailed billing 71614
service, directory assistance, service initiation, voice mail 71615
service, and vertical services, such as caller ID and three-way 71616
calling. 71617

(WW) "Certified service provider" has the same meaning as in 71618
section 5740.01 of the Revised Code. 71619

(XX) "Satellite broadcasting service" means the distribution 71620
or broadcasting of programming or services by satellite directly 71621
to the subscriber's receiving equipment without the use of ground 71622
receiving or distribution equipment, except the subscriber's 71623
receiving equipment or equipment used in the uplink process to the 71624
satellite, and includes all service and rental charges, premium 71625
channels or other special services, installation and repair 71626
service charges, and any other charges having any connection with 71627
the provision of the satellite broadcasting service. 71628

(YY) "Tangible personal property" means personal property 71629
that can be seen, weighed, measured, felt, or touched, or that is 71630
in any other manner perceptible to the senses. For purposes of 71631
this chapter and Chapter 5741. of the Revised Code, "tangible 71632
personal property" includes motor vehicles, electricity, water, 71633
gas, steam, and prewritten computer software. 71634

(ZZ) "Direct mail" means printed material delivered or 71635
distributed by United States mail or other delivery service to a 71636
mass audience or to addressees on a mailing list provided by the 71637
consumer or at the direction of the consumer when the cost of the 71638
items are not billed directly to the recipients. "Direct mail" 71639
includes tangible personal property supplied directly or 71640
indirectly by the consumer to the direct mail vendor for inclusion 71641
in the package containing the printed material. "Direct mail" does 71642
not include multiple items of printed material delivered to a 71643
single address. 71644

(AAA) "Computer" means an electronic device that accepts 71645
information in digital or similar form and manipulates it for a 71646
result based on a sequence of instructions. 71647

(BBB) "Computer software" means a set of coded instructions 71648
designed to cause a computer or automatic data processing 71649
equipment to perform a task. 71650

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(2) As used in division (EEE)(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more

of alcohol by volume. 71683

(b) "Dietary supplements" means any product, other than 71684
tobacco, that is intended to supplement the diet and that is 71685
intended for ingestion in tablet, capsule, powder, softgel, 71686
gelcap, or liquid form, or, if not intended for ingestion in such 71687
a form, is not represented as conventional food for use as a sole 71688
item of a meal or of the diet; that is required to be labeled as a 71689
dietary supplement, identifiable by the "supplement facts" box 71690
found on the label, as required by 21 C.F.R. 101.36; and that 71691
contains one or more of the following dietary ingredients: 71692

(i) A vitamin; 71693

(ii) A mineral; 71694

(iii) An herb or other botanical; 71695

(iv) An amino acid; 71696

(v) A dietary substance for use by humans to supplement the 71697
diet by increasing the total dietary intake; 71698

(vi) A concentrate, metabolite, constituent, extract, or 71699
combination of any ingredient described in divisions 71700
(EEE)(2)(b)(i) to (v) of this section. 71701

(c) "Soft drinks" means nonalcoholic beverages that contain 71702
natural or artificial sweeteners. "Soft drinks" does not include 71703
beverages that contain milk or milk products, soy, rice, or 71704
similar milk substitutes, or that contains greater than fifty per 71705
cent vegetable or fruit juice by volume. 71706

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 71707
tobacco, or any other item that contains tobacco. 71708

(FFF) "Drug" means a compound, substance, or preparation, and 71709
any component of a compound, substance, or preparation, other than 71710
food, dietary supplements, or alcoholic beverages that is 71711
recognized in the official United States pharmacopoeia, official 71712

homeopathic pharmacopoeia of the United States, or official 71713
national formulary, and supplements to them; is intended for use 71714
in the diagnosis, cure, mitigation, treatment, or prevention of 71715
disease; or is intended to affect the structure or any function of 71716
the body. 71717

(GGG) "Prescription" means an order, formula, or recipe 71718
issued in any form of oral, written, electronic, or other means of 71719
transmission by a duly licensed practitioner authorized by the 71720
laws of this state to issue a prescription. 71721

(HHH) "Durable medical equipment" means equipment, including 71722
repair and replacement parts for such equipment, that can 71723
withstand repeated use, is primarily and customarily used to serve 71724
a medical purpose, generally is not useful to a person in the 71725
absence of illness or injury, and is not worn in or on the body. 71726
"Durable medical equipment" does not include mobility enhancing 71727
equipment. 71728

(III) "Mobility enhancing equipment" means equipment, 71729
including repair and replacement parts for such equipment, that is 71730
primarily and customarily used to provide or increase the ability 71731
to move from one place to another and is appropriate for use 71732
either in a home or a motor vehicle, that is not generally used by 71733
persons with normal mobility, and that does not include any motor 71734
vehicle or equipment on a motor vehicle normally provided by a 71735
motor vehicle manufacturer. "Mobility enhancing equipment" does 71736
not include durable medical equipment. 71737

(JJJ) "Prosthetic device" means a replacement, corrective, or 71738
supportive device, including repair and replacement parts for the 71739
device, worn on or in the human body to artificially replace a 71740
missing portion of the body, prevent or correct physical deformity 71741
or malfunction, or support a weak or deformed portion of the body. 71742
As used in this division, "prosthetic device" does not include 71743
corrective eyeglasses, contact lenses, or dental prosthesis. 71744

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program

manager owns or possesses primarily for use in a fractional 71775
aircraft ownership program. 71776

(d) "Management services" means administrative and aviation 71777
support services furnished under a fractional aircraft ownership 71778
program in accordance with a management services agreement under 71779
division (KKK)(1)(e) of this section, and offered by the program 71780
manager to the fractional owners, including, at a minimum, the 71781
establishment and implementation of safety guidelines; the 71782
coordination of the scheduling of the program aircraft and crews; 71783
program aircraft maintenance; program aircraft insurance; crew 71784
training for crews employed, furnished, or contracted by the 71785
program manager or the fractional owner; the satisfaction of 71786
record-keeping requirements; and the development and use of an 71787
operations manual and a maintenance manual for the fractional 71788
aircraft ownership program. 71789

(e) "Program manager" means the person that offers management 71790
services to fractional owners pursuant to a management services 71791
agreement under division (KKK)(1)(e) of this section. 71792

(LLL) "Electronic publishing" means providing access to one 71793
or more of the following primarily for business customers, 71794
including the federal government or a state government or a 71795
political subdivision thereof, to conduct research: news; 71796
business, financial, legal, consumer, or credit materials; 71797
editorials, columns, reader commentary, or features; photos or 71798
images; archival or research material; legal notices, identity 71799
verification, or public records; scientific, educational, 71800
instructional, technical, professional, trade, or other literary 71801
materials; or other similar information which has been gathered 71802
and made available by the provider to the consumer in an 71803
electronic format. Providing electronic publishing includes the 71804
functions necessary for the acquisition, formatting, editing, 71805
storage, and dissemination of data or information that is the 71806

subject of a sale. 71807

(MMM) "Medicaid health insuring corporation" means a health 71808
insuring corporation that holds a certificate of authority under 71809
Chapter 1751. of the Revised Code and is under contract with the 71810
department of job and family services pursuant to section 5111.17 71811
of the Revised Code. 71812

(NNN) "Managed care premium" means any premium, capitation, 71813
or other payment a medicaid health insuring corporation receives 71814
for providing or arranging for the provision of health care 71815
services to its members or enrollees residing in this state. 71816

(OOO) "Captive deer" means deer and other cervidae that have 71817
been legally acquired, or their offspring, that are privately 71818
owned for agricultural or farming purposes. 71819

(PPP) "Gift card" means a document, card, certificate, or 71820
other record, whether tangible or intangible, that may be redeemed 71821
by a consumer for a dollar value when making a purchase of 71822
tangible personal property or services. 71823

Sec. 5739.02. For the purpose of providing revenue with which 71824
to meet the needs of the state, for the use of the general revenue 71825
fund of the state, for the purpose of securing a thorough and 71826
efficient system of common schools throughout the state, for the 71827
purpose of affording revenues, in addition to those from general 71828
property taxes, permitted under constitutional limitations, and 71829
from other sources, for the support of local governmental 71830
functions, and for the purpose of reimbursing the state for the 71831
expense of administering this chapter, an excise tax is hereby 71832
levied on each retail sale made in this state. 71833

(A)(1) The tax shall be collected as provided in section 71834
5739.025 of the Revised Code. The rate of the tax shall be five 71835
and one-half per cent. The tax applies and is collectible when the 71836

sale is made, regardless of the time when the price is paid or delivered. 71837
71838

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft. 71839
71840
71841
71842
71843
71844
71845
71846
71847
71848
71849
71850
71851
71852
71853
71854
71855
71856
71857
71858
71859
71860

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a 71861
71862
71863
71864
71865
71866
71867
71868

sham transaction. 71869

(3) Except as provided in division (A)(2) of this section, in 71870
the case of a sale, the price of which consists in whole or in 71871
part of the lease or rental of tangible personal property, the tax 71872
shall be measured by the installments of that lease or rental. 71873

(4) In the case of a sale of a physical fitness facility 71874
service or recreation and sports club service, the price of which 71875
consists in whole or in part of a membership for the receipt of 71876
the benefit of the service, the tax applicable to the sale shall 71877
be measured by the installments thereof. 71878

(B) The tax does not apply to the following: 71879

(1) Sales to the state or any of its political subdivisions, 71880
or to any other state or its political subdivisions if the laws of 71881
that state exempt from taxation sales made to this state and its 71882
political subdivisions; 71883

(2) Sales of food for human consumption off the premises 71884
where sold; 71885

(3) Sales of food sold to students only in a cafeteria, 71886
dormitory, fraternity, or sorority maintained in a private, 71887
public, or parochial school, college, or university; 71888

(4) Sales of newspapers and of magazine subscriptions and 71889
sales or transfers of magazines distributed as controlled 71890
circulation publications; 71891

(5) The furnishing, preparing, or serving of meals without 71892
charge by an employer to an employee provided the employer records 71893
the meals as part compensation for services performed or work 71894
done; 71895

(6) Sales of motor fuel upon receipt, use, distribution, or 71896
sale of which in this state a tax is imposed by the law of this 71897
state, but this exemption shall not apply to the sale of motor 71898

fuel on which a refund of the tax is allowable under division (A) 71899
of section 5735.14 of the Revised Code; and the tax commissioner 71900
may deduct the amount of tax levied by this section applicable to 71901
the price of motor fuel when granting a refund of motor fuel tax 71902
pursuant to division (A) of section 5735.14 of the Revised Code 71903
and shall cause the amount deducted to be paid into the general 71904
revenue fund of this state; 71905

(7) Sales of natural gas by a natural gas company, of water 71906
by a water-works company, or of steam by a heating company, if in 71907
each case the thing sold is delivered to consumers through pipes 71908
or conduits, and all sales of communications services by a 71909
telegraph company, all terms as defined in section 5727.01 of the 71910
Revised Code, and sales of electricity delivered through wires; 71911

(8) Casual sales by a person, or auctioneer employed directly 71912
by the person to conduct such sales, except as to such sales of 71913
motor vehicles, watercraft or outboard motors required to be 71914
titled under section 1548.06 of the Revised Code, watercraft 71915
documented with the United States coast guard, snowmobiles, and 71916
all-purpose vehicles as defined in section 4519.01 of the Revised 71917
Code; 71918

(9)(a) Sales of services or tangible personal property, other 71919
than motor vehicles, mobile homes, and manufactured homes, by 71920
churches, organizations exempt from taxation under section 71921
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 71922
organizations operated exclusively for charitable purposes as 71923
defined in division (B)(12) of this section, provided that the 71924
number of days on which such tangible personal property or 71925
services, other than items never subject to the tax, are sold does 71926
not exceed six in any calendar year, except as otherwise provided 71927
in division (B)(9)(b) of this section. If the number of days on 71928
which such sales are made exceeds six in any calendar year, the 71929
church or organization shall be considered to be engaged in 71930

business and all subsequent sales by it shall be subject to the 71931
tax. In counting the number of days, all sales by groups within a 71932
church or within an organization shall be considered to be sales 71933
of that church or organization. 71934

(b) The limitation on the number of days on which tax-exempt 71935
sales may be made by a church or organization under division 71936
(B)(9)(a) of this section does not apply to sales made by student 71937
clubs and other groups of students of a primary or secondary 71938
school, or a parent-teacher association, booster group, or similar 71939
organization that raises money to support or fund curricular or 71940
extracurricular activities of a primary or secondary school. 71941

(c) Divisions (B)(9)(a) and (b) of this section do not apply 71942
to sales by a noncommercial educational radio or television 71943
broadcasting station. 71944

(10) Sales not within the taxing power of this state under 71945
the Constitution of the United States; 71946

(11) Except for transactions that are sales under division 71947
(B)(3)(r) of section 5739.01 of the Revised Code, the 71948
transportation of persons or property, unless the transportation 71949
is by a private investigation and security service; 71950

(12) Sales of tangible personal property or services to 71951
churches, to organizations exempt from taxation under section 71952
501(c)(3) of the Internal Revenue Code of 1986, and to any other 71953
nonprofit organizations operated exclusively for charitable 71954
purposes in this state, no part of the net income of which inures 71955
to the benefit of any private shareholder or individual, and no 71956
substantial part of the activities of which consists of carrying 71957
on propaganda or otherwise attempting to influence legislation; 71958
sales to offices administering one or more homes for the aged or 71959
one or more hospital facilities exempt under section 140.08 of the 71960
Revised Code; and sales to organizations described in division (D) 71961

of section 5709.12 of the Revised Code. 71962

"Charitable purposes" means the relief of poverty; the 71963
improvement of health through the alleviation of illness, disease, 71964
or injury; the operation of an organization exclusively for the 71965
provision of professional, laundry, printing, and purchasing 71966
services to hospitals or charitable institutions; the operation of 71967
a home for the aged, as defined in section 5701.13 of the Revised 71968
Code; the operation of a radio or television broadcasting station 71969
that is licensed by the federal communications commission as a 71970
noncommercial educational radio or television station; the 71971
operation of a nonprofit animal adoption service or a county 71972
humane society; the promotion of education by an institution of 71973
learning that maintains a faculty of qualified instructors, 71974
teaches regular continuous courses of study, and confers a 71975
recognized diploma upon completion of a specific curriculum; the 71976
operation of a parent-teacher association, booster group, or 71977
similar organization primarily engaged in the promotion and 71978
support of the curricular or extracurricular activities of a 71979
primary or secondary school; the operation of a community or area 71980
center in which presentations in music, dramatics, the arts, and 71981
related fields are made in order to foster public interest and 71982
education therein; the production of performances in music, 71983
dramatics, and the arts; or the promotion of education by an 71984
organization engaged in carrying on research in, or the 71985
dissemination of, scientific and technological knowledge and 71986
information primarily for the public. 71987

Nothing in this division shall be deemed to exempt sales to 71988
any organization for use in the operation or carrying on of a 71989
trade or business, or sales to a home for the aged for use in the 71990
operation of independent living facilities as defined in division 71991
(A) of section 5709.12 of the Revised Code. 71992

(13) Building and construction materials and services sold to 71993

construction contractors for incorporation into a structure or 71994
improvement to real property under a construction contract with 71995
this state or a political subdivision of this state, or with the 71996
United States government or any of its agencies; building and 71997
construction materials and services sold to construction 71998
contractors for incorporation into a structure or improvement to 71999
real property that are accepted for ownership by this state or any 72000
of its political subdivisions, or by the United States government 72001
or any of its agencies at the time of completion of the structures 72002
or improvements; building and construction materials sold to 72003
construction contractors for incorporation into a horticulture 72004
structure or livestock structure for a person engaged in the 72005
business of horticulture or producing livestock; building 72006
materials and services sold to a construction contractor for 72007
incorporation into a house of public worship or religious 72008
education, or a building used exclusively for charitable purposes 72009
under a construction contract with an organization whose purpose 72010
is as described in division (B)(12) of this section; building 72011
materials and services sold to a construction contractor for 72012
incorporation into a building under a construction contract with 72013
an organization exempt from taxation under section 501(c)(3) of 72014
the Internal Revenue Code of 1986 when the building is to be used 72015
exclusively for the organization's exempt purposes; building and 72016
construction materials sold for incorporation into the original 72017
construction of a sports facility under section 307.696 of the 72018
Revised Code; building and construction materials and services 72019
sold to a construction contractor for incorporation into real 72020
property outside this state if such materials and services, when 72021
sold to a construction contractor in the state in which the real 72022
property is located for incorporation into real property in that 72023
state, would be exempt from a tax on sales levied by that state; 72024
and, until one calendar year after the construction of a 72025
convention center that qualifies for property tax exemption under 72026

section 5709.084 of the Revised Code is completed, building and 72027
construction materials and services sold to a construction 72028
contractor for incorporation into the real property comprising 72029
that convention center; 72030

(14) Sales of ships or vessels or rail rolling stock used or 72031
to be used principally in interstate or foreign commerce, and 72032
repairs, alterations, fuel, and lubricants for such ships or 72033
vessels or rail rolling stock; 72034

(15) Sales to persons primarily engaged in any of the 72035
activities mentioned in division (B)(42)(a), (g), or (h) of this 72036
section, to persons engaged in making retail sales, or to persons 72037
who purchase for sale from a manufacturer tangible personal 72038
property that was produced by the manufacturer in accordance with 72039
specific designs provided by the purchaser, of packages, including 72040
material, labels, and parts for packages, and of machinery, 72041
equipment, and material for use primarily in packaging tangible 72042
personal property produced for sale, including any machinery, 72043
equipment, and supplies used to make labels or packages, to 72044
prepare packages or products for labeling, or to label packages or 72045
products, by or on the order of the person doing the packaging, or 72046
sold at retail. "Packages" includes bags, baskets, cartons, 72047
crates, boxes, cans, bottles, bindings, wrappings, and other 72048
similar devices and containers, but does not include motor 72049
vehicles or bulk tanks, trailers, or similar devices attached to 72050
motor vehicles. "Packaging" means placing in a package. Division 72051
(B)(15) of this section does not apply to persons engaged in 72052
highway transportation for hire. 72053

(16) Sales of food to persons using supplemental nutrition 72054
assistance program benefits to purchase the food. As used in this 72055
division, "food" has the same meaning as in 7 U.S.C. 2012 and 72056
federal regulations adopted pursuant to the Food and Nutrition Act 72057
of 2008. 72058

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and

emergency medical services, for political subdivisions of the 72091
state; 72092

(21) Sales of tangible personal property manufactured in this 72093
state, if sold by the manufacturer in this state to a retailer for 72094
use in the retail business of the retailer outside of this state 72095
and if possession is taken from the manufacturer by the purchaser 72096
within this state for the sole purpose of immediately removing the 72097
same from this state in a vehicle owned by the purchaser; 72098

(22) Sales of services provided by the state or any of its 72099
political subdivisions, agencies, instrumentalities, institutions, 72100
or authorities, or by governmental entities of the state or any of 72101
its political subdivisions, agencies, instrumentalities, 72102
institutions, or authorities; 72103

(23) Sales of motor vehicles to nonresidents of this state 72104
under the circumstances described in division (B) of section 72105
5739.029 of the Revised Code; 72106

(24) Sales to persons engaged in the preparation of eggs for 72107
sale of tangible personal property used or consumed directly in 72108
such preparation, including such tangible personal property used 72109
for cleaning, sanitizing, preserving, grading, sorting, and 72110
classifying by size; packages, including material and parts for 72111
packages, and machinery, equipment, and material for use in 72112
packaging eggs for sale; and handling and transportation equipment 72113
and parts therefor, except motor vehicles licensed to operate on 72114
public highways, used in intraplant or interplant transfers or 72115
shipment of eggs in the process of preparation for sale, when the 72116
plant or plants within or between which such transfers or 72117
shipments occur are operated by the same person. "Packages" 72118
includes containers, cases, baskets, flats, fillers, filler flats, 72119
cartons, closure materials, labels, and labeling materials, and 72120
"packaging" means placing therein. 72121

| | |
|--|-------|
| (25)(a) Sales of water to a consumer for residential use, | 72122 |
| except the sale of bottled water, distilled water, mineral water, | 72123 |
| carbonated water, or ice; | 72124 |
| (b) Sales of water by a nonprofit corporation engaged | 72125 |
| exclusively in the treatment, distribution, and sale of water to | 72126 |
| consumers, if such water is delivered to consumers through pipes | 72127 |
| or tubing. | 72128 |
| (26) Fees charged for inspection or reinspection of motor | 72129 |
| vehicles under section 3704.14 of the Revised Code; | 72130 |
| (27) Sales to persons licensed to conduct a food service | 72131 |
| operation pursuant to section 3717.43 of the Revised Code, of | 72132 |
| tangible personal property primarily used directly for the | 72133 |
| following: | 72134 |
| (a) To prepare food for human consumption for sale; | 72135 |
| (b) To preserve food that has been or will be prepared for | 72136 |
| human consumption for sale by the food service operator, not | 72137 |
| including tangible personal property used to display food for | 72138 |
| selection by the consumer; | 72139 |
| (c) To clean tangible personal property used to prepare or | 72140 |
| serve food for human consumption for sale. | 72141 |
| (28) Sales of animals by nonprofit animal adoption services | 72142 |
| or county humane societies; | 72143 |
| (29) Sales of services to a corporation described in division | 72144 |
| (A) of section 5709.72 of the Revised Code, and sales of tangible | 72145 |
| personal property that qualifies for exemption from taxation under | 72146 |
| section 5709.72 of the Revised Code; | 72147 |
| (30) Sales and installation of agricultural land tile, as | 72148 |
| defined in division (B)(5)(a) of section 5739.01 of the Revised | 72149 |
| Code; | 72150 |
| (31) Sales and erection or installation of portable grain | 72151 |

bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code; 72152
72153

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property; 72154
72155
72156
72157
72158
72159

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters; 72160
72161
72162
72163
72164

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service. 72165
72166
72167
72168
72169
72170
72171
72172
72173
72174
72175
72176
72177
72178
72179

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and 72180
72181
72182
72183

describes tangible personal property offered for retail sale. 72184

(b) Sales to direct marketing vendors of preliminary 72185
materials such as photographs, artwork, and typesetting that will 72186
be used in printing advertising material; and of printed matter 72187
that offers free merchandise or chances to win sweepstake prizes 72188
and that is mailed to potential customers with advertising 72189
material described in division (B)(35)(a) of this section; ~~and~~ 72190

(c) Sales of equipment such as telephones, computers, 72191
facsimile machines, and similar tangible personal property 72192
primarily used to accept orders for direct marketing retail sales. 72193

~~(e)~~(d) Sales of automatic food vending machines that preserve 72194
food with a shelf life of forty-five days or less by refrigeration 72195
and dispense it to the consumer. 72196

For purposes of division (B)(35) of this section, "direct 72197
marketing" means the method of selling where consumers order 72198
tangible personal property by United States mail, delivery 72199
service, or telecommunication and the vendor delivers or ships the 72200
tangible personal property sold to the consumer from a warehouse, 72201
catalogue distribution center, or similar fulfillment facility by 72202
means of the United States mail, delivery service, or common 72203
carrier. 72204

(36) Sales to a person engaged in the business of 72205
horticulture or producing livestock of materials to be 72206
incorporated into a horticulture structure or livestock structure; 72207

(37) Sales of personal computers, computer monitors, computer 72208
keyboards, modems, and other peripheral computer equipment to an 72209
individual who is licensed or certified to teach in an elementary 72210
or a secondary school in this state for use by that individual in 72211
preparation for teaching elementary or secondary school students; 72212

(38) Sales to a professional racing team of any of the 72213
following: 72214

| | |
|--|--|
| (a) Motor racing vehicles; | 72215 |
| (b) Repair services for motor racing vehicles; | 72216 |
| (c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication. | 72217 72218 72219 72220 72221 72222 72223 72224 |
| (39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; | 72225 72226 72227 |
| (40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity. | 72228 72229 72230 72231 72232 72233 72234 72235 72236 72237 72238 72239 72240 72241 72242 72243 72244 72245 |

| | |
|--|-------|
| (41) Sales to a person providing services under division | 72246 |
| (B)(3)(r) of section 5739.01 of the Revised Code of tangible | 72247 |
| personal property and services used directly and primarily in | 72248 |
| providing taxable services under that section. | 72249 |
| (42) Sales where the purpose of the purchaser is to do any of | 72250 |
| the following: | 72251 |
| (a) To incorporate the thing transferred as a material or a | 72252 |
| part into tangible personal property to be produced for sale by | 72253 |
| manufacturing, assembling, processing, or refining; or to use or | 72254 |
| consume the thing transferred directly in producing tangible | 72255 |
| personal property for sale by mining, including, without | 72256 |
| limitation, the extraction from the earth of all substances that | 72257 |
| are classed geologically as minerals, production of crude oil and | 72258 |
| natural gas, or directly in the rendition of a public utility | 72259 |
| service, except that the sales tax levied by this section shall be | 72260 |
| collected upon all meals, drinks, and food for human consumption | 72261 |
| sold when transporting persons. Persons engaged in rendering | 72262 |
| services in the exploration for, and production of, crude oil and | 72263 |
| natural gas for others are deemed engaged directly in the | 72264 |
| exploration for, and production of, crude oil and natural gas. | 72265 |
| This paragraph does not exempt from "retail sale" or "sales at | 72266 |
| retail" the sale of tangible personal property that is to be | 72267 |
| incorporated into a structure or improvement to real property. | 72268 |
| (b) To hold the thing transferred as security for the | 72269 |
| performance of an obligation of the vendor; | 72270 |
| (c) To resell, hold, use, or consume the thing transferred as | 72271 |
| evidence of a contract of insurance; | 72272 |
| (d) To use or consume the thing directly in commercial | 72273 |
| fishing; | 72274 |
| (e) To incorporate the thing transferred as a material or a | 72275 |
| part into, or to use or consume the thing transferred directly in | 72276 |

the production of, magazines distributed as controlled circulation 72277
publications; 72278

(f) To use or consume the thing transferred in the production 72279
and preparation in suitable condition for market and sale of 72280
printed, imprinted, overprinted, lithographic, multilithic, 72281
blueprinted, photostatic, or other productions or reproductions of 72282
written or graphic matter; 72283

(g) To use the thing transferred, as described in section 72284
5739.011 of the Revised Code, primarily in a manufacturing 72285
operation to produce tangible personal property for sale; 72286

(h) To use the benefit of a warranty, maintenance or service 72287
contract, or similar agreement, as described in division (B)(7) of 72288
section 5739.01 of the Revised Code, to repair or maintain 72289
tangible personal property, if all of the property that is the 72290
subject of the warranty, contract, or agreement would not be 72291
subject to the tax imposed by this section; 72292

(i) To use the thing transferred as qualified research and 72293
development equipment; 72294

(j) To use or consume the thing transferred primarily in 72295
storing, transporting, mailing, or otherwise handling purchased 72296
sales inventory in a warehouse, distribution center, or similar 72297
facility when the inventory is primarily distributed outside this 72298
state to retail stores of the person who owns or controls the 72299
warehouse, distribution center, or similar facility, to retail 72300
stores of an affiliated group of which that person is a member, or 72301
by means of direct marketing. This division does not apply to 72302
motor vehicles registered for operation on the public highways. As 72303
used in this division, "affiliated group" has the same meaning as 72304
in division (B)(3)(e) of section 5739.01 of the Revised Code and 72305
"direct marketing" has the same meaning as in division (B)(35) of 72306
this section. 72307

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water,

whether or not in combination with soap or other cleaning agents 72339
or wax, to the consumer for the consumer's use on the premises in 72340
washing, cleaning, or waxing a motor vehicle, provided no other 72341
personal property or personal service is provided as part of the 72342
transaction. 72343

(44) Sales of replacement and modification parts for engines, 72344
airframes, instruments, and interiors in, and paint for, aircraft 72345
used primarily in a fractional aircraft ownership program, and 72346
sales of services for the repair, modification, and maintenance of 72347
such aircraft, and machinery, equipment, and supplies primarily 72348
used to provide those services. 72349

(45) Sales of telecommunications service that is used 72350
directly and primarily to perform the functions of a call center. 72351
As used in this division, "call center" means any physical 72352
location where telephone calls are placed or received in high 72353
volume for the purpose of making sales, marketing, customer 72354
service, technical support, or other specialized business 72355
activity, and that employs at least fifty individuals that engage 72356
in call center activities on a full-time basis, or sufficient 72357
individuals to fill fifty full-time equivalent positions. 72358

(46) Sales by a telecommunications service vendor of 900 72359
service to a subscriber. This division does not apply to 72360
information services, as defined in division (FF) of section 72361
5739.01 of the Revised Code. 72362

(47) Sales of value-added non-voice data service. This 72363
division does not apply to any similar service that is not 72364
otherwise a telecommunications service. 72365

(48)(a) Sales of machinery, equipment, and software to a 72366
qualified direct selling entity for use in a warehouse or 72367
distribution center primarily for storing, transporting, or 72368
otherwise handling inventory that is held for sale to independent 72369

salespersons who operate as direct sellers and that is held 72370
primarily for distribution outside this state; 72371

(b) As used in division (B)(48)(a) of this section: 72372

(i) "Direct seller" means a person selling consumer products 72373
to individuals for personal or household use and not from a fixed 72374
retail location, including selling such product at in-home product 72375
demonstrations, parties, and other one-on-one selling. 72376

(ii) "Qualified direct selling entity" means an entity 72377
selling to direct sellers at the time the entity enters into a tax 72378
credit agreement with the tax credit authority pursuant to section 72379
122.17 of the Revised Code, provided that the agreement was 72380
entered into on or after January 1, 2007. Neither contingencies 72381
relevant to the granting of, nor later developments with respect 72382
to, the tax credit shall impair the status of the qualified direct 72383
selling entity under division (B)(48) of this section after 72384
execution of the tax credit agreement by the tax credit authority. 72385

(c) Division (B)(48) of this section is limited to machinery, 72386
equipment, and software first stored, used, or consumed in this 72387
state within the period commencing June 24, 2008, and ending on 72388
the date that is five years after that date. 72389

(49)(a) Sales of materials, parts, equipment, or engines used 72390
in the repair or maintenance of aircraft or avionics systems of 72391
such aircraft, and sales of repair, remodeling, replacement, or 72392
maintenance services in this state performed on aircraft or on an 72393
aircraft's avionics, engine, or component materials or parts. As 72394
used in division (B)(49)(a) of this section, "aircraft" means 72395
aircraft of more than six thousand pounds maximum certified 72396
takeoff weight or used exclusively in general aviation. 72397

(b) Sales of tangible personal property, including materials, 72398
parts, equipment, software, supplies, tools, fuel, catalysts, oil, 72399
acids, and other consumables, or services used or consumed in 72400

performing research and development activities with respect to 72401
aerospace vehicles, the parts, avionics systems, control systems, 72402
engines, software, component materials, or component parts of such 72403
aerospace vehicles, and human performance equipment and technology 72404
associated with operating and testing aerospace vehicles. As used 72405
in division (B)(49)(b) of this section, "aerospace vehicles" means 72406
any manned or unmanned aviation device including, but not limited 72407
to, aircraft, airplanes, helicopters, missiles, rockets, and space 72408
vehicles. 72409

(50) Sales of full flight simulators that are used for pilot 72410
or flight-crew training, sales of repair or replacement parts or 72411
components, and sales of repair or maintenance services for such 72412
full flight simulators. "Full flight simulator" means a replica of 72413
a specific type, or make, model, and series of aircraft cockpit. 72414
It includes the assemblage of equipment and computer programs 72415
necessary to represent aircraft operations in ground and flight 72416
conditions, a visual system providing an out-of-the-cockpit view, 72417
and a system that provides cues at least equivalent to those of a 72418
three-degree-of-freedom motion system, and has the full range of 72419
capabilities of the systems installed in the device as described 72420
in appendices A and B of part 60 of chapter 1 of title 14 of the 72421
Code of Federal Regulations. 72422

(51) Any transfer or lease of tangible personal property 72423
between the state and a successful proposer in accordance with 72424
sections 126.60 to 126.605 of the Revised Code, provided the 72425
property is part of a project as defined in section 126.60 of the 72426
Revised Code and the state retains ownership of the project or 72427
part thereof that is being transferred or leased, between the 72428
state and JobsOhio in accordance with section 4313.02 of the 72429
Revised Code. 72430

(C) For the purpose of the proper administration of this 72431
chapter, and to prevent the evasion of the tax, it is presumed 72432

that all sales made in this state are subject to the tax until the 72433
contrary is established. 72434

(D) The levy of this tax on retail sales of recreation and 72435
sports club service shall not prevent a municipal corporation from 72436
levying any tax on recreation and sports club dues or on any 72437
income generated by recreation and sports club dues. 72438

(E) The tax collected by the vendor from the consumer under 72439
this chapter is not part of the price, but is a tax collection for 72440
the benefit of the state, and of counties levying an additional 72441
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72442
Code and of transit authorities levying an additional sales tax 72443
pursuant to section 5739.023 of the Revised Code. Except for the 72444
discount authorized under section 5739.12 of the Revised Code and 72445
the effects of any rounding pursuant to section 5703.055 of the 72446
Revised Code, no person other than the state or such a county or 72447
transit authority shall derive any benefit from the collection or 72448
payment of the tax levied by this section or section 5739.021, 72449
5739.023, or 5739.026 of the Revised Code. 72450

Sec. 5743.03. (A) Except as provided in section 5743.04 of 72451
the Revised Code, the taxes imposed under sections 5743.02, 72452
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 72453
by the purchase of tax stamps. A tax stamp shall be affixed to 72454
each package of an aggregate denomination not less than the amount 72455
of the tax upon the contents thereof. The tax stamp, so affixed, 72456
shall be prima-facie evidence of payment of the tax. 72457

Except as is provided in the rules prescribed by the tax 72458
commissioner under authority of sections 5743.01 to 5743.20 of the 72459
Revised Code, and unless tax stamps have been previously affixed, 72460
they shall be so affixed by each wholesale dealer, and canceled by 72461
writing or stamping across the face thereof the number assigned to 72462
such wholesale dealer by the tax commissioner for that purpose, 72463

prior to the delivery of any cigarettes to any person in this 72464
state, or in the case of a tax levied pursuant to section 72465
5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the 72466
delivery of cigarettes to any person in the county in which the 72467
tax is levied. 72468

(B) Except as provided in the rules prescribed by the 72469
commissioner under authority of sections 5743.01 to 5743.20 of the 72470
Revised Code, each retail dealer, within twenty-four hours after 72471
the receipt of any cigarettes at the retail dealer's place of 72472
business, shall inspect the cigarettes to ensure that tax stamps 72473
are affixed. The inspection shall be completed before the 72474
cigarettes are delivered to any person in this state, or, in the 72475
case of a tax levied pursuant to section 5743.021, 5743.024, or 72476
5743.026 of the Revised Code, before the cigarettes are delivered 72477
to any person in the county in which the tax is levied. 72478

(C) Whenever any cigarettes are found in the place of 72479
business of any retail dealer without proper tax stamps affixed 72480
thereto and canceled, it is presumed that such cigarettes are kept 72481
therein in violation of sections 5743.01 to 5743.20 of the Revised 72482
Code. 72483

(D) Each wholesale dealer who purchases cigarettes without 72484
proper tax stamps affixed thereto shall, on or before the 72485
thirty-first day of the month following the close of each 72486
semiannual period, which period shall end on the thirtieth day of 72487
June and the thirty-first day of December of each year, make and 72488
file a return of the preceding semiannual period, on such form as 72489
is prescribed by the tax commissioner, showing the dealer's entire 72490
purchases and sales of cigarettes and stamps or impressions for 72491
such semiannual period and accurate inventories as of the 72492
beginning and end of each semiannual period of cigarettes, stamped 72493
or unstamped; cigarette tax stamps affixed or unaffixed and unused 72494
meter impressions; and such other information as the commissioner 72495

finds necessary to the proper administration of sections 5743.01 72496
to 5743.20 of the Revised Code. The commissioner may extend the 72497
time for making and filing returns and may remit all or any part 72498
of amounts of penalties that may become due under sections 5743.01 72499
to 5743.20 of the Revised Code. The wholesale dealer shall deliver 72500
the return together with a remittance of the tax deficiency 72501
reported thereon to the treasurer of state. The treasurer of state 72502
shall stamp or otherwise mark on the return the date it was 72503
received and shall also show thereon by stamp or otherwise a 72504
payment or nonpayment of the deficiency shown by the return. 72505
Thereafter, the treasurer of state shall immediately transmit all 72506
returns filed under this section to the commissioner. 72507

(E) Any wholesale dealer who fails to file a return under 72508
this section and the rules of the commissioner, other than a 72509
report required pursuant to division (F) of this section, may be 72510
required, for each day the dealer so fails, to forfeit and pay 72511
into the state treasury the sum of one dollar as revenue arising 72512
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 72513
Code and such sum may be collected by assessment in the manner 72514
provided in section 5743.081 of the Revised Code. If the 72515
commissioner finds it necessary in order to insure the payment of 72516
the tax imposed by sections 5743.01 to 5743.20 of the Revised 72517
Code, the commissioner may require returns and payments to be made 72518
other than semiannually. The returns shall be signed by the 72519
wholesale dealer or an authorized agent thereof. 72520

(F) Each person required to file a tax return under section 72521
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 72522
the commissioner the quantity of all cigarettes and roll-your-own 72523
cigarette tobacco sold in Ohio for each brand not covered by the 72524
tobacco master settlement agreement for which the person is liable 72525
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 72526
the Revised Code. 72527

As used in this division, "tobacco master settlement agreement" has the same meaning as in section 183.01 of the Revised Code. 72528
72529
72530

(G) The report required by division (F) of this section shall be made on a form prescribed by the commissioner and shall be filed not later than the last day of each month for the previous month, except that if the commissioner determines that the quantity reported by a person does not warrant monthly reporting, the commissioner may authorize reporting at less frequent intervals. The commissioner may assess a penalty of not more than two hundred fifty dollars for each month or portion thereof that a person fails to timely file a required report, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. All money collected under this division shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code. 72531
72532
72533
72534
72535
72536
72537
72538
72539
72540
72541
72542
72543

(H) The treasurer of state or an agent of the treasurer may sell tax stamps only to a licensed wholesale dealer, except as otherwise authorized by the commissioner. The treasurer or an agent of the treasurer may charge the costs associated with the shipment of tax stamps to the licensed wholesale dealer. Amounts collected from such charges shall be credited to the treasurer of state's administrative fund created under section 113.20 of the Revised Code. 72544
72545
72546
72547
72548
72549
72550
72551

Sec. 5743.031. (A) A wholesale dealer may affix stamps only to packages of cigarettes that the dealer received directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code, or to packages of cigarettes that the dealer received from another wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code, provided that the tax 72552
72553
72554
72555
72556
72557
72558

commissioner has authorized the sale of the cigarettes between 72559
those wholesale dealers and that the wholesale dealer that sells 72560
the cigarettes received them directly from a manufacturer or 72561
importer of cigarettes that possesses a valid and current license 72562
under section 5743.15 of the Revised Code. 72563

(B) Only a wholesale dealer that possesses a valid and 72564
current license under section 5743.15 of the Revised Code may 72565
purchase or obtain tax stamps. A wholesale dealer may not sell or 72566
provide such stamps to any other wholesale dealer or any other 72567
person. 72568

(C) Any person shipping unstamped packages of cigarettes into 72569
this state to a person other than a wholesale dealer licensed 72570
under section 5743.15 of the Revised Code shall, before such 72571
shipment, file notice of the shipment with the tax commissioner. 72572
Any person that transports unstamped packages of cigarettes into 72573
or within this state shall carry in the vehicle used to convey the 72574
shipment invoices or equivalent documentation of the shipment for 72575
all cigarettes in the shipment. The invoices or other 72576
documentation shall show the true name and address of the 72577
consignor or seller, the true name and address of the consignee or 72578
purchaser, and the quantity of the cigarettes being transported. 72579
This division does not apply to any ~~common or contract~~ for-hire 72580
motor carrier transporting cigarettes through this state to 72581
another location under a proper bill of lading or freight bill 72582
that states the quantity, source, and destination of the 72583
cigarettes. 72584

Sec. 5751.033. For the purposes of this chapter, gross 72585
receipts shall be sitused to this state as follows: 72586

(A) Gross rents and royalties from real property located in 72587
this state shall be sitused to this state. 72588

(B) Gross rents and royalties from tangible personal property 72589
shall be sitused to this state to the extent the tangible personal 72590
property is located or used in this state. 72591

(C) Gross receipts from the sale of electricity and electric 72592
transmission and distribution services shall be sitused to this 72593
state in the manner provided under section 5733.059 of the Revised 72594
Code. 72595

(D) Gross receipts from the sale of real property located in 72596
this state shall be sitused to this state. 72597

(E) Gross receipts from the sale of tangible personal 72598
property shall be sitused to this state if the property is 72599
received in this state by the purchaser. In the case of delivery 72600
of tangible personal property by ~~common~~ motor carrier or by other 72601
means of transportation, the place at which such property is 72602
ultimately received after all transportation has been completed 72603
shall be considered the place where the purchaser receives the 72604
property. For purposes of this section, the phrase "delivery of 72605
tangible personal property by ~~common~~ motor carrier or by other 72606
means of transportation" includes the situation in which a 72607
purchaser accepts the property in this state and then transports 72608
the property directly or by other means to a location outside this 72609
state. Direct delivery in this state, other than for purposes of 72610
transportation, to a person or firm designated by a purchaser 72611
constitutes delivery to the purchaser in this state, and direct 72612
delivery outside this state to a person or firm designated by a 72613
purchaser does not constitute delivery to the purchaser in this 72614
state, regardless of where title passes or other conditions of 72615
sale. 72616

(F) Gross receipts from the sale, exchange, disposition, or 72617
other grant of the right to use trademarks, trade names, patents, 72618
copyrights, and similar intellectual property shall be sitused to 72619
this state to the extent that the receipts are based on the amount 72620

of use of the property in this state. If the receipts are not 72621
based on the amount of use of the property, but rather on the 72622
right to use the property, and the payor has the right to use the 72623
property in this state, then the receipts from the sale, exchange, 72624
disposition, or other grant of the right to use such property 72625
shall be sitused to this state to the extent the receipts are 72626
based on the right to use the property in this state. 72627

(G) Gross receipts from the sale of transportation services 72628
by a ~~common or contract~~ motor carrier shall be sitused to this 72629
state in proportion to the mileage traveled by the carrier during 72630
the tax period on roadways, waterways, airways, and railways in 72631
this state to the mileage traveled by the carrier during the tax 72632
period on roadways, waterways, airways, and railways everywhere. 72633
With prior written approval of the tax commissioner, a ~~common or~~ 72634
~~contract~~ motor carrier may use an alternative situsing procedure 72635
for transportation services. 72636

(H) Gross receipts from dividends, interest, and other 72637
sources of income from financial instruments described in 72638
divisions (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of 72639
section 5733.056 of the Revised Code shall be sitused to this 72640
state in accordance with the situsing provisions set forth in 72641
those divisions. When applying the provisions of divisions (F)(6), 72642
(8), and (13) of section 5733.056 of the Revised Code, "gross 72643
receipts" shall be substituted for "net gains" wherever "net 72644
gains" appears in those divisions. Nothing in this division limits 72645
or modifies the exclusions enumerated in divisions (E) and (F)(2) 72646
of section 5751.01 of the Revised Code. The tax commissioner may 72647
promulgate rules to further specify the manner in which to situs 72648
gross receipts subject to this division. 72649

(I) Gross receipts from the sale of all other services, and 72650
all other gross receipts not otherwise sitused under this section, 72651
shall be sitused to this state in the proportion that the 72652

purchaser's benefit in this state with respect to what was 72653
purchased bears to the purchaser's benefit everywhere with respect 72654
to what was purchased. The physical location where the purchaser 72655
ultimately uses or receives the benefit of what was purchased 72656
shall be paramount in determining the proportion of the benefit in 72657
this state to the benefit everywhere. If a taxpayer's records do 72658
not allow the taxpayer to determine that location, the taxpayer 72659
may use an alternative method to situs gross receipts under this 72660
division if the alternative method is reasonable, is consistently 72661
and uniformly applied, and is supported by the taxpayer's records 72662
as the records exist when the service is provided or within a 72663
reasonable period of time thereafter. 72664

(J) If the situsing provisions of divisions (A) to (H) of 72665
this section do not fairly represent the extent of a person's 72666
activity in this state, the person may request, or the tax 72667
commissioner may require or permit, an alternative method. Such 72668
request by a person must be made within the applicable statute of 72669
limitations set forth in this chapter. 72670

(K) The tax commissioner may adopt rules to provide 72671
additional guidance to the application of this section, and 72672
provide alternative methods of situsing gross receipts that apply 72673
to all persons, or subset of persons, that are engaged in similar 72674
business or trade activities. 72675

(L) As used in this section, "motor carrier" has the same 72676
meaning as in section 4923.01 of the Revised Code. 72677

Sec. 5751.12. The tax commissioner may prescribe requirements 72678
for the keeping of records and other pertinent documents, the 72679
filing of copies of federal income tax returns and determinations, 72680
and computations reconciling federal income tax returns with the 72681
returns and reports required by section 5751.05 of the Revised 72682
Code. The commissioner may require any person, by rule or notice 72683

served on that person, to keep those records that the commissioner 72684
considers necessary to show whether, and the extent to which, a 72685
person is subject to this chapter. Those records and other 72686
documents shall be open during business hours to the inspection of 72687
the commissioner, and shall be preserved for a period of four 72688
years unless the commissioner, in writing, consents to their 72689
destruction within that period, or by order requires that they be 72690
kept longer. If such records are normally kept by the person 72691
electronically, the person shall provide such records to the 72692
commissioner electronically at the commissioner's request. 72693

Any information required by the ~~tax~~ commissioner under this 72694
chapter is confidential as provided for in section 5703.21 of the 72695
Revised Code. However, the commissioner shall make public an 72696
electronic list of all actively registered persons required to 72697
remit the tax under this chapter, including legal names, trade 72698
names, addresses, and account numbers. In addition, such list 72699
shall include all persons that cancelled their registration at any 72700
time during the preceding four calendar years, including the date 72701
the registration was cancelled. 72702

Sec. 5753.03. (A) For the purpose of receiving and 72703
distributing, and accounting for, revenue received from the tax 72704
levied by section 5753.02 of the Revised Code, the following funds 72705
are created in the state treasury: 72706

- (1) The casino tax revenue fund; 72707
- (2) The gross casino revenue county fund; 72708
- (3) The gross casino revenue county student fund; 72709
- (4) The gross casino revenue host city fund; 72710
- (5) The Ohio state racing commission fund; 72711
- (6) The Ohio law enforcement training fund; 72712

| | |
|---|-------|
| (7) The problem casino gambling and addictions fund; | 72713 |
| (8) The casino control commission fund; | 72714 |
| (9) The casino tax administration fund; | 72715 |
| <u>(10) The peace officer training academy fund;</u> | 72716 |
| <u>(11) The criminal justice services casino tax revenue fund.</u> | 72717 |
| (B) All moneys collected from the tax levied under this | 72718 |
| chapter shall be deposited into the casino tax revenue fund. | 72719 |
| (C) From the casino tax revenue fund the director of budget | 72720 |
| and management shall transfer as needed to the tax refund fund | 72721 |
| amounts equal to the refunds certified by the tax commissioner | 72722 |
| under section 5753.06 of the Revised Code. | 72723 |
| (D) After making any transfers required by division (C) of | 72724 |
| this section, but not later than the fifteenth day of the month | 72725 |
| following the end of each calendar quarter, the director of budget | 72726 |
| and management shall transfer amounts to each fund as follows: | 72727 |
| (1) Fifty-one per cent to the gross casino revenue county | 72728 |
| fund to make payments as required by Section 6(C)(3)(a) of Article | 72729 |
| XV, Ohio Constitution; | 72730 |
| (2) Thirty-four per cent to the gross casino revenue county | 72731 |
| student fund to make payments as required by Section 6(C)(3)(b) of | 72732 |
| Article XV, Ohio Constitution; | 72733 |
| (3) Five per cent to the gross casino revenue host city fund | 72734 |
| for the benefit of the cities in which casino facilities are | 72735 |
| located; | 72736 |
| (4) Three per cent to the Ohio state racing commission fund | 72737 |
| to support <u>the efforts and activities of the Ohio state racing</u> | 72738 |
| <u>commission to promote</u> horse racing in this state at which the | 72739 |
| pari-mutuel system of wagering is conducted; | 72740 |
| (5) Two per cent to the Ohio law enforcement training fund to | 72741 |

support law enforcement functions in the state; 72742

(6) Two per cent to the problem casino gambling and 72743
addictions fund to support efforts of the department of alcohol 72744
and drug addiction services to alleviate problem gambling and 72745
substance abuse and related research in the state under section 72746
3793.032 of the Revised Code; 72747

(7) Three per cent to the casino control commission fund to 72748
support the operations of the Ohio casino control commission and 72749
to defray the cost of administering the tax levied under section 72750
5753.02 of the Revised Code. 72751

Payments under divisions (D)(1), (2), and (3) of this section 72752
shall be made by the end of the month following the end of the 72753
quarterly period. The tax commissioner shall make the data 72754
available to the director of budget and management for this 72755
purpose. 72756

Of the money credited to the Ohio law enforcement training 72757
fund, the director of budget and management shall distribute 72758
eighty-five per cent of the money to the police officer training 72759
academy fund for the purpose of supporting the law enforcement 72760
training efforts of the Ohio peace officer training academy and 72761
fifteen per cent of the money to the criminal justice services 72762
casino tax revenue fund for the purpose of supporting the law 72763
enforcement training efforts of the division of criminal justice 72764
services. 72765

(E) The director of budget and management shall transfer one 72766
per cent of the money credited to the casino control commission 72767
fund to the casino tax administration fund. The tax commissioner 72768
shall use the casino tax administration fund to defray the costs 72769
incurred in administering the tax levied by this chapter. 72770

Sec. 6109.21. (A) Except as provided in divisions ~~(D)~~(I) and 72771

~~(E)(J) of this section, on and after January 1, 1994, no person~~ 72772
~~shall operate or maintain a public water system in this state~~ 72773
~~without a license issued by the director of environmental~~ 72774
~~protection. A person who operates or maintains a public water~~ 72775
~~system on January 1, 1994, shall obtain an initial license under~~ 72776
~~this section in accordance with the following schedule:~~ 72777

~~(1) If the public water system is a community water system,~~ 72778
~~not later than January 31, 1994;~~ 72779

~~(2) If the public water system is not a community water~~ 72780
~~system and serves a nontransient population, not later than~~ 72781
~~January 31, 1994;~~ 72782

~~(3) If the public water system is not a community water~~ 72783
~~system and serves a transient population, not later than January~~ 72784
~~31, 1995.~~ 72785

~~A person proposing to operate or maintain a new public water~~ 72786
~~system after January 1, 1994, in addition to complying with~~ 72787
~~section 6109.07 of the Revised Code and rules adopted under it,~~ 72788
~~shall submit an application for an initial license under this~~ 72789
~~section to the director prior to commencing operation of the~~ 72790
~~system.~~ 72791

~~A license or license renewal issued under this section shall~~ 72792
~~be renewed annually. Such a license or license renewal shall~~ 72793
~~expire on the thirtieth day of January in the year following its~~ 72794
~~issuance. A license holder that proposes to continue operating the~~ 72795
~~public water system for which the license or license renewal was~~ 72796
~~issued shall apply for a license renewal at least thirty days~~ 72797
~~prior to that expiration date.~~ 72798

~~The director shall adopt, and may amend and rescind, rules in~~ 72799
~~accordance with Chapter 119. of the Revised Code establishing~~ 72800
~~procedures governing and information to be included on~~ 72801
~~applications for licenses and license renewals under this section.~~ 72802

~~Through~~ (B)(1) A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system. 72803
72804
72805
72806
72807
72808

(C) A license shall expire on the thirtieth day of January in the year following its issuance. 72809
72810

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license. 72811
72812
72813
72814

(E) Through June 30, 2014, each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, ~~provided that. However,~~ an applicant for an initial license who is proposing to operate ~~or maintain~~ a new public water system ~~after January 1, 1994,~~ shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year. 72815
72816
72817
72818
72819
72820
72821
72822

~~(B)(F)~~ (F) Not later than thirty days after receiving a completed application and the appropriate license fee for ~~an initial a~~ license ~~under division (A) of this section, the director shall~~ issue the or license renewal for the a public water system. ~~Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section,~~ the director shall do one of the following: 72823
72824
72825
72826
72827
72828
72829

(1) Issue the license or license renewal for the public water system; 72830
72831

(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure 72832
72833

compliance with this chapter and rules adopted under it; 72834

(3) Deny the license or license renewal if the director finds 72835
that the public water system ~~was not~~ cannot be operated in 72836
substantial compliance with this chapter and rules adopted under 72837
it. 72838

~~(C)~~(G) The director may condition, suspend, or revoke a 72839
license or license renewal issued under this section at any time 72840
if the director finds that the public water system was not or will 72841
not be operated in substantial compliance with this chapter and 72842
rules adopted under it. ~~The director shall adopt, and may amend~~ 72843
~~and rescind, rules in accordance with Chapter 119. of the Revised~~ 72844
~~Code governing such suspensions and revocations.~~ 72845

~~(D)~~(H) The director shall adopt rules in accordance with 72846
Chapter 119. of the Revised Code establishing procedures and 72847
requirements governing both of the following: 72848

(1) Information to be included on applications for licenses 72849
and license renewals issued under this section; 72850

(2) The issuance, conditioning, suspension, revocation, and 72851
denial of licenses and license renewals under this section. 72852

(I)(1) As used in division ~~(D)~~(I) of this section, "church" 72853
means a fellowship of believers, congregation, society, 72854
corporation, convention, or association that is formed primarily 72855
or exclusively for religious purposes and that is not formed or 72856
operated for the private profit of any person. 72857

(2) This section does not apply to a church that operates or 72858
maintains a public water system solely to provide water for that 72859
church or for a campground that is owned by the church and 72860
operated primarily or exclusively for members of the church and 72861
their families. ~~A church that, on or before March 5, 1996, has~~ 72862
~~obtained a license under this section for such a public water~~ 72863
~~system need not obtain a license renewal under this section.~~ 72864

~~(E)~~(J) This section does not apply to any public or nonpublic 72865
school that meets minimum standards of the state board of 72866
education that operates or maintains a public water system solely 72867
to provide water for that school. 72868

~~(F)~~(K) The environmental protection agency shall collect well 72869
log filing fees on behalf of the division of soil and water 72870
resources in the department of natural resources in accordance 72871
with section 1521.05 of the Revised Code and rules adopted under 72872
it. The fees shall be submitted to the division quarterly as 72873
provided in those rules. 72874

Sec. 6111.46. (A) The environmental protection agency shall 72875
exercise general supervision of the treatment and disposal of 72876
sewage and industrial wastes and the operation and maintenance of 72877
works or means installed for the collection, treatment, and 72878
disposal of sewage and industrial wastes. Such general supervision 72879
shall apply to all features of construction, operation, and 72880
maintenance of the works or means that do or may affect the proper 72881
treatment and disposal of sewage and industrial wastes. 72882

(B)(1) The agency shall investigate the works or means 72883
employed in the collection, treatment, and disposal of sewage and 72884
industrial wastes whenever considered necessary or whenever 72885
requested to do so by local health officials and may issue and 72886
enforce orders and shall adopt rules governing the operation and 72887
maintenance of the works or means of treatment and disposal of 72888
such sewage and industrial wastes. In adopting rules under this 72889
section, the agency shall establish standards governing the 72890
construction, operation, and maintenance of the works or means of 72891
collection, treatment, and disposal of sewage that is generated at 72892
recreational vehicle parks, recreation camps, combined park-camps, 72893
and temporary park-camps that are separate from such standards 72894
relative to manufactured home parks. 72895

(2) As used in division (B)(1) of this section: 72896

(a) "Manufactured home parks" has the same meaning as in 72897
section ~~3733.01~~ 4781.01 of the Revised Code. 72898

(b) "Recreational vehicle parks," "recreation camps," 72899
"combined park-camps," and "temporary park-camps" have the same 72900
meanings as in section 3729.01 of the Revised Code. 72901

(C) The agency may require the submission of records and data 72902
of construction, operation, and maintenance, including plans and 72903
descriptions of existing works or means of treatment and disposal 72904
of such sewage and industrial wastes. When the agency requires the 72905
submission of such records or information, the public officials or 72906
person, firm, or corporation having the works in charge shall 72907
comply promptly with that order. 72908

Sec. 6117.39. (A) Except as provided in division (B) of this 72909
section, whenever, in the opinion of the board of county 72910
commissioners, it is necessary to acquire real estate or any 72911
interest in real estate for the acquisition, construction, 72912
maintenance, or operation of any sewer, drainage, or other 72913
improvement authorized by this chapter, or to acquire the right to 72914
construct, maintain, and operate the sewer, drainage, or other 72915
improvement in and upon any property within or outside of a county 72916
sewer district, it may purchase the real estate, interest in real 72917
estate, or right by negotiation. If the board and the owner of the 72918
real estate, interest in real estate, or right are unable to agree 72919
upon its purchase and sale, or the amount of damages to be awarded 72920
for it, the board may appropriate the real estate, interest, or 72921
right in accordance with sections 163.01 to 163.22 of the Revised 72922
Code, except that the board, in the exercise of the powers granted 72923
by this section or any other section of this chapter, may not 72924
appropriate real estate or personal property owned by a municipal 72925
corporation. 72926

(B)(1) For the purposes of division (B) of this section, 72927
~~either~~ any of the following constitutes a public exigency: 72928

(a) A finding by the director of environmental protection 72929
that a public health nuisance caused by an occasion of unavoidable 72930
urgency and suddenness due to unsanitary conditions compels the 72931
immediate construction of sewers for the protection of the public 72932
health and welfare; 72933

(b) The issuance of an order by the board of health of a 72934
health district to mitigate or abate a public health nuisance that 72935
is caused by an occasion of unavoidable urgency and suddenness due 72936
to unsanitary conditions and compels the immediate construction of 72937
sewers for the protection of the public health and welfare; 72938

(c) With respect to an affected parcel of property, an 72939
improvement required as a result of a federally imposed or 72940
state-imposed consent decree that prohibits future sewer inflows, 72941
combined sewer overflows, or sewer back-ups. 72942

(2) If the board of county commissioners is unable to 72943
purchase property for the purpose of ~~the construction of sewers to~~ 72944
~~mitigate or abate the public health nuisance that is the subject~~ 72945
~~of a finding of the director or an order of the board of health~~ 72946
addressing a public exigency pursuant to division (B) of this 72947
section, the board of county commissioners may adopt a resolution 72948
finding that it is necessary for the protection of the public 72949
health and welfare to appropriate property that the board of 72950
county commissioners considers needed for that purpose. The 72951
resolution shall contain a definite, accurate, and detailed 72952
description of the property and the name and place of residence, 72953
if known or with reasonable diligence ascertainable, of the owners 72954
of the property to be appropriated. 72955

The board of county commissioners shall fix in its resolution 72956
what it considers to be the value of the property to be 72957

appropriated, which shall be the board's determination of the 72958
compensation for the property and shall be supported by an 72959
independent appraisal, together with any damages to the residue. 72960
The board shall deposit the compensation so determined, together 72961
with an amount for the damages to the residue, with the probate 72962
court or the court of common pleas of the county in which the 72963
property, or a part of it, is situated. Except as otherwise 72964
provided in this division, the power to appropriate property for 72965
the purposes of this division shall be exercised in the manner 72966
provided in sections 163.01 to 163.22 of the Revised Code for an 72967
appropriation in the time of public exigency. The board's 72968
resolution and a written copy of the independent appraisal shall 72969
accompany the petition filed under section 163.05 of the Revised 72970
Code. 72971

Sec. 6119.11. (A) Except as provided in division (B) of this 72972
section, the board of trustees of a regional water and sewer 72973
district may condemn for the use of the district any public or 72974
private land, easement, rights, rights-of-way, franchises, or 72975
other property within or without the district required by it for 72976
the accomplishment of its purposes according to the procedure set 72977
forth in sections 163.01 to 163.22 of the Revised Code. 72978

(B)(1) For the purposes of division (B) of this section, 72979
~~either~~ any of the following constitutes a public exigency: 72980

(a) A finding by the director of environmental protection 72981
that a public health nuisance caused by an occasion of unavoidable 72982
urgency and suddenness due to unsanitary conditions compels the 72983
immediate construction of sewers for the protection of the public 72984
health and welfare; 72985

(b) The issuance of an order by the board of health of a 72986
health district to mitigate or abate a public health nuisance that 72987
is caused by an occasion of unavoidable urgency and suddenness due 72988

to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare;

(c) With respect to an affected parcel of property, an improvement required as a result of a federally imposed or state-imposed consent decree that prohibits future sewer inflows, combined sewer overflows, or sewer back-ups.

(2) If the board of trustees of a regional water and sewer district is unable to purchase property for the purpose of ~~the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health~~ addressing a public exigency pursuant to division (B) of this section, the board of trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of trustees considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the

independent appraisal shall accompany the petition filed under 73021
section 163.05 of the Revised Code. 73022

Section 101.02. That existing sections 7.10, 7.16, 9.34, 73023
102.02, 103.05, 105.41, 109.57, 109.572, 109.801, 119.032, 121.04, 73024
121.08, 121.083, 121.084, 122.07, 123.01, 123.011, 123.024, 73025
123.04, 123.07, 123.08, 123.09, 123.10, 123.101, 123.11, 123.13, 73026
123.14, 123.15, 123.152, 123.17, 123.21, 123.46, 123.47, 123.48, 73027
123.49, 123.77, 124.04, 124.06, 124.11, 124.12, 124.14, 124.231, 73028
124.241, 124.25, 124.26, 124.27, 124.30, 124.31, 125.082, 125.14, 73029
126.14, 135.35, 140.01, 140.03, 140.05, 140.08, 145.01, 145.012, 73030
149.43, 151.01, 152.18, 152.24, 153.01, 153.011, 153.013, 153.02, 73031
153.04, 153.06, 153.07, 153.08, 153.09, 153.11, 153.12, 153.14, 73032
153.16, 153.17, 153.502, 153.503, 153.53, 154.01, 167.04, 173.14, 73033
173.21, 173.23, 173.26, 173.27, 173.391, 173.394, 173.40, 173.42, 73034
173.45, 173.46, 185.01, 185.02, 185.03, 185.05, 185.06, 185.07, 73035
185.09, 185.12, 306.04, 306.36, 306.55, 313.121, 313.122, 313.16, 73036
329.01, 329.40, 329.41, 329.42, 329.43, 329.44, 329.45, 329.46, 73037
330.04, 339.091, 340.03, 340.05, 340.091, 705.18, 749.04, 749.05, 73038
749.18, 901.54, 924.51, 955.16, 955.26, 991.02, 1121.23, 1155.03, 73039
1163.05, 1315.141, 1317.05, 1321.37, 1321.53, 1321.531, 1322.03, 73040
1322.031, 1345.05, 1501.04, 1502.01, 1502.02, 1502.03, 1502.04, 73041
1502.05, 1502.06, 1502.07, 1502.12, 1502.99, 1503.012, 1503.43, 73042
1506.42, 1509.071, 1509.36, 1533.10, 1541.26, 1551.33, 1555.02, 73043
1555.03, 1555.04, 1555.05, 1555.06, 1571.14, 1707.08, 1707.391, 73044
1724.03, 1733.47, 1751.01, 1751.02, 1751.13, 1761.26, 1901.06, 73045
1901.18, 1907.13, 1909.11, 1923.01, 1923.02, 1923.061, 1923.15, 73046
2151.33, 2151.412, 2151.86, 2152.121, 2152.22, 2301.01, 2301.03, 73047
2301.18, 2301.20, 2301.21, 2301.22, 2301.23, 2301.24, 2301.25, 73048
2301.26, 2301.27, 2301.271, 2301.571, 2305.01, 2305.02, 2307.89, 73049
2317.02, 2317.422, 2317.56, 2319.27, 2501.02, 2501.16, 2501.17, 73050
2503.01, 2743.02, 2743.09, 2743.10, 2743.48, 2746.01, 2746.03, 73051
2746.04, 2901.01, 2903.33, 2907.29, 2909.21, 2909.28, 2927.023, 73052

2929.01, 2929.19, 2935.01, 2935.03, 2939.11, 2945.371, 2945.38, 73053
2945.39, 2945.40, 2945.401, 2961.22, 2967.03, 2967.05, 2967.14, 73054
2967.19, 2967.191, 2967.26, 2967.28, 2981.11, 2981.14, 3109.14, 73055
3125.41, 3301.55, 3304.14, 3304.16, 3304.181, 3304.182, 3305.01, 73056
3305.02, 3305.03, 3305.04, 3305.05, 3305.053, 3305.06, 3313.65, 73057
3313.71, 3313.976, 3313.978, 3313.979, 3318.034, 3318.08, 3318.10, 73058
3318.30, 3318.31, 3318.36, 3318.37, 3318.70, 3333.04, 3333.041, 73059
3333.123, 3333.21, 3333.60, 3333.61, 3333.71, 3333.72, 3334.08, 73060
3345.16, 3345.28, 3345.50, 3345.51, 3345.54, 3345.69, 3345.692, 73061
3347.03, 3383.02, 3383.07, 3517.20, 3701.021, 3701.023, 3701.024, 73062
3701.025, 3701.03, 3701.05, 3701.07, 3701.072, 3701.11, 3701.132, 73063
3701.146, 3701.161, 3701.20, 3701.201, 3701.21, 3701.221, 3701.23, 73064
3701.232, 3701.24, 3701.241, 3701.242, 3701.248, 3701.341, 73065
3701.342, 3701.343, 3701.344, 3701.345, 3701.347, 3701.352, 73066
3701.40, 3701.503, 3701.507, 3701.508, 3701.509, 3701.57, 3701.63, 73067
3701.74, 3701.87, 3701.881, 3702.141, 3702.31, 3702.51, 3702.52, 73068
3702.522, 3702.523, 3702.524, 3702.525, 3702.526, 3702.53, 73069
3702.531, 3702.54, 3702.55, 3702.56, 3702.57, 3702.59, 3702.592, 73070
3702.593, 3702.594, 3702.60, 3702.62, 3703.01, 3703.03, 3703.04, 73071
3703.05, 3703.06, 3703.07, 3703.08, 3703.10, 3703.21, 3703.99, 73072
3704.035, 3705.24, 3705.242, 3705.30, 3706.19, 3709.03, 3709.04, 73073
3709.06, 3709.085, 3709.09, 3709.092, 3709.32, 3709.35, 3710.01, 73074
3710.02, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, 73075
3710.09, 3710.10, 3710.12, 3710.13, 3710.17, 3711.04, 3711.06, 73076
3711.08, 3711.12, 3711.21, 3712.03, 3712.04, 3712.09, 3713.01, 73077
3713.02, 3713.03, 3713.04, 3713.05, 3713.06, 3713.07, 3713.08, 73078
3713.09, 3713.10, 3714.073, 3715.01, 3715.025, 3715.60, 3715.61, 73079
3715.62, 3715.68, 3715.87, 3716.01, 3716.03, 3717.01, 3717.04, 73080
3717.05, 3717.07, 3717.45, 3717.51, 3718.02, 3718.021, 3718.022, 73081
3718.05, 3718.06, 3718.07, 3718.09, 3721.01, 3721.011, 3721.02, 73082
3721.03, 3721.032, 3721.04, 3721.07, 3721.071, 3721.121, 3721.13, 73083
3721.21, 3721.28, 3721.29, 3721.50, 3721.51, 3723.06, 3723.07, 73084

3723.09, 3725.02, 3727.01, 3727.42, 3729.01, 3729.02, 3729.03, 73085
3729.04, 3729.07, 3729.08, 3730.10, 3733.02, 3733.021, 3733.022, 73086
3733.024, 3733.025, 3733.03, 3733.04, 3733.05, 3733.06, 3733.07, 73087
3733.08, 3733.09, 3733.091, 3733.10, 3733.101, 3733.11, 3733.12, 73088
3733.121, 3733.122, 3733.123, 3733.13, 3733.14, 3733.15, 3733.16, 73089
3733.17, 3733.18, 3733.19, 3733.20, 3733.41, 3733.42, 3734.01, 73090
3734.131, 3734.15, 3734.51, 3734.55, 3734.79, 3734.82, 3735.37, 73091
3737.83, 3737.841, 3742.01, 3742.02, 3742.03, 3742.04, 3742.05, 73092
3742.30, 3742.31, 3742.32, 3742.47, 3742.50, 3743.04, 3743.06, 73093
3743.19, 3743.25, 3745.01, 3745.05, 3745.11, 3745.112, 3748.04, 73094
3748.05, 3748.07, 3748.10, 3748.12, 3748.13, 3748.15, 3748.20, 73095
3749.02, 3749.03, 3749.04, 3752.06, 3770.06, 3781.03, 3781.06, 73096
3781.102, 3781.11, 3781.112, 3783.05, 3791.02, 3791.04, 3791.05, 73097
3791.07, 3791.11, 3791.12, 3793.04, 3793.09, 3905.36, 4104.01, 73098
4104.02, 4104.06, 4104.07, 4104.08, 4104.09, 4104.10, 4104.101, 73099
4104.12, 4104.15, 4104.16, 4104.17, 4104.18, 4104.19, 4104.21, 73100
4104.33, 4104.42, 4104.43, 4104.44, 4104.48, 4105.01, 4105.02, 73101
4105.03, 4105.04, 4105.05, 4105.06, 4105.09, 4105.11, 4105.12, 73102
4105.13, 4105.15, 4105.16, 4105.17, 4105.191, 4105.20, 4105.21, 73103
4115.10, 4115.101, 4121.123, 4121.30, 4123.20, 4123.35, 4123.54, 73104
4123.57, 4141.35, 4163.07, 4169.02, 4169.03, 4169.04, 4171.04, 73105
4301.30, 4303.181, 4303.22, 4313.02, 4501.01, 4501.06, 4501.271, 73106
4503.031, 4503.061, 4503.062, 4503.81, 4506.01, 4506.03, 4506.22, 73107
4506.25, 4507.01, 4507.011, 4507.12, 4507.51, 4508.02, 4510.037, 73108
4510.038, 4511.191, 4511.78, 4511.98, 4513.18, 4513.263, 4513.50, 73109
4712.01, 4723.481, 4730.42, 4731.052, 4731.22, 4735.01, 4735.02, 73110
4735.052, 4735.10, 4735.13, 4735.14, 4735.141, 4735.142, 4735.74, 73111
4736.01, 4740.03, 4740.11, 4740.14, 4743.05, 4763.05, 4765.07, 73112
4773.08, 4781.01, 4781.02, 4781.04, 4781.07, 4781.09, 4781.14, 73113
4781.15, 4781.16, 4781.99, 4905.01, 4905.02, 4905.03, 4905.05, 73114
4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.84, 4905.90, 73115
4907.01, 4907.02, 4907.04, 4907.08, 4907.19, 4907.28, 4907.35, 73116

4907.37, 4907.43, 4907.49, 4907.57, 4907.59, 4907.60, 4907.61, 73117
4907.62, 4909.01, 4909.02, 4909.03, 4909.17, 4909.22, 4909.24, 73118
4909.28, 4911.01, 4927.01, 4929.01, 4929.02, 4929.041, 4933.18, 73119
4933.19, 4939.01, 4953.04, 4961.03, 4965.54, 5101.01, 5101.46, 73120
5101.60, 5101.61, 5104.012, 5104.013, 5104.051, 5104.09, 5104.37, 73121
5107.05, 5107.16, 5107.17, 5111.01, 5111.013, 5111.014, 5111.0115, 73122
5111.0120, 5111.031, 5111.032, 5111.033, 5111.034, 5111.06, 73123
5111.091, 5111.113, 5111.16, 5111.161, 5111.171, 5111.20, 73124
5111.222, 5111.23, 5111.242, 5111.254, 5111.862, 5111.874, 73125
5111.877, 5111.878, 5111.89, 5111.894, 5111.941, 5111.97, 5112.31, 73126
5112.33, 5112.341, 5112.37, 5112.371, 5112.39, 5119.22, 5119.61, 73127
5119.69, 5119.691, 5119.99, 5120.036, 5120.105, 5120.132, 5120.66, 73128
5122.31, 5123.01, 5123.033, 5123.042, 5123.044, 5123.0412, 73129
5123.0414, 5123.0415, 5123.081, 5123.16, 5123.161, 5123.162, 73130
5123.163, 5123.164, 5123.166, 5123.169, 5123.171, 5123.19, 73131
5123.31, 5123.38, 5123.41, 5123.50, 5123.51, 5123.542, 5123.61, 73132
5123.89, 5126.023, 5126.0220, 5126.0221, 5126.043, 5126.046, 73133
5126.055, 5126.13, 5126.15, 5126.20, 5126.21, 5126.22, 5126.25, 73134
5126.251, 5126.51, 5139.41, 5139.43, 5149.311, 5155.14, 5501.04, 73135
5501.07, 5502.01, 5502.011, 5503.02, 5503.04, 5503.21, 5503.22, 73136
5503.23, 5503.34, 5701.13, 5703.05, 5705.08, 5705.19, 5705.25, 73137
5705.28, 5705.30, 5705.34, 5705.35, 5705.38, 5709.084, 5709.12, 73138
5709.121, 5709.212, 5709.62, 5709.63, 5709.632, 5709.73, 5713.03, 73139
5719.13, 5725.14, 5725.15, 5725.16, 5725.17, 5725.22, 5725.221, 73140
5731.39, 5733.064, 5739.01, 5739.02, 5743.03, 5743.031, 5751.033, 73141
5751.12, 5753.03, 6109.21, 6111.46, 6117.39, and 6119.11 of the 73142
Revised Code are hereby repealed. 73143

Section 105.01. That sections 185.04, 185.08, 185.10, 185.11, 73144
2301.19, 2909.32, 2909.33, 2909.34, 3301.68, 3333.049, 3333.0411, 73145
3333.33, 3333.70, 3333.80, 3334.111, 3354.23, 3701.02, 3701.032, 73146
3701.12, 3701.33, 3701.34, 3701.35, 3702.521, 3702.5210, 73147

3702.5211, 3702.5212, 3702.5213, 3702.58, 3702.591, 3733.01, 73148
3733.031, 3745.111, 3781.183, 3791.043, 4113.11, 4121.18, 4905.80, 73149
4905.801, 4905.81, 4905.82, 4905.83, 4919.75, 4919.76, 4919.77, 73150
4919.78, 4919.79, 4919.99, 4921.01, 4921.02, 4921.03, 4921.04, 73151
4921.05, 4921.06, 4921.07, 4921.08, 4921.09, 4921.10, 4921.101, 73152
4921.11, 4921.12, 4921.13, 4921.14, 4921.15, 4921.16, 4921.17, 73153
4921.18, 4921.19, 4921.20, 4921.23, 4921.24, 4921.25, 4921.26, 73154
4921.27, 4921.28, 4921.30, 4921.31, 4921.32, 4921.35, 4921.36, 73155
4921.37, 4921.38, 4921.39, 4921.40, 4921.99, 4923.01, 4923.02, 73156
4923.03, 4923.04, 4923.05, 4923.06, 4923.07, 4923.08, 4923.09, 73157
4923.10, 4923.11, 4923.12, 4923.13, 4923.14, 4923.17, 4923.20, 73158
4923.26, 4923.99, 5101.97, 5111.651, 5119.614, 5119.692, 5119.693, 73159
5119.70, 5119.701, 5119.71, 5119.711, 5119.712, 5119.72, 5119.73, 73160
5119.731, 5119.74, 5119.75, 5119.76, 5119.77, 5119.78, 5119.79, 73161
5119.80, 5119.81, 5119.82, 5119.83, 5119.84, 5119.85, 5119.86, 73162
5119.87, 5119.88, 5123.082, 5123.083, 5123.192, 5126.0222, 73163
5126.252, 5126.26, 5126.27, 5126.28, 5126.281, 5126.29, and 73164
5501.09 of the Revised Code are hereby repealed. 73165

Section 105.10. Section 3356.10 of the Revised Code is hereby 73167
repealed, effective five years after the effective date of that 73168
section. 73169

Section 110.10. That the version of section 5122.31 of the 73170
Revised Code that is scheduled to take effect on October 1, 2012, 73171
be amended to read as follows: 73172

Sec. 5122.31. (A) All certificates, applications, records, 73173
and reports made for the purpose of this chapter and sections 73174
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 73175
Code, other than court journal entries or court docket entries, 73176
and directly or indirectly identifying a patient or former patient 73177

or person whose hospitalization has been sought under this 73178
chapter, shall be kept confidential and shall not be disclosed by 73179
any person except: 73180

(1) If the person identified, or the person's legal guardian, 73181
if any, or if the person is a minor, the person's parent or legal 73182
guardian, consents, and if the disclosure is in the best interests 73183
of the person, as may be determined by the court for judicial 73184
records and by the chief clinical officer for medical records; 73185

(2) When disclosure is provided for in this chapter or 73186
section 5123.601 of the Revised Code; 73187

(3) That hospitals, boards of alcohol, drug addiction, and 73188
mental health services, and community mental health agencies may 73189
release necessary medical information to insurers and other 73190
third-party payers, including government entities responsible for 73191
processing and authorizing payment, to obtain payment for goods 73192
and services furnished to the patient; 73193

(4) Pursuant to a court order signed by a judge; 73194

(5) That a patient shall be granted access to the patient's 73195
own psychiatric and medical records, unless access specifically is 73196
restricted in a patient's treatment plan for clear treatment 73197
reasons; 73198

(6) That hospitals and other institutions and facilities 73199
within the department of mental health may exchange psychiatric 73200
records and other pertinent information with other hospitals, 73201
institutions, and facilities of the department, and with community 73202
mental health agencies and boards of alcohol, drug addiction, and 73203
mental health services with which the department has a current 73204
agreement for patient care or services. Records and information 73205
that may be released pursuant to this division shall be limited to 73206
medication history, physical health status and history, financial 73207

status, summary of course of treatment in the hospital, summary of 73208
treatment needs, and a discharge summary, if any. 73209

(7) That hospitals within the department, other institutions 73210
and facilities within the department, hospitals licensed by the 73211
department under section 5119.20 of the Revised Code, and 73212
community mental health agencies may exchange psychiatric records 73213
and other pertinent information with payers and other providers of 73214
treatment and health services if the purpose of the exchange is to 73215
facilitate continuity of care for a patient; 73216

(8) That a patient's family member who is involved in the 73217
provision, planning, and monitoring of services to the patient may 73218
receive medication information, a summary of the patient's 73219
diagnosis and prognosis, and a list of the services and personnel 73220
available to assist the patient and the patient's family, if the 73221
patient's treating physician determines that the disclosure would 73222
be in the best interests of the patient. No such disclosure shall 73223
be made unless the patient is notified first and receives the 73224
information and does not object to the disclosure. 73225

(9) That community mental health agencies may exchange 73226
psychiatric records and certain other information with the board 73227
of alcohol, drug addiction, and mental health services and other 73228
agencies in order to provide services to a person involuntarily 73229
committed to a board. Release of records under this division shall 73230
be limited to medication history, physical health status and 73231
history, financial status, summary of course of treatment, summary 73232
of treatment needs, and discharge summary, if any. 73233

(10) That information may be disclosed to the executor or the 73234
administrator of an estate of a deceased patient when the 73235
information is necessary to administer the estate; 73236

(11) That records in the possession of the Ohio historical 73237
society may be released to the closest living relative of a 73238

deceased patient upon request of that relative; 73239

(12) That information may be disclosed to staff members of 73240
the appropriate board or to staff members designated by the 73241
director of mental health for the purpose of evaluating the 73242
quality, effectiveness, and efficiency of services and determining 73243
if the services meet minimum standards. Information obtained 73244
during such evaluations shall not be retained with the name of any 73245
patient. 73246

(13) That records pertaining to the patient's diagnosis, 73247
course of treatment, treatment needs, and prognosis shall be 73248
disclosed and released to the appropriate prosecuting attorney if 73249
the patient was committed pursuant to section 2945.38, 2945.39, 73250
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 73251
attorney designated by the board for proceedings pursuant to 73252
involuntary commitment under this chapter. 73253

(14) That the department of mental health may exchange 73254
psychiatric hospitalization records, other mental health treatment 73255
records, and other pertinent information with the department of 73256
rehabilitation and correction to ensure continuity of care for 73257
inmates who are receiving mental health services in an institution 73258
of the department of rehabilitation and correction. The department 73259
shall not disclose those records unless the inmate is notified, 73260
receives the information, and does not object to the disclosure. 73261
The release of records under this division is limited to records 73262
regarding an inmate's medication history, physical health status 73263
and history, summary of course of treatment, summary of treatment 73264
needs, and a discharge summary, if any. 73265

(15) That a community mental health agency that ceases to 73266
operate may transfer to either a community mental health agency 73267
that assumes its caseload or to the board of alcohol, drug 73268
addiction, and mental health services of the service district in 73269
which the patient resided at the time services were most recently 73270

provided any treatment records that have not been transferred 73271
elsewhere at the patient's request. 73272

(B) Before records are disclosed pursuant to divisions 73273
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 73274
records shall attempt to obtain the patient's consent for the 73275
disclosure. No person shall reveal the contents of a medical 73276
record of a patient except as authorized by law. 73277

(C) The managing officer of a hospital who releases necessary 73278
medical information under division (A)(3) of this section to allow 73279
an insurance carrier or other third party payor to comply with 73280
section 5121.43 of the Revised Code shall neither be subject to 73281
criminal nor civil liability. 73282

Section 110.11. That the existing version of section 5122.31 73283
of the Revised Code that is scheduled to take effect on October 1, 73284
2012, is hereby repealed. 73285

Section 110.12. Sections 110.10 and 110.11 of this act take 73286
effect October 1, 2012. 73287

Section 110.20. That the version of section 5123.19 of the 73288
Revised Code that is scheduled to take effect on October 1, 2012, 73289
be amended to read as follows: 73290

Sec. 5123.19. (A) As used in ~~this section and in~~ sections 73291
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to~~ 73292
5123.20 of the Revised Code: 73293

(1)(a) ~~"Residential facility" means a home or facility in~~ 73294
~~which a mentally retarded or developmentally disabled person~~ 73295
~~resides, except the home of a relative or legal guardian in which~~ 73296
~~a mentally retarded or developmentally disabled person resides, a~~ 73297
~~respite care home certified under section 5126.05 of the Revised~~ 73298

~~Code, a county home or district home operated pursuant to Chapter 73299
5155. of the Revised Code, or a dwelling in which the only 73300
mentally retarded or developmentally disabled residents are in an 73301
independent living arrangement or are being provided supported 73302
living. 73303~~

~~(b) "Intermediate care facility for the mentally retarded" 73304
means a residential facility that is considered an intermediate 73305
care facility for the mentally retarded for the purposes of 73306
Chapter 5111. of the Revised Code. 73307~~

~~(2) "Political subdivision" means a municipal corporation, 73308
county, or township. 73309~~

~~(3) "Independent living arrangement" means an arrangement in 73310
which a mentally retarded or developmentally disabled person 73311
resides in an individualized setting chosen by the person or the 73312
person's guardian, which is not dedicated principally to the 73313
provision of residential services for mentally retarded or 73314
developmentally disabled persons, and for which no financial 73315
support is received for rendering such service from any 73316
governmental agency by a provider of residential services. 73317~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 73318
has the same meaning as in section 1905(d) of the "Social Security 73319
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 73320~~

~~(3) "Licensee" means the person or government agency that has 73321
applied for a license to operate a residential facility and to 73322
which the license was issued under this section. 73323~~

~~(4) "Political subdivision" means a municipal corporation, 73324
county, or township. 73325~~

~~(5) "Related party" has the same meaning as in section 73326
5123.16 of the Revised Code except that "provider" as used in the 73327
definition of "related party" means a person or government entity 73328
that held or applied for a license to operate a residential 73329~~

facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or 5119.20~~, or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~

(C) Subject to section 5123.196 of the Revised Code, the 73360
director of developmental disabilities shall license the operation 73361
of residential facilities. An initial license shall be issued for 73362
a period that does not exceed one year, unless the director denies 73363
the license under division (D) of this section. A license shall be 73364
renewed for a period that does not exceed three years, unless the 73365
director refuses to renew the license under division (D) of this 73366
section. The director, when issuing or renewing a license, shall 73367
specify the period for which the license is being issued or 73368
renewed. A license remains valid for the length of the licensing 73369
period specified by the director, unless the license is 73370
terminated, revoked, or voluntarily surrendered. 73371

(D) If it is determined that an applicant or licensee is not 73372
in compliance with a provision of this chapter that applies to 73373
residential facilities or the rules adopted under such a 73374
provision, the director may deny issuance of a license, refuse to 73375
renew a license, terminate a license, revoke a license, issue an 73376
order for the suspension of admissions to a facility, issue an 73377
order for the placement of a monitor at a facility, issue an order 73378
for the immediate removal of residents, or take any other action 73379
the director considers necessary consistent with the director's 73380
authority under this chapter regarding residential facilities. In 73381
the director's selection and administration of the sanction to be 73382
imposed, all of the following apply: 73383

(1) The director may deny, refuse to renew, or revoke a 73384
license, if the director determines that the applicant or licensee 73385
has demonstrated a pattern of serious noncompliance or that a 73386
violation creates a substantial risk to the health and safety of 73387
residents of a residential facility. 73388

(2) The director may terminate a license if more than twelve 73389
consecutive months have elapsed since the residential facility was 73390
last occupied by a resident or a notice required by division (K) 73391

of this section is not given. 73392

(3) The director may issue an order for the suspension of 73393
admissions to a facility for any violation that may result in 73394
sanctions under division (D)(1) of this section and for any other 73395
violation specified in rules adopted under division (H)(2) of this 73396
section. If the suspension of admissions is imposed for a 73397
violation that may result in sanctions under division (D)(1) of 73398
this section, the director may impose the suspension before 73399
providing an opportunity for an adjudication under Chapter 119. of 73400
the Revised Code. The director shall lift an order for the 73401
suspension of admissions when the director determines that the 73402
violation that formed the basis for the order has been corrected. 73403

(4) The director may order the placement of a monitor at a 73404
residential facility for any violation specified in rules adopted 73405
under division (H)(2) of this section. The director shall lift the 73406
order when the director determines that the violation that formed 73407
the basis for the order has been corrected. 73408

(5) If the director determines that two or more residential 73409
facilities owned or operated by the same person or government 73410
entity are not being operated in compliance with a provision of 73411
this chapter that applies to residential facilities or the rules 73412
adopted under such a provision, and the director's findings are 73413
based on the same or a substantially similar action, practice, 73414
circumstance, or incident that creates a substantial risk to the 73415
health and safety of the residents, the director shall conduct a 73416
survey as soon as practicable at each residential facility owned 73417
or operated by that person or government entity. The director may 73418
take any action authorized by this section with respect to any 73419
facility found to be operating in violation of a provision of this 73420
chapter that applies to residential facilities or the rules 73421
adopted under such a provision. 73422

(6) When the director initiates license revocation 73423

proceedings, no opportunity for submitting a plan of correction 73424
shall be given. The director shall notify the licensee by letter 73425
of the initiation of the proceedings. The letter shall list the 73426
deficiencies of the residential facility and inform the licensee 73427
that no plan of correction will be accepted. The director shall 73428
also send a copy of the letter to the county board of 73429
developmental disabilities. The county board shall send a copy of 73430
the letter to each of the following: 73431

(a) Each resident who receives services from the licensee; 73432

(b) The guardian of each resident who receives services from 73433
the licensee if the resident has a guardian; 73434

(c) The parent or guardian of each resident who receives 73435
services from the licensee if the resident is a minor. 73436

(7) Pursuant to rules which shall be adopted in accordance 73437
with Chapter 119. of the Revised Code, the director may order the 73438
immediate removal of residents from a residential facility 73439
whenever conditions at the facility present an immediate danger of 73440
physical or psychological harm to the residents. 73441

(8) In determining whether a residential facility is being 73442
operated in compliance with a provision of this chapter that 73443
applies to residential facilities or the rules adopted under such 73444
a provision, or whether conditions at a residential facility 73445
present an immediate danger of physical or psychological harm to 73446
the residents, the director may rely on information obtained by a 73447
county board of developmental disabilities or other governmental 73448
agencies. 73449

(9) In proceedings initiated to deny, refuse to renew, or 73450
revoke licenses, the director may deny, refuse to renew, or revoke 73451
a license regardless of whether some or all of the deficiencies 73452
that prompted the proceedings have been corrected at the time of 73453
the hearing. 73454

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not

later than thirty days after the department receives the request. 73487

(c) After commencing, the hearing shall continue 73488
uninterrupted, except for Saturdays, Sundays, and legal holidays, 73489
unless other interruptions are agreed to by the licensee and the 73490
director. 73491

(d) If the hearing is conducted by a hearing examiner, the 73492
hearing examiner shall file a report and recommendations not later 73493
than ten days after the last of the following: 73494

(i) The close of the hearing; 73495

(ii) If a transcript of the proceedings is ordered, the 73496
hearing examiner receives the transcript; 73497

(iii) If post-hearing briefs are timely filed, the hearing 73498
examiner receives the briefs. 73499

(e) A copy of the written report and recommendation of the 73500
hearing examiner shall be sent, by certified mail, to the licensee 73501
and the licensee's attorney, if applicable, not later than five 73502
days after the report is filed. 73503

(f) Not later than five days after the hearing examiner files 73504
the report and recommendations, the licensee may file objections 73505
to the report and recommendations. 73506

(g) Not later than fifteen days after the hearing examiner 73507
files the report and recommendations, the director shall issue an 73508
order approving, modifying, or disapproving the report and 73509
recommendations. 73510

(h) Notwithstanding the pendency of the hearing, the director 73511
shall lift the order for the suspension of admissions when the 73512
director determines that the violation that formed the basis for 73513
the order has been corrected. 73514

(G) Neither a person or government agency whose application 73515
for a license to operate a residential facility is denied nor a 73516

related party of the person or government agency may apply for a 73517
license to operate a residential facility before the date that is 73518
one year after the date of the denial. Neither a licensee whose 73519
residential facility license is revoked nor a related party of the 73520
licensee may apply for a residential facility license before the 73521
date that is five years after the date of the revocation. 73522

(H) In accordance with Chapter 119. of the Revised Code, the 73523
director shall adopt and may amend and rescind rules for licensing 73524
and regulating the operation of residential facilities, ~~including~~ 73525
~~intermediate care facilities for the mentally retarded~~. The rules 73526
for residential facilities that are intermediate care facilities 73527
for the mentally retarded may differ from those for other 73528
residential facilities. The rules shall establish and specify the 73529
following: 73530

(1) Procedures and criteria for issuing and renewing 73531
licenses, including procedures and criteria for determining the 73532
length of the licensing period that the director must specify for 73533
each license when it is issued or renewed; 73534

(2) Procedures and criteria for denying, refusing to renew, 73535
terminating, and revoking licenses and for ordering the suspension 73536
of admissions to a facility, placement of a monitor at a facility, 73537
and the immediate removal of residents from a facility; 73538

(3) Fees for issuing and renewing licenses, which shall be 73539
deposited into the program fee fund created under section 5123.033 73540
of the Revised Code; 73541

(4) Procedures for surveying residential facilities; 73542

(5) Requirements for the training of residential facility 73543
personnel; 73544

(6) Classifications for the various types of residential 73545
facilities; 73546

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a

license revocation proceeding, the director or the director's 73578
designee shall provide the licensee with a report listing any 73579
deficiencies, specifying a timetable within which the licensee 73580
shall submit a plan of correction describing how the deficiencies 73581
will be corrected, and, when appropriate, specifying a timetable 73582
within which the licensee must correct the deficiencies. After a 73583
plan of correction is submitted, the director or the director's 73584
designee shall approve or disapprove the plan. A copy of the 73585
report and any approved plan of correction shall be provided to 73586
any person who requests it. 73587

The director shall initiate disciplinary action against any 73588
department employee who notifies or causes the notification to any 73589
unauthorized person of an unannounced survey of a residential 73590
facility by an authorized representative of the department. 73591

(J) In addition to any other information which may be 73592
required of applicants for a license pursuant to this section, the 73593
director shall require each applicant to provide a copy of an 73594
approved plan for a proposed residential facility pursuant to 73595
section 5123.042 of the Revised Code. This division does not apply 73596
to renewal of a license or to an applicant for an initial or 73597
modified license who meets the requirements of section ~~5123.193~~ or 73598
5123.197 of the Revised Code. 73599

(K) A licensee shall notify the owner of the building in 73600
which the licensee's residential facility is located of any 73601
significant change in the identity of the licensee or management 73602
contractor before the effective date of the change if the licensee 73603
is not the owner of the building. 73604

Pursuant to rules which shall be adopted in accordance with 73605
Chapter 119. of the Revised Code, the director may require 73606
notification to the department of any significant change in the 73607
ownership of a residential facility or in the identity of the 73608
licensee or management contractor. If the director determines that 73609

a significant change of ownership is proposed, the director shall 73610
consider the proposed change to be an application for development 73611
by a new operator pursuant to section 5123.042 of the Revised Code 73612
and shall advise the applicant within sixty days of the 73613
notification that the current license shall continue in effect or 73614
a new license will be required pursuant to this section. If the 73615
director requires a new license, the director shall permit the 73616
facility to continue to operate under the current license until 73617
the new license is issued, unless the current license is revoked, 73618
refused to be renewed, or terminated in accordance with Chapter 73619
119. of the Revised Code. 73620

(L) A county board of developmental disabilities and any 73621
interested person may file complaints alleging violations of 73622
statute or department rule relating to residential facilities with 73623
the department. All complaints shall be in writing and shall state 73624
the facts constituting the basis of the allegation. The department 73625
shall not reveal the source of any complaint unless the 73626
complainant agrees in writing to waive the right to 73627
confidentiality or until so ordered by a court of competent 73628
jurisdiction. 73629

The department shall adopt rules in accordance with Chapter 73630
119. of the Revised Code establishing procedures for the receipt, 73631
referral, investigation, and disposition of complaints filed with 73632
the department under this division. 73633

(M) The department shall establish procedures for the 73634
notification of interested parties of the transfer or interim care 73635
of residents from residential facilities that are closing or are 73636
losing their license. 73637

(N) Before issuing a license under this section to a 73638
residential facility that will accommodate at any time more than 73639
one mentally retarded or developmentally disabled individual, the 73640
director shall, by first class mail, notify the following: 73641

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation; 73642
73643
73644

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees. 73645
73646
73647
73648

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 73649
73650
73651
73652

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 73653
73654
73655
73656
73657
73658
73659
73660
73661
73662
73663
73664
73665

(0) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and 73666
73667
73668
73669
73670
73671
73672
73673

architectural compatibility requirements that are uniformly 73674
imposed upon all single-family residences within the district or 73675
zone. 73676

(P) Any person may operate a licensed residential facility 73677
that provides room and board, personal care, habilitation 73678
services, and supervision in a family setting for at least nine 73679
but not more than sixteen persons with mental retardation or a 73680
developmental disability as a permitted use in any multiple-family 73681
residential district or zone of any political subdivision, except 73682
that a political subdivision that has enacted a zoning ordinance 73683
or resolution establishing planned unit development districts may 73684
exclude these residential facilities from those districts, and a 73685
political subdivision that has enacted a zoning ordinance or 73686
resolution may regulate these residential facilities in 73687
multiple-family residential districts or zones as a conditionally 73688
permitted use or special exception, in either case, under 73689
reasonable and specific standards and conditions set out in the 73690
zoning ordinance or resolution to: 73691

(1) Require the architectural design and site layout of the 73692
residential facility and the location, nature, and height of any 73693
walls, screens, and fences to be compatible with adjoining land 73694
uses and the residential character of the neighborhood; 73695

(2) Require compliance with yard, parking, and sign 73696
regulation; 73697

(3) Limit excessive concentration of these residential 73698
facilities. 73699

(Q) This section does not prohibit a political subdivision 73700
from applying to residential facilities nondiscriminatory 73701
regulations requiring compliance with health, fire, and safety 73702
regulations and building standards and regulations. 73703

(R) Divisions (O) and (P) of this section are not applicable 73704

to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility

shall be permitted to serve the same number of persons being 73736
served by the facility on the effective date of the rules or the 73737
number of persons for which the facility is authorized pursuant to 73738
a current application for a certificate of need with a letter of 73739
support from the department of developmental disabilities and 73740
which is in the review process prior to April 4, 1986. 73741

(U) The director or the director's designee may enter at any 73742
time, for purposes of investigation, any home, facility, or other 73743
structure that has been reported to the director or that the 73744
director has reasonable cause to believe is being operated as a 73745
residential facility without a license issued under this section. 73746

The director may petition the court of common pleas of the 73747
county in which an unlicensed residential facility is located for 73748
an order enjoining the person or governmental agency operating the 73749
facility from continuing to operate without a license. The court 73750
may grant the injunction on a showing that the person or 73751
governmental agency named in the petition is operating a 73752
residential facility without a license. The court may grant the 73753
injunction, regardless of whether the residential facility meets 73754
the requirements for receiving a license under this section. 73755

Section 110.21. That the existing version of section 5123.19 73756
of the Revised Code that is scheduled to take effect on October 1, 73757
2012, is hereby repealed. 73758

Section 110.22. Sections 110.20 and 110.21 of this act take 73759
effect October 1, 2012. 73760

Section 110.30. That the version of section 5123.61 of the 73761
Revised Code that is scheduled to take effect on October 1, 2012, 73762
be amended to read as follows: 73763

Sec. 5123.61. (A) As used in this section: 73764

(1) "Law enforcement agency" means the state highway patrol, 73765
the police department of a municipal corporation, or a county 73766
sheriff. 73767

(2) "Abuse" has the same meaning as in section 5123.50 of the 73768
Revised Code, except that it includes a misappropriation, as 73769
defined in that section. 73770

(3) "Neglect" has the same meaning as in section 5123.50 of 73771
the Revised Code. 73772

(B) The department of developmental disabilities shall 73773
establish a registry office for the purpose of maintaining reports 73774
of abuse, neglect, and other major unusual incidents made to the 73775
department under this section and reports received from county 73776
boards of developmental disabilities under section 5126.31 of the 73777
Revised Code. The department shall establish committees to review 73778
reports of abuse, neglect, and other major unusual incidents. 73779

(C)(1) Any person listed in division (C)(2) of this section, 73780
having reason to believe that a person with mental retardation or 73781
a developmental disability has suffered or faces a substantial 73782
risk of suffering any wound, injury, disability, or condition of 73783
such a nature as to reasonably indicate abuse or neglect of that 73784
person, shall immediately report or cause reports to be made of 73785
such information to the entity specified in this division. Except 73786
as provided in section 5120.173 of the Revised Code or as 73787
otherwise provided in this division, the person making the report 73788
shall make it to a law enforcement agency or to the county board 73789
of developmental disabilities. If the report concerns a resident 73790
of a facility operated by the department of developmental 73791
disabilities the report shall be made either to a law enforcement 73792
agency or to the department. If the report concerns any act or 73793
omission of an employee of a county board of developmental 73794
disabilities, the report immediately shall be made to the 73795
department and to the county board. 73796

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of ~~an adult care~~ a residential facility licensed under ~~Chapter 3722.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and person care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an

73797
73798
73799
73800
73801
73802
73803
73804
73805
73806
73807
73808
73809
73810
73811
73812
73813
73814
73815
73816
73817
73818
73819
73820
73821
73822
73823
73824
73825
73826
73827

individual with mental retardation or another developmental 73828
disability, while acting in an official or professional capacity 73829
in that position, or a person who is employed in a position that 73830
includes providing specialized services to an individual with 73831
mental retardation or another developmental disability and who, 73832
while acting in an official or professional capacity, renders 73833
spiritual treatment through prayer in accordance with the tenets 73834
of an organized religion. 73835

(3)(a) The reporting requirements of this division do not 73836
apply to employees of the Ohio protection and advocacy system. 73837

(b) An attorney or physician is not required to make a report 73838
pursuant to division (C)(1) of this section concerning any 73839
communication the attorney or physician receives from a client or 73840
patient in an attorney-client or physician-patient relationship, 73841
if, in accordance with division (A) or (B) of section 2317.02 of 73842
the Revised Code, the attorney or physician could not testify with 73843
respect to that communication in a civil or criminal proceeding, 73844
except that the client or patient is deemed to have waived any 73845
testimonial privilege under division (A) or (B) of section 2317.02 73846
of the Revised Code with respect to that communication and the 73847
attorney or physician shall make a report pursuant to division 73848
(C)(1) of this section, if both of the following apply: 73849

(i) The client or patient, at the time of the communication, 73850
is a person with mental retardation or a developmental disability. 73851

(ii) The attorney or physician knows or suspects, as a result 73852
of the communication or any observations made during that 73853
communication, that the client or patient has suffered or faces a 73854
substantial risk of suffering any wound, injury, disability, or 73855
condition of a nature that reasonably indicates abuse or neglect 73856
of the client or patient. 73857

(4) Any person who fails to make a report required under 73858

division (C) of this section and who is an MR/DD employee, as 73859
defined in section 5123.50 of the Revised Code, shall be eligible 73860
to be included in the registry regarding misappropriation, abuse, 73861
neglect, or other specified misconduct by MR/DD employees 73862
established under section 5123.52 of the Revised Code. 73863

(D) The reports required under division (C) of this section 73864
shall be made forthwith by telephone or in person and shall be 73865
followed by a written report. The reports shall contain the 73866
following: 73867

(1) The names and addresses of the person with mental 73868
retardation or a developmental disability and the person's 73869
custodian, if known; 73870

(2) The age of the person with mental retardation or a 73871
developmental disability; 73872

(3) Any other information that would assist in the 73873
investigation of the report. 73874

(E) When a physician performing services as a member of the 73875
staff of a hospital or similar institution has reason to believe 73876
that a person with mental retardation or a developmental 73877
disability has suffered injury, abuse, or physical neglect, the 73878
physician shall notify the person in charge of the institution or 73879
that person's designated delegate, who shall make the necessary 73880
reports. 73881

(F) Any person having reasonable cause to believe that a 73882
person with mental retardation or a developmental disability has 73883
suffered or faces a substantial risk of suffering abuse or neglect 73884
may report or cause a report to be made of that belief to the 73885
entity specified in this division. Except as provided in section 73886
5120.173 of the Revised Code or as otherwise provided in this 73887
division, the person making the report shall make it to a law 73888
enforcement agency or the county board of developmental 73889

disabilities. If the person is a resident of a facility operated 73890
by the department of developmental disabilities, the report shall 73891
be made to a law enforcement agency or to the department. If the 73892
report concerns any act or omission of an employee of a county 73893
board of developmental disabilities, the report immediately shall 73894
be made to the department and to the county board. 73895

(G)(1) Upon the receipt of a report concerning the possible 73896
abuse or neglect of a person with mental retardation or a 73897
developmental disability, the law enforcement agency shall inform 73898
the county board of developmental disabilities or, if the person 73899
is a resident of a facility operated by the department of 73900
developmental disabilities, the director of the department or the 73901
director's designee. 73902

(2) On receipt of a report under this section that includes 73903
an allegation of action or inaction that may constitute a crime 73904
under federal law or the law of this state, the department of 73905
developmental disabilities shall notify the law enforcement 73906
agency. 73907

(3) When a county board of developmental disabilities 73908
receives a report under this section that includes an allegation 73909
of action or inaction that may constitute a crime under federal 73910
law or the law of this state, the superintendent of the board or 73911
an individual the superintendent designates under division (H) of 73912
this section shall notify the law enforcement agency. The 73913
superintendent or individual shall notify the department of 73914
developmental disabilities when it receives any report under this 73915
section. 73916

(4) When a county board of developmental disabilities 73917
receives a report under this section and believes that the degree 73918
of risk to the person is such that the report is an emergency, the 73919
superintendent of the board or an employee of the board the 73920
superintendent designates shall attempt a face-to-face contact 73921

with the person with mental retardation or a developmental 73922
disability who allegedly is the victim within one hour of the 73923
board's receipt of the report. 73924

(H) The superintendent of the board may designate an 73925
individual to be responsible for notifying the law enforcement 73926
agency and the department when the county board receives a report 73927
under this section. 73928

(I) An adult with mental retardation or a developmental 73929
disability about whom a report is made may be removed from the 73930
adult's place of residence only by law enforcement officers who 73931
consider that the adult's immediate removal is essential to 73932
protect the adult from further injury or abuse or in accordance 73933
with the order of a court made pursuant to section 5126.33 of the 73934
Revised Code. 73935

(J) A law enforcement agency shall investigate each report of 73936
abuse or neglect it receives under this section. In addition, the 73937
department, in cooperation with law enforcement officials, shall 73938
investigate each report regarding a resident of a facility 73939
operated by the department to determine the circumstances 73940
surrounding the injury, the cause of the injury, and the person 73941
responsible. The investigation shall be in accordance with the 73942
memorandum of understanding prepared under section 5126.058 of the 73943
Revised Code. The department shall determine, with the registry 73944
office which shall be maintained by the department, whether prior 73945
reports have been made concerning an adult with mental retardation 73946
or a developmental disability or other principals in the case. If 73947
the department finds that the report involves action or inaction 73948
that may constitute a crime under federal law or the law of this 73949
state, it shall submit a report of its investigation, in writing, 73950
to the law enforcement agency. If the person with mental 73951
retardation or a developmental disability is an adult, with the 73952
consent of the adult, the department shall provide such protective 73953

services as are necessary to protect the adult. The law 73954
enforcement agency shall make a written report of its findings to 73955
the department. 73956

If the person is an adult and is not a resident of a facility 73957
operated by the department, the county board of developmental 73958
disabilities shall review the report of abuse or neglect in 73959
accordance with sections 5126.30 to 5126.33 of the Revised Code 73960
and the law enforcement agency shall make the written report of 73961
its findings to the county board. 73962

(K) Any person or any hospital, institution, school, health 73963
department, or agency participating in the making of reports 73964
pursuant to this section, any person participating as a witness in 73965
an administrative or judicial proceeding resulting from the 73966
reports, or any person or governmental entity that discharges 73967
responsibilities under sections 5126.31 to 5126.33 of the Revised 73968
Code shall be immune from any civil or criminal liability that 73969
might otherwise be incurred or imposed as a result of such actions 73970
except liability for perjury, unless the person or governmental 73971
entity has acted in bad faith or with malicious purpose. 73972

(L) No employer or any person with the authority to do so 73973
shall discharge, demote, transfer, prepare a negative work 73974
performance evaluation, reduce pay or benefits, terminate work 73975
privileges, or take any other action detrimental to an employee or 73976
retaliate against an employee as a result of the employee's having 73977
made a report under this section. This division does not preclude 73978
an employer or person with authority from taking action with 73979
regard to an employee who has made a report under this section if 73980
there is another reasonable basis for the action. 73981

(M) Reports made under this section are not public records as 73982
defined in section 149.43 of the Revised Code. Information 73983
contained in the reports on request shall be made available to the 73984
person who is the subject of the report, to the person's legal 73985

counsel, and to agencies authorized to receive information in the 73986
 report by the department or by a county board of developmental 73987
 disabilities. 73988

(N) Notwithstanding section 4731.22 of the Revised Code, the 73989
 physician-patient privilege shall not be a ground for excluding 73990
 evidence regarding the injuries or physical neglect of a person 73991
 with mental retardation or a developmental disability or the cause 73992
 thereof in any judicial proceeding resulting from a report 73993
 submitted pursuant to this section. 73994

Section 110.31. That the existing version of section 5123.61 73995
 of the Revised Code that is scheduled to take effect on October 1, 73996
 2012, is hereby repealed. 73997

Section 110.32. Sections 110.30 and 110.31 of this act take 73998
 effect October 1, 2012. 73999

Section 301.11. The items set forth in this section are 74000
 hereby appropriated out of any moneys in the state treasury to the 74001
 credit of the Clean Ohio Conservation Fund (Fund 7056) that are 74002
 not otherwise appropriated. 74003

Appropriations

| | | | |
|--------|------------------------------------|---------------|-------|
| | PWC PUBLIC WORKS COMMISSION | | 74004 |
| C15060 | Clean Ohio Conservation | \$ 36,000,000 | 74005 |
| | Total Public Works Commission | \$ 36,000,000 | 74006 |
| | TOTAL Clean Ohio Conservation Fund | \$ 36,000,000 | 74007 |

The foregoing appropriation item C15060, Clean Ohio 74008
 Conservation, shall be used in accordance with sections 164.20 to 74009
 164.27 of the Revised Code. If the Public Works Commission 74010
 receives refunds due to project overpayments that are discovered 74011
 during the post-project audit, the Director of the Public Works 74012
 Commission may certify to the Director of Budget and Management 74013
 that refunds have been received. If the Director of Budget and 74014

Management determines that the project refunds are available to 74015
support additional appropriations, such amounts are hereby 74016
appropriated. 74017

Section 301.12. The items set forth in this section are 74018
hereby appropriated out of any moneys in the state treasury to the 74019
credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) 74020
that are not otherwise appropriated. 74021

Appropriations

| | | | |
|---|-----------------------------------|--------------|-------|
| AGR DEPARTMENT OF AGRICULTURE | | | 74022 |
| C70009 | Clean Ohio Agricultural Easements | \$ 6,000,000 | 74023 |
| Total Department of Agriculture | | \$ 6,000,000 | 74024 |
| TOTAL Clean Ohio Agricultural Easement Fund | | \$ 6,000,000 | 74025 |

Section 301.13. (A) The Ohio Public Facilities Commission is 74027
hereby authorized to issue and sell, in accordance with Section 2o 74028
and 2q of Article VIII, Ohio Constitution, and pursuant to 74029
sections 151.01 and 151.09 of the Revised Code, original 74030
obligations of the state in an aggregate principal amount not to 74031
exceed \$36,000,000 in addition to the original issuance of 74032
obligations heretofore authorized by prior acts of the General 74033
Assembly. These authorized obligations shall be issued and sold 74034
from time to time, subject to applicable constitutional and 74035
statutory limitations, as needed to ensure sufficient moneys to 74036
the credit of the Clean Ohio Conservation Fund (Fund 7056) to pay 74037
costs of conservation projects. 74038

(B) The Ohio Public Facilities Commission is hereby 74039
authorized to issue and sell, in accordance with Section 2o and 2q 74040
of Article VIII, Ohio Constitution, and pursuant to sections 74041
151.01 and 151.09 of the Revised Code, original obligations of the 74042
state in an aggregate principal amount not to exceed \$6,000,000 in 74043
addition to the original issuance of obligations heretofore 74044
authorized by prior acts of the General Assembly. These authorized 74045

obligations shall be issued and sold from time to time, subject to 74046
applicable constitutional and statutory limitations, as needed to 74047
ensure sufficient moneys to the credit of the Clean Ohio 74048
Agricultural Easement Fund (Fund 7057) to pay costs of 74049
conservation projects. 74050

Section 301.14. Notwithstanding section 126.14 of the Revised 74051
Code, appropriations from the Clean Ohio Conservation Fund (Fund 74052
7056) to the Public Works Commission shall be released upon 74053
presentation of a request to release the funds, by the agency to 74054
which the appropriation has been made, to the Director of Budget 74055
and Management. 74056

Section 301.15. The capital improvements for which 74057
appropriations are made in this act from the Clean Ohio 74058
Conservation Fund (Fund 7056) and the Clean Ohio Agricultural 74059
Easement Fund (Fund 7057) are determined to be capital 74060
improvements and capital facilities for conservation purposes 74061
under the Clean Ohio Program and are designated as capital 74062
facilities to which proceeds of obligations issued under Chapter 74063
151. of the Revised Code are to be applied. The release and 74064
expenditure of funds from the Clean Ohio Conservation Fund (Fund 74065
7056) and the Clean Ohio Agricultural Easement Fund (Fund 7057) 74066
shall be subject to the requirements of Section 509.90 of Sub. 74067
H.B. 482 of the 129th General Assembly. 74068

Section 301.21. The items set forth in this section are 74069
hereby appropriated out of any moneys in the state treasury to the 74070
credit of the Clean Ohio Revitalization Fund (Fund 7003) that are 74071
not otherwise appropriated. 74072

Appropriations

DEV DEVELOPMENT SERVICES AGENCY 74073
C19500 Clean Ohio Revitalization \$ 12,000,000 74074

| | | | | |
|--------|--------------------------------------|----|------------|-------|
| C19501 | Clean Ohio Assistance | \$ | 3,000,000 | 74075 |
| | Total Development Services Agency | \$ | 15,000,000 | 74076 |
| | TOTAL Clean Ohio Revitalization Fund | \$ | 15,000,000 | 74077 |

The foregoing appropriation items C19500, Clean Ohio Revitalization, and C19501, Clean Ohio Assistance, shall be used in accordance with sections 122.65 to 122.658 of the Revised Code, and are subject to all provisions of Am. Sub. H.B. 482 of the 129th General Assembly that are generally applicable to such appropriations.

Section 503.10. FISCAL YEAR 2012 GENERAL REVENUE FUND ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2012, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, to the Statewide Treatment and Prevention Fund (Fund 4750), a cash amount of \$1,000,000 and to the Long-Term Care Ombudsman Program Fund (Fund 4C40), a cash amount of \$1,500,000.

Section 506.10. OHP HEALTH CARE GRANTS FUND

For fiscal year 2012 and fiscal year 2013, the Department of Job and Family Services may deposit into the OHP Health Care Grants Fund (Fund 3FA0) federal grants for the administration of health care programs that the Department receives under the "Patient Protection and Affordable Care Act," Public Law 111-148, and the "Health Care and Education Reconciliation Act of 2010," Public Law 111-152. The Department shall use the money in the fund to pay for expenses incurred in carrying out duties the Department assumes by accepting such federal grants, including expenses for

the administration of health care programs. 74105

Section 512.10. TRANSFER OF FUNDS FOR CASINO CONTROL 74106
COMMISSION OPERATIONS 74107

During fiscal year 2013, the Director of Budget and 74108
Management may, in consultation with the Executive Director of the 74109
Casino Control Commission, transfer cash as necessary for 74110
operating expenses and casino investigations. The transfer shall 74111
be made from the General Revenue Fund to the Casino Control 74112
Commission Operating Fund (Fund 5HS0). Once funds from upfront 74113
license application fees and gross casino revenue taxes have been 74114
accumulated to sustain operations, the Director of Budget and 74115
Management, in consultation with the Executive Director of the 74116
Casino Control Commission, shall establish a repayment schedule 74117
for transfers to the General Revenue Fund from the Casino Control 74118
Commission Operating Fund (Fund 5HS0). 74119

Section 512.20. PRE-SECURITIZATION TOBACCO PAYMENTS 74120

The Pre-Securitization Tobacco Payments Fund (Fund 5LS0) is 74121
hereby created in the state treasury. All moneys received by the 74122
state in connection with releases from disputed payment accounts 74123
or amounts previously withheld under the Tobacco Master Settlement 74124
Agreement that do not constitute pledged receipts for the Buckeye 74125
Tobacco Settlement Financing Authority Tobacco Settlement Bonds, 74126
Series 2007, shall be credited to the fund and used by the 74127
Director of Budget and Management as authorized in this section. 74128

On July 1 of each fiscal year, or as soon as possible 74129
thereafter, the Director of Budget and Management shall determine, 74130
in consultation with the Attorney General, the amounts needed to 74131
fund tobacco enforcement-related activities and may transfer cash 74132
in those amounts from Fund 5LS0 to the Tobacco Oversight 74133
Administration and Enforcement Fund (Fund U087). The Director of 74134

Budget and Management may transfer remaining cash determined to be 74135
in excess of the tobacco enforcement needs of the Attorney General 74136
from Fund 5LS0 to the General Revenue Fund. 74137

Upon receipt of all pre-securitization Tobacco Master 74138
Settlement Agreement payments and the transfer of all cash 74139
credited to Fund 5LS0 as authorized in this section, Fund 5LS0 is 74140
abolished. 74141

On July 1, 2012, or as soon as possible thereafter, and upon 74142
the request of the Attorney General, the Director of Budget and 74143
Management may transfer up to \$3,000,000 cash from the General 74144
Reimbursement Fund (Fund 1060) to the Tobacco Oversight 74145
Administration and Enforcement Fund (Fund U087). 74146

Section 512.30. CASH TRANSFER FROM TRAUMA AND EMERGENCY 74147
MEDICAL SERVICES GRANTS FUND 74148

On the effective date of this section, or as soon as possible 74149
thereafter, the Director of Budget and Management shall transfer 74150
the cash balance in the Trauma and Emergency Medical Services 74151
Grants Fund (Fund 83P0) to the Trauma and Emergency Medical 74152
Services Fund (Fund 83M0). The Director shall cancel any existing 74153
encumbrances against appropriation item 765637, EMS Grants, and 74154
reestablish them against appropriation item 765640, EMS - Grants. 74155
The reestablished encumbrance amounts are hereby appropriated. 74156

Section 512.40. CASH TRANSFER FROM ELEMENTARY SCHOOL SEAT 74157
BELT FUND 74158

On the effective date of this section, or as soon as possible 74159
thereafter, the Director of Budget and Management shall transfer 74160
the cash balance in the Elementary School Seat Belt Fund (Fund 74161
83N0) to the Trauma and Emergency Medical Services Fund (Fund 74162
83M0). The Director shall cancel any existing encumbrances against 74163
appropriation item 761611, Elementary School Seat Belt Program, 74164

and reestablish them against appropriation item 765624, Operating 74165
Expense - Trauma and EMS. The reestablished encumbrance amounts 74166
are hereby appropriated. 74167

Section 512.50. MEDICAID PROGRAM SUPPORT STATE FUND ABOLISHED 74168

The Director of Budget and Management shall transfer any 74169
remaining cash balance in the Medicaid Program Support State Fund 74170
(Fund 5C90) to the Health Care/Medicaid Support and Recoveries 74171
Fund (Fund 5DL0) created under section 5111.941 of the Revised 74172
Code. The Medicaid Program Support State Fund (Fund 5C90) shall 74173
cease to exist once the transfer is complete. 74174

Section 600.10. That Section 753.20 of Am. Sub. H.B. 114 of 74175
the 129th General Assembly be amended to read as follows: 74176

Sec. 753.20. (A) The Governor is authorized to execute a deed 74177
in the name of the state conveying to Taylor Chevrolet, Inc. 74178
(hereinafter the "grantee"), its successors and assigns, all of 74179
the state's right, title, and interest in the following described 74180
real estate known as Ohio State Highway Patrol Post 23, 1125 Ety 74181
Road, in the City of Lancaster, County of Fairfield, State of 74182
Ohio, and in the land on which the post is situated-: 74183

Being a part of Section 27, Township 15, Range 19, Greenfield 74184
Township, Fairfield County, Ohio and being more particularly 74185
described as follows: 74186

Commencing at a point in the east line of Section 27 and in 74187
the centerline of U.S. Route 33 at Station 139 plus 53.38, (1941 74188
Survey) as shown by plans on file with the Department of Highways, 74189
said point being N 1° 21' E, 452.70 feet from the southeast corner 74190
of said Section 27; thence, along said Section line, N 1° 21 min. 74191
E, 85.21 feet, to a point in the centerline of Township Road No. 74192
201 and to an easement for electric power line of the Ohio Power 74193

Company, Deed Record Volume 166, Page 375, Recorder's Office, 74194
Fairfield County, Ohio, said point being the place of beginning of 74195
the tract herein described; thence, along said Section line and 74196
along the centerline of said Township Road, N 1° 21' E, 224.90 74197
feet, to a point; thence, leaving said road, N 74° 38' 30" W, 74198
226.61 feet, to a point; thence, S 28° 31' 30" W, 148.15 feet, to 74199
a point in the northerly right of way line of said U.S. Route 33; 74200
thence, along said northerly right of way line of said U.S. 33, S 74201
62° 01' E, 122.04 feet to a point; thence, continuing along said 74202
right of way line, S 61° 19' E, 94.12 feet, to a point; thence, 74203
continuing along said right of way line, S 60° 52' E 107.24 feet, 74204
to a point, the place of beginning containing 1.11 acres, more or 74205
less. 74206

The above described tract of land is subject to an easement 74207
for Highway purposes along Township Road No. 201. 74208

~~(B) In preparing the deed, the Auditor of State, with the~~ 74209
~~assistance of the Attorney General, shall develop a legal~~ 74210
~~description of the real estate in conformity with the actual~~ 74211
~~bounds of the real estate.~~ 74212

~~(C)~~ Consideration for conveyance of the real estate shall be 74213
agreed upon between the Superintendent of the State Highway Patrol 74214
and the grantee. 74215

~~(D)~~(C) The deed may contain any condition or restriction that 74216
the Governor determines is reasonably necessary to protect the 74217
state's interests. 74218

~~(E)~~(D) The grantee shall pay all costs associated with the 74219
purchase and conveyance of the real estate, including recordation 74220
costs of the deed. 74221

~~(F)~~(E) Upon payment of the purchase price, the Auditor of 74222
State, with the assistance of the Attorney General, shall prepare 74223
a deed to the real estate. The deed shall state the consideration 74224

and any conditions or restrictions and shall be executed by the 74225
Governor in the name of the state, countersigned by the Secretary 74226
of State, sealed with the Great Seal of the State, presented in 74227
the Office of the Auditor of State for recording, and delivered to 74228
the grantee. The grantee shall present the deed for recording in 74229
the Office of the Fairfield County Recorder. 74230

~~(G)~~(F) The proceeds of the conveyance of the real estate 74231
shall be deposited into the state treasury to the credit of the 74232
State Highway Safety Fund. 74233

~~(H)~~(G) This section expires one year after its effective 74234
date. 74235

Section 600.11. That existing Section 753.20 of Am. Sub. H.B. 74236
114 of the 129th General Assembly is hereby repealed. 74237

Section 601.10. That Section 205.10 of Am. Sub. H.B. 114 of 74238
the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 74239
129th General Assembly, be amended to read as follows: 74240

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 74241

State Highway Safety Fund Group 74242

4W40 762321 Operating Expense - \$ 80,003,146 \$ ~~82,403,240~~ 74243
BMV 82,003,240

4W40 762410 Registrations \$ 28,945,176 \$ 29,813,532 74244
Supplement

5V10 762682 License Plate \$ 2,100,000 \$ 2,100,000 74245
Contributions

7036 761321 Operating Expense - \$ 7,124,366 \$ ~~7,338,097~~ 74246
Information and 6,988,097
Education

7036 761401 Lease Rental Payments \$ 9,978,300 \$ 2,315,700 74247

7036 764033 Minor Capital Projects \$ 1,250,000 \$ 1,250,000 74248

| | | | | | | | |
|------|--------|--|----|-------------|----|--|-------|
| 7036 | 764321 | Operating Expense - Highway Patrol | \$ | 260,744,934 | \$ | 258,365,903 | 74249 |
| 7036 | 764605 | Motor Carrier Enforcement Expenses | \$ | 2,860,000 | \$ | 2,860,000 | 74250 |
| 8300 | 761603 | Salvage and Exchange - Administration | \$ | 19,469 | \$ | 20,053 | 74251 |
| 8310 | 761610 | Information and Education - Federal | \$ | 422,084 | \$ | 434,746 <u>409,746</u> | 74252 |
| 8310 | 764610 | Patrol - Federal | \$ | 2,209,936 | \$ | 2,276,234 | 74253 |
| 8310 | 764659 | Transportation Enforcement - Federal | \$ | 5,519,333 | \$ | 5,684,913 | 74254 |
| 8310 | 765610 | EMS - Federal | \$ | 532,007 | \$ | 532,007 | 74255 |
| 8310 | 769610 | Food Stamp Trafficking Enforcement - Federal <u>Investigative Unit</u> <u>Federal Reimbursement</u> | \$ | 1,546,319 | \$ | 1,546,319 | 74256 |
| 8310 | 769631 | Homeland Security - Federal | \$ | 2,184,000 | \$ | 2,184,000 | 74257 |
| 8320 | 761612 | Traffic Safety - Federal | \$ | 16,577,565 | \$ | 16,577,565 | 74258 |
| 8350 | 762616 | Financial Responsibility Compliance | \$ | 5,457,240 | \$ | 5,549,068 <u>5,274,068</u> | 74259 |
| 8370 | 764602 | Turnpike Policing | \$ | 11,553,959 | \$ | 11,553,959 | 74260 |
| 8380 | 764606 | Patrol Reimbursement | \$ | 50,000 | \$ | 50,000 | 74261 |
| 83C0 | 764630 | Contraband, Forfeiture, Other | \$ | 622,894 | \$ | 622,894 | 74262 |
| 83F0 | 764657 | Law Enforcement Automated Data System | \$ | 9,053,266 | \$ | 9,053,266 | 74263 |
| 83G0 | 764633 | OMVI Enforcement/Education | \$ | 623,230 | \$ | 641,927 | 74264 |
| 83J0 | 764693 | Highway Patrol Justice Contraband | \$ | 2,100,000 | \$ | 2,100,000 | 74265 |

| | | | | | | | |
|-------------|-------------------------------------|--|-----------|-------------|-----------|--|-------|
| 83M0 | 765624 | Operating Expense - Trauma and EMS | \$ | 2,632,106 | \$ | 2,711,069 | 74266 |
| <u>83M0</u> | <u>765640</u> | <u>EMS - Grants</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>4,229,819</u> | 74267 |
| 83N0 | 761611 | Elementary School Seat Belt Program | \$ | 305,600 | \$ | 305,600 0 | 74268 |
| 83P0 | 765637 | EMS Grants | \$ | 4,106,621 | \$ | 4,229,819 0 | 74269 |
| 83R0 | 762639 | Local Immobilization Reimbursement | \$ | 450,000 | \$ | 450,000 | 74270 |
| 83T0 | 764694 | Highway Patrol Treasury Contraband | \$ | 21,000 | \$ | 21,000 | 74271 |
| 8400 | 764607 | State Fair Security | \$ | 1,256,655 | \$ | 1,294,354 | 74272 |
| 8400 | 764617 | Security and Investigations | \$ | 6,432,686 | \$ | 6,432,686 | 74273 |
| 8400 | 764626 | State Fairgrounds Police Force | \$ | 849,883 | \$ | 849,883 | 74274 |
| 8400 | 769632 | Homeland Security - Operating | \$ | 737,791 | \$ | 737,791 | 74275 |
| 8410 | 764603 | Salvage and Exchange - Highway Patrol | \$ | 1,339,399 | \$ | 1,339,399 | 74276 |
| 8460 | 761625 | Motorcycle Safety Education | \$ | 3,185,013 | \$ | 3,280,563 | 74277 |
| 8490 | 762627 | Automated Title Processing Board | \$ | 17,316,755 | \$ | 14,335,513 | 74278 |
| TOTAL | HSF State Highway Safety Fund Group | | \$ | 490,110,733 | \$ | 481,261,100 <u>479,905,500</u> | 74279 |
| | General Services Fund Group | | | | | | 74280 |
| 4P60 | 768601 | Justice Program Services | \$ | 998,104 | \$ | 1,028,047 | 74281 |
| 4S30 | 766661 | Hilltop Utility Reimbursement | \$ | 540,800 | \$ | 540,800 | 74282 |
| 5ET0 | 768625 | Drug Law Enforcement | \$ | 3,780,000 | \$ | 3,893,400 | 74283 |
| 5Y10 | 764695 | Highway Patrol Continuing | \$ | 170,000 | \$ | 170,000 | 74284 |

| | | | | | | | |
|------------------------------------|--------|-----------------------|----|------------|----|----------------------|-------|
| | | Professional Training | | | | | |
| 5Y10 | 767696 | Investigative Unit | \$ | 15,000 | \$ | 15,000 | 74285 |
| | | Continuing | | | | | |
| | | Professional Training | | | | | |
| TOTAL | GSF | General Services Fund | \$ | 5,503,904 | \$ | 5,647,247 | 74286 |
| Group | | | | | | | |
| Federal Special Revenue Fund Group | | | | | | | 74287 |
| 3290 | 763645 | Federal Mitigation | \$ | 10,110,332 | \$ | 10,413,642 | 74288 |
| | | Program | | | | | |
| 3370 | 763609 | Federal Disaster | \$ | 27,707,636 | \$ | 27,707,636 | 74289 |
| | | Relief | | | | | |
| 3390 | 763647 | Emergency Management | \$ | 75,664,821 | \$ | 77,934,765 | 74290 |
| | | Assistance and | | | | | |
| | | Training | | | | | |
| 3CB0 | 768691 | Federal Justice | \$ | 200,000 | \$ | 50,000 | 74291 |
| | | Grants - FFY06 | | | | | |
| 3CC0 | 768609 | Justice Assistance | \$ | 583,222 | \$ | 310,000 | 74292 |
| | | Grants - FFY07 | | | | | |
| 3CD0 | 768610 | Justice Assistance | \$ | 310,000 | \$ | 150,000 | 74293 |
| | | Grants - FFY08 | | | | | |
| 3CE0 | 768611 | Justice Assistance | \$ | 865,000 | \$ | 1,200,000 | 74294 |
| | | Grants - FFY09 | | | | | |
| 3CV0 | 768697 | Justice Assistance | \$ | 2,000 | \$ | 0 | 74295 |
| | | Grants Supplement - | | | | | |
| | | FFY08 | | | | | |
| 3DE0 | 768612 | Federal Stimulus - | \$ | 1,015,000 | \$ | 1,015,000 | 74296 |
| | | Justice Assistance | | | | | |
| | | Grants | | | | | |
| 3DH0 | 768613 | Federal Stimulus - | \$ | 150,000 | \$ | 150,000 | 74297 |
| | | Justice Programs | | | | | |
| 3DU0 | 762628 | BMV Grants | \$ | 1,525,000 | \$ | 1,580,000 | 74298 |
| | | | | | | <u>1,480,000</u> | |
| 3EU0 | 768614 | Justice Assistance | \$ | 650,000 | \$ | 920,000 | 74299 |

| | | | | | | |
|----------------------------------|-------------------------|----------------------------------|----|---------------|----|------------------------------|
| | | Grants - FFY10 | | | | |
| 3L50 | 768604 | Justice Program | \$ | 11,400,000 | \$ | 11,400,000 74300 |
| 3N50 | 763644 | U.S. Department of | \$ | 31,672 | \$ | 31,672 74301 |
| | | Energy Agreement | | | | |
| TOTAL FED | Federal Special Revenue | | \$ | 130,214,683 | \$ | 132,862,715 74302 |
| Fund Group | | | | | | <u>132,762,715</u> |
| State Special Revenue Fund Group | | | | | | 74303 |
| 4V30 | 763662 | EMA Service and | \$ | 4,368,369 | \$ | 4,499,420 74304 |
| | | Reimbursement | | | | |
| 5390 | 762614 | Motor Vehicle Dealers | \$ | 180,000 | \$ | 185,400 74305 |
| | | Board | | | | |
| 5B90 | 766632 | Private Investigator | \$ | 1,562,637 | \$ | 1,562,637 74306 |
| | | and Security Guard | | | | |
| | | Provider | | | | |
| 5BK0 | 768687 | Criminal Justice | \$ | 400,000 | \$ | 400,000 74307 |
| | | Services - Operating | | | | |
| 5BK0 | 768689 | Family Violence | \$ | 750,000 | \$ | 750,000 74308 |
| | | Shelter Programs | | | | |
| 5CM0 | 767691 | Federal Investigative | \$ | 300,000 | \$ | 300,000 74309 |
| | | <u>Seizure Investigative</u> | | | | |
| | | <u>Unit Federal</u> | | | | |
| | | <u>Equitable Sharing -</u> | | | | |
| | | <u>Treasury</u> | | | | |
| 5DS0 | 769630 | Homeland Security | \$ | 1,414,384 | \$ | 1,414,384 74310 |
| 5FF0 | 762621 | Indigent Interlock | \$ | 2,000,000 | \$ | 2,000,000 74311 |
| | | and Alcohol | | | | |
| | | Monitoring | | | | |
| 5FL0 | 769634 | Investigations | \$ | 899,300 | \$ | 899,300 74312 |
| <u>5LM0</u> | <u>768698</u> | <u>Criminal Justice</u> | \$ | <u>33,991</u> | \$ | <u>816,955</u> 74313 |
| | | <u>Services Law</u> | | | | |
| | | <u>Enforcement Support</u> | | | | |
| 6220 | 767615 | Investigative | \$ | 375,000 | \$ | 375,000 74314 |
| | | Contraband and | | | | |

| | | | | | | |
|------------------------------|---------------------------|---|----|------------------------|----|------------------------|
| | | Forfeiture | | | | |
| 6570 | 763652 | Utility Radiological | \$ | 1,415,945 | \$ | 1,415,945 |
| | | Safety | | | | 74315 |
| 6810 | 763653 | SARA Title III HAZMAT | \$ | 262,438 | \$ | 262,438 |
| | | Planning | | | | 74316 |
| 8500 | 767628 | Investigative Unit | \$ | 90,000 | \$ | 92,700 |
| | | Salvage | | | | 74317 |
| TOTAL SSR | State Special Revenue | | \$ | 14,018,073 | \$ | 14,157,224 |
| Fund Group | | | | <u>14,052,064</u> | | <u>14,974,179</u> |
| | | Liquor Control Fund Group | | | | 74319 |
| 7043 | 767321 | Liquor Enforcement - | \$ | 11,000,000 | \$ | 11,000,000 |
| | | Operating | | | | 74320 |
| TOTAL LCF | Liquor Control Fund Group | | \$ | 11,000,000 | \$ | 11,000,000 |
| | | Agency Fund Group | | | | 74322 |
| 5J90 | 761678 | Federal Salvage/GSA | \$ | 1,500,000 | \$ | 1,500,000 |
| TOTAL AGY | Agency Fund Group | | \$ | 1,500,000 | \$ | 1,500,000 |
| | | Holding Account Redistribution Fund Group | | | | 74325 |
| R024 | 762619 | Unidentified Motor | \$ | 1,885,000 | \$ | 1,885,000 |
| | | Vehicle Receipts | | | | 74326 |
| R052 | 762623 | Security Deposits | \$ | 350,000 | \$ | 350,000 |
| TOTAL 090 | Holding Account | | \$ | 2,235,000 | \$ | 2,235,000 |
| | | Redistribution Fund Group | | | | 74328 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 654,582,393 | \$ | 648,663,286 |
| | | | | <u>654,616,384</u> | | <u>648,024,641</u> |

MOTOR VEHICLE REGISTRATION 74330

The Registrar of Motor Vehicles may deposit revenues to meet 74331
the cash needs of the State Bureau of Motor Vehicles Fund (Fund 74332
4W40) established in section 4501.25 of the Revised Code, obtained 74333
under sections 4503.02 and 4504.02 of the Revised Code, less all 74334
other available cash. Revenue deposited pursuant to this paragraph 74335
shall support, in part, appropriations for operating expenses and 74336
defray the cost of manufacturing and distributing license plates 74337

and license plate stickers and enforcing the law relative to the 74338
operation and registration of motor vehicles. Notwithstanding 74339
section 4501.03 of the Revised Code, the revenues shall be paid 74340
into Fund 4W40 before any revenues obtained pursuant to sections 74341
4503.02 and 4504.02 of the Revised Code are paid into any other 74342
fund. The deposit of revenues to meet the aforementioned cash 74343
needs shall be in approximately equal amounts on a monthly basis 74344
or as otherwise determined by the Director of Budget and 74345
Management pursuant to a plan submitted by the Registrar of Motor 74346
Vehicles. 74347

CAPITAL PROJECTS 74348

The Registrar of Motor Vehicles may transfer cash from the 74349
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 74350
Highway Safety Fund (Fund 7036) to meet its obligations for 74351
capital projects CIR-047, Department of Public Safety Office 74352
Building and CIR-049, Warehouse Facility. 74353

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 74354

The foregoing appropriation item 761401, Lease Rental 74355
Payments, shall be used for payments to the Ohio Building 74356
Authority for the period July 1, 2011, to June 30, 2013, under the 74357
primary leases and agreements for public safety related buildings 74358
financed by obligations issued under Chapter 152. of the Revised 74359
Code. Notwithstanding section 152.24 of the Revised Code, the Ohio 74360
Building Authority may, with approval of the Director of Budget 74361
and Management, lease capital facilities to the Department of 74362
Public Safety. 74363

HILLTOP TRANSFER 74364

The Director of Public Safety shall determine, per an 74365
agreement with the Director of Transportation, the share of each 74366
debt service payment made out of appropriation item 761401, Lease 74367
Rental Payments, that relates to the Department of 74368

Transportation's portion of the Hilltop Building Project, and 74369
shall certify to the Director of Budget and Management the amounts 74370
of this share. The Director of Budget and Management shall 74371
transfer the amounts of such shares from the Highway Operating 74372
Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). 74373

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND 74374

On July 1, 2011, or as soon as possible thereafter, the 74375
Director of Budget and Management shall transfer the unexpended 74376
and unencumbered cash balance in the Seat Belt Education Fund 74377
(Fund 8440) to the Trauma and Emergency Medical Services Fund 74378
(Fund 83M0). Upon completion of the transfer, Fund 8440 is 74379
abolished. The Director shall cancel any existing encumbrances 74380
against appropriation item 761613, Seat Belt Education Program, 74381
and reestablish them against appropriation item 765624, Operating 74382
Expense - Trauma and EMS. The reestablished encumbrance amounts 74383
are hereby appropriated. 74384

CASH TRANSFERS BETWEEN FUNDS 74385

Notwithstanding any provision of law to the contrary, the 74386
Director of Budget and Management, upon the written request of the 74387
Director of Public Safety, may approve the transfer of cash 74388
between the following six funds: the Trauma and Emergency Medical 74389
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 74390
the Investigations Fund (Fund 5FL0), the Emergency Management 74391
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 74392
Program Services Fund (Fund 4P60), and the State Bureau of Motor 74393
Vehicles Fund (Fund 4W40). 74394

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 74395

Notwithstanding any provision of law to the contrary, the 74396
Director of Budget and Management, upon the written request of the 74397
Director of Public Safety, may approve the transfer of cash from 74398
the Continuing Professional Training Fund (Fund 5Y10), the State 74399

Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), 74400
the Trauma and Emergency Medical Services Fund (Fund 83M0), and 74401
the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 74402
8410) to the Security, Investigations, and Policing Fund (Fund 74403
8400). 74404

CASH TRANSFERS OF SEAT BELT FINE REVENUES 74405

Notwithstanding any provision of law to the contrary, the 74406
Controlling Board, upon request of the Director of Public Safety, 74407
may approve the transfer of cash between the following ~~four~~ three 74408
funds that receive fine revenues from enforcement of the mandatory 74409
seat belt law: the Trauma and Emergency Medical Services Fund 74410
(Fund 83M0), the Elementary School Program Fund (Fund 83N0), and 74411
the Trauma and Emergency Medical Services Grants Fund (Fund 83P0). 74412

STATE DISASTER RELIEF 74413

The State Disaster Relief Fund (Fund 5330) may accept 74414
transfers of cash and appropriations from Controlling Board 74415
appropriation items for Ohio Emergency Management Agency disaster 74416
response costs and disaster program management costs, and may also 74417
be used for the following purposes: 74418

(A) To accept transfers of cash and appropriations from 74419
Controlling Board appropriation items for Ohio Emergency 74420
Management Agency public assistance and mitigation program match 74421
costs to reimburse eligible local governments and private 74422
nonprofit organizations for costs related to disasters; 74423

(B) To accept and transfer cash to reimburse the costs 74424
associated with Emergency Management Assistance Compact (EMAC) 74425
deployments; 74426

(C) To accept disaster related reimbursement from federal, 74427
state, and local governments. The Director of Budget and 74428
Management may transfer cash from reimbursements received by this 74429
fund to other funds of the state from which transfers were 74430

originally approved by the Controlling Board. 74431

(D) To accept transfers of cash and appropriations from 74432
Controlling Board appropriation items to fund the State Disaster 74433
Relief Program, for disasters that have been declared by the 74434
Governor, and the State Individual Assistance Program for 74435
disasters that have been declared by the Governor and the federal 74436
Small Business Administration. The Ohio Emergency Management 74437
Agency shall publish and make available application packets 74438
outlining procedures for the State Disaster Relief Program and the 74439
State Individual Assistance Program. 74440

JUSTICE ASSISTANCE GRANT FUND 74441

The federal payments made to the state for the Byrne Justice 74442
Assistance Grants Program under Title II of Division A of the 74443
American Recovery and Reinvestment Act of 2009 shall be deposited 74444
to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 74445
which is hereby created in the state treasury. All investment 74446
earnings of the fund shall be credited to the fund. 74447

FEDERAL STIMULUS - JUSTICE PROGRAMS 74448

The federal payments made to the state for the Violence 74449
Against Women Formula Grant under Title II of Division A of the 74450
American Recovery and Reinvestment Act of 2009 shall be deposited 74451
to the credit of the Federal Stimulus - Justice Programs Fund 74452
(Fund 3DH0). 74453

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 74454
AGENCY SERVICE AND REIMBURSEMENT FUND 74455

On July 1 of each fiscal year, or as soon as possible 74456
thereafter, the Director of Budget and Management shall transfer 74457
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 74458
the Emergency Management Agency Service and Reimbursement Fund 74459
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 74460
Search and Rescue Unit and other urban search and rescue programs 74461

| | |
|--|-------|
| around the state. | 74462 |
| FAMILY VIOLENCE PREVENTION FUND | 74463 |
| Notwithstanding any provision of law to the contrary, in each | 74464 |
| of fiscal years 2012 and 2013, the first \$750,000 received to the | 74465 |
| credit of the Family Violence Prevention Fund (Fund 5BK0) shall be | 74466 |
| appropriated to appropriation item 768689, Family Violence Shelter | 74467 |
| Programs, and the next \$400,000 received to the credit of Fund | 74468 |
| 5BK0 in each of those fiscal years shall be appropriated to | 74469 |
| appropriation item 768687, Criminal Justice Services - Operating. | 74470 |
| Any moneys received to the credit of Fund 5BK0 in excess of the | 74471 |
| aforementioned appropriated amounts in each fiscal year shall, | 74472 |
| upon the approval of the Controlling Board, be used to provide | 74473 |
| grants to family violence shelters in Ohio. | 74474 |
| SARA TITLE III HAZMAT PLANNING | 74475 |
| The SARA Title III HAZMAT Planning Fund (Fund 6810) is | 74476 |
| entitled to receive grant funds from the Emergency Response | 74477 |
| Commission to implement the Emergency Management Agency's | 74478 |
| responsibilities under Chapter 3750. of the Revised Code. | 74479 |
| COLLECTIVE BARGAINING INCREASES | 74480 |
| Notwithstanding division (D) of section 127.14 and division | 74481 |
| (B) of section 131.35 of the Revised Code, except for the General | 74482 |
| Revenue Fund, the Controlling Board may, upon the request of | 74483 |
| either the Director of Budget and Management, or the Department of | 74484 |
| Public Safety with the approval of the Director of Budget and | 74485 |
| Management, increase appropriations for any fund, as necessary for | 74486 |
| the Department of Public Safety, to assist in paying the costs of | 74487 |
| increases in employee compensation that have occurred pursuant to | 74488 |
| collective bargaining agreements under Chapter 4117. of the | 74489 |
| Revised Code and, for exempt employees, under section 124.152 of | 74490 |
| the Revised Code. | 74491 |
| CASH BALANCE FUND REVIEW | 74492 |

Not later than the first day of April in each fiscal year of 74493
the biennium, the Director of Budget and Management shall review 74494
the cash balances for each fund, except the State Highway Safety 74495
Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 74496
4W40), in the State Highway Safety Fund Group, and shall recommend 74497
to the Controlling Board an amount to be transferred to the credit 74498
of Fund 7036 or Fund 4W40, as appropriate. 74499

Section 601.11. That existing Section 205.10 of Am. Sub. H.B. 74500
114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 74501
of the 129th General Assembly, is hereby repealed. 74502

Section 601.20. That Section 201 of Sub. H.B. 123 of the 74503
129th General Assembly be amended to read as follows: 74504

Sec. 201. All items in Sections 201 and 203 of this act are 74505
hereby appropriated out of any moneys in the state treasury to the 74506
credit of the designated fund. For all appropriations made in this 74507
act, those in the first column are for fiscal year 2012, and those 74508
in the second column are for fiscal year 2013. 74509

| FND | AI | AI TITLE | Appropriations | | |
|------|--------|-------------------------------------|----------------|------------------------|-------|
| | | BWC BUREAU OF WORKERS' COMPENSATION | | | 74511 |
| | | Workers' Compensation Fund Group | | | 74512 |
| 7023 | 855401 | William Green Lease | \$ 18,291,365 | \$ 17,533,370 | 74513 |
| | | Payments to OBA | | | |
| 7023 | 855407 | Claims, Risk and | \$ 125,427,732 | 124,192,959 | 74514 |
| | | Medical Management | | <u>122,492,959</u> | |
| 7023 | 855408 | Fraud Prevention | \$ 11,331,154 | \$ 11,164,226 | 74515 |
| 7023 | 855409 | Administrative | \$ 101,724,950 | 104,136,037 | 74516 |
| | | Services | | <u>103,346,037</u> | |
| 7023 | 855410 | Attorney General | \$ 4,621,850 | \$ 4,621,850 | 74517 |
| | | Payments | | | |
| 8220 | 855606 | Coal Workers' Fund | \$ 150,586 | \$ 147,666 | 74518 |

| | | | | | | | |
|------------------------------------|--------|---------------------|----|-------------|----|------------------------|--------------------|
| 8230 | 855608 | Marine Industry | \$ | 76,532 | \$ | 75,527 | 74519 |
| 8250 | 855605 | Disabled Workers | \$ | 322,266 | \$ | 319,718 | 74520 |
| | | Relief Fund | | | | | |
| 8260 | 855609 | Safety and Hygiene | \$ | 20,382,567 | \$ | 20,161,132 | 74521 |
| | | Operating | | | | | |
| 8260 | 855610 | Gear Program | \$ | 4,000,000 | \$ | 4,000,000 | 74522 |
| 8290 | 855604 | Long Term Care Loan | \$ | 1,000,000 | \$ | 1,000,000 | 74523 |
| | | Program | | | | <u>100,000</u> | |
| TOTAL WCF Workers' Compensation | | | | | | | 74524 |
| Fund Group | | | \$ | 287,329,002 | \$ | 287,352,485 | 74525 |
| | | | | | | | <u>283,962,485</u> |
| Federal Special Revenue Fund Group | | | | | | | 74526 |
| 3490 | 855601 | OSHA Enforcement | \$ | 1,670,998 | \$ | 1,647,515 | 74527 |
| TOTAL FED Federal Special Revenue | | | \$ | 1,670,998 | \$ | 1,647,515 | 74528 |
| Fund Group | | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 289,000,000 | \$ | 289,000,000 | 74529 |
| | | | | | | | <u>285,610,000</u> |

WILLIAM GREEN LEASE PAYMENTS 74530

The foregoing appropriation item 855401, William Green Lease 74531
 Payments to OBA, shall be used for lease payments to the Ohio 74532
 Building Authority, and these appropriations shall be used to meet 74533
 all payments at the times they are required to be made during the 74534
 period from July 1, 2011, to June 30, 2013, by the Bureau of 74535
 Workers' Compensation to the Ohio Building Authority pursuant to 74536
 leases and agreements made under Chapter 152. of the Revised Code 74537
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 74538
 Of the amounts received in Fund 7023, appropriation item 855401, 74539
 William Green Lease Payments to OBA, up to \$35,824,735 shall be 74540
 restricted for lease rental payments to the Ohio Building 74541
 Authority. If it is determined that additional appropriations are 74542
 necessary for such purpose, such amounts are hereby appropriated. 74543

Notwithstanding any provision of law to the contrary, all 74544

tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT 74549

The Workers' Compensation Section Fund (Fund 1950) administered by the Attorney General shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in fiscal year 2012 and \$828,200 in fiscal year 2013 shall be used to provide these payments.

SAFETY AND HYGIENE 74558

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer \$20,382,567 cash in fiscal year 2012 and \$20,161,132 cash in fiscal year 2013 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

OSHA ON-SITE CONSULTATION PROGRAM 74563

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION 74568

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide \$605,407 in fiscal year 2012 and \$605,407 in fiscal year 2013 from the State Insurance Fund to fund vocational rehabilitation services and

staff in accordance with the interagency agreement. 74575

FUND BALANCE 74576

Any unencumbered cash balance in excess of \$45,000,000 in the 74577
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 74578
June of each fiscal year shall be used to reduce the 74579
administrative cost rate charged to employers to cover 74580
appropriations for Bureau of Workers' Compensation operations. 74581

Section 601.21. That existing Section 201 of Sub. H.B. 123 of 74582
the 129th General Assembly is hereby repealed. 74583

Section 601.30. That Section 1 of H.B. 124 of the 129th 74584
General Assembly be amended to read as follows: 74585

Sec. 1. All items in this section are hereby appropriated out 74586
of any moneys in the state treasury to the credit of the 74587
designated fund. For all appropriations made in this section, 74588
those in the first column are for fiscal year 2012, and those in 74589
the second column are for fiscal year 2013. 74590

Appropriations 74591

| | | | | | |
|--------|----------|--|---------|---------|-------|
| FND AI | AI TITLE | | FY 2012 | FY 2013 | 74592 |
|--------|----------|--|---------|---------|-------|

OIC INDUSTRIAL COMMISSION 74593

Workers' Compensation Fund Group 74594

| | | | | | | |
|-------------|--------------------|----|------------|----|-----------------------|-------|
| 5W30 845321 | Operating Expenses | \$ | 50,100,000 | \$ | 48,900,000 | 74595 |
| | | | | | <u>47,732,000</u> | |

| | | | | | | |
|-------------|----------------------|----|-----------|----|-----------|-------|
| 5W30 845402 | Rent - William Green | \$ | 5,500,000 | \$ | 5,500,000 | 74596 |
| | Building | | | | | |

| | | | | | | |
|-------------|------------------|----|-----------|----|-----------|-------|
| 5W30 845410 | Attorney General | \$ | 3,900,000 | \$ | 4,000,000 | 74597 |
| | Payments | | | | | |

TOTAL WCF Workers' Compensation 74598

| | | | | | | |
|------------|--|----|------------|----|-----------------------|-------|
| Fund Group | | \$ | 59,500,000 | \$ | 58,400,000 | 74599 |
| | | | | | <u>57,232,000</u> | |

| | | | | | |
|------------------------------|----|------------|----|-----------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 59,500,000 | \$ | 58,400,000 | 74600 |
| | | | | <u>57,232,000</u> | |

RENT - WILLIAM GREEN BUILDING 74601

The foregoing appropriation item 845402, Rent - William Green 74602
 Building, shall be used for rent and operating expenses for the 74603
 space occupied by the Industrial Commission in the William Green 74604
 Building. 74605

Section 601.31. That existing Section 1 of H.B. 124 of the 74606
 129th General Assembly is hereby repealed. 74607

Section 601.40. That Sections 205.10, 207.10, 207.10.80, 74608
 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 209.30, 211.10, 74609
 215.10, 215.20, 223.10, 229.10, 243.10, 245.10, 261.10.40, 74610
 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 74611
 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 74612
 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 74613
 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 74614
 267.30.20, 267.30.40, 267.40.40, 279.10, 283.10, 285.10, 287.10, 74615
 291.10, 305.10, 307.10, 309.10, 309.30.10, 309.30.30, 309.30.33, 74616
 309.30.53, 309.30.73, 309.35.73, 309.60.20, 313.10, 315.10, 74617
 323.10, 327.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 74618
 371.10, 371.30.30, 371.50.61, 371.50.65, 371.60.80, 373.10, 74619
 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 521.70, 74620
 701.40, and 753.25 of Am. Sub. H.B. 153 of the 129th General 74621
 Assembly be amended to read as follows: 74622

Sec. 205.10. ADJ ADJUTANT GENERAL 74623

General Revenue Fund 74624

| | | | | | | | |
|-----|--------|-----------------------|----|-----------|----|-----------|-------|
| GRF | 745401 | Ohio Military Reserve | \$ | 12,308 | \$ | 12,308 | 74625 |
| GRF | 745404 | Air National Guard | \$ | 1,810,606 | \$ | 1,810,606 | 74626 |
| GRF | 745407 | National Guard | \$ | 400,000 | \$ | 400,000 | 74627 |

| | | | | | | | |
|-----------|--------|------------------------------------|----|------------|----|----------------------|-------|
| | | Benefits | | | | | |
| GRF | 745409 | Central | \$ | 2,692,098 | \$ | 2,692,098 | 74628 |
| | | Administration | | | | <u>2,682,098</u> | |
| GRF | 745499 | Army National Guard | \$ | 3,687,888 | \$ | 3,689,871 | 74629 |
| TOTAL GRF | | General Revenue Fund | \$ | 8,602,900 | \$ | 8,604,883 | 74630 |
| | | | | | | <u>8,594,883</u> | |
| | | General Services Fund Group | | | | | 74631 |
| 5340 | 745612 | Property Operations | \$ | 534,304 | \$ | 534,304 | 74632 |
| | | Management | | | | | |
| 5360 | 745605 | Marksmanship | \$ | 128,600 | \$ | 128,600 | 74633 |
| | | Activities | | | | | |
| 5360 | 745620 | Camp Perry and | \$ | 1,178,311 | \$ | 978,846 | 74634 |
| | | Buckeye Inn | | | | | |
| | | Operations | | | | | |
| 5370 | 745604 | Ohio National Guard | \$ | 62,000 | \$ | 62,000 | 74635 |
| | | Facilities | | | | | |
| | | Maintenance | | | | | |
| TOTAL GSF | | General Services Fund | \$ | 1,903,215 | \$ | 1,703,750 | 74636 |
| | | Group | | | | | |
| | | Federal Special Revenue Fund Group | | | | | 74637 |
| 3410 | 745615 | Air National Guard | \$ | 2,977,692 | \$ | 2,977,692 | 74638 |
| | | Base Security | | | | | |
| 3420 | 745616 | Army National Guard | \$ | 10,970,050 | \$ | 10,970,050 | 74639 |
| | | Service Agreement | | | | | |
| 3E80 | 745628 | Air National Guard | \$ | 16,958,595 | \$ | 16,958,595 | 74640 |
| | | Operations and | | | | | |
| | | Maintenance | | | | | |
| 3R80 | 745603 | Counter Drug | \$ | 25,000 | \$ | 25,000 | 74641 |
| | | Operations | | | | | |
| TOTAL FED | | Federal Special Revenue | \$ | 30,931,337 | \$ | 30,931,337 | 74642 |
| | | Fund Group | | | | | |
| | | State Special Revenue Fund Group | | | | | 74643 |

| | | | | | | |
|---------------------------------|-----------------|----|------------|----|-----------------------|-------|
| 5U80 745613 | Community Match | \$ | 250,000 | \$ | 250,000 | 74644 |
| | Armories | | | | | |
| TOTAL SSR State Special Revenue | | \$ | 250,000 | \$ | 250,000 | 74645 |
| Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 41,687,452 | \$ | 41,489,970 | 74646 |
| | | | | | <u>41,479,970</u> | |

NATIONAL GUARD BENEFITS 74647

The foregoing appropriation item 745407, National Guard 74648
 Benefits, shall be used for purposes of sections 5919.31 and 74649
 5919.33 of the Revised Code, and for administrative costs of the 74650
 associated programs. 74651

For active duty members of the Ohio National Guard who died 74652
 after October 7, 2001, while performing active duty, the death 74653
 benefit, pursuant to section 5919.33 of the Revised Code, shall be 74654
 paid to the beneficiary or beneficiaries designated on the 74655
 member's Servicemembers' Group Life Insurance Policy. 74656

STATE ACTIVE DUTY COSTS 74657

Of the foregoing appropriation item 745409, Central 74658
 Administration, \$50,000 in each fiscal year shall be used for the 74659
 purpose of paying expenses related to state active duty of members 74660
 of the Ohio organized militia, in accordance with a proclamation 74661
 of the Governor. Expenses include, but are not limited to, the 74662
 cost of equipment, supplies, and services, as determined by the 74663
 Adjutant General's Department. 74664

Sec. 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 74665

| | | | | | | |
|----------------------|----------------------|----|------------|----|--------------------|-------|
| General Revenue Fund | | | | | | 74666 |
| GRF 100403 | Public Employees | \$ | 400,000 | \$ | 400,000 | 74667 |
| | Health Care Program | | | | <u>344,000</u> | |
| GRF 100415 | OAKS Rental Payments | \$ | 23,024,500 | \$ | 23,006,300 | 74668 |
| GRF 100416 | STARS Lease Rental | \$ | 4,970,700 | \$ | 4,971,300 | 74669 |

| | | | | | | |
|-----------------------------|----------------------|---|-----------|-------------|-----------|--|
| | | Payments | | | | |
| GRF | 100418 | Web Sites and Business Gateway | \$ | 2,895,063 | \$ | 2,795,176 0 74670 |
| GRF | 100419 | IT Security Infrastructure | \$ | 742,535 | \$ | 742,648 0 74671 |
| GRF | 100439 | Equal Opportunity Certification Programs | \$ | 625,000 | \$ | 625,000 0 74672 |
| GRF | 100447 | OBA - Building Rent Payments | \$ | 53,260,000 | \$ | 83,504,200 74673 |
| GRF | 100448 | OBA - Building Operating Payments | \$ | 21,000,000 | \$ | 21,000,000 20,000,000 74674 |
| GRF | 100449 | DAS - Building Operating Payments | \$ | 7,551,245 | \$ | 7,551,571 74675 |
| GRF | 100451 | Minority Affairs | \$ | 24,016 | \$ | 24,016 0 74676 |
| <u>GRF</u> | <u>100452</u> | <u>Efficiency & Results Program</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>650,000</u> 74677 |
| <u>GRF</u> | <u>100456</u> | <u>State IT Services</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>3,537,824</u> 74678 |
| <u>GRF</u> | <u>100457</u> | <u>Equal Opportunity Services</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>1,610,516</u> 74679 |
| <u>GRF</u> | <u>100458</u> | <u>State Construction Management Services</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>2,745,751</u> 74680 |
| GRF | 102321 | Construction Compliance | \$ | 920,000 | \$ | 920,000 0 74681 |
| GRF | 130321 | State Agency Support Services | \$ | 2,779,457 | \$ | 2,780,032 2,752,232 74682 |
| TOTAL GRF | General Revenue Fund | | \$ | 118,192,516 | \$ | 148,320,243 150,673,694 74683 |
| General Services Fund Group | | | | | | 74684 |
| 1120 | 100616 | DAS Administration | \$ | 5,974,625 | \$ | 5,886,524 5,827,659 74685 |
| 1150 | 100632 | Central Service Agency | \$ | 911,995 | \$ | 912,305 903,182 74686 |
| 1170 | 100644 | General Services | \$ | 13,000,000 | \$ | 13,000,000 74687 |

| | | | | | | | |
|------|--------|------------------------|----|------------|----|-----------------------|-------|
| | | Division - Operating | | | | | |
| 1220 | 100637 | Fleet Management | \$ | 3,978,827 | \$ | 4,204,066 | 74688 |
| | | | | | | <u>4,412,025</u> | |
| 1250 | 100622 | Human Resources | \$ | 16,922,295 | \$ | 16,717,009 | 74689 |
| | | Division - Operating | | | | <u>16,549,839</u> | |
| 1250 | 100657 | Benefits Communication | \$ | 925,586 | \$ | 921,531 | 74690 |
| | | | | | | <u>912,316</u> | |
| 1280 | 100620 | Collective Bargaining | \$ | 3,462,529 | \$ | 3,464,148 | 74691 |
| | | | | | | <u>3,429,507</u> | |
| 1300 | 100606 | Risk Management | \$ | 10,349,494 | \$ | 12,149,884 | 74692 |
| | | Reserve | | | | <u>12,028,385</u> | |
| 1310 | 100639 | State Architect's | \$ | 9,812,132 | \$ | 9,813,342 | 74693 |
| | | Office | | | | <u>9,463,342</u> | |
| 1320 | 100631 | DAS Building | \$ | 11,000,000 | \$ | 11,000,000 | 74694 |
| | | Management | | | | | |
| 1330 | 100607 | IT Services Delivery | \$ | 58,088,940 | \$ | 58,103,005 | 74695 |
| | | | | | | <u>57,521,975</u> | |
| 1880 | 100649 | Equal Opportunity | \$ | 939,559 | \$ | 863,013 | 74696 |
| | | Division - Operating | | | | | |
| 2100 | 100612 | State Printing | \$ | 17,597,054 | \$ | 16,659,526 | 74697 |
| 2290 | 100630 | IT Governance | \$ | 14,000,000 | \$ | 14,000,000 | 74698 |
| 2290 | 100640 | Leveraged Enterprise | \$ | 3,000,000 | \$ | 3,000,000 | 74699 |
| | | Purchases | | | | <u>2,816,535</u> | |
| 4270 | 100602 | Investment Recovery | \$ | 4,100,000 | \$ | 4,100,000 | 74700 |
| | | | | | | <u>4,000,000</u> | |
| 4N60 | 100617 | Major IT Purchases | \$ | 1,950,000 | \$ | 4,950,000 | 74701 |
| 4P30 | 100603 | DAS Information | \$ | 5,047,565 | \$ | 4,979,392 | 74702 |
| | | Services | | | | <u>4,929,598</u> | |
| 5C20 | 100605 | MARCS Administration | \$ | 14,075,705 | \$ | 14,077,467 | 74703 |
| 5C30 | 100608 | Skilled Trades | \$ | 404,297 | \$ | 404,375 | 74704 |
| | | | | | | <u>204,375</u> | |
| 5EB0 | 100635 | OAKS Support | \$ | 19,000,539 | \$ | 19,003,108 | 74705 |
| | | Organization | | | | <u>18,813,077</u> | |

| | | | | |
|------------------------------------|--|----------------|---|-------|
| 5EB0 100656 | OAKS Updates and Developments | \$ 12,265,952 | \$ 8,743,462 <u>8,656,027</u> | 74706 |
| 5HU0 100655 | Construction Reform Demo Compliance | \$ 150,000 | \$ 150,000 | 74707 |
| 5L70 100610 | Professional Development | \$ 2,496,679 | \$ 2,496,760 | 74708 |
| 5V60 100619 | Employee Educational Development | \$ 800,000 | \$ 850,000 | 74709 |
| 5X30 100634 | Centralized Gateway Enhancement | \$ 2,052,308 | \$ 2,052,308 | 74710 |
| TOTAL GSF General Services Fund | | | | 74711 |
| Group | | \$ 232,306,081 | \$ 232,501,225 <u>230,566,916</u> | 74712 |
| Federal Special Revenue Fund Group | | | | 74713 |
| 3AJ0 100654 | ARRA Broadband Mapping Grant | \$ 270,756 | \$ 106,347 | 74714 |
| TOTAL FED Federal Special Revenue | | | | 74715 |
| Fund Group | | \$ 270,756 | \$ 106,347 | 74716 |
| State Special Revenue Fund Group | | | | 74717 |
| 5JQ0 100658 | Professions <u>Professionals</u> Licensing System | \$ 2,000,000 | \$ 1,000,000 <u>990,000</u> | 74718 |
| TOTAL SSR State Special Revenue | | | | 74719 |
| Fund Group | | \$ 2,000,000 | \$ 1,000,000 <u>990,000</u> | 74720 |
| TOTAL ALL BUDGET FUND GROUPS | | | | 74721 |
| | | \$ 352,769,353 | \$ 381,927,815 <u>382,336,957</u> | |

Sec. 207.10.80. DAS - BUILDING OPERATING PAYMENTS 74723

The foregoing appropriation item 100449, DAS - Building 74724
 Operating Payments, shall be used to pay the rent expenses of 74725
 veterans organizations pursuant to section 123.024 of the Revised 74726

Code in fiscal years 2012 and 2013. 74727

The foregoing appropriation item, 100449, DAS - Building 74728
Operating Payments, also may be used to provide funding for the 74729
cost of property appraisals or building studies that the 74730
Department of Administrative Services may be required to obtain 74731
for property that is being sold by the state or property under 74732
consideration to be renovated or purchased by the state. 74733

Notwithstanding section 125.28 of the Revised Code, the 74734
remaining portion of the appropriation may be used to pay the 74735
operating expenses of state facilities maintained by the 74736
Department of Administrative Services that are not billed to 74737
building tenants, or other costs associated with the Voinovich 74738
Center in Youngstown, Ohio. These expenses may include, but are 74739
not limited to, the costs for vacant space and space undergoing 74740
renovation, and the rent expenses of tenants that are relocated 74741
because of building renovations. These payments shall be processed 74742
by the Department of Administrative Services through intrastate 74743
transfer vouchers and placed in the Building Management Fund (Fund 74744
1320). 74745

STATE IT SERVICES 74746

The foregoing appropriation item 100456, State IT Services, 74747
shall be used to pay costs associated with the Ohio Business 74748
Gateway, State Portal, and Shared Hosting Service that were 74749
formerly paid from appropriation item 100418, Web Sites and 74750
Business Gateway, and costs associated with statewide operators 74751
and the Ohio Geographically Referenced Information Program that 74752
were formerly paid from appropriation item 100419, IT Security 74753
Infrastructure. The Director of Budget and Management shall cancel 74754
any existing encumbrances against appropriation items 100418, Web 74755
Site and Business Gateway and 100419, IT Security Infrastructure, 74756
and reestablish them against appropriation item 100456, State IT 74757
Services. The reestablished encumbrance amounts are hereby 74758

appropriated. 74759

EQUAL OPPORTUNITY SERVICES 74760

The foregoing appropriation item 100457, Equal Opportunity 74761
Services, shall be used to pay costs associated with the 74762
certification of businesses for participation in the Minority 74763
Business Enterprise and Encouraging Diversity, Growth and Equity 74764
Programs that were formerly paid from appropriation item 100439, 74765
Equal Opportunity Certification Programs; the activities of the 74766
Ohio Dr. Martin Luther King, Jr. Holiday Commission that were 74767
formerly paid from appropriation item 100451, Minority Affairs; 74768
and the monitoring of equal employment opportunity (EEO) and 74769
affirmative action requirements to ensure contractors bidding on 74770
and receiving contracts comply with EEO laws, rules, and 74771
regulations that were formerly paid from appropriation item 74772
102321, Construction Compliance. The Director of Budget and 74773
Management shall cancel any existing encumbrances against 74774
appropriation items 100439, Equal Opportunity Certification 74775
Programs; 100451, Minority Affairs; and 102321, Construction 74776
Compliance, and reestablish them against appropriation item 74777
100457, Equal Opportunity Services. The reestablished encumbrance 74778
amounts are hereby appropriated. 74779

STATE CONSTRUCTION MANAGEMENT SERVICES 74780

The foregoing appropriation item 100458, State Construction 74781
Management Services, shall be used to pay costs of statewide 74782
shared construction-related services and capital improvement 74783
project management services provided through the state's 74784
enterprise resource planning system. 74785

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE 74786
HUMAN RESOURCES SERVICES FUND 74787

Upon request of the Director of Administrative Services, in 74788
FY 2013, the Director of Budget and Management shall transfer up 74789

to \$975,000 from the Workforce Development Fund (Fund 5D70) to the 74790
Human Resources Services Fund (Fund 1250) to support one-time 74791
human resources administration activities for state agencies. 74792

Sec. 207.20.10. GENERAL SERVICE CHARGES 74793

The Department of Administrative Services, with the approval 74794
of the Director of Budget and Management, shall establish charges 74795
for recovering the costs of administering the programs funded by 74796
the General Services Fund (Fund 1170) and the State Printing Fund 74797
(Fund 2100). Such charges within Fund 1170 may be used to recover 74798
the cost of paying a vendor to establish reduced pricing for 74799
contracted supplies or services. 74800

If the Director of Administrative Services determines that 74801
additional amounts are necessary to pay for consulting and 74802
administrative costs related to securing lower pricing, the 74803
Director of Administrative Services may request that the Director 74804
of Budget and Management approve additional expenditures. Such 74805
approved additional amounts are appropriated to appropriation item 74806
100644, General Services Division-Operating. 74807

Sec. 207.20.30. EQUAL OPPORTUNITY PROGRAM 74808

The Department of Administrative Services, with the approval 74809
of the Director of Budget and Management, shall establish charges 74810
for recovering the costs of administering the activities supported 74811
by the State EEO Fund (Fund 1880). These charges shall be 74812
deposited to the credit of the State EEO Fund (Fund 1880) upon 74813
payment made by state agencies, state-supported or state-assisted 74814
institutions of higher education, and tax-supported agencies, 74815
municipal corporations, and other political subdivisions of the 74816
state, for services rendered. 74817

LEVERAGED ENTERPRISE PURCHASES 74818

The foregoing appropriation item 100640, Leveraged Enterprise 74819

Purchases, shall be used by the Department of Administrative Services to make information technology purchases for the benefit of one or more government entities as authorized under division (G) of section 125.18 of the Revised Code. If the Director of Administrative Services determines that the existing appropriation is insufficient to timely make such purchases, the Director of Administrative Services shall seek Controlling Board approval for an increase in appropriation to make the requested purchases. 74820
74821
74822
74823
74824
74825
74826
74827

~~Sec. 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES FUND~~ 74828
74829

~~Upon request of the Director of Administrative Services, the Director of Budget and Management may make the following transfers from the Major IT Purchases Fund (Fund 4N60):-~~ 74830
74831
74832

~~(1) Up to \$2,800,000 in each fiscal year of the biennium to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect;~~ 74833
74834
74835
74836
74837

~~(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in fiscal year 2013 to the Director's Office Fund (Fund 1120) to support operating expenses of the Accountability and Results Initiative.~~ 74838
74839
74840
74841

CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND 74842

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$4,000,000 from the OAKS Support Organization Fund (Fund 5EB0) to the Major IT Purchases Fund (Fund 4N60). This amount represents cash transferred from Fund 4N60 during fiscal year 2010 pursuant to Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General Assembly. Any portion of appropriation item 100617, Major IT 74843
74844
74845
74846
74847
74848
74849

Purchases, that is unencumbered and unexpended at the end of 74850
fiscal year 2012 is hereby reappropriated for fiscal year 2013. 74851

Sec. 209.10. AGE DEPARTMENT OF AGING 74852

General Revenue Fund 74853

GRF 490321 Operating Expenses \$ 1,501,616 \$ ~~1,502,442~~ 74854
1,487,418

GRF 490410 Long-Term Care \$ 482,271 \$ ~~482,271~~ 74855
Ombudsman 477,448

GRF 490411 Senior Community \$ 7,130,952 \$ ~~7,131,236~~ 74856
Services 7,060,844

GRF 490414 Alzheimer's Respite \$ 1,917,740 \$ ~~1,917,757~~ 74857
1,895,245

GRF 490423 Long-Term Care Budget \$ 3,419,250 \$ ~~3,419,250~~ 74858
- State 3,385,057

GRF 490506 National Senior \$ 241,413 \$ 241,413 74859
Service Corps

TOTAL GRF General Revenue Fund \$ 14,693,242 \$ ~~14,694,369~~ 74860
14,547,425

General Services Fund Group 74861

4800 490606 Senior Community \$ 372,518 \$ 372,523 74862
Outreach and
Education

TOTAL GSF General Services Fund 74863

Group \$ 372,518 \$ 372,523 74864

Federal Special Revenue Fund Group 74865

3220 490618 Federal Aging Grants \$ 14,000,000 \$ 14,000,000 74866

3C40 490623 Long-Term Care Budget \$ 3,525,000 \$ 3,525,000 74867

3M40 490612 Federal Independence \$ 63,655,080 \$ 63,655,080 74868
Services

TOTAL FED Federal Special Revenue 74869

Fund Group \$ 81,180,080 \$ 81,180,080 74870

| | | | | |
|----------------------------------|----|------------|--------------------------|-------|
| State Special Revenue Fund Group | | | | 74871 |
| 4C40 490609 Regional Long-Term | \$ | 935,000 | \$ 935,000 | 74872 |
| Care Ombudsman | | | <u>2,435,000</u> | |
| Program | | | | |
| 5BA0 490620 Ombudsman Support | \$ | 750,000 | \$ 750,000 | 74873 |
| 5K90 490613 Long-Term Care | \$ | 1,059,400 | \$ 1,059,400 | 74874 |
| Consumers Guide | | | | |
| 5W10 490616 Resident Services | \$ | 344,692 | \$ 344,700 | 74875 |
| Coordinator Program | | | | |
| TOTAL SSR State Special Revenue | | | | 74876 |
| Fund Group | \$ | 3,089,092 | \$ 3,089,100 | 74877 |
| | | | <u>4,589,100</u> | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 99,334,932 | \$ 99,336,072 | 74878 |
| | | | <u>100,689,128</u> | |

Sec. 209.20. LONG-TERM CARE 74880

Pursuant to an interagency agreement, the Department of Job and Family Services ~~shall~~ may designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation items 490423, Long-Term Care Budget - State, and 490623, Long-Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

| | |
|--|---|
| Sec. 209.30. LONG-TERM CARE OMBUDSMAN | 74896 |
| The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code. | 74897 74898 74899 74900 |
| SENIOR COMMUNITY SERVICES | 74901 |
| The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients. | 74902 74903 74904 74905 74906 74907 74908 74909 74910 74911 74912 |
| ALZHEIMER'S RESPITE | 74913 |
| The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code. | 74914 74915 74916 |
| SENIOR COMMUNITY OUTREACH AND EDUCATION | 74917 |
| The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code. | 74918 74919 74920 74921 |
| TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS | 74922 74923 |
| At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between | 74924 74925 |

appropriation items 490612, Federal Independence Services, and 74926
490618, Federal Aging Grants. The amounts transferred shall not 74927
exceed 30 per cent of the appropriation from which the transfer is 74928
made. Any transfers shall be reported by the Department of Aging 74929
to the Controlling Board at the next scheduled meeting of the 74930
board. 74931

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 74932

~~The~~ Of the foregoing appropriation item 490609, Regional 74933
Long-Term Care Ombudsman Program, \$935,000 in each fiscal year 74934
shall be used to pay the costs of operating the regional long-term 74935
care ombudsman programs designated by the Long-Term Care 74936
Ombudsman. 74937

Notwithstanding division (B) of section 173.26 of the Revised 74938
Code, of the foregoing appropriation item 490609, Regional 74939
Long-Term Care Ombudsman Program, \$1,500,000 in fiscal year 2013 74940
shall be used for costs associated with the Aging in Place Pilot 74941
Program. 74942

TRANSFER OF RESIDENT PROTECTION FUNDS 74943

In each fiscal year, the Director of Budget and Management 74944
may transfer up to \$750,000 cash from the Resident Protection Fund 74945
(Fund 4E30), which is used by the Department of Job and Family 74946
Services, to the Ombudsman Support Fund (Fund 5BA0), which is used 74947
by the Department of Aging. The moneys in the Ombudsman Support 74948
Fund may be used by the state office of the Long-Term Care 74949
Ombudsman Program and by regional ombudsman programs to promote 74950
person-centered care in nursing homes. 74951

On July 1, 2011, or as soon as possible thereafter, the 74952
Department of Aging shall certify to the Director of Budget and 74953
Management the amount of the cash balance in the Ombudsman Support 74954
Fund at the end of fiscal year 2011. 74955

LONG-TERM CARE CONSUMERS GUIDE 74956

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide. 74957
74958
74959
74960
74961

During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of providers reviewed in the Ohio Long-Term Care Consumer Guide. 74962
74963
74964
74965
74966
74967
74968
74969

Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE 74970

General Revenue Fund 74971

GRF 700401 Animal Disease Control \$ 3,936,687 \$ 3,936,687 74972

GRF 700403 Dairy Division \$ 1,088,115 \$ 1,088,115 74973

GRF 700404 Ohio Proud \$ 50,000 \$ 50,000 74974

GRF 700406 Consumer Analytical Lab \$ 1,287,556 \$ 1,287,556 74975

GRF 700407 Food Safety \$ 848,792 \$ 848,792 74976

GRF 700409 Farmland Preservation \$ 72,750 \$ 72,750 74977

GRF 700412 Weights and Measures \$ 600,000 \$ 600,000 74978

GRF 700415 Poultry Inspection \$ 392,978 \$ 392,978 74979

GRF 700418 Livestock Regulation Program \$ 1,108,071 \$ 1,108,071 74980

GRF 700424 Livestock Testing and Inspections \$ 102,770 \$ 102,770 74981

GRF 700426 Dangerous and Restricted Animals \$ 0 \$ 500,000 74982

GRF 700499 Meat Inspection \$ 4,175,097 \$ 4,175,097 74983

| | | | | | | |
|-------------|------------------------------------|-----------------------|----|------------|-----------------------|-------------------------|
| | | Program - State Share | | | | |
| GRF 700501 | County Agricultural | | \$ | 391,413 | \$ | 391,413 74984 |
| | Societies | | | | | |
| TOTAL GRF | General Revenue Fund | | \$ | 14,054,129 | 14,054,229 | <u>14,554,229</u> 74985 |
| | General Services Fund Group | | | | | 74986 |
| 5DA0 700644 | Laboratory | | \$ | 1,094,867 | \$ | 1,094,867 74987 |
| | Administration | | | | | |
| | Support | | | | | |
| 5GH0 700655 | Central Support | | \$ | 4,456,842 | \$ | 4,456,842 74988 |
| | Indirect Cost | | | | | |
| TOTAL GSF | General Services Fund | | \$ | 5,551,709 | \$ | 5,551,709 74989 |
| | Group | | | | | |
| | Federal Special Revenue Fund Group | | | | | 74990 |
| 3260 700618 | Meat Inspection | | \$ | 4,950,000 | \$ | 4,950,000 74991 |
| | Program - Federal | | | | | |
| | Share | | | | | |
| 3360 700617 | Ohio Farm Loan | | \$ | 150,000 | \$ | 150,000 74992 |
| | Revolving Fund | | | | | |
| 3820 700601 | Cooperative Contracts | | \$ | 2,000,000 | \$ | 2,000,000 74993 |
| 3AB0 700641 | Agricultural Easement | | \$ | 1,000,000 | \$ | 1,000,000 74994 |
| 3J40 700607 | Indirect Cost | | \$ | 600,000 | \$ | 600,000 74995 |
| 3R20 700614 | Federal Plant | | \$ | 1,000,000 | \$ | 1,000,000 74996 |
| | Industry | | | | | |
| TOTAL FED | Federal Special Revenue | | | | | 74997 |
| | Fund Group | | \$ | 9,700,000 | \$ | 9,700,000 74998 |
| | State Special Revenue Fund Group | | | | | 74999 |
| 4960 700626 | Ohio Grape Industries | | \$ | 846,611 | \$ | 846,611 75000 |
| 4970 700627 | Commodity Handlers | | \$ | 483,402 | \$ | 483,402 75001 |
| | Regulatory Program | | | | | |
| 4C90 700605 | Commercial Feed and | | \$ | 1,816,897 | \$ | 1,816,897 75002 |
| | Seed | | | | | |
| 4D20 700609 | Auction Education | | \$ | 41,000 | \$ | 41,000 75003 |

| | | | | | | | |
|------------------------------------|--------|---|----|--|----|------------|-------|
| 4E40 | 700606 | Utility Radiological Safety | \$ | 131,785 | \$ | 131,785 | 75004 |
| 4P70 | 700610 | Food Safety Inspection | \$ | 1,085,836 | \$ | 1,085,836 | 75005 |
| 4R00 | 700636 | Ohio Proud Marketing | \$ | 30,500 | \$ | 30,500 | 75006 |
| 4R20 | 700637 | Dairy Industry Inspection | \$ | 1,758,247 | \$ | 1,758,247 | 75007 |
| 4T60 | 700611 | Poultry and Meat Inspection | \$ | 180,000 | \$ | 180,000 | 75008 |
| 4T70 | 700613 | Ohio Proud International and Domestic Market Development | \$ | 50,000 | \$ | 50,000 | 75009 |
| 5780 | 700620 | Ride Inspection Fees | \$ | 1,175,142 | \$ | 1,175,142 | 75010 |
| 5B80 | 700629 | Auctioneers | \$ | 359,823 | \$ | 359,823 | 75011 |
| 5FC0 | 700648 | Plant Pest Program | \$ | 1,164,000 <u>3,164,000</u> | \$ | 1,164,000 | 75012 |
| 5H20 | 700608 | Metrology Lab and Scale Certification | \$ | 750,000 | \$ | 750,000 | 75013 |
| 5HP0 | 700656 | Livestock Care Standards Board | \$ | 80,000 | \$ | 80,000 | 75014 |
| 5L80 | 700604 | Livestock Management Program | \$ | 584,000 | \$ | 584,000 | 75015 |
| 6520 | 700634 | Animal and Consumer Analytical Laboratory | \$ | 4,366,383 | \$ | 4,366,383 | 75016 |
| 6690 | 700635 | Pesticide, Fertilizer, and Lime Inspection Program | \$ | 3,418,041 | \$ | 3,418,041 | 75017 |
| TOTAL SSR State Special Revenue | | | | | | | 75018 |
| Fund Group | | | \$ | 18,321,667 <u>20,321,667</u> | \$ | 18,321,667 | 75019 |
| Clean Ohio Conservation Fund Group | | | | | | | 75020 |
| 7057 | 700632 | Clean Ohio | \$ | 310,000 | \$ | 310,000 | 75021 |

Fund 5GH0 appropriation item 700655, Central Support Indirect Cost. The reestablished encumbrance amounts are hereby appropriated. 75050
75051
75052

ASIAN LONGHORNED BEETLE 75053

On the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$2,000,000 in cash from the General Revenue Fund to the Plant Pest Fund (Fund 5FC0). 75054
75055
75056
75057

Of the foregoing appropriation item 700648, Plant Pest Program, up to \$2,000,000 in FY 2012 shall be used for reforestation and the eradication of the Asian Longhorned Beetle. Any portion of this transfer that remains unexpended and unencumbered in FY 2012 is hereby reappropriated for the same purpose in FY 2013. 75058
75059
75060
75061
75062
75063

CLEAN OHIO AGRICULTURAL EASEMENT 75064

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code. 75065
75066
75067
75068
75069

Sec. 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES 75070
75071

General Revenue Fund 75072

| | | | | | | |
|------------|----------------------|----|------------|----|-----------|-------|
| GRF 038401 | Treatment Services | \$ | 11,225,590 | \$ | 7,020,974 | 75073 |
| GRF 038404 | Prevention Services | \$ | 868,659 | \$ | 868,659 | 75074 |
| GRF 038501 | Medicaid Match | \$ | 23,959,113 | \$ | 0 | 75075 |
| TOTAL GRF | General Revenue Fund | \$ | 36,053,362 | \$ | 7,889,633 | 75076 |

General Services Fund 75077

| | | | | | | |
|-------------|---------------------------|----|---------|----|---------|-------|
| 5T90 038616 | Problem Gambling Services | \$ | 335,000 | \$ | 335,000 | 75078 |
|-------------|---------------------------|----|---------|----|---------|-------|

| | | | | | |
|------------------------------------|-----------|------------------------|-----------|------------------------|-------|
| TOTAL GSF General Services Fund | \$ | 335,000 | \$ | 335,000 | 75079 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 75080 |
| 3G40 038614 Substance Abuse Block | \$ | 69,000,000 | \$ | 69,000,000 | 75081 |
| Grant | | | | | |
| 3H80 038609 Demonstration Grants | \$ | 8,675,580 | \$ | 8,675,580 | 75082 |
| 3J80 038610 Medicaid | \$ | 69,200,000 | \$ | 0 | 75083 |
| 3N80 038611 Administrative | \$ | 300,000 | \$ | 300,000 | 75084 |
| Reimbursement | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 75085 |
| Fund Group | \$ | 147,175,580 | \$ | 77,975,580 | 75086 |
| State Special Revenue Fund Group | | | | | 75087 |
| 4750 038621 Statewide Treatment | \$ | 16,000,000 | \$ | 14,000,000 | 75088 |
| and Prevention | | | | <u>15,500,000</u> | |
| <u>5JL0 038629 Problem Casino</u> | <u>\$</u> | <u>226,612</u> | <u>\$</u> | <u>5,446,364</u> | 75089 |
| <u>Gambling and</u> | | | | | |
| <u>Addictions Fund</u> | | | | | |
| 5JW0 038615 Board Match | \$ | 3,000,000 | \$ | 3,000,000 | 75090 |
| Reimbursement | | | | | |
| 6890 038604 Education and | \$ | 75,000 | \$ | 75,000 | 75091 |
| Conferences | | | | | |
| TOTAL SSR State Special Revenue | | | | | 75092 |
| Fund Group | \$ | 19,075,000 | \$ | 17,075,000 | 75093 |
| | | <u>19,301,612</u> | | <u>24,021,364</u> | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 202,638,942 | \$ | 103,275,213 | 75094 |
| | | <u>202,865,554</u> | | <u>110,221,577</u> | |

Sec. 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH 75096

(A) As used in this section, "community alcohol and drug 75097
addiction Medicaid services" means services provided under the 75098
component, or aspect of the component, of the Medicaid program 75099
that the Department of Alcohol and Drug Addiction Services 75100

administers pursuant to a contract entered into with the 75101
Department of Job and Family Services under section 5111.91 of the 75102
Revised Code. 75103

(B) Subject to division (C) of this section, the foregoing 75104
appropriation item 038501, Medicaid Match, shall be used by the 75105
Department of Alcohol and Drug Addiction Services to make payments 75106
for community alcohol and drug addiction Medicaid services. 75107

(C) For state fiscal year 2012, the Department shall allocate 75108
foregoing appropriation item 038501, Medicaid Match, and a portion 75109
of appropriation item 038621, Statewide Treatment and Prevention, 75110
to boards of alcohol, drug addiction, and mental health services 75111
in accordance with a distribution methodology the Department shall 75112
establish. Notwithstanding sections 5111.911 and 5111.913 of the 75113
Revised Code, the boards shall use the funds allocated to them 75114
under this section to pay claims for community alcohol and drug 75115
addiction Medicaid services provided during fiscal year 2012. The 75116
boards shall use all federal financial participation that the 75117
Department receives for claims paid for community alcohol and drug 75118
addiction Medicaid services provided during fiscal year 2012 as 75119
the first payment source to pay claims for community alcohol and 75120
drug addiction Medicaid services provided during fiscal year 2012. 75121
The boards are not required to use any funds other than the funds 75122
allocated to them under this section and the federal financial 75123
participation received for claims for community alcohol and drug 75124
addiction Medicaid services provided during fiscal year 2012 to 75125
pay for such claims. 75126

(D) The Department shall enter into an agreement with each 75127
board regarding the issue of paying claims that are for community 75128
alcohol and drug addiction Medicaid services provided before July 75129
1, 2011, and submitted for payment on or after that date. Such 75130
claims shall be paid in accordance with the agreements. A board 75131
shall receive the federal financial participation received for 75132

claims for community alcohol and drug addiction Medicaid services 75133
that were provided before July 1, 2011, and paid by the board. 75134

STATEWIDE TREATMENT AND PREVENTION 75135

Of the foregoing appropriation item 038621, Statewide 75136
Treatment and Prevention, up to \$1,000,000 in fiscal year 2013 75137
shall be used to fund the pilot program for opioid- and 75138
alcohol-dependent offenders established under Section 737.70 of 75139
H.B. 487 of the 129th General Assembly. 75140

BIOMETRIC ENROLLMENT AND VERIFICATION SYSTEM PILOT PROJECT 75141

Of the foregoing appropriation item 038621, Statewide 75142
Treatment and Prevention, \$500,000 in fiscal year 2013 shall be 75143
used to fund the Biometric Enrollment and Verification System 75144
Pilot Project established under Section 729.20 of H.B. 487 of the 75145
129th General Assembly. 75146

CASH TRANSFER FROM GENERAL REIMBURSEMENT FUND TO STATEWIDE 75147
TREATMENT AND PREVENTION FUND 75148

On the effective date of this section, or as soon as possible 75149
thereafter, the Director of Budget and Management, upon the 75150
request of the Director of Alcohol and Drug Addiction Services, 75151
shall transfer \$500,000 cash from the General Reimbursement Fund 75152
(Fund 1060) to the Statewide Treatment and Prevention Fund (Fund 75153
4750). 75154

Sec. 223.10. AGO ATTORNEY GENERAL 75155

General Revenue Fund 75156

GRF 055321 Operating Expenses \$ 42,514,169 \$ 42,514,169 75157

GRF 055405 Law-Related Education \$ 100,000 \$ 100,000 75158

GRF 055411 County Sheriffs' Pay \$ 757,921 \$ 757,921 75159

Supplement

GRF 055415 County Prosecutors' \$ 831,499 \$ 831,499 75160

Pay Supplement

| | | | | | |
|---|-----------|--|-----------|--|-------|
| TOTAL GRF General Revenue Fund | \$ | 44,203,589 | \$ | 44,203,589 | 75161 |
| General Services Fund Group | | | | | 75162 |
| 1060 055612 General Reimbursement | \$ | 43,357,968 | \$ | 43,011,277 <u>43,361,277</u> | 75163 |
| 1950 055660 Workers' Compensation Section | \$ | 8,415,504 | \$ | 8,415,504 | 75164 |
| 4180 055615 Charitable Foundations | \$ | 7,286,000 | \$ | 7,286,000 | 75165 |
| 4200 055603 Attorney General Antitrust | \$ | 1,871,674 | \$ | 1,839,074 | 75166 |
| 4210 055617 Police Officers' Training Academy Fee | \$ | 2,124,942 | \$ | 2,088,805 | 75167 |
| 4Z20 055609 BCI Asset Forfeiture and Cost Reimbursement | \$ | 1,529,685 | \$ | 1,521,731 | 75168 |
| 5900 055633 Peace Officer Private Security Fund | \$ | 98,370 | \$ | 98,370 | 75169 |
| 5A90 055618 Telemarketing Fraud Enforcement | \$ | 7,500 | \$ | 7,500 | 75170 |
| 5L50 055619 Law Enforcement Assistance Program | \$ | 300,222 | \$ | 0 | 75171 |
| <u>5LR0 055655 Peace Officer Training - Casino</u> | <u>\$</u> | <u>192,620</u> | <u>\$</u> | <u>4,629,409</u> | 75172 |
| 6310 055637 Consumer Protection Enforcement | \$ | 3,799,115 | \$ | 3,718,973 | 75173 |
| TOTAL GSF General Services Fund Group | | | | | 75174 |
| | \$ | 68,790,980 <u>68,983,600</u> | \$ | 67,987,234 <u>72,966,643</u> | 75175 |
| Federal Special Revenue Fund Group | | | | | 75176 |
| 3060 055620 Medicaid Fraud Control | \$ | 4,211,235 | \$ | 4,122,399 | 75177 |

| | | | | | | | |
|---|--------|---|----|------------|----|------------|-------|
| 3810 | 055611 | Civil Rights Legal Service | \$ | 402,540 | \$ | 402,540 | 75178 |
| 3830 | 055634 | Crime Victims Assistance | \$ | 13,000,000 | \$ | 13,000,000 | 75179 |
| 3E50 | 055638 | Attorney General Pass-Through Funds | \$ | 1,223,606 | \$ | 1,222,172 | 75180 |
| 3R60 | 055613 | Attorney General Federal Funds | \$ | 3,823,251 | \$ | 3,673,251 | 75181 |
| TOTAL FED Federal Special Revenue | | | | | | | 75182 |
| Fund Group | | | \$ | 22,660,632 | \$ | 22,420,362 | 75183 |
| State Special Revenue Fund Group | | | | | | | 75184 |
| 4020 | 055616 | Victims of Crime | \$ | 26,000,000 | \$ | 26,000,000 | 75185 |
| 4170 | 055621 | Domestic Violence Shelter | \$ | 25,000 | \$ | 25,000 | 75186 |
| 4190 | 055623 | Claims Section | \$ | 44,197,843 | \$ | 41,953,025 | 75187 |
| 4L60 | 055606 | DARE Programs | \$ | 4,477,962 | \$ | 4,477,962 | 75188 |
| 4Y70 | 055608 | Title Defect Recision | \$ | 600,000 | \$ | 600,000 | 75189 |
| 6590 | 055641 | Solid and Hazardous Waste Background Investigations | \$ | 662,227 | \$ | 651,049 | 75190 |
| TOTAL SSR State Special Revenue | | | | | | | 75191 |
| Fund Group | | | \$ | 75,963,032 | \$ | 73,707,036 | 75192 |
| Holding Account Redistribution Fund Group | | | | | | | 75193 |
| R004 | 055631 | General Holding Account | \$ | 1,000,000 | \$ | 1,000,000 | 75194 |
| R005 | 055632 | Antitrust Settlements | \$ | 1,000 | \$ | 1,000 | 75195 |
| R018 | 055630 | Consumer Frauds | \$ | 750,000 | \$ | 750,000 | 75196 |
| R042 | 055601 | Organized Crime Commission Distributions | \$ | 25,025 | \$ | 25,025 | 75197 |
| R054 | 055650 | Collection Outside Counsel Payments | \$ | 4,500,000 | \$ | 4,500,000 | 75198 |

| | | | | |
|---|----|------------------------|---------------------------|-------|
| TOTAL 090 Holding Account | | | | 75199 |
| Redistribution Fund Group | \$ | 6,276,025 | \$ 6,276,025 | 75200 |
| Tobacco Master Settlement Agreement Fund Group | | | | 75201 |
| J087 055635 Law Enforcement | \$ | 2,300,000 | \$ 0 | 75202 |
| Technology, Training, and Facility Enhancements | | | | |
| U087 055402 Tobacco Settlement | \$ | 2,527,992 | \$ 2,514,690 | 75203 |
| Oversight, Administration, and Enforcement | | | | |
| TOTAL TSF Tobacco Master Settlement | \$ | 4,827,992 | \$ 2,514,690 | 75204 |
| Agreement Fund Group | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 222,722,250 | \$ 217,108,936 | 75205 |
| | | <u>222,914,870</u> | <u>222,088,345</u> | |

COUNTY SHERIFFS' PAY SUPPLEMENT 75206

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 75207
75208
75209
75210

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 75211
75212
75213
75214
75215
75216

COUNTY PROSECUTORS' PAY SUPPLEMENT 75217

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code. 75218
75219
75220
75221

At the request of the Attorney General, the Director of 75222
Budget and Management may transfer appropriation from 75223
appropriation item 055321, Operating Expenses, to appropriation 75224
item 055415, County Prosecutors' Pay Supplement. Any appropriation 75225
so transferred shall be used to supplement the annual compensation 75226
of county prosecutors as required by section 325.111 of the 75227
Revised Code. 75228

~~GENERAL REIMBURSEMENT FUND~~ CASH TRANSFER - LEGISLATIVE TASK 75229
FORCE ON REDISTRICTING 75230

Notwithstanding any other provision of law to the contrary, 75231
on July 1, 2011, or as soon as possible thereafter, the Director 75232
of Budget and Management shall transfer \$160,000 cash from the 75233
General Revenue Fund to the General Reimbursement Fund (Fund 1060) 75234
used by the Office of the Attorney General. 75235

Notwithstanding any other provision of law to the contrary, 75236
On July 1, 2012, or as soon as possible thereafter, the Director 75237
of Budget and Management shall transfer \$350,000 cash from the 75238
General Revenue Fund to the General Reimbursement Fund (Fund 75239
1060). 75240

WORKERS' COMPENSATION SECTION 75241

The Workers' Compensation Fund (Fund 1950) is entitled to 75242
receive payments from the Bureau of Workers' Compensation and the 75243
Ohio Industrial Commission at the beginning of each quarter of 75244
each fiscal year to fund legal services to be provided to the 75245
Bureau of Workers' Compensation and the Ohio Industrial Commission 75246
during the ensuing quarter. The advance payment shall be subject 75247
to adjustment. 75248

In addition, the Bureau of Workers' Compensation shall 75249
transfer payments at the beginning of each quarter for the support 75250
of the Workers' Compensation Fraud Unit. 75251

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission. 75252
75253
75254

ATTORNEY GENERAL PASS-THROUGH FUNDS 75255

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety. 75256
75257
75258
75259
75260

GENERAL HOLDING ACCOUNT 75261

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated. 75262
75263
75264
75265
75266
75267

ANTITRUST SETTLEMENTS 75268

The foregoing appropriation item 055632, Antitrust Settlements, shall be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated. 75269
75270
75271
75272
75273
75274

CONSUMER FRAUDS 75275

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud 75276
75277
75278
75279
75280
75281

that generated the court-ordered judgments. If it is determined 75282
that additional amounts are necessary for this purpose, the 75283
amounts are hereby appropriated. 75284

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 75285

The foregoing appropriation item 055601, Organized Crime 75286
Commission Distributions, shall be used by the Organized Crime 75287
Investigations Commission, as provided by section 177.011 of the 75288
Revised Code, to reimburse political subdivisions for the expenses 75289
the political subdivisions incur when their law enforcement 75290
officers participate in an organized crime task force. If it is 75291
determined that additional amounts are necessary for this purpose, 75292
the amounts are hereby appropriated. 75293

COLLECTION OUTSIDE COUNSEL PAYMENTS 75294

The foregoing appropriation item 055650, Collection Outside 75295
Counsel Payments, shall be used for the purpose of paying 75296
contingency counsel fees for cases where debtors mistakenly paid 75297
the client agencies instead of the Attorney General's Revenue 75298
Recovery/Collections Enforcement Section. If it is determined that 75299
additional amounts are necessary for this purpose, the amounts are 75300
hereby appropriated. 75301

Sec. 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT 75302

General Revenue Fund 75303

| | | | | | | | |
|-----------|--------|----------------------|----|-----------|----|----------------------|-------|
| GRF | 042321 | Budget Development | \$ | 2,362,025 | \$ | 2,378,166 | 75304 |
| | | and Implementation | | | | <u>2,353,166</u> | |
| GRF | 042409 | Commission Closures | \$ | 50,000 | \$ | 50,000 | 75305 |
| GRF | 042416 | Office of Health | \$ | 306,285 | \$ | 499,252 | 75306 |
| | | Transformation | | | | | |
| GRF | 042423 | Liquor Enterprise | \$ | 500,000 | \$ | 0 | 75307 |
| | | Transaction | | | | | |
| TOTAL GRF | | General Revenue Fund | \$ | 3,218,310 | \$ | 2,428,166 | 75308 |

| | | | | | | |
|---|----------------------|----|-----------------------|----|---------------------------------|-------|
| | | | | | <u>2,902,418</u> | |
| General Services Fund Group | | | | | | 75309 |
| 1050 042603 | State Accounting and | \$ | 21,917,230 | \$ | 22,006,331 | 75310 |
| | Budgeting | | <u>21,158,069</u> | | <u>22,262,185</u> | |
| 5N40 042602 | OAKS Project | \$ | 1,358,000 | \$ | 1,309,500 | 75311 |
| | Implementation | | | | <u>1,296,000</u> | |
| 5Z80 042608 | Office of Health | \$ | 57,752 | \$ | 0 | 75312 |
| | Transformation | | | | | |
| | Administration | | | | | |
| TOTAL GSF General Services Fund | | \$ | 23,332,982 | \$ | 23,315,831 | 75313 |
| Group | | | <u>22,573,821</u> | | <u>23,558,185</u> | |
| Federal Special Revenue Fund Group | | | | | | 75314 |
| 3CM0 042606 | Office of Health | \$ | 384,037 | \$ | 145,500 | 75315 |
| | Transformation - | | | | <u>438,723</u> | |
| | Federal | | | | | |
| TOTAL FED Federal Special Revenue | | \$ | 384,037 | \$ | 145,500 | 75316 |
| Fund Group | | | | | <u>438,723</u> | |
| Agency Fund Group | | | | | | 75317 |
| 5EH0 042604 | Forgery Recovery | \$ | 50,000 | \$ | 50,000 <u>49,000</u> | 75318 |
| TOTAL AGY Agency Fund Group | | \$ | 50,000 | \$ | 50,000 <u>49,000</u> | 75319 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 26,985,329 | \$ | 25,939,497 | 75320 |
| | | | <u>26,226,168</u> | | <u>26,948,326</u> | |
| COMMISSION CLOSURES | | | | | | 75321 |
| The foregoing appropriation item 042409, Commission Closures, | | | | | | 75322 |
| may be used to pay obligations associated with the closure of the | | | | | | 75323 |
| Commission on Dispute Resolution and Conflict Management, the | | | | | | 75324 |
| School Employees Health Care Board, the Legal Rights Service, and | | | | | | 75325 |
| the Workers' Compensation Council. Notwithstanding any provision | | | | | | 75326 |
| of law to the contrary, this appropriation item may also be used | | | | | | 75327 |
| to pay final payroll expenses occurring after the closure of the | | | | | | 75328 |
| Commission on Dispute Resolution and Conflict Management, the | | | | | | 75329 |
| School Employees Health Care Board, the Legal Rights Service, and | | | | | | 75330 |

the Workers' Compensation Council in the event that appropriations 75331
or cash in the closing agency are insufficient to do so. 75332

The Director of Budget and Management may request Controlling 75333
Board approval for funds to be transferred to appropriation item 75334
042409, Commission Closures, from appropriation item 911614, CB 75335
Emergency Purposes, for anticipated expenses associated with 75336
agency closures. 75337

LIQUOR ENTERPRISE TRANSACTION 75338

The foregoing appropriation item 042423, Liquor Enterprise 75339
Transaction, shall be used by the Director of Budget and 75340
Management, without need for any other approval, to retain or 75341
contract for the services of commercial appraisers, underwriters, 75342
investment bankers, and financial advisers, as are necessary in 75343
the Director's judgment to commence negotiation of the transfer 75344
agreement referred to in sections 4313.01 and 4313.02 of the 75345
Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 153 of the 75346
129th General Assembly. An amount equal to the unexpended, 75347
unencumbered balance of appropriation item 042423 at the end of 75348
fiscal year 2012 is hereby reappropriated for the same purpose in 75349
fiscal year 2013. Any amounts expended from appropriation item 75350
042423 shall be reimbursed from the proceeds of the enterprise 75351
acquisition project transaction authorized in those sections. 75352

The Director of Budget and Management, in consultation with 75353
the Director of Commerce, may negotiate an initial agreement with 75354
JobsOhio, which shall be executed by the Directors of Budget and 75355
Management and Commerce upon its completion. 75356

AUDIT COSTS AND DUES 75357

All centralized audit costs associated with either Single 75358
Audit Schedules or financial statements prepared in conformance 75359
with generally accepted accounting principles for the state shall 75360
be paid from the foregoing appropriation item 042603, State 75361

| | |
|--|---|
| Accounting and Budgeting. | 75362 |
| Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation. | 75363 75364 75365 |
| SHARED SERVICES CENTER | 75366 |
| The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes. | 75367 75368 75369 75370 75371 75372 |
| The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050. | 75373 75374 75375 75376 75377 75378 75379 |
| INTERNAL CONTROL AND AUDIT OVERSIGHT | 75380 |
| The Director of Budget and Management shall include the recovery of costs to operate the Internal Control and Audit Oversight Program in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050). | 75381 75382 75383 75384 75385 75386 75387 75388 75389 |
| FORGERY RECOVERY | 75390 |
| The foregoing appropriation item 042604, Forgery Recovery, | 75391 |

shall be used to reissue warrants that have been certified as 75392
forgeries by the rightful recipient as determined by the Bureau of 75393
Criminal Identification and Investigation and the Treasurer of 75394
State. Upon receipt of funds to cover the reissuance of the 75395
warrant, the Director of Budget and Management shall reissue a 75396
state warrant of the same amount. 75397

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 75398

On July 1 of each fiscal year, or as soon as possible 75399
thereafter, the Director of Budget and Management shall transfer 75400
an amount not to exceed \$1,100,000 in cash from the General 75401
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 75402

Sec. 243.10. COM DEPARTMENT OF COMMERCE 75403

General Services Fund Group 75404

1630 800620 Division of \$ 6,200,000 \$ 6,200,000 75405
Administration

1630 800637 Information Technology \$ 5,999,892 \$ 6,011,977 75406

5430 800602 Unclaimed \$ 7,836,107 \$ 7,841,473 75407
Funds-Operating

5430 800625 Unclaimed Funds-Claims \$ 69,700,000 \$ ~~69,800,000~~ 75408
68,000,000

5F10 800635 Small Government Fire \$ 300,000 \$ 300,000 75409
Departments

TOTAL GSF General Services Fund 75410

Group \$ 90,035,999 \$ ~~90,153,450~~ 75411
88,353,450

Federal Special Revenue Fund Group 75412

3480 800622 Underground Storage \$ 1,129,518 \$ 1,129,518 75413
Tanks

3480 800624 Leaking Underground \$ 1,556,211 \$ 1,556,211 75414
Storage Tanks

| | | | | |
|-------------------------------------|----|------------|--------------------------|-------|
| TOTAL FED Federal Special Revenue | | | | 75415 |
| Fund Group | \$ | 2,685,729 | \$ 2,685,729 | 75416 |
| State Special Revenue Fund Group | | | | 75417 |
| 4B20 800631 Real Estate Appraisal | \$ | 35,000 | \$ 35,000 | 75418 |
| Recovery | | | | |
| 4H90 800608 Cemeteries | \$ | 268,067 | \$ 268,293 | 75419 |
| 4X20 800619 Financial Institutions | \$ | 2,186,271 | \$ 1,990,693 | 75420 |
| | | | <u>1,970,786</u> | |
| 5440 800612 Banks | \$ | 7,242,364 | \$ 6,942,336 | 75421 |
| | | | <u>6,872,913</u> | |
| 5450 800613 Savings Institutions | \$ | 2,257,220 | \$ 2,259,536 | 75422 |
| 5460 800610 Fire Marshal | \$ | 15,400,000 | \$ 15,501,562 | 75423 |
| | | | <u>15,484,574</u> | |
| 5460 800639 Fire Department Grants | \$ | 1,698,802 | \$ 1,698,802 | 75424 |
| 5470 800603 Real Estate | \$ | 125,000 | \$ 125,000 | 75425 |
| Education/Research | | | <u>80,655</u> | |
| 5480 800611 Real Estate Recovery | \$ | 25,000 | \$ 25,000 | 75426 |
| 5490 800614 Real Estate | \$ | 3,413,708 | \$ 3,332,308 | 75427 |
| 5500 800617 Securities | \$ | 4,312,434 | \$ 4,314,613 | 75428 |
| | | | <u>4,271,467</u> | |
| 5520 800604 Credit Union | \$ | 3,450,390 | \$ 3,450,390 | 75429 |
| | | | <u>3,415,886</u> | |
| 5530 800607 Consumer Finance | \$ | 3,613,016 | \$ 3,516,861 | 75430 |
| | | | <u>3,481,692</u> | |
| 5560 800615 Industrial Compliance | \$ | 27,639,372 | \$ 27,664,695 | 75431 |
| | | | <u>27,388,048</u> | |
| 5FW0 800616 Financial Literacy | \$ | 240,000 | \$ 240,000 | 75432 |
| Education | | | <u>200,000</u> | |
| 5GK0 800609 Securities Investor | \$ | 1,135,000 | \$ 485,000 | 75433 |
| Education/Enforcement | | | <u>480,150</u> | |
| 5HV0 800641 Cigarette Enforcement | \$ | 120,000 | \$ 120,000 | 75434 |
| | | | <u>118,800</u> | |
| <u>5LN0 800645 Liquor Operating</u> | \$ | <u>0</u> | \$ <u>5,500,000</u> | 75435 |

| | | | | | |
|--|--|----|-------------|----|------------------------|
| | <u>Services</u> | | | | |
| 5LP0 800646 | <u>Liquor Regulatory</u> | \$ | 0 | \$ | <u>8,500,000</u> |
| | | | | | 75436 |
| | <u>Operating Expense</u> | | | | |
| 5X60 800623 | Video Service | \$ | 340,299 | \$ | 340,630 |
| | | | | | 75437 |
| | | | | | <u>337,224</u> |
| 6530 800629 | UST Registration/Permit Fee | \$ | 1,854,675 | \$ | 1,509,653 |
| | | | | | 75438 |
| | | | | | <u>1,494,556</u> |
| 6A40 800630 | Real Estate Appraiser-Operating | \$ | 699,565 | \$ | 648,890 |
| | | | | | 75439 |
| TOTAL SSR State Special Revenue | | | | | 75440 |
| Fund Group | | \$ | 76,056,183 | \$ | 74,469,262 |
| | | | | | 75441 |
| | | | | | <u>87,864,580</u> |
| Liquor Control Fund Group | | | | | 75442 |
| 7043 800601 | Merchandising | \$ | 472,209,274 | \$ | 05,000,000 |
| | | | | | 75443 |
| 7043 800627 | Liquor Control Operating | \$ | 13,398,274 | \$ | 10,110,479 |
| | | | | | 75444 |
| | | | | | <u>1,509,374</u> |
| 7043 800633 | Development Assistance Debt Service | \$ | 51,973,200 | \$ | 0 |
| | | | | | 75445 |
| 7043 800636 | Revitalization Debt Service | \$ | 21,129,800 | \$ | 0 |
| | | | | | 75446 |
| TOTAL LCF Liquor Control | | | | | 75447 |
| Fund Group | | \$ | 558,710,548 | \$ | 10,110,479 |
| | | | | | 75448 |
| | | | | | <u>6,509,374</u> |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 727,488,459 | \$ | 177,418,920 |
| | | | | | 75449 |
| | | | | | <u>185,413,133</u> |
| SMALL GOVERNMENT FIRE DEPARTMENTS | | | | | 75450 |
| Notwithstanding section 3737.17 of the Revised Code, the | | | | | 75451 |
| foregoing appropriation item 800635, Small Government Fire | | | | | 75452 |
| Departments, may be used to provide loans to private fire | | | | | 75453 |
| departments. | | | | | 75454 |
| UNCLAIMED FUNDS PAYMENTS | | | | | 75455 |
| The foregoing appropriation item 800625, Unclaimed | | | | | 75456 |

Funds-Claims, shall be used to pay claims under section 169.08 of 75457
the Revised Code. If it is determined that additional amounts are 75458
necessary, the amounts are appropriated. 75459

UNCLAIMED FUNDS TRANSFERS 75460

Notwithstanding division (A) of section 169.05 of the Revised 75461
Code, during the FY 2012-FY 2013 biennium, the Director of Budget 75462
and Management shall request the Director of Commerce to transfer 75463
to the General Revenue Fund up to \$215,000,000 of unclaimed funds 75464
that have been reported by holders of unclaimed funds under 75465
section 169.05 of the Revised Code, irrespective of the allocation 75466
of the unclaimed funds under that section. The Director of 75467
Commerce shall transfer the funds at the times requested by the 75468
Director of Budget and Management. 75469

FIRE DEPARTMENT GRANTS 75470

Of the foregoing appropriation item 800639, Fire Department 75471
Grants, up to \$1,647,140 in each fiscal year shall be used to make 75472
annual grants to the following eligible recipients: volunteer fire 75473
departments, fire departments that serve one or more small 75474
municipalities or small townships, joint fire districts comprised 75475
of fire departments that primarily serve small municipalities or 75476
small townships, local units of government responsible for such 75477
fire departments, and local units of government responsible for 75478
the provision of fire protection services for small municipalities 75479
or small townships. For the purposes of these grants, a private 75480
fire company, as that phrase is defined in section 9.60 of the 75481
Revised Code, that is providing fire protection services under a 75482
contract to a political subdivision of the state, is an additional 75483
eligible recipient for a training grant. 75484

Eligible recipients that consist of small municipalities or 75485
small townships that all intend to contract with the same fire 75486
department or private fire company for fire protection services 75487

may jointly apply and be considered for a grant. If a joint 75488
applicant is awarded a grant, the State Fire Marshal shall, if 75489
feasible, proportionately award the grant and any equipment 75490
purchased with grant funds to each of the joint applicants based 75491
upon each applicant's contribution to and demonstrated need for 75492
fire protection services. 75493

If the grant awarded to joint applicants is an equipment 75494
grant and the equipment to be purchased cannot be readily 75495
distributed or possessed by multiple recipients, each of the joint 75496
applicants shall be awarded by the State Fire Marshal an ownership 75497
interest in the equipment so purchased in proportion to each 75498
applicant's contribution to and demonstrated need for fire 75499
protection services. The joint applicants shall then mutually 75500
agree on how the equipment is to be maintained, operated, stored, 75501
or disposed of. If, for any reason, the joint applicants cannot 75502
agree as to how jointly owned equipment is to be maintained, 75503
operated, stored, or disposed of or any of the joint applicants no 75504
longer maintain a contract with the same fire protection service 75505
provider as the other applicants, then the joint applicants shall, 75506
with the assistance of the State Fire Marshal, mutually agree as 75507
to how the jointly owned equipment is to be maintained, operated, 75508
stored, disposed of, or owned. If the joint applicants cannot 75509
agree how the grant equipment is to be maintained, operated, 75510
stored, disposed of, or owned, the State Fire Marshal may, in its 75511
discretion, require all of the equipment acquired by the joint 75512
applicants with grant funds to be returned to the State Fire 75513
Marshal. The State Fire Marshal may then award the returned 75514
equipment to any eligible recipients. 75515

The grants shall be used by recipients to purchase 75516
firefighting or rescue equipment or gear or similar items, to 75517
provide full or partial reimbursement for the documented costs of 75518
firefighter training, or, at the discretion of the State Fire 75519

Marshal, to cover fire department costs for providing fire 75520
protection services in that grant recipient's jurisdiction. 75521

Grant awards for firefighting or rescue equipment or gear or 75522
for fire department costs of providing fire protection services 75523
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 75524
fiscal year if an eligible entity serves a jurisdiction in which 75525
the Governor declared a natural disaster during the preceding or 75526
current fiscal year in which the grant was awarded. In addition to 75527
any grant funds awarded for rescue equipment or gear, or for fire 75528
department costs associated with the provision of fire protection 75529
services, an eligible entity may receive a grant for up to \$15,000 75530
per fiscal year for full or partial reimbursement of the 75531
documented costs of firefighter training. For each fiscal year, 75532
the State Fire Marshal shall determine the total amounts to be 75533
allocated for each eligible purpose. 75534

The grant program shall be administered by the State Fire 75535
Marshal in accordance with rules the State Fire Marshal adopts as 75536
part of the state fire code adopted pursuant to section 3737.82 of 75537
the Revised Code that are necessary for the administration and 75538
operation of the grant program. The rules may further define the 75539
entities eligible to receive grants and establish criteria for the 75540
awarding and expenditure of grant funds, including methods the 75541
State Fire Marshal may use to verify the proper use of grant funds 75542
or to obtain reimbursement for or the return of equipment for 75543
improperly used grant funds. Any amounts in appropriation item 75544
800639, Fire Department Grants, in excess of the amount allocated 75545
for these grants may be used for the administration of the grant 75546
program. 75547

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 75548
EDUCATION AND ENFORCEMENT EXPENSE FUND 75549

The Director of Budget and Management, upon the request of 75550
the Director of Commerce, shall transfer up to \$485,000 in cash in 75551

each fiscal year from the Division of Securities Fund (Fund 5500) 75552
to the Division of Securities Investor Education and Enforcement 75553
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 75554
Code. 75555

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 75556

The Director of Budget and Management, upon the request of 75557
the Director of Commerce, shall transfer up to \$340,000 in cash in 75558
each fiscal year from the Division of Administration Fund (Fund 75559
1630) to the Video Service Authorization Fund (Fund 5X60). 75560

INCREASED APPROPRIATION - MERCHANDISING 75561

The foregoing appropriation item 800601, Merchandising, shall 75562
be used under section 4301.12 of the Revised Code. If it is 75563
determined that additional expenditures are necessary, the amounts 75564
are hereby appropriated. 75565

DEVELOPMENT ASSISTANCE DEBT SERVICE 75566

The foregoing appropriation item 800633, Development 75567
Assistance Debt Service, shall be used to pay debt service and 75568
related financing costs at the times they are required to be made 75569
during the period from July 1, 2011, to June 30, 2012, for bond 75570
service charges on obligations issued under Chapter 166. of the 75571
Revised Code. If it is determined that additional appropriations 75572
are necessary for this purpose, such amounts are appropriated, 75573
subject to the limitations set forth in section 166.11 of the 75574
Revised Code. In the event obligations issued under Chapter 166. 75575
remain outstanding for all or any portion of the period from July 75576
1, 2012, through June 30, 2013, amounts necessary to pay debt 75577
service and related financing costs on those obligations are 75578
hereby appropriated, subject to the limitations set forth in 75579
section 166.11 of the Revised Code. An appropriation for this 75580
purpose is not required, but is made in this form and in ~~this act~~ 75581
Am. Sub. H.B. 153 of the 129th General Assembly for record 75582

purposes only. 75583

REVITALIZATION DEBT SERVICE 75584

The foregoing appropriation item 800636, Revitalization Debt 75585
Service, shall be used to pay debt service and related financing 75586
costs at the times they are required to be made pursuant to 75587
sections 151.01 and 151.40 of the Revised Code during the period 75588
from July 1, 2011, to June 30, 2012. If it is determined that 75589
additional appropriations are necessary for this purpose, such 75590
amounts are hereby appropriated. In the event obligations issued 75591
under sections 151.01 and 151.40 of the Revised Code remain 75592
outstanding for all or any portion of the period from July 1, 75593
2012, through June 30, 2013, amounts necessary to pay debt service 75594
and related financing costs on those obligations are hereby 75595
appropriated. The General Assembly acknowledges the priority of 75596
the pledge of a portion of receipts from that source to 75597
obligations issued and to be issued under Chapter 166. of the 75598
Revised Code. 75599

LIQUOR CONTROL FUND TRANSFER 75600

On January 1, 2012, or as soon as possible thereafter, the 75601
Director of Budget and Management may transfer up to \$10,600,000 75602
in cash from the General Revenue Fund to the Liquor Control Fund 75603
(Fund 7043) for the liquor permitting and compliance functions of 75604
the Division of Liquor Control in the Department of Commerce and 75605
for the operations of the Liquor Control Commission and the 75606
Department of Public Safety pursuant to Chapter 4301. of the 75607
Revised Code. 75608

On July 1, 2012, or as soon as possible thereafter, the 75609
Director of Budget and Management may transfer up to \$21,800,000 75610
in cash from the General Revenue Fund to the Liquor Control Fund 75611
(Fund 7043) for the liquor permitting and compliance functions of 75612
the Division of Liquor Control in the Department of Commerce and 75613

for the operations of the Liquor Control Commission and the 75614
Department of Public Safety pursuant to Chapter 4301. of the 75615
Revised Code. 75616

On July 1, 2012, or as soon as possible thereafter, the 75617
Director of Budget and Management shall transfer \$500,000 in cash 75618
from the Liquor Control Fund (Fund 7043) to the State Liquor 75619
Regulatory Fund (Fund 5LP0) created in section 4301.30 of the 75620
Revised Code. 75621

Notwithstanding section 4301.12 of the Revised Code, on July 75622
1, 2012, or as soon as possible thereafter, the Director of Budget 75623
and Management may transfer up to \$30,000,000 in cash from excess 75624
liquor profits from the Liquor Control Fund (Fund 7043) to the 75625
Economic Development Support Fund (Fund 5MB0). This cash may be 75626
transferred, if considered necessary in the Director's judgment, 75627
as a result of a delay in the transfer of the liquor enterprise 75628
authorized by the transfer agreement under sections 4313.01 and 75629
4313.02 of the Revised Code. 75630

ADMINISTRATIVE ASSESSMENTS 75631

Notwithstanding any other provision of law to the contrary, 75632
the Division of Administration Fund (Fund 1630) is entitled to 75633
receive assessments from all operating funds of the Department in 75634
accordance with procedures prescribed by the Director of Commerce 75635
and approved by the Director of Budget and Management. 75636

Sec. 245.10. OCC OFFICE OF CONSUMERS' COUNSEL 75637

General Services Fund Group 75638

| | | | | | | |
|---------------------------------|--------------------|----|-----------|----|----------------------|-------|
| 5F50 053601 | Operating Expenses | \$ | 5,641,093 | \$ | 4,142,070 | 75639 |
| | | | | | <u>5,641,093</u> | |
| TOTAL GSF General Services Fund | | \$ | 5,641,093 | \$ | 4,142,070 | 75640 |
| Group | | | | | <u>5,641,093</u> | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 5,641,093 | \$ | 4,142,070 | 75641 |

5,641,093"

Sec. 261.10.40. TRAVEL AND TOURISM 75643

The foregoing appropriation item 195407, Travel and Tourism, 75644
shall be used for marketing the state of Ohio as a tourism 75645
destination and to support administrative expenses and contracts 75646
necessary to market Ohio. 75647

~~STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES~~ 75648
~~DEVELOPMENT SERVICES~~ 75649

The foregoing appropriation item 195415, ~~Strategie Business~~ 75650
~~Investment Division and Regional Offices~~ Development Services, 75651
shall be used for the operating expenses of the ~~Strategie Business~~ 75652
~~Investment Services~~ Division and the regional economic development 75653
offices and for grants for cooperative economic development 75654
ventures. 75655

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 75656

The foregoing appropriation item 195426, Clean Ohio 75657
Implementation, shall be used to fund the costs of administering 75658
the Clean Ohio Revitalization program and other urban 75659
revitalization programs that may be implemented by the ~~Department~~ 75660
of Development Services Agency. 75661

CDBG OPERATING MATCH 75662

The foregoing appropriation item 195497, CDBG Operating 75663
Match, shall be used as matching funds for grants from the United 75664
States Department of Housing and Urban Development pursuant to the 75665
Housing and Community Development Act of 1974 and regulations and 75666
policy guidelines for the programs pursuant thereto. 75667

TECHNOLOGY PROGRAMS AND GRANTS 75668

The foregoing appropriation item 195532, Technology Programs 75669
and Grants, shall be used for the same purposes as funding 75670

previously appropriated for appropriation items 195401, Thomas Edison Program, and 195422, Technology Action. Of the foregoing appropriation item 195532, Technology Programs and Grants, up to \$547,341 in fiscal year 2013 shall be used for operating expenses incurred in administering the Ohio Third Frontier pursuant to sections 184.10 to 184.20 of the Revised Code; and up to \$13,000,000 in fiscal year 2013 shall be used for the Thomas Edison Program pursuant to sections 122.28 to 122.38 of the Revised Code, of which not more than ten per cent shall be used for operating expenses incurred in administering the program.

BUSINESS ASSISTANCE

The foregoing appropriation item 195533, Business Assistance, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 as amended by Public Law No. 98-395, and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide grants to local organizations to support economic development activities that promote minority business development, small business development, entrepreneurship, and exports of Ohio's goods and services.

APPALACHIA ASSISTANCE

The foregoing appropriation item 195535, Appalachia Assistance, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, to pay dues for the Appalachian Regional Commission, and to match federal funds from the Appalachian Regional Commission.

Of the foregoing appropriation item 195535, Appalachia Assistance, up to \$440,000 in fiscal year 2013 shall be used to support four local development districts. Of that amount, up to

\$135,000 shall be allocated to the Ohio Valley Regional Development Commission, up to \$135,000 shall be allocated to the Ohio Mid-Eastern Government Association, up to \$135,000 shall be allocated to the Buckeye Hills-Hocking Valley Regional Development District, and up to \$35,000 shall be allocated to the Eastgate Regional Council of Governments. Local development districts receiving funding under this section shall use the funds for the implementation and administration of programs and duties under section 107.21 of the Revised Code.

Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS

The Director of Development Services may assess ~~divisions~~ offices of the ~~department~~ agency for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

~~ECONOMIC DEVELOPMENT CONTINGENCY~~

~~The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.~~

LEGACY PROJECTS

The foregoing appropriation item 195633, Legacy Projects, shall be used to support existing grant commitments to companies incurred prior to fiscal year 2013. A portion of the appropriation

item may also be used to support administrative expenses and other 75732
costs associated with these projects. 75733

~~DIRECT COST RECOVERY~~ DEVELOPMENT SERVICES REIMBURSABLE 75734
EXPENDITURES 75735

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ 75736
Development Services Reimbursable Expenditures, shall be used for 75737
reimbursable costs incurred by the agency. Revenues to the General 75738
Reimbursement Fund (Fund 6850) shall consist of moneys charged for 75739
administrative costs that are not central service costs. 75740

Appropriation item 195623, Business Incentive Grants, shall 75741
be used as an incentive for attracting, expanding, and retaining 75742
business opportunities for the state in accordance with Chapter 75743
166. of the Revised Code. It may be used to award funds directly 75744
to either (1) business entities considering Ohio for expansion or 75745
new site location opportunities, or (2) political subdivisions to 75746
assist with necessary costs involved in attracting a business 75747
entity. Appropriation item 195623, Business Incentive Grants, 75748
shall be used by recipients to purchase equipment, make 75749
infrastructure improvements, make real property improvements, or 75750
fund other fixed assets. The Director of Development Services may 75751
award funds for alternative purposes when appropriate to satisfy 75752
an economic development opportunity or need considered 75753
extraordinary in nature by the Director. 75754

The foregoing appropriation item 195637, Workforce Training 75755
Grants, may be used for the Ohio Workforce Guarantee Program, or 75756
to promote training through grants to businesses and, in the case 75757
of a business consortium, to the consortium for training and 75758
education providers for the reimbursement of eligible training 75759
expenses. Not more than ten per cent of appropriation item 195637, 75760
Workforce Training Grants, shall be used for administrative 75761
expenses related to the Ohio Workforce Guarantee Program. 75762

Sec. 261.20.50. WORKFORCE DEVELOPMENT INITIATIVES 75763

Any unexpended and unencumbered portion of the foregoing 75764
appropriation item 195643, Workforce Development Initiatives, at 75765
the end of fiscal year 2012 is hereby reappropriated for the same 75766
purpose in fiscal year 2013. 75767

HEAP WEATHERIZATION 75768

Up to fifteen per cent of the federal funds deposited to the 75769
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 75770
may be expended from appropriation item 195614, HEAP 75771
Weatherization, to provide home weatherization services in the 75772
state as determined by the Director of Development Services. Any 75773
transfers or increases in appropriation for the foregoing 75774
appropriation items 195614, HEAP Weatherization, or 195611, Home 75775
Energy Assistance Block Grant, shall be subject to approval by the 75776
Controlling Board. 75777

Sec. 261.20.60. BUSINESS ASSISTANCE PROGRAMS 75778

The foregoing appropriation item 195649, Business Assistance 75779
Programs, shall be used for administrative expenses associated 75780
with the operation of tax credit programs, loan servicing, the 75781
Ohio Film Office, and the Office of Strategic Business 75782
Investments, and for payments to the JobsOhio corporation 75783
established in Chapter 187. of the Revised Code for services 75784
provided for the administration of the 166 Direct Loan Program, 75785
Ohio Enterprise Bond Fund, Research and Development Loan Program, 75786
and Innovation Ohio Loan Program. 75787

STATE SPECIAL PROJECTS 75788

The State Special Projects Fund (Fund 4F20), may be used for 75789
the deposit of private-sector funds from utility companies and for 75790
the deposit of other miscellaneous state funds. State moneys so 75791
deposited ~~shall~~ may also be used to match federal housing grants 75792

for the homeless and to market economic development opportunities 75793
in the state. Private-sector moneys shall be deposited for use in 75794
appropriation item 195699, Utility ~~Provided Funds~~ Community 75795
Assistance, and shall be used to (1) pay the expenses of verifying 75796
the income-eligibility of HEAP applicants, (2) leverage additional 75797
federal funds, (3) fund special projects to assist ~~homeless~~ 75798
~~individuals~~ income-eligible veterans and families with services 75799
and energy assistance programs, (4) fund special projects to 75800
assist with the energy efficiency of households eligible to 75801
participate in the Percentage of Income Payment Plan, and (5) 75802
assist with training programs for agencies that administer 75803
low-income customer assistance programs. 75804

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 75805

All repayments from the Minority Development Financing 75806
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 75807
Program shall be deposited in the State Treasury to the credit of 75808
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 75809
costs of administering the Minority Business Enterprise Loan Fund 75810
may be paid from the Minority Business Enterprise Loan Fund (Fund 75811
4W10). 75812

MINORITY BUSINESS BONDING FUND 75813

Notwithstanding Chapters 122., 169., and 175. of the Revised 75814
Code, the Director of Development Services may, upon the 75815
recommendation of the Minority Development Financing Advisory 75816
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 75817
year 2013 biennium of unclaimed funds administered by the Director 75818
of Commerce and allocated to the Minority Business Bonding Program 75819
under section 169.05 of the Revised Code. The transfer of any cash 75820
by the Director of Budget and Management from the ~~Department of~~ 75821
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 75822
of Commerce to the ~~Department of Development's~~ Minority Business 75823

Bonding Fund (Fund 4490) used by the Development Services Agency 75824
shall occur, if requested by the Director of Development Services, 75825
only if such funds are needed for payment of losses arising from 75826
the Minority Business Bonding Program, and only after proceeds of 75827
the initial transfer of \$2,700,000 by the Controlling Board to the 75828
Minority Business Bonding Program has been used for that purpose. 75829
Moneys transferred by the Director of Budget and Management from 75830
the Department of Commerce for this purpose may be moneys in 75831
custodial funds held by the Treasurer of State. If expenditures 75832
are required for payment of losses arising from the Minority 75833
Business Bonding Program, such expenditures shall be made from 75834
appropriation item 195623, Minority Business Bonding Contingency 75835
in the Minority Business Bonding Fund, and such amounts are hereby 75836
appropriated. 75837

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS 75838

(A) On July 1, 2011, or as soon as possible thereafter, the 75839
Director of Budget and Management shall transfer up to \$20,000,000 75840
cash from the Economic Development Programs Fund (Fund 5JC0) used 75841
by the Board of Regents to the Ohio Incumbent Workforce Job 75842
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 75843
Services Agency. 75844

On July 1, 2012, or as soon as possible thereafter, the 75845
Director of Budget and Management shall transfer up to \$30,000,000 75846
cash from the Economic Development Programs Fund (Fund 5JC0) used 75847
by the Board of Regents to the Ohio Incumbent Workforce Job 75848
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 75849
Services Agency. 75850

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 75851
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 75852
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 75853
be used to support the Ohio Incumbent Workforce Training Voucher 75854

Program. The Director of Development Services and the Chief 75855
Investment Officer of JobsOhio may enter into an agreement to 75856
operate the program pursuant to the contract between the 75857
~~Department of~~ Development Services Agency and JobsOhio under 75858
section 187.04 of the Revised Code. The agreement may include a 75859
provision for granting, loaning, or transferring funds from 75860
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 75861
Vouchers, to JobsOhio to provide training for incumbent workers. 75862

Any unexpended and unencumbered portion of the foregoing 75863
appropriation item 195526, Incumbent Workforce Training Vouchers, 75864
at the end of fiscal year 2012 is hereby reappropriated for the 75865
same purpose in fiscal year 2013. 75866

(C) Regardless of any agreement between the Director and the 75867
Chief Investment Officer under division (B) of this section, the 75868
Ohio Incumbent Workforce Training Voucher Program shall conform to 75869
guidelines for the operation of the program, including, but not 75870
limited to, the following: 75871

(1) A requirement that a training voucher under the program 75872
shall not exceed \$6,000 per worker per year; 75873

(2) A provision for an employer of an eligible employee to 75874
apply for a voucher on behalf of the eligible employee; 75875

(3) A provision for an eligible employee to apply directly 75876
for a training voucher with the pre-approval of the employee's 75877
employer; and 75878

(4) A requirement that an employee participating in the 75879
program, or the employee's employer, shall pay for not less than 75880
thirty-three per cent of the training costs under the program. 75881

DEFENSE DEVELOPMENT ASSISTANCE 75882

On July 1 of each fiscal year, or as soon as possible 75883
thereafter, the Director of Budget and Management shall transfer 75884

\$5,000,000 in cash from the Economic Development Projects Fund 75885
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 75886
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 75887
Development Services Agency. The transferred funds are hereby 75888
appropriated in appropriation item 195622, Defense Development 75889
Assistance. 75890

The foregoing appropriation item 195622, Defense Development 75891
Assistance, shall be used for economic development programs and 75892
the creation of new jobs to leverage and support mission gains at 75893
Department of Defense facilities in Ohio by working with future 75894
base realignment and closure activities and ongoing Department of 75895
Defense efficiency initiatives, assisting efforts to secure 75896
Department of Defense support contracts for Ohio companies, 75897
assessing and supporting regional job training and workforce 75898
development needs generated by the Department of Defense and the 75899
Ohio aerospace industry, and for expanding job training and 75900
economic development programs in human performance related 75901
initiatives. These funds shall be matched by private industry 75902
partners or the Department of Defense in an aggregate amount of 75903
\$6,000,000 over the FY 2012-FY 2013 biennium. 75904

Any unexpended and unencumbered portion of the foregoing 75905
appropriation item 195622, Defense Development Assistance, at the 75906
end of fiscal year 2012 is hereby reappropriated for the same 75907
purpose in fiscal year 2013. 75908

WORKFORCE DEVELOPMENT PROGRAMS 75909

The foregoing appropriation item 195655, Workforce 75910
Development Programs, may be used for the Ohio Workforce Guarantee 75911
Program to promote training through grants to businesses and, in 75912
the case of a business consortium, to the consortium for training 75913
and education providers for the reimbursement of eligible training 75914
expenses. Not more than ten per cent of appropriation item 195655, 75915
Workforce Development Programs, shall be used for administrative 75916

expenses related to the Ohio Workforce Guarantee Program. 75917

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 75918

The foregoing appropriation item 195660, Advanced Energy Loan 75919
Programs, shall be used to provide financial assistance to 75920
customers for eligible advanced energy projects for residential, 75921
commercial, and industrial business, local government, educational 75922
institution, nonprofit, and agriculture customers, and to pay for 75923
the program's administrative costs as provided in sections 4928.61 75924
to 4928.63 of the Revised Code and rules adopted by the Director 75925
of Development Services. 75926

On July 1 of each fiscal year, or as soon as possible 75927
thereafter, the Director of Budget and Management shall transfer 75928
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 75929
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 75930

VOLUME CAP ADMINISTRATION 75931

The foregoing appropriation item 195654, Volume Cap 75932
Administration, shall be used for expenses related to the 75933
administration of the Volume Cap Program. Revenues received by the 75934
Volume Cap Administration Fund (Fund 6170) shall consist of 75935
application fees, forfeited deposits, and interest earned from the 75936
custodial account held by the Treasurer of State. 75937

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 75938

The foregoing appropriation item 195664, Innovation Ohio, 75939
shall be used to provide for innovation Ohio purposes, including 75940
loan guarantees and loans under Chapter 166. and particularly 75941
sections 166.12 to 166.16 of the Revised Code. 75942

RESEARCH AND DEVELOPMENT 75943

The foregoing appropriation item 195665, Research and 75944
Development, shall be used to provide for research and development 75945

purposes, including loans, under Chapter 166. and particularly 75946
sections 166.17 to 166.21 of the Revised Code. 75947

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 75948

Appropriation item 195698, Logistics and Distribution 75949
Infrastructure, shall be used for eligible logistics and 75950
distribution infrastructure projects as defined in section 166.01 75951
of the Revised Code. Any unexpended and unencumbered portion of 75952
the appropriation item at the end of fiscal year 2011 is hereby 75953
reappropriated for the same purpose in fiscal year 2012, and any 75954
unexpended and unencumbered portion of the appropriation item at 75955
the end of fiscal year 2012 is hereby reappropriated for the same 75956
purpose in fiscal year 2013. 75957

After all encumbrances have been paid, the Director of Budget 75958
and Management shall transfer the remaining cash balance in the 75959
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 75960
Facilities Establishment Fund (Fund 7037). 75961

FACILITIES ESTABLISHMENT ~~FUND~~ 75962

The foregoing appropriation item 195615, Facilities 75963
Establishment (Fund 7037), shall be used for the purposes of the 75964
Facilities Establishment Fund under Chapter 166. of the Revised 75965
Code. 75966

Notwithstanding Chapter 166. of the Revised Code, an amount 75967
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 75968
transferred from the Facilities Establishment Fund (Fund 7037) to 75969
the ~~Economic Development Financing Operating~~ Business Assistance 75970
Fund (Fund 4510). The transfer is subject to Controlling Board 75971
approval under division (B) of section 166.03 of the Revised Code. 75972

Notwithstanding Chapter 166. of the Revised Code, the 75973
Director of Budget and Management may transfer an amount not to 75974
exceed \$2,500,000 in cash in each fiscal year from the Facilities 75975
Establishment Fund (Fund 7037) to the Minority Business Enterprise 75976

Loan Fund (Fund 4W10). 75977

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 75978
Director of Budget and Management shall transfer the unexpended 75979
and unencumbered cash balance in the Urban Development Loans Fund 75980
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 75981

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 75982
Director of Budget and Management shall transfer the unexpended 75983
and unencumbered cash balance in the Rural Industrial Park Loan 75984
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 75985

CAPITAL ACCESS LOAN PROGRAM 75986

The foregoing appropriation item 195628, Capital Access Loan 75987
Program, shall be used for operating, program, and administrative 75988
expenses of the program. Funds of the Capital Access Loan Program 75989
shall be used to assist participating financial institutions in 75990
making program loans to eligible businesses that face barriers in 75991
accessing working capital and obtaining fixed-asset financing. 75992

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 75993

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 75994
Program, shall be used by the ~~Department of~~ Development Services 75995
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 75996
projects pursuant to sections 122.65 to 122.658 of the Revised 75997
Code. 75998

Sec. 261.30.40. THIRD FRONTIER OPERATING 75999

The foregoing appropriation items 195686, Third Frontier 76000
Operating, and 195620, Third Frontier Operating - Tax, shall be 76001
used for operating expenses incurred by the ~~Department of~~ 76002
Development Services Agency in administering projects pursuant to 76003
sections 184.10 to 184.20 of the Revised Code. Operating expenses 76004
paid from item 195686 shall be limited to the administration of 76005

projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM

The foregoing appropriation item 195688, Job Ready Site ~~Operating Program~~, shall be used for operating expenses incurred by the ~~Department of~~ Development Services Agency in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third-party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer any unexpended and unencumbered portion of appropriation item 898604, Coal Research and Development Fund, used by the Ohio Air Quality Development Authority, to a new capital appropriation item in the ~~Department of~~ Development Services Agency, to be determined by the Director. The Director also shall cancel all outstanding encumbrances against appropriation item 898604, Coal Research and Development Fund, and reestablish them against the foregoing new capital appropriation item. The amounts of the transfer and the reestablished encumbrances, plus \$2,283,264, are hereby

appropriated for fiscal year 2012 in the foregoing new 76036
appropriation item and shall be used to provide funding for coal 76037
research and development purposes. 76038

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 76039
COMMERCIALIZATION SUPPORT 76040

The General Assembly and the Governor recognize the role that 76041
the biomedical industry has in job creation, innovation, and 76042
economic development throughout Ohio. It is the intent of the 76043
General Assembly, the Governor, the Director of Development 76044
Services, and the Director of Budget and Management to work 76045
together in continuing to provide comprehensive state support for 76046
the biomedical industry. 76047

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER 76048

(A)(1) Notwithstanding division (A) of section 169.05 of the 76049
Revised Code, upon the request of the Director of Budget and 76050
Management, the Director of Commerce, before June 30, 2012, shall 76051
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 76052
amount not to exceed \$25,000,000 in cash of the unclaimed funds 76053
that have been reported by the holders of unclaimed funds under 76054
section 169.05 of the Revised Code, regardless of the allocation 76055
of the unclaimed funds described under that section. 76056

Notwithstanding division (A) of section 169.05 of the Revised 76057
Code, upon the request of the Director of Budget and Management, 76058
the Director of Commerce, before June 30, 2013, shall transfer to 76059
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 76060
exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that 76061
have been reported by the holders of unclaimed funds under section 76062
169.05 of the Revised Code, regardless of the allocation of the 76063
unclaimed funds described under that section. 76064

~~(B)~~(2) Notwithstanding division (A) of section 169.05 of the 76065

Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) ASSORTED TRANSFERS FOR RESTRUCTURING

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Water and Sewer Fund (Fund 4440) to the General Reimbursement Fund (Fund 6850).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Water and Sewer Administration Fund (Fund 6110) to the General Reimbursement Fund (Fund 6850).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Tax Incentive Programs Operating Fund (Fund 4S00) to the Business Assistance Fund (Fund 4510).

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New Market Tax Credit Program Fund (Fund 5JR0).

Sec. 261.40.10. WORKFORCE DEVELOPMENT

The Director of Development Services and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to

implement the recommendations of the Workforce Policy Board, and 76096
to complete activities related to the transition of the 76097
administration of employment programs identified by the board. 76098
Subject to the approval of the Director of Budget and Management, 76099
the ~~Department of Development~~ Services Agency and the Department 76100
of Job and Family Services may expend moneys to support the 76101
recommendations of the Workforce Policy Board in the area of 76102
integration of employment functions as described in this paragraph 76103
and to complete implementation and transition activities from the 76104
appropriations to those departments. 76105

Sec. 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 76106

General Revenue Fund 76107

| | | | | | | | |
|-----|--------|---------|----|-----------|----|-----------|-------|
| GRF | 320321 | Central | \$ | 4,422,794 | \$ | 4,422,794 | 76108 |
|-----|--------|---------|----|-----------|----|-----------|-------|

Administration

| | | | | | | | |
|-----|--------|---------------------|----|-----------|----|-----------|-------|
| GRF | 320412 | Protective Services | \$ | 2,174,826 | \$ | 1,957,343 | 76109 |
|-----|--------|---------------------|----|-----------|----|-----------|-------|

| | | | | | | | |
|-----|--------|-----------------------|----|------------|----|-----------------------|-------|
| GRF | 320415 | Lease-Rental Payments | \$ | 18,394,250 | \$ | 19,907,900 | 76110 |
|-----|--------|-----------------------|----|------------|----|-----------------------|-------|

17,907,900

| | | | | | | | |
|-----|--------|----------------------|----|-------------|----|-------------|-------|
| GRF | 322407 | Medicaid State Match | \$ | 218,034,162 | \$ | 214,902,506 | 76111 |
|-----|--------|----------------------|----|-------------|----|-------------|-------|

| | | | | | | | |
|------------|---------------|----------------------------|-----------|----------|-----------|----------------|-------|
| <u>GRF</u> | <u>322420</u> | <u>Screening and Early</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>300,000</u> | 76112 |
|------------|---------------|----------------------------|-----------|----------|-----------|----------------|-------|

Intervention

| | | | | | | | |
|-----|--------|----------------|----|-----------|----|-----------|-------|
| GRF | 322451 | Family Support | \$ | 5,932,758 | \$ | 5,932,758 | 76113 |
|-----|--------|----------------|----|-----------|----|-----------|-------|

Services

| | | | | | | | |
|-----|--------|---------------|----|------------|----|------------|-------|
| GRF | 322501 | County Boards | \$ | 40,906,365 | \$ | 44,449,280 | 76114 |
|-----|--------|---------------|----|------------|----|------------|-------|

Subsidies

| | | | | | | | |
|-----|--------|------------|----|------------|----|------------|-------|
| GRF | 322503 | Tax Equity | \$ | 14,000,000 | \$ | 14,000,000 | 76115 |
|-----|--------|------------|----|------------|----|------------|-------|

| | | | | | | |
|-----------|----------------------|----|-------------|----|------------------------|-------|
| TOTAL GRF | General Revenue Fund | \$ | 303,865,155 | \$ | 305,572,581 | 76116 |
|-----------|----------------------|----|-------------|----|------------------------|-------|

303,872,581

General Services Fund Group 76117

| | | | | | | | |
|------|--------|----------------------|----|-----------|----|-----------|-------|
| 1520 | 323609 | Developmental Center | \$ | 3,414,317 | \$ | 3,414,317 | 76118 |
|------|--------|----------------------|----|-----------|----|-----------|-------|

and Residential
Operating Services

| | | | | | |
|--|----|---------------|----|--|-------|
| TOTAL GSF General Services Fund Group | \$ | 3,414,317 | \$ | 3,414,317 | 76119 |
| Federal Special Revenue Fund Group | | | | | 76120 |
| 3A50 320613 DD Council | \$ | 3,341,572 | \$ | 3,341,572 | 76121 |
| 3250 322612 Community Social Service Programs | \$ | 11,017,754 | \$ | 10,604,896 | 76122 |
| 3DZ0 322648 Enhanced Medicaid - Federal | \$ | 10,000,000 | \$ | 0 | 76123 |
| 3G60 322639 Medicaid Waiver - Federal | \$ | 866,566,007 | \$ | 985,566,007 | 76124 |
| 3M70 322650 CAFS Medicaid | \$ | 29,349,502 | \$ | 29,349,502 3,000,000 | 76125 |
| 3A40 323605 Developmental Center and Residential Facility Services and Support | \$ | 180,266,029 | \$ | 179,384,881 <u>174,000,000</u> | 76126 |
| TOTAL FED Federal Special Revenue Fund Group | \$ | 1,100,540,864 | \$ | 1,208,246,858 <u>1,176,512,475</u> | 76127 |
| State Special Revenue Fund Group | | | | | 76128 |
| 5GE0 320606 Operating and Services | \$ | 7,406,609 | \$ | 7,407,297 | 76129 |
| 2210 322620 Supplement Service Trust | \$ | 150,000 | \$ | 150,000 | 76130 |
| 4K80 322604 Medicaid Waiver - State Match | \$ | 12,000,000 | \$ | 12,000,000 | 76131 |
| 5CT0 322632 Intensive Behavioral Needs | \$ | 1,000,000 | \$ | 1,000,000 | 76132 |
| 5DJ0 322625 Targeted Case Management Match | \$ | 21,000,000 | \$ | 24,000,000 | 76133 |
| 5DJ0 322626 Targeted Case Management Services | \$ | 57,307,357 | \$ | 66,000,000 | 76134 |
| 5DK0 322629 Capital Replacement | \$ | 750,000 | \$ | 750,000 | 76135 |

| | | | | | | |
|------------------------------|-----------------------|-----------------------|----|---------------|----|--------------------------------|
| | | Facilities | | | | |
| 5EVO | 322627 | Program Fees | \$ | 685,000 | \$ | 685,000 76136 |
| 5H00 | 322619 | Medicaid Repayment | \$ | 160,000 | \$ | 160,000 76137 |
| 5JX0 | 322651 | Interagency Workgroup | \$ | 45,000 | | 45,000 76138 |
| | | - Autism | | | | |
| 5Z10 | 322624 | County Board Waiver | \$ | 235,000,000 | \$ | 290,000,000 76139 |
| | | Match | | | | |
| 4890 | 323632 | Developmental Center | \$ | 16,497,170 | \$ | 16,497,169 76140 |
| | | Direct Care Support | | | | |
| 5S20 | 590622 | Medicaid | \$ | 20,875,567 | \$ | 21,727,540 76141 |
| | | Administration & | | | | |
| | | Oversight | | | | |
| TOTAL SSR | State Special Revenue | | \$ | 372,876,703 | \$ | 440,422,006 76142 |
| | Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 1,780,697,039 | \$ | 1,957,655,762 76143 |
| | | | | | | <u>1,924,221,379</u> |

Sec. 263.10.30. FAMILY SCREENING AND EARLY INTERVENTION 76145

The foregoing appropriation item 322420, Screening and Early Intervention, shall be used for screening and early intervention programs for children with autism selected by the Director. 76146
76147
76148

FAMILY SUPPORT SERVICES SUBSIDY 76149

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013: 76150
76151
76152

(1) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per 76153
76154
76155
76156
76157
76158
76159

cent of its subsidy for administrative costs. 76160

(2) The appropriation item may be used to distribute funds to 76161
county boards for the purpose of addressing economic hardships and 76162
to promote efficiency of operations. In consultation with 76163
representatives of county boards, the Director shall determine the 76164
amount of funds to distribute for these purposes and the criteria 76165
for distributing the funds. 76166

(B) Each county board shall submit reports to the Department 76167
of Developmental Disabilities on the use of funds received under 76168
this section. The reports shall be submitted at the times and in 76169
the manner specified in rules the Director shall adopt in 76170
accordance with Chapter 119. of the Revised Code. 76171

Sec. 263.10.90. TARGETED CASE MANAGEMENT SERVICES 76172

County boards of developmental disabilities shall pay the 76173
nonfederal portion of targeted case management costs to the 76174
Department of Developmental Disabilities. 76175

The Directors of Developmental Disabilities and Job and 76176
Family Services may enter into an interagency agreement under 76177
which the Department of Developmental Disabilities shall transfer 76178
cash from the Targeted Case Management Fund (Fund 5DJ0) to the 76179
~~Medicaid Program Support~~ State Health Care/Medicaid Support and 76180
Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and 76181
Family Services in an amount equal to the nonfederal portion of 76182
the cost of targeted case management services paid by county 76183
boards, and the Department of Job and Family Services shall pay 76184
the total cost of targeted case management claims. The transfer 76185
shall be made using an intrastate transfer voucher. 76186

Sec. 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 76187
PHARMACY PROGRAMS 76188

The Director of Developmental Disabilities shall quarterly 76189

transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the 76190
~~Medicaid Program Support~~ State Health Care/Medicaid Support and 76191
Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and 76192
Family Services, in an amount equal to the nonfederal share of 76193
Medicaid prescription drug claim costs for all developmental 76194
centers paid by the Department of Job and Family Services. The 76195
quarterly transfer shall be made using an intrastate transfer 76196
voucher. 76197

Sec. 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING 76198
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS OR RESIDENTS OF 76199
CONVERTED FACILITIES 76200

Subject (A) As used in this section, "converted facility" 76201
means an intermediate care facility for the mentally retarded as 76202
defined in section 5111.20 of the Revised Code, or former 76203
intermediate care facility for the mentally retarded, that 76204
converted some or all of its beds to providing home and 76205
community-based services under the Individual Options Waiver 76206
pursuant to section 5111.874 of the Revised Code. 76207

(B) Subject to approval by the Centers for Medicare and 76208
Medicaid Services, the Department of Job and Family Services shall 76209
increase the rate paid to a provider under the Individual Options 76210
Waiver by fifty-two cents for each fifteen minutes of routine 76211
homemaker/personal care provided to an individual for up to a year 76212
if all of the following apply: 76213

~~(A)~~(1) The individual was a resident of a developmental 76214
center or converted facility immediately prior to enrollment in 76215
the waiver; 76216

~~(B)~~(2) The provider begins serving the individual on or after 76217
July 1, 2011; 76218

~~(C)~~(3) The Director of Developmental Disabilities determines 76219

that the increased rate is warranted by the individual's special 76220
circumstances, including the individual's diagnosis, service 76221
needs, or length of stay at the developmental center or converted 76222
facility, and that serving the individual through the Individual 76223
Options Waiver is fiscally prudent for the Medicaid program. 76224

Sec. 267.10. EDU DEPARTMENT OF EDUCATION 76225

General Revenue Fund 76226

GRF 200100 Personal Services \$ 8,579,178 \$ ~~8,579,178~~ 0 76227

GRF 200320 Maintenance and \$ 2,830,407 \$ ~~2,830,407~~ 0 76228
Equipment

GRF 200321 Operating Expenses \$ 0 \$ 13,142,780 76229

GRF 200408 Early Childhood \$ 23,268,341 \$ 23,268,341 76230
Education

GRF 200416 Career-Technical \$ 2,233,195 \$ ~~2,233,195~~ 0 76231
Education Match

GRF 200420 ~~Computer/Application/~~ \$ 4,241,296 \$ 4,241,296 76232
~~Network~~ Information
Technology Development
and Support

GRF 200421 Alternative Education \$ 7,403,998 \$ 7,403,998 76233
Programs

GRF 200422 School Management \$ 2,842,812 \$ 3,000,000 76234
Assistance

GRF 200424 Policy Analysis \$ 328,558 \$ 328,558 76235

GRF 200425 Tech Prep Consortia \$ 260,542 \$ 260,542 76236
Support

GRF 200426 Ohio Educational \$ 17,974,489 \$ 17,974,489 76237
Computer Network

GRF 200427 Academic Standards \$ 4,346,060 \$ 3,700,000 76238

GRF 200437 Student Assessment \$ 55,002,167 \$ 55,002,167 76239

GRF 200439 Accountability/Report \$ 3,579,279 \$ 3,579,279 76240

| | | | | | |
|-------------|---------------------------------|----|---------------|----|--------------------------|
| | Cards | | | | |
| GRF 200442 | Child Care Licensing | \$ | 827,140 | \$ | 827,140 |
| GRF 200446 | Education Management | \$ | 6,833,070 | \$ | 6,833,070 |
| | Information System | | | | |
| GRF 200447 | GED Testing | \$ | 879,551 | \$ | 879,551 |
| GRF 200448 | Educator Preparation | \$ | 786,737 | \$ | 786,737 |
| GRF 200455 | Community Schools and | \$ | 2,200,000 | \$ | 2,200,000 |
| | Choice Programs | | | | |
| GRF 200502 | Pupil Transportation | \$ | 438,248,936 | \$ | 442,113,527 |
| GRF 200505 | School Lunch Match | \$ | 9,100,000 | \$ | 9,100,000 |
| GRF 200511 | Auxiliary Services | \$ | 124,194,099 | \$ | 126,194,099 |
| GRF 200532 | Nonpublic | \$ | 56,164,384 | \$ | 57,006,850 |
| | Administrative Cost | | | | |
| | Reimbursement | | | | |
| GRF 200540 | Special Education | \$ | 135,820,668 | \$ | 135,820,668 |
| | Enhancements | | | | |
| GRF 200545 | Career-Technical | \$ | 8,802,699 | \$ | 8,802,699 |
| | Education Enhancements | | | | |
| GRF 200550 | Foundation Funding | \$ | 5,536,347,861 | \$ | 5,610,290,686 |
| | | | | | <u>5,616,481,153</u> |
| GRF 200901 | Property Tax | \$ | 1,086,500,000 | \$ | 1,095,000,000 |
| | Allocation - Education | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 7,539,595,467 | \$ | 7,628,256,477 |
| | | | | | <u>7,633,946,944</u> |
| | General Services Fund Group | | | | 76255 |
| 1380 200606 | Computer | \$ | 7,600,090 | \$ | 7,600,090 |
| | Services-Operational | | | | <u>6,100,090</u> |
| | <u>Information</u> | | | | |
| | <u>Technology</u> | | | | |
| | <u>Development and</u> | | | | |
| | Support | | | | |
| 4520 200638 | Miscellaneous | \$ | 300,000 | \$ | 300,000 |
| | Educational Services | | | | |

| | | <u>Fees and Refunds</u> | | | | | |
|------------------------------------|--------|---|----|------------|----|--|-------|
| 4L20 | 200681 | Teacher Certification and Licensure | \$ | 8,147,756 | \$ | 8,147,756 | 76258 |
| 5960 | 200656 | Ohio Career Information System | \$ | 529,761 | \$ | 529,761 | 76259 |
| 5H30 | 200687 | School District Solvency Assistance | \$ | 25,000,000 | \$ | 25,000,000 | 76260 |
| TOTAL GSF General Services | | | | | | | 76261 |
| Fund Group | | | \$ | 41,577,607 | \$ | 41,577,607 <u>40,077,607</u> | 76262 |
| Federal Special Revenue Fund Group | | | | | | | 76263 |
| 3090 | 200601 | Neglected and Delinquent Education | \$ | 2,168,642 | \$ | 2,168,642 | 76264 |
| 3670 | 200607 | School Food Services | \$ | 6,803,472 | \$ | 6,959,906 | 76265 |
| 3690 | 200616 | Career-Technical Education Federal Enhancement | \$ | 5,000,000 | \$ | 5,000,000 | 76266 |
| 3700 | 200624 | Education of Exceptional Children | \$ | 1,905,000 | \$ | 0 | 76267 |
| 3780 | 200660 | Learn and Serve | \$ | 619,211 | \$ | 619,211 | 76268 |
| 3AF0 | 200603 | Schools Medicaid Administrative Claims | \$ | 639,000 | \$ | 639,000 | 76269 |
| 3AN0 | 200671 | School Improvement Grants | \$ | 20,400,000 | \$ | 20,400,000 | 76270 |
| 3AX0 | 200698 | Improving Health and Educational Outcomes of Young People | \$ | 630,954 | \$ | 630,954 | 76271 |
| 3BK0 | 200628 | Longitudinal Data Systems | \$ | 500,000 | \$ | 250,000 | 76272 |
| 3C50 | 200661 | Early Childhood Education | \$ | 14,554,749 | \$ | 14,554,749 | 76273 |
| 3CG0 | 200646 | Teacher Incentive Fund | \$ | 1,925,881 | \$ | 0 | 76274 |

Am. Sub. H. B. No. 487
As Reported by the Committee of Conference

| | | | | | | | |
|------|--------|---|----|-------------|----|-------------|-------|
| 3D10 | 200664 | Drug Free Schools | \$ | 1,500,000 | \$ | 0 | 76275 |
| 3D20 | 200667 | Math Science Partnerships | \$ | 9,500,001 | \$ | 9,500,001 | 76276 |
| 3DG0 | 200630 | Federal Stimulus - McKinney Vento Grants | \$ | 330,512 | \$ | 0 | 76277 |
| 3DJ0 | 200699 | IDEA Part B - Federal Stimulus | \$ | 21,886,803 | \$ | 0 | 76278 |
| 3DK0 | 200642 | Title 1A - Federal Stimulus | \$ | 18,633,673 | \$ | 0 | 76279 |
| 3DL0 | 200650 | IDEA Preschool - Federal Stimulus | \$ | 670,000 | \$ | 0 | 76280 |
| 3DM0 | 200651 | Title IID Technology - Federal Stimulus | \$ | 1,195,100 | \$ | 0 | 76281 |
| 3DP0 | 200652 | Title I School Improvement - Federal Stimulus | \$ | 48,500,000 | \$ | 30,000,000 | 76282 |
| 3EC0 | 200653 | Teacher Incentive - Federal Stimulus | \$ | 7,500,000 | \$ | 7,500,000 | 76283 |
| 3EH0 | 200620 | Migrant Education | \$ | 2,645,905 | \$ | 2,645,905 | 76284 |
| 3EJ0 | 200622 | Homeless Children Education | \$ | 1,759,782 | \$ | 1,759,782 | 76285 |
| 3EN0 | 200655 | State Data Systems - Federal Stimulus | \$ | 2,500,000 | \$ | 2,500,000 | 76286 |
| 3ES0 | 200657 | General Supervisory Enhancement Grant | \$ | 500,000 | \$ | 500,000 | 76287 |
| 3ET0 | 200658 | Education Jobs Fund | \$ | 300,000,000 | \$ | 50,000,000 | 76288 |
| 3FD0 | 200665 | Race to the Top | \$ | 100,000,000 | \$ | 100,000,000 | 76289 |
| 3FE0 | 200669 | Striving Readers | \$ | 180,000 | \$ | 100,000 | 76290 |
| 3H90 | 200605 | Head Start Collaboration Project | \$ | 225,000 | \$ | 225,000 | 76291 |
| 3L60 | 200617 | Federal School Lunch | \$ | 327,516,539 | \$ | 337,323,792 | 76292 |
| 3L70 | 200618 | Federal School Breakfast | \$ | 87,596,850 | \$ | 90,224,756 | 76293 |

| | | | | | | | |
|--|--------|---|----|-------------|----|--|---|
| 3L80 | 200619 | Child/Adult Food Programs | \$ | 100,850,833 | \$ | 103,876,359 | 76294 |
| 3L90 | 200621 | Career-Technical Education Basic Grant | \$ | 48,466,864 | \$ | 48,466,864 | 76295 |
| 3M00 | 200623 | ESEA Title 1A | \$ | 530,010,000 | \$ | 530,010,000 | 76296 |
| 3M20 | 200680 | Individuals with Disabilities Education Act | \$ | 443,170,050 | \$ | 443,170,050 | 76297 |
| 3S20 | 200641 | Education Technology | \$ | 9,487,397 | \$ | 9,487,397 | 76298 |
| 3T40 | 200613 | Public Charter Schools | \$ | 14,291,353 | \$ | 14,291,353 | 76299 |
| 3Y20 | 200688 | 21st Century Community Learning Centers | \$ | 43,720,462 | \$ | 45,906,485 | 76300 |
| 3Y60 | 200635 | Improving Teacher Quality | \$ | 101,900,000 | \$ | 101,900,000 | 76301 |
| 3Y70 | 200689 | English Language Acquisition | \$ | 8,373,995 | \$ | 8,373,995 | 76302 |
| 3Y80 | 200639 | Rural and Low Income Technical Assistance | \$ | 1,500,000 | \$ | 1,500,000 | 76303 |
| 3Z20 | 200690 | State Assessments | \$ | 11,882,258 | \$ | 11,882,258 | 76304 |
| 3Z30 | 200645 | Consolidated Federal Grant Administration | \$ | 8,949,280 | \$ | 8,949,280 <u>7,949,280</u> | 76305 |
| TOTAL FED Federal Special Revenue Fund Group | | | | | | | 76306 |
| | | | | | | | \$ 2,310,389,566 |
| | | | | | | | \$ 2,011,315,739 <u>2,010,315,739</u> |
| State Special Revenue Fund Group | | | | | | | 76308 |
| 4540 | 200610 | Guidance and <u>GED</u> Testing | \$ | 1,050,000 | \$ | 1,050,000 | 76309 |
| 4550 | 200608 | Commodity Foods | \$ | 24,000,000 | \$ | 24,000,000 | 76310 |
| 4R70 | 200695 | Indirect Operational Support | \$ | 6,500,000 | \$ | 6,600,000 | 76311 |
| 4V70 | 200633 | Interagency | \$ | 1,117,725 | \$ | 1,117,725 | 76312 |

| | | | | | | | |
|------------------------------|---------------|----------------------------|-----------|----------------|----------------|---------------------------|-------|
| | | <u>Operational Program</u> | | | <u>717,725</u> | | |
| | | Support | | | | | |
| 5980 | 200659 | Auxiliary Services | \$ | 1,328,910 | \$ | 1,328,910 | 76313 |
| | | Reimbursement | | | | | |
| 5BB0 | 200696 | State Action for | \$ | 231,300 | \$ | 0 | 76314 |
| | | Education Leadership | | | | | |
| 5BJ0 | 200626 | Half-Mill Maintenance | \$ | 17,300,000 | \$ | 18,000,000 | 76315 |
| | | Equalization | | | | | |
| 5U20 | 200685 | National Education | \$ | 300,000 | \$ | 300,000 | 76316 |
| | | Statistics | | | | | |
| 6200 | 200615 | Educational | \$ | 3,000,000 | \$ | 3,000,000 | 76317 |
| | | Improvement Grants | | | | | |
| TOTAL SSR | | State Special Revenue | | | | | 76318 |
| Fund Group | | | \$ | 54,827,935 | \$ | 55,396,635 | 76319 |
| | | | | | | <u>54,996,635</u> | |
| Lottery Profits | | Education Fund Group | | | | | 76320 |
| 7017 | 200612 | Foundation Funding | \$ | 717,500,000 | \$ | 680,500,000 | 76321 |
| <u>7018</u> | <u>200686</u> | <u>Third Grade Reading</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>13,000,000</u> | 76322 |
| | | <u>Guarantee</u> | | | | | |
| TOTAL LPE | | Lottery Profits | | | | | 76323 |
| Education Fund Group | | | \$ | 717,500,000 | \$ | 680,500,000 | 76324 |
| | | | | | | <u>693,500,000</u> | |
| Revenue Distribution | | Fund Group | | | | | 76325 |
| 7047 | 200909 | School District | \$ | 722,000,000 | \$ | 475,000,000 | 76326 |
| | | Property Tax | | | | | |
| | | Replacement-Business | | | | | |
| 7053 | 200900 | School District | \$ | 34,000,000 | \$ | 30,000,000 | 76327 |
| | | Property Tax | | | | | |
| | | Replacement-Utility | | | | | |
| TOTAL RDF | | Revenue Distribution | | | | | 76328 |
| Fund Group | | | \$ | 756,000,000 | \$ | 505,000,000 | 76329 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 11,419,890,575 | \$ | 10,922,046,458 | 76330 |

10,937,836,925

Sec. 267.10.10. OPERATING EXPENSES 76332

The foregoing appropriation item 200321, Operating Expenses, 76333
shall be used to support the same activities as are supported 76334
prior to July 1, 2012, by appropriation items 200100, Personal 76335
Services, and 200320, Maintenance and Equipment. A portion of this 76336
appropriation item also shall be used by the Department of 76337
Education to provide matching funds under 20 U.S.C. 2321, which 76338
are provided by appropriation item 200416, Career-Technical 76339
Education Match, prior to July 1, 2012. 76340

On July 1, 2012, or as soon as possible thereafter, the 76341
Director of Budget and Management shall cancel any existing 76342
encumbrances against appropriation items 200100, Personal 76343
Services, 200320, Maintenance and Equipment, and 200416, 76344
Career-Technical Education Match, and reestablish them against 76345
appropriation item 200321, Operating Expenses. The reestablished 76346
encumbrance amounts are hereby appropriated. 76347

EARLY CHILDHOOD EDUCATION 76348

The Department of Education shall distribute the foregoing 76349
appropriation item 200408, Early Childhood Education, to pay the 76350
costs of early childhood education programs. 76351

(A) As used in this section: 76352

(1) "Provider" means a city, local, exempted village, or 76353
joint vocational school district, or an educational service 76354
center. 76355

(2) In the case of a city, local, or exempted village school 76356
district, "new eligible provider" means a district that did not 76357
receive state funding for Early Childhood Education in the 76358
previous fiscal year or demonstrates a need for early childhood 76359
programs as defined in division (D) of this section. 76360

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2012, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 265.10.20 of Am. Sub. H.B. 1 of the 128th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2013, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the

balance to new eligible providers or to existing providers to 76393
serve more eligible children or for purposes of program expansion, 76394
improvement, or special projects to promote quality and 76395
innovation. 76396

Awards under this section shall be distributed on a per-pupil 76397
basis, and in accordance with division (H) of this section. The 76398
Department may adjust the per-pupil amount so that the per-pupil 76399
amount multiplied by the number of eligible children enrolled and 76400
receiving services on the first day of December or the business 76401
day closest to that date equals the amount allocated under this 76402
section. 76403

(E) Costs for developing and administering an early childhood 76404
education program may not exceed fifteen per cent of the total 76405
approved costs of the program. 76406

All providers shall maintain such fiscal control and 76407
accounting procedures as may be necessary to ensure the 76408
disbursement of, and accounting for, these funds. The control of 76409
funds provided in this program, and title to property obtained, 76410
shall be under the authority of the approved provider for purposes 76411
provided in the program unless, as described in division (J) of 76412
this section, the program waives its right for funding or a 76413
program's funding is eliminated or reduced due to its inability to 76414
meet financial or early learning program guidelines. The approved 76415
provider shall administer and use such property and funds for the 76416
purposes specified. 76417

(F) The Department may examine a provider's financial and 76418
program records. If the financial practices of the program are not 76419
in accordance with standard accounting principles or do not meet 76420
financial standards outlined under division (E) of this section, 76421
or if the program fails to substantially meet the early learning 76422
program guidelines, meet a quality rating level in the tiered 76423
quality rating and improvement system developed under section 76424

5104.30 of the Revised Code as prescribed by the Department, or 76425
exhibits below average performance as measured against the 76426
guidelines, the early childhood education program shall propose 76427
and implement a corrective action plan that has been approved by 76428
the Department. The approved corrective action plan shall be 76429
signed by the chief executive officer and the executive of the 76430
official governing body of the provider. The corrective action 76431
plan shall include a schedule for monitoring by the Department. 76432
Such monitoring may include monthly reports, inspections, a 76433
timeline for correction of deficiencies, and technical assistance 76434
to be provided by the Department or obtained by the early 76435
childhood education program. The Department may withhold funding 76436
pending corrective action. If an early childhood education program 76437
fails to satisfactorily complete a corrective action plan, the 76438
Department may deny expansion funding to the program or withdraw 76439
all or part of the funding to the program and establish a new 76440
eligible provider through a selection process established by the 76441
Department. 76442

(G) Each early childhood education program shall do all of 76443
the following: 76444

(1) Meet teacher qualification requirements prescribed by 76445
section 3301.311 of the Revised Code; 76446

(2) Align curriculum to the early learning content standards 76447
developed by the Department; 76448

(3) Meet any child or program assessment requirements 76449
prescribed by the Department; 76450

(4) Require teachers, except teachers enrolled and working to 76451
obtain a degree pursuant to section 3301.311 of the Revised Code, 76452
to attend a minimum of twenty hours every two years of 76453
professional development as prescribed by the Department; 76454

(5) Document and report child progress as prescribed by the 76455

Department; 76456

(6) Meet and report compliance with the early learning 76457
program guidelines as prescribed by the Department; 76458

(7) Participate in the tiered quality rating and improvement 76459
system developed under section 5104.30 of the Revised Code. 76460
Effective July 1, 2016, all programs shall be rated through the 76461
system. 76462

(H) Per-pupil funding for programs subject to this section 76463
shall be sufficient to provide eligible children with services for 76464
a standard early childhood schedule which shall be defined in this 76465
section as a minimum of twelve and one-half hours per school week 76466
as defined in section 3313.62 of the Revised Code for the minimum 76467
school year as defined in sections 3313.48, 3313.481, and 3313.482 76468
of the Revised Code. Nothing in this section shall be construed to 76469
prohibit program providers from utilizing other funds to serve 76470
eligible children in programs that exceed the twelve and one-half 76471
hours per week or that exceed the minimum school year. For any 76472
provider for which a standard early childhood education schedule 76473
creates a hardship or for which the provider shows evidence that 76474
the provider is working in collaboration with a preschool special 76475
education program, the provider may submit a waiver to the 76476
Department requesting an alternate schedule. If the Department 76477
approves a waiver for an alternate schedule that provides services 76478
for less time than the standard early childhood education 76479
schedule, the Department may reduce the provider's annual 76480
allocation proportionately. Under no circumstances shall an annual 76481
allocation be increased because of the approval of an alternate 76482
schedule. 76483

(I) Each provider shall develop a sliding fee scale based on 76484
family incomes and shall charge families who earn more than two 76485
hundred per cent of the federal poverty guidelines, as defined in 76486
division (A)(3) of section 5101.46 of the Revised Code, for the 76487

early childhood education program. 76488

The Department shall conduct an annual survey of each 76489
provider to determine whether the provider charges families 76490
tuition or fees, the amount families are charged relative to 76491
family income levels, and the number of families and students 76492
charged tuition and fees for the early childhood program. 76493

(J) If an early childhood education program voluntarily 76494
waives its right for funding, or has its funding eliminated for 76495
not meeting financial standards or the early learning program 76496
guidelines, the provider shall transfer control of title to 76497
property, equipment, and remaining supplies obtained through the 76498
program to providers designated by the Department and return any 76499
unexpended funds to the Department along with any reports 76500
prescribed by the Department. The funding made available from a 76501
program that waives its right for funding or has its funding 76502
eliminated or reduced may be used by the Department for new grant 76503
awards or expansion grants. The Department may award new grants or 76504
expansion grants to eligible providers who apply. The eligible 76505
providers who apply must do so in accordance with the selection 76506
process established by the Department. 76507

(K) As used in this section, "early learning program 76508
guidelines" means the guidelines established by the Department 76509
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 76510
66 of the 126th General Assembly. 76511

(L) Eligible expenditures for the Early Childhood Education 76512
program shall be claimed each fiscal year to help meet the state's 76513
TANF maintenance of effort requirement. The Superintendent of 76514
Public Instruction and the Director of Job and Family Services 76515
shall enter into an interagency agreement to carry out the 76516
requirements under this division, which shall include developing 76517
reporting guidelines for these expenditures. 76518

Sec. 267.10.20. CAREER-TECHNICAL EDUCATION MATCH 76519

~~The~~ For fiscal year 2012, the foregoing appropriation item 76520
200416, Career-Technical Education Match, shall be used by the 76521
Department of Education to provide ~~vocational administration~~ 76522
matching funds under 20 U.S.C. ~~2311~~ 2321. 76523

~~The Director of Budget and Management shall transfer any~~ 76524
~~remaining appropriation from appropriation item 200416,~~ 76525
~~Career Technical Education Match, to appropriation item 200426,~~ 76526
~~Ohio Educational Computer Network, to support the Ohio Educational~~ 76527
~~Computer Network.~~ 76528

COMPUTER/APPLICATION/NETWORK INFORMATION TECHNOLOGY 76529
DEVELOPMENT AND SUPPORT 76530

The foregoing appropriation item 200420, 76531
~~Computer/Application/Network~~ Information Technology Development 76532
and Support, shall be used to support the development and 76533
implementation of information technology solutions designed to 76534
improve the performance and services of the Department of 76535
Education. Funds may be used for personnel, maintenance, and 76536
equipment costs related to the development and implementation of 76537
these technical system projects. Implementation of these systems 76538
shall allow the Department to provide greater levels of assistance 76539
to school districts and to provide more timely information to the 76540
public, including school districts, administrators, and 76541
legislators. Funds may also be used to support data-driven 76542
decision-making and differentiated instruction, as well as to 76543
communicate academic content standards and curriculum models to 76544
schools through web-based applications. 76545

Sec. 267.10.40. SCHOOL MANAGEMENT ASSISTANCE 76546

Of the foregoing appropriation item 200422, School Management 76547
Assistance, \$1,000,000 in each fiscal year ~~2012 and \$1,300,000 in~~ 76548

~~fiscal year 2013~~ shall be used by the Auditor of State in 76549
consultation with the Department of Education for expenses 76550
incurred in the Auditor of State's role relating to fiscal 76551
caution, fiscal watch, and fiscal emergency activities as defined 76552
in Chapter 3316. of the Revised Code and may also be used by the 76553
Auditor of State to conduct performance audits of other school 76554
districts with priority given to districts in fiscal distress. 76555
Districts in fiscal distress shall be determined by the Auditor of 76556
State and shall include districts that the Auditor of State, in 76557
consultation with the Department of Education, determines are 76558
employing fiscal practices or experiencing budgetary conditions 76559
that could produce a state of fiscal watch or fiscal emergency. 76560

The remainder of appropriation item 200422, School Management 76561
Assistance, shall be used by the Department of Education to 76562
provide fiscal technical assistance and inservice education for 76563
school district management personnel and to administer, monitor, 76564
and implement the fiscal caution, fiscal watch, and fiscal 76565
emergency provisions under Chapter 3316. of the Revised Code. 76566

COMMUNITY SCHOOL AND CHOICE PROGRAMS 76567

An amount equal to the unexpended, unencumbered balances of 76568
the GRF appropriations for the Department of Education at the end 76569
of fiscal year 2012, but not to exceed \$600,000, is hereby 76570
reappropriated to appropriation item 200455, Community Schools and 76571
Choice Programs, for fiscal year 2013 for the Department of 76572
Education to provide STEM schools with matching funds for industry 76573
workforce development initiatives. 76574

If the unexpended, unencumbered balances reappropriated above 76575
are less than \$600,000, the Superintendent of Public Instruction 76576
shall identify outstanding GRF encumbrances of the Department for 76577
fiscal year 2012 and prior fiscal years that are no longer needed 76578
to support the obligations of the Department. On July 1, 2012, or 76579
as soon as possible thereafter, the Superintendent shall certify 76580

the identified encumbrances to the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall cancel identified encumbrances in an amount up to the difference between \$600,000 and the amount reappropriated above. The amount of canceled encumbrances is hereby appropriated to appropriation item 200455, Community Schools and Choice Programs, for fiscal year 2013 for the Department of Education to provide STEM schools with matching funds for industry workforce development initiatives.

Sec. 267.30.20. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$45,282,959 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code.

Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for DD boards and institutions for fiscal year 2012 and fiscal year 2013 shall be determined by providing the per pupil amount received by each DD board and institution for the prior fiscal year for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county DD boards, educational service centers, and school districts for services provided by instructional assistants, related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, and county DD boards serving preschool children with disabilities to adhere to Ohio's Early Learning Program Guidelines, participate in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code, and document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department. Effective July 1, 2018, all programs shall be

rated through the tiered quality rating and improvement system. 76644

Sec. 267.30.40. FOUNDATION FUNDING 76645

Of the foregoing appropriation item 200550, Foundation 76646
Funding, up to \$675,000 in each fiscal year shall be used to 76647
support the work of the College of Education and Human Ecology at 76648
the Ohio State University in reviewing and assessing the alignment 76649
of courses offered through the distance learning clearinghouse 76650
established in sections 3333.81 to 3333.88 of the Revised Code 76651
with the academic content standards adopted under division (A) of 76652
section 3301.079 of the Revised Code. 76653

Of the foregoing appropriation item 200550, Foundation 76654
Funding, up to \$250,000 in each fiscal year may be used by the 76655
Department to fund a shared services pilot project involving at 76656
least two educational service centers. The pilot project shall 76657
focus on the design, implementation, and evaluation of a shared 76658
service delivery model. The educational service centers 76659
participating in the pilot project shall submit a report not later 76660
than September 1, 2013, to the Governor, members of the General 76661
Assembly, and members of the State Board of Education, reviewing 76662
the opportunities and challenges of implementing shared services 76663
initiatives as well as any real or projected cost efficiencies 76664
achieved through the pilot project. 76665

Of the foregoing appropriation item 200550, Foundation 76666
Funding, up to \$50,000 shall be expended in each fiscal year for 76667
court payments under section 2151.362 of the Revised Code. 76668

Of the foregoing appropriation item 200550, Foundation 76669
Funding, up to \$8,100,000 in each fiscal year shall be used to 76670
fund gifted education at educational service centers. 76671
Notwithstanding division (D)(5) of section 3317.018 of the Revised 76672
Code, the Department shall distribute the funding through the 76673
unit-based funding methodology in place under division (L) of 76674

section 3317.024, division (E) of section 3317.05, and divisions 76675
(A), (B), and (C) of section 3317.053 of the Revised Code as they 76676
existed prior to fiscal year 2010. 76677

Of the foregoing appropriation item 200550, Foundation 76678
Funding, up to \$10,000,000 in each fiscal year shall be used to 76679
provide additional state aid to school districts, joint vocational 76680
school districts, and community schools for special education 76681
students under division (C)(3) of section 3317.022 of the Revised 76682
Code, except that the Controlling Board may increase these amounts 76683
if presented with such a request from the Department of Education 76684
at the final meeting of the fiscal year; and up to \$2,000,000 in 76685
each fiscal year shall be reserved for Youth Services tuition 76686
payments under section 3317.024 of the Revised Code. 76687

Of the foregoing appropriation item 200550, Foundation 76688
Funding, up to \$41,760,000 in fiscal year 2012 and up to 76689
\$35,496,000 in fiscal year 2013 shall be reserved to fund the 76690
state reimbursement of educational service centers under section 76691
3317.11 of the Revised Code and the section of this act entitled 76692
"EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in 76693
each fiscal year shall be distributed to educational service 76694
centers for School Improvement Initiatives. Educational service 76695
centers shall be required to support districts in the development 76696
and implementation of their continuous improvement plans as 76697
required in section 3302.04 of the Revised Code and to provide 76698
technical assistance and support in accordance with Title I of the 76699
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 76700
6317. 76701

Of the foregoing appropriation item 200550, Foundation 76702
Funding, up to \$700,000 in each fiscal year shall be used by the 76703
Department of Education for a program to pay for educational 76704
services for youth who have been assigned by a juvenile court or 76705
other authorized agency to any of the facilities described in 76706

division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT." 76707
76708

Of the foregoing appropriation item 200550, Foundation Funding, up to \$12,522,860 in ~~each~~ fiscal year 2012 and up to \$18,713,327 in fiscal year 2013 shall be used to support ~~the Cleveland~~ school choice ~~program~~ programs. 76709
76710
76711
76712

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to \$1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education. 76713
76714
76715
76716
76717
76718
76719
76720
76721
76722
76723
76724
76725
76726

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 76727
76728
76729
76730
76731

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to city, exempted village, and local school districts in accordance with the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT FUNDING." 76732
76733
76734
76735
76736

Of the foregoing appropriation item 200550, Foundation 76737

Funding, a portion in each fiscal year shall be paid to school 76738
districts and community schools in accordance with the section of 76739
this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS." 76740

The remainder of appropriation item 200550, Foundation 76741
Funding, shall be used to distribute the amounts calculated for 76742
formula aid under Section 267.30.50 of this act. 76743

Appropriation items 200502, Pupil Transportation, 200540, 76744
Special Education Enhancements, and 200550, Foundation Funding, 76745
other than specific set-asides, are collectively used in each 76746
fiscal year to pay state formula aid obligations for school 76747
districts, community schools, STEM schools, and joint vocational 76748
school districts under this act. The first priority of these 76749
appropriation items, with the exception of specific set-asides, is 76750
to fund state formula aid obligations. It may be necessary to 76751
reallocate funds among these appropriation items or use excess 76752
funds from other general revenue fund appropriation items in the 76753
Department of Education's budget in each fiscal year, in order to 76754
meet state formula aid obligations. If it is determined that it is 76755
necessary to transfer funds among these appropriation items or to 76756
transfer funds from other General Revenue Fund appropriations in 76757
the Department of Education's budget to meet state formula aid 76758
obligations, the Department of Education shall seek approval from 76759
the Controlling Board to transfer funds as needed. 76760

Sec. 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND 76761

(A) There is hereby created the Lottery Profits Education 76762
Reserve Fund (Fund 7018) in the State Treasury. Investment 76763
earnings of the Lottery Profits Education Reserve Fund shall be 76764
credited to the fund. 76765

(B) Notwithstanding any other provision of law to the 76766
contrary, the Director of Budget and Management may transfer cash 76767
from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) 76768

in fiscal year 2012 and fiscal year 2013. Amounts transferred 76769
under this section are hereby appropriated. 76770

(C) On July 15, 2011, or as soon as possible thereafter, the 76771
Director of the Ohio Lottery Commission shall certify to the 76772
Director of Budget and Management the amount by which lottery 76773
profit transfers received by Fund 7017 exceeded \$711,000,000 in 76774
fiscal year 2011. The Director of Budget and Management may 76775
transfer the amount so certified, plus the cash balance in Fund 76776
7017, to Fund 7018. 76777

(D) On July 15, 2012, or as soon as possible thereafter, the 76778
Director of the Ohio Lottery Commission shall certify to the 76779
Director of Budget and Management the amount by which lottery 76780
profit transfers received by Fund 7017 exceeded \$717,500,000 in 76781
fiscal year 2012. The Director of Budget and Management may 76782
transfer the amount so certified, plus the cash balance in Fund 76783
7017, to Fund 7018. 76784

THIRD GRADE READING GUARANTEE 76785

The foregoing appropriation item 200686, Third Grade Reading 76786
Guarantee, shall be used to make competitive grants in an 76787
aggregate amount of up to \$13,000,000 to school districts and 76788
community schools to support reading intervention efforts that 76789
assist students in meeting the third grade reading guarantee 76790
established in section 3313.608 of the Revised Code. 76791

The Superintendent of Public Instruction shall administer and 76792
award the grants. The Superintendent shall establish procedures 76793
and forms by which applicants may apply for a grant, a competitive 76794
process for awarding the grants, procedures for distributing 76795
grants to recipients, and procedures for monitoring the use of 76796
grants by recipients. The procedures shall require each school 76797
district and community school applying for a grant to submit, as 76798
part of its grant application, a reading program plan identifying 76799

how the grant award will be used. To be eligible for a grant 76800
award, school districts and community schools shall apply to the 76801
Superintendent not later than December 31, 2012. The 76802
Superintendent shall announce the grant awards not later than 76803
April 30, 2013. 76804

In awarding the grants, the Superintendent shall give 76805
priority to plans that either utilize public-private partnerships 76806
or involve collaboration with educational service centers, other 76807
school districts, or local entities, such as libraries, parks and 76808
recreation authorities, or other community entities. The 76809
Superintendent shall also consider an applicant's past performance 76810
on the third grade reading assessment administered pursuant to the 76811
version of section 3301.0710 of the Revised Code that was in 76812
effect prior to October 16, 2009. In considering this factor, the 76813
Superintendent shall take into account the existing resources 76814
available for reading improvement initiatives, including the 76815
amount of funding the school district or community school 76816
regularly receives under Title I of the "Elementary and Secondary 76817
Education Act of 1965," 20 U.S.C. 6301, et seq. 76818

Sec. 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY 76819

General Services Fund Group 76820

| | | | | | | | |
|------|--------|---------------------|----|---------|----|---------|-------|
| 1990 | 715602 | Laboratory Services | \$ | 402,295 | \$ | 408,560 | 76821 |
|------|--------|---------------------|----|---------|----|---------|-------|

| | | | | | | | |
|------|--------|-----------------|----|-----------|----|-----------|-------|
| 2190 | 715604 | Central Support | \$ | 8,594,348 | \$ | 8,555,680 | 76822 |
|------|--------|-----------------|----|-----------|----|-----------|-------|

Indirect

| | | | | | | | |
|------|--------|--------------------|----|-----------|----|-----------|-------|
| 4A10 | 715640 | Operating Expenses | \$ | 2,304,267 | \$ | 2,093,039 | 76823 |
|------|--------|--------------------|----|-----------|----|-----------|-------|

| | | | | | | | |
|------|--------|-----------------------|----|----------|----|---------------|-------|
| 4D50 | 715618 | <u>Recycled State</u> | \$ | <u>0</u> | \$ | <u>50,000</u> | 76824 |
|------|--------|-----------------------|----|----------|----|---------------|-------|

Materials

TOTAL GSF General Services 76825

| | | | | | |
|------------|----|------------|----|-----------------------|-------|
| Fund Group | \$ | 11,300,910 | \$ | 11,057,279 | 76826 |
|------------|----|------------|----|-----------------------|-------|

11,107,279

Federal Special Revenue Fund Group 76827

| | | | | | | | |
|-----------------------------------|--------|---|----|------------|----|------------|-------|
| 3530 | 715612 | Public Water Supply | \$ | 2,941,282 | \$ | 2,941,282 | 76828 |
| 3540 | 715614 | Hazardous Waste Management - Federal | \$ | 4,193,000 | \$ | 4,193,000 | 76829 |
| 3570 | 715619 | Air Pollution Control - Federal | \$ | 6,310,203 | \$ | 6,310,203 | 76830 |
| 3620 | 715605 | Underground Injection Control - Federal | \$ | 111,874 | \$ | 111,874 | 76831 |
| 3BU0 | 715684 | Water Quality Protection | \$ | 8,100,000 | \$ | 6,785,000 | 76832 |
| 3CS0 | 715688 | Federal NRD Settlements | \$ | 100,000 | \$ | 100,000 | 76833 |
| 3F20 | 715630 | Revolving Loan Fund - Operating | \$ | 907,543 | \$ | 907,543 | 76834 |
| 3F30 | 715632 | Federally Supported Cleanup and Response | \$ | 3,344,746 | \$ | 3,290,405 | 76835 |
| 3F50 | 715641 | Nonpoint Source Pollution Management | \$ | 6,265,000 | \$ | 6,260,000 | 76836 |
| 3T30 | 715669 | Drinking Water State Revolving Fund | \$ | 2,273,323 | \$ | 2,273,323 | 76837 |
| 3V70 | 715606 | Agencywide Grants | \$ | 600,000 | \$ | 600,000 | 76838 |
| TOTAL FED Federal Special Revenue | | | | | | | 76839 |
| Fund Group | | | \$ | 35,146,971 | \$ | 33,772,630 | 76840 |
| State Special Revenue Fund Group | | | | | | | 76841 |
| 4J00 | 715638 | Underground Injection Control | \$ | 445,234 | \$ | 445,571 | 76842 |
| 4K20 | 715648 | Clean Air - Non Title V | \$ | 3,152,306 | \$ | 2,906,267 | 76843 |
| 4K30 | 715649 | Solid Waste | \$ | 16,742,551 | \$ | 16,414,654 | 76844 |
| 4K40 | 715650 | Surface Water Protection | \$ | 7,642,625 | \$ | 6,672,246 | 76845 |
| 4K40 | 715686 | Environmental Lab Service | \$ | 2,096,007 | \$ | 2,096,007 | 76846 |
| 4K50 | 715651 | Drinking Water | \$ | 7,410,118 | \$ | 7,405,428 | 76847 |

| | | | | | | |
|-------------|---------------|-----------------------------|-----------|------------|-----------|------------------------|
| | | Protection | | | | |
| 4P50 | 715654 | Cozart Landfill | \$ | 100,000 | \$ | 100,000 76848 |
| 4R50 | 715656 | Scrap Tire Management | \$ | 1,368,610 | \$ | 1,376,742 76849 |
| 4R90 | 715658 | Voluntary Action | \$ | 999,503 | \$ | 997,425 76850 |
| | | Program | | | | |
| 4T30 | 715659 | Clean Air - Title V | \$ | 16,349,471 | \$ | 16,241,822 76851 |
| | | Permit Program | | | | |
| 4U70 | 715660 | Construction and | \$ | 425,913 | \$ | 433,591 76852 |
| | | Demolition Debris | | | | |
| 5000 | 715608 | Immediate Removal | \$ | 633,832 | \$ | 634,033 76853 |
| | | Special Account | | | | |
| 5030 | 715621 | Hazardous Waste | \$ | 10,241,107 | \$ | 9,789,620 76854 |
| | | Facility Management | | | | |
| 5050 | 715623 | Hazardous Waste | \$ | 12,511,234 | \$ | 12,331,272 76855 |
| | | Cleanup | | | | |
| 5050 | 715674 | Clean Ohio | \$ | 108,104 | \$ | 108,104 76856 |
| | | Environmental Review | | | | |
| <u>5320</u> | <u>715646</u> | <u>Recycling and Litter</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>4,911,575</u> 76857 |
| | | <u>Control</u> | | | | |
| 5410 | 715670 | Site Specific Cleanup | \$ | 2,048,101 | \$ | 2,048,101 76858 |
| 5420 | 715671 | Risk Management | \$ | 132,636 | \$ | 132,636 76859 |
| | | Reporting | | | | |
| <u>5860</u> | <u>715637</u> | <u>Scrap Tire Market</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>1,497,645</u> 76860 |
| | | <u>Development</u> | | | | |
| 5920 | 715627 | Anti Tampering | \$ | 2,285 | \$ | 2,285 76861 |
| | | Settlement | | | | |
| 5BC0 | 715617 | Clean Ohio | \$ | 611,455 | \$ | 611,455 76862 |
| 5BC0 | 715622 | Local Air Pollution | \$ | 2,297,980 | \$ | 2,297,980 76863 |
| | | Control | | | | |
| 5BC0 | 715624 | Surface Water | \$ | 8,970,181 | \$ | 9,114,974 76864 |
| 5BC0 | 715672 | Air Pollution Control | \$ | 4,438,629 | \$ | 4,534,758 76865 |
| 5BC0 | 715673 | Drinking and Ground | \$ | 4,317,527 | \$ | 4,323,521 76866 |
| | | Water | | | | |

| | | | | | | | |
|-------|--------|---|----|-------------|----|--|-------|
| 5BC0 | 715675 | Hazardous Waste | \$ | 95,266 | \$ | 95,266 | 76867 |
| 5BC0 | 715676 | Assistance and Prevention | \$ | 640,179 | \$ | 645,069 | 76868 |
| 5BC0 | 715677 | Laboratory | \$ | 939,717 | \$ | 958,586 | 76869 |
| 5BC0 | 715678 | Corrective Actions | \$ | 31,765 | \$ | 105,423 | 76870 |
| 5BC0 | 715687 | Areawide Planning Agencies | \$ | 450,000 | \$ | 450,000 | 76871 |
| 5BC0 | 715692 | Administration | \$ | 8,562,476 | \$ | 8,212,627 | 76872 |
| 5BT0 | 715679 | C&DD Groundwater Monitoring | \$ | 203,800 | \$ | 203,800 | 76873 |
| 5BY0 | 715681 | Auto Emissions Test | \$ | 13,029,952 | \$ | 13,242,762 <u>11,242,762</u> | 76874 |
| 5CD0 | 715682 | Clean Diesel School Buses | \$ | 600,000 | \$ | 600,000 | 76875 |
| 5H40 | 715664 | Groundwater Support | \$ | 77,508 | \$ | 78,212 | 76876 |
| 5N20 | 715613 | Dredge and Fill | \$ | 29,250 | \$ | 29,250 | 76877 |
| 5Y30 | 715685 | Surface Water Improvement | \$ | 2,800,000 | \$ | 2,800,000 | 76878 |
| 6440 | 715631 | ER Radiological Safety | \$ | 279,838 | \$ | 279,966 | 76879 |
| 6600 | 715629 | Infectious Waste Management | \$ | 91,573 | \$ | 88,764 | 76880 |
| 6760 | 715642 | Water Pollution Control Loan Administration | \$ | 4,317,376 | \$ | 4,321,605 | 76881 |
| 6780 | 715635 | Air Toxic Release | \$ | 138,669 | \$ | 138,669 | 76882 |
| 6790 | 715636 | Emergency Planning | \$ | 2,623,192 | \$ | 2,623,252 | 76883 |
| 6960 | 715643 | Air Pollution Control Administration | \$ | 1,100,000 | \$ | 1,100,000 | 76884 |
| 6990 | 715644 | Water Pollution Control Administration | \$ | 220,000 | \$ | 220,000 | 76885 |
| 6A10 | 715645 | Environmental Education | \$ | 1,488,260 | \$ | 1,488,718 | 76886 |
| TOTAL | SSR | State Special Revenue | \$ | 140,764,230 | \$ | 138,700,461 | 76887 |

| | | | | | |
|--|----|-------------|----|------------------------|-------|
| Fund Group | | | | <u>143,109,681</u> | |
| Clean Ohio Conservation Fund Group | | | | | 76888 |
| 5S10 715607 Clean Ohio - | \$ | 284,083 | \$ | 284,124 | 76889 |
| Operating | | | | | |
| TOTAL CLF Clean Ohio Conservation | \$ | 284,083 | \$ | 284,124 | 76890 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 187,496,194 | \$ | 183,814,494 | 76891 |
| | | | | <u>188,273,714</u> | |
| AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT | | | | | 76892 |
| On July 1 of each fiscal year, or as soon as possible | | | | | 76893 |
| thereafter, the Director of Budget and Management may transfer up | | | | | 76894 |
| to \$13,029,952 in cash in fiscal year 2012, and up to \$13,242,762 | | | | | 76895 |
| <u>11,242,762</u> in cash in fiscal year 2013 from the General Revenue | | | | | 76896 |
| Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation | | | | | 76897 |
| and oversight of the auto emissions testing program. | | | | | 76898 |
| AREAWIDE PLANNING AGENCIES | | | | | 76899 |
| The Director of Environmental Protection Agency may award | | | | | 76900 |
| grants from appropriation item 715687, Areawide Planning Agencies, | | | | | 76901 |
| to areawide planning agencies engaged in areawide water quality | | | | | 76902 |
| management and planning activities in accordance with Section 208 | | | | | 76903 |
| of the "Federal Clean Water Act," 33 U.S.C. 1288. | | | | | 76904 |
| CORRECTIVE CASH TRANSFERS | | | | | 76905 |
| On July 1, 2011, or as soon as possible thereafter, the | | | | | 76906 |
| Director of Budget and Management shall transfer \$376,891.85 in | | | | | 76907 |
| cash that was mistakenly deposited in the Clean Air Non Title V | | | | | 76908 |
| Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30). | | | | | 76909 |
| On July 1, 2011, or as soon as possible thereafter, the | | | | | 76910 |
| Director of Budget and Management shall transfer \$133,026.63 in | | | | | 76911 |
| cash that was mistakenly deposited in the Scrap Tire Management | | | | | 76912 |
| Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410). | | | | | 76913 |

| | | | | |
|---|--------|-----------------------|----------------------------------|------------------|
| <u>TRANSFER OF DIVISION OF RECYCLING AND LITTER PREVENTION</u> | | | | 76914 |
| <u>On July 1, 2012, or as soon as possible thereafter, the</u> | | | | 76915 |
| <u>Director of Budget and Management shall cancel any existing</u> | | | | 76916 |
| <u>encumbrances against appropriation item 725618, Recycled</u> | | | | 76917 |
| <u>Materials, and reestablish them against appropriation item 715618,</u> | | | | 76918 |
| <u>Recycled State Materials. The reestablished encumbrance amounts</u> | | | | 76919 |
| <u>are hereby appropriated.</u> | | | | 76920 |
| <u>On July 1, 2012, or as soon as possible thereafter, the</u> | | | | 76921 |
| <u>Director of Budget and Management shall cancel any existing</u> | | | | 76922 |
| <u>encumbrances against appropriation item 725644, Litter Control and</u> | | | | 76923 |
| <u>Recycling, and reestablish them against appropriation item 715646,</u> | | | | 76924 |
| <u>Recycling and Litter Control. The reestablished encumbrance</u> | | | | 76925 |
| <u>amounts are hereby appropriated.</u> | | | | 76926 |
| <u>On July 1, 2012, or as soon as possible thereafter, the</u> | | | | 76927 |
| <u>Director of Budget and Management shall cancel any existing</u> | | | | 76928 |
| <u>encumbrances against appropriation item 725633, Scrap Tire</u> | | | | 76929 |
| <u>Program, and reestablish them against appropriation item 715637,</u> | | | | 76930 |
| <u>Scrap Tire Market Development. The reestablished encumbrance</u> | | | | 76931 |
| <u>amounts are hereby appropriated.</u> | | | | 76932 |
| Sec. 283.10. ETC ETECH OHIO | | | | 76933 |
| General Revenue Fund | | | | 76934 |
| GRF | 935401 | Statehouse News | \$ 215,561 \$ 215,561 | 76935 |
| Bureau | | | | |
| GRF | 935402 | Ohio Government | \$ 702,089 \$ 702,089 | 76936 |
| Telecommunications | | | | <u>1,002,089</u> |
| Services | | | | |
| GRF | 935408 | General Operations | \$ 1,251,789 \$ 1,254,193 | 76937 |
| GRF | 935409 | Technology Operations | \$ 2,092,432 \$ 2,091,823 | 76938 |
| GRF | 935410 | Content Development, | \$ 2,607,094 \$ 2,607,094 | 76939 |
| Acquisition, and | | | | |

| | | | | | | |
|----------------------------------|-------------------------------------|--|----|------------|----|--|
| | | Distribution | | | | |
| GRF | 935411 | Technology | \$ | 4,251,185 | \$ | 4,252,671 76940 |
| | | Integration and Professional Development | | | | |
| GRF | 935412 | Information Technology | \$ | 829,340 | \$ | 829,963 76941 |
| TOTAL GRF | General Revenue Fund | | \$ | 11,949,490 | \$ | 11,953,394 76942 <u>12,253,394</u> |
| General Services Fund Group | | | | | | 76943 |
| 4F30 | 935603 | Affiliate Services | \$ | 50,000 | \$ | 50,000 76944 |
| 4T20 | 935605 | Government Television/Telecommunications Operating | \$ | 25,000 | \$ | 25,000 76945 |
| TOTAL GSF | General Services Fund Group | | \$ | 75,000 | \$ | 75,000 76946 |
| State Special Revenue Fund Group | | | | | | 76947 |
| 4W90 | 935630 | Telecommunity | \$ | 25,000 | \$ | 25,000 76948 |
| 4X10 | 935634 | Distance Learning | \$ | 24,150 | \$ | 24,150 76949 |
| 5D40 | 935640 | Conference/Special Purposes | \$ | 2,100,000 | \$ | 2,100,000 76950 |
| 5FK0 | 935608 | Media Services | \$ | 637,601 | \$ | 637,956 76951 |
| 5JU0 | 935611 | Information Technology Services | \$ | 1,455,000 | \$ | 1,455,000 76952 |
| 5T30 | 935607 | Gates Foundation Grants | \$ | 200,000 | \$ | 171,112 76953 |
| TOTAL SSR | State Special Revenue Fund Group | | \$ | 4,441,751 | \$ | 4,413,218 76954 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 16,466,241 | \$ | 16,441,612 76955 <u>16,741,612</u> |

| | | | | |
|--------------------------------|----|-----------|--------------|-------|
| General Revenue Fund | | | | 76958 |
| GRF 146321 Operating Expenses | \$ | 1,409,751 | \$ 1,409,751 | 76959 |
| TOTAL GRF General Revenue Fund | \$ | 1,409,751 | \$ 1,409,751 | 76960 |
| General Services Fund Group | | | | 76961 |
| 4M60 146601 Operating Expenses | \$ | 827,393 | \$ 827,393 | 76962 |
| TOTAL GSF General Services | | | | 76963 |
| Fund Group | \$ | 827,393 | \$ 827,393 | 76964 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 2,237,144 | \$ 2,237,144 | 76965 |

ETHICS COMMISSION CASINO-RELATED ACTIVITIES 76966

On July 1, 2011, or as soon as possible thereafter, an amount 76967
equal to the unexpended and unencumbered balance of appropriation 76968
item 146602, Casino Investigations, at the end of fiscal year 2011 76969
is hereby reappropriated to the same appropriation item for fiscal 76970
year 2012, to be used for the performance of the Ohio Ethics 76971
Commission's casino-related duties. 76972

On July 1, 2012, or as soon as possible thereafter, an amount 76973
equal to the unexpended, unencumbered balance of appropriation 76974
item 146602, Casino Investigations, at the end of fiscal year 2012 76975
is hereby reappropriated to the same appropriation item for fiscal 76976
year 2013, to be used for the performance of the Ohio Ethics 76977
Commission's casino-related duties. 76978

Sec. 287.10. EXP OHIO EXPOSITIONS COMMISSION 76979

| | | | | |
|---|----|----------|---|-------|
| General Revenue Fund | | | | 76980 |
| GRF 723403 Junior Fair Subsidy | \$ | 250,000 | \$ 250,000 | 76981 |
| GRF 723501 <u>Construction Planning</u> | \$ | <u>0</u> | \$ <u>1,000,000</u> | 76982 |
| TOTAL GRF General Revenue Fund | \$ | 250,000 | \$ 250,000 <u>1,250,000</u> | 76983 |
| State Special Revenue Fund Group | | | | 76984 |
| 4N20 723602 Ohio State Fair | \$ | 400,000 | \$ 400,000 | 76985 |
| Harness Racing | | | | |

| | | | | | | |
|---------------------------------|--------------------|----|------------|----|------------|-------------------|
| 5060 723601 | Operating Expenses | \$ | 12,991,000 | \$ | 12,894,000 | 76986 |
| TOTAL SSR State Special Revenue | | | | | | 76987 |
| Fund Group | | \$ | 13,391,000 | \$ | 13,294,000 | 76988 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | 76989 |
| | | | | | | <u>14,544,000</u> |

STATE FAIR RESERVE 76990

The General Manager of the Expositions Commission may submit 76991
a request to the Controlling Board to use available amounts in the 76992
State Fair Reserve Fund (Fund 6400) if the following conditions 76993
apply: 76994

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair 76995
are less than \$1,982,000 because of inclement weather or 76996
extraordinary circumstances; 76997

(B) The Ohio Expositions Commission declares a state of 76998
fiscal exigency; and 76999

(C) The request contains a plan describing how the 77000
Expositions Commission will eliminate the cash shortage causing 77001
the request. 77002

The amount approved by the Controlling Board is hereby 77003
appropriated. 77004

CONSTRUCTION PLANNING 77005

The foregoing GRF appropriation item 723501, Construction 77006
Planning, shall be used for acquiring purchased services for new 77007
and renovated facility planning, including but not limited to 77008
necessary architectural engineering, and land or facility use 77009
consulting services. 77010

Sec. 291.10. DOH DEPARTMENT OF HEALTH 77011

General Revenue Fund 77012
GRF 440412 Cancer Incidence \$ 600,000 \$ 600,000 77013

| | | | | | | |
|------------|-----------------------|----|------------|----|-----------------------|-------|
| | Surveillance System | | | | | |
| GRF 440413 | Local Health | \$ | 2,302,788 | \$ | 2,303,061 | 77014 |
| | Department Support | | | | | |
| GRF 440416 | Mothers and Children | \$ | 4,227,842 | \$ | 4,228,015 | 77015 |
| | Safety Net Services | | | | | |
| GRF 440418 | Immunizations | \$ | 6,430,538 | \$ | 8,930,829 | 77016 |
| | | | | | <u>8,825,829</u> | |
| GRF 440431 | Free Clinics Safety | \$ | 437,326 | \$ | 437,326 | 77017 |
| | Net Services | | | | | |
| GRF 440438 | Breast and Cervical | \$ | 823,217 | \$ | 823,217 | 77018 |
| | Cancer Screening | | | | | |
| GRF 440444 | AIDS Prevention and | \$ | 5,842,315 | \$ | 5,842,315 | 77019 |
| | Treatment | | | | | |
| GRF 440451 | Public Health | \$ | 3,654,348 | \$ | 3,655,449 | 77020 |
| | Laboratory | | | | | |
| GRF 440452 | Child and Family | \$ | 630,390 | \$ | 630,444 | 77021 |
| | Health Services Match | | | | | |
| GRF 440453 | Health Care Quality | \$ | 8,170,694 | \$ | 8,174,361 | 77022 |
| | Assurance | | | | | |
| GRF 440454 | Local Environmental | \$ | 1,310,141 | \$ | 1,310,362 | 77023 |
| | Health | | | | <u>1,194,634</u> | |
| GRF 440459 | Help Me Grow | \$ | 33,673,545 | \$ | 33,673,987 | 77024 |
| GRF 440465 | Federally Qualified | \$ | 458,688 | \$ | 2,686,688 | 77025 |
| | Health Centers | | | | | |
| GRF 440467 | Access to Dental Care | \$ | 540,484 | \$ | 540,484 | 77026 |
| GRF 440468 | Chronic Disease and | \$ | 2,577,251 | \$ | 2,577,251 | 77027 |
| | Injury Prevention | | | | <u>2,447,251</u> | |
| GRF 440472 | Alcohol Testing | \$ | 550,000 | \$ | 1,100,000 | 77028 |
| GRF 440505 | Medically Handicapped | \$ | 7,512,451 | \$ | 7,512,451 | 77029 |
| | Children | | | | | |
| GRF 440507 | Targeted Health Care | \$ | 1,045,414 | \$ | 1,045,414 | 77030 |
| | Services Over 21 | | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 80,787,432 | \$ | 86,071,654 | 77031 |

| | | | | | | | |
|------|--------|------------------------------------|----|-------------|-------------------|-------------|-------|
| | | | | | <u>85,720,926</u> | | |
| | | State Highway Safety Fund Group | | | | 77032 | |
| 4T40 | 440603 | Child Highway Safety | \$ | 233,894 | \$ | 233,894 | 77033 |
| | | TOTAL HSF State Highway Safety | | | | 77034 | |
| | | Fund Group | \$ | 233,894 | \$ | 233,894 | 77035 |
| | | General Services Fund Group | | | | 77036 | |
| 1420 | 440646 | Agency Health | \$ | 8,825,788 | \$ | 8,826,146 | 77037 |
| | | Services | | | | | |
| 2110 | 440613 | Central Support | \$ | 28,900,000 | \$ | 29,000,000 | 77038 |
| | | Indirect Costs | | | | | |
| 4730 | 440622 | Lab Operating | \$ | 5,000,000 | \$ | 5,000,000 | 77039 |
| | | Expenses | | | | | |
| 5HB0 | 440470 | Breast and Cervical | \$ | 1,000,000 | \$ | 0 | 77040 |
| | | Cancer Screening | | | | | |
| 6830 | 440633 | Employee Assistance | \$ | 1,100,000 | \$ | 1,100,000 | 77041 |
| | | Program | | | | | |
| 6980 | 440634 | Nurse Aide Training | \$ | 99,239 | \$ | 99,265 | 77042 |
| | | TOTAL GSF General Services | | | | 77043 | |
| | | Fund Group | \$ | 44,925,027 | \$ | 44,025,411 | 77044 |
| | | Federal Special Revenue Fund Group | | | | 77045 | |
| 3200 | 440601 | Maternal Child Health | \$ | 27,068,886 | \$ | 27,068,886 | 77046 |
| | | Block Grant | | | | | |
| 3870 | 440602 | Preventive Health | \$ | 7,826,659 | \$ | 7,826,659 | 77047 |
| | | Block Grant | | | | | |
| 3890 | 440604 | Women, Infants, and | \$ | 308,672,689 | \$ | 308,672,689 | 77048 |
| | | Children | | | | | |
| 3910 | 440606 | Medicaid/Medicare | \$ | 29,625,467 | \$ | 29,257,457 | 77049 |
| 3920 | 440618 | Federal Public Health | \$ | 137,976,988 | \$ | 137,976,988 | 77050 |
| | | Programs | | | | | |
| | | TOTAL FED Federal Special Revenue | | | | 77051 | |
| | | Fund Group | \$ | 511,170,689 | \$ | 510,802,679 | 77052 |
| | | State Special Revenue Fund Group | | | | 77053 | |

| | | | | | | | |
|------|--------|---|----|------------|----|--|-------|
| 4700 | 440647 | Fee Supported Programs | \$ | 24,503,065 | \$ | 24,513,973 <u>24,263,973</u> | 77054 |
| 4710 | 440619 | Certificate of Need | \$ | 878,145 | \$ | 878,433 | 77055 |
| 4770 | 440627 | Medically Handicapped Children Audit | \$ | 3,692,704 | \$ | 3,692,703 | 77056 |
| 4D60 | 440608 | Genetics Services | \$ | 3,310,953 | \$ | 3,311,039 | 77057 |
| 4F90 | 440610 | Sickle Cell Disease Control | \$ | 1,032,754 | \$ | 1,032,824 | 77058 |
| 4G00 | 440636 | Heirloom Birth Certificate | \$ | 5,000 | \$ | 5,000 | 77059 |
| 4G00 | 440637 | Birth Certificate Surcharge | \$ | 5,000 | \$ | 5,000 | 77060 |
| 4L30 | 440609 | Miscellaneous Expenses | \$ | 3,333,164 | \$ | 3,333,164 | 77061 |
| 4P40 | 440628 | Ohio Physician Loan Repayment | \$ | 476,870 | \$ | 476,870 | 77062 |
| 4V60 | 440641 | Save Our Sight | \$ | 2,255,760 | \$ | 2,255,789 | 77063 |
| 5B50 | 440616 | Quality, Monitoring, and Inspection | \$ | 878,638 | \$ | 878,997 | 77064 |
| 5C00 | 440615 | Alcohol Testing and Permit | \$ | 551,018 | \$ | 0 | 77065 |
| 5CN0 | 440645 | Choose Life | \$ | 75,000 | \$ | 75,000 | 77066 |
| 5D60 | 440620 | Second Chance Trust | \$ | 1,151,815 | \$ | 1,151,902 | 77067 |
| 5ED0 | 440651 | Smoke Free Indoor Air | \$ | 190,452 | \$ | 190,452 | 77068 |
| 5G40 | 440639 | Adoption Services | \$ | 20,000 | \$ | 20,000 | 77069 |
| 5L10 | 440623 | Nursing Facility Technical Assistance Program | \$ | 687,500 | \$ | 687,528 | 77070 |
| 5Z70 | 440624 | Ohio Dentist Loan Repayment | \$ | 140,000 | \$ | 140,000 | 77071 |
| 6100 | 440626 | Radiation Emergency Response | \$ | 930,525 | \$ | 930,576 | 77072 |
| 6660 | 440607 | Medically Handicapped | \$ | 19,738,286 | \$ | 19,739,617 | 77073 |

| | | | | |
|---|----------------------|---------------|--------------------------|--|
| Sec. 307.10. INS DEPARTMENT OF INSURANCE | | | | 77124 |
| Federal Special Revenue Fund Group | | | | 77125 |
| 3EV0 820610 | Health Insurance | \$ 1,000,000 | \$ 1,000,000 | 77126 |
| | Premium Review | | | |
| 3EW0 820611 | Health Exchange | \$ 1,000,000 | \$ 1,000,000 | 77127 |
| | Planning | | | |
| 3U50 820602 | OSHIIP Operating | \$ 2,270,726 | \$ 2,270,725 | 77128 |
| | Grant | | | |
| TOTAL FED Federal Special | | | | 77129 |
| Revenue Fund Group | | | | \$ 4,270,726 \$ 4,270,725 77130 |
| State Special Revenue Fund Group | | | | 77131 |
| 5540 820601 | Operating Expenses - | \$ 190,000 | \$ 180,000 | 77132 |
| | OSHIIP | | | |
| 5540 820606 | Operating Expenses | \$ 22,745,538 | \$ 22,288,550 | 77133 |
| | | | <u>22,931,817</u> | |
| 5550 820605 | Examination | \$ 9,065,684 | \$ 8,934,065 | 77134 |
| | | | <u>8,184,065</u> | |
| TOTAL SSR State Special Revenue | | | | 77135 |
| Fund Group | | | | \$ 32,001,222 \$ 31,402,615 77136 |
| | | | <u>31,295,882</u> | |
| TOTAL ALL BUDGET FUND GROUPS | | | | \$ 36,271,948 \$ 35,673,340 77137 |
| | | | <u>35,566,607</u> | |
| MARKET CONDUCT EXAMINATION | | | | 77138 |
| When conducting a market conduct examination of any insurer | | | | 77139 |
| doing business in this state, the Superintendent of Insurance may | | | | 77140 |
| assess the costs of the examination against the insurer. The | | | | 77141 |
| superintendent may enter into consent agreements to impose | | | | 77142 |
| administrative assessments or fines for conduct discovered that | | | | 77143 |
| may be violations of statutes or rules administered by the | | | | 77144 |
| superintendent. All costs, assessments, or fines collected shall | | | | 77145 |
| be deposited to the credit of the Department of Insurance | | | | 77146 |

| | | | | | |
|--|----|-------------|----|-----------------------|-------|
| Operating Fund (Fund 5540). | | | | 77147 | |
| EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES | | | | 77148 | |
| The Director of Budget and Management, at the request of the | | | | 77149 | |
| Superintendent of Insurance, may transfer funds from the | | | | 77150 | |
| Department of Insurance Operating Fund (Fund 5540), established by | | | | 77151 | |
| section 3901.021 of the Revised Code, to the Superintendent's | | | | 77152 | |
| Examination Fund (Fund 5550), established by section 3901.071 of | | | | 77153 | |
| the Revised Code, only for expenses incurred in examining domestic | | | | 77154 | |
| fraternal benefit societies as required by section 3921.28 of the | | | | 77155 | |
| Revised Code. | | | | 77156 | |
| TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND | | | | 77157 | |
| Not later than the thirty-first day of July each fiscal year, | | | | 77158 | |
| the Director of Budget and Management shall transfer \$5,000,000 | | | | 77159 | |
| from the Department of Insurance Operating Fund (Fund 5540) to the | | | | 77160 | |
| General Revenue Fund. | | | | 77161 | |
| Sec. 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES | | | | 77162 | |
| General Revenue Fund | | | | 77163 | |
| GRF 600321 <u>Program Support</u> | | | | 77164 | |
| <u>Services</u> | | | | | |
| State | \$ | 34,801,760 | \$ | 31,932,117 | 77165 |
| | | | | <u>31,612,796</u> | |
| Federal | \$ | 9,322,222 | \$ | 9,207,441 | 77166 |
| | | | | <u>9,115,366</u> | |
| <u>Program Support</u> | \$ | 44,123,982 | \$ | 41,139,558 | 77167 |
| <u>Services Total</u> | | | | <u>40,728,162</u> | |
| GRF 600410 <u>TANF State/Maintenance</u> | \$ | 151,386,934 | \$ | 151,386,934 | 77168 |
| <u>of Effort</u> | | | | | |
| GRF 600413 <u>Child Care Match</u> | \$ | 84,732,730 | \$ | 84,732,730 | 77169 |
| <u>State/Maintenance of</u> | | | | | |
| <u>Effort</u> | | | | | |

| | | | | | | |
|------------|---|----|------------|----|--|-------|
| GRF 600416 | Computer Information <u>Technology</u> Projects | | | | 77170 | |
| | State | \$ | 67,955,340 | \$ | 69,263,506 <u>68,570,871</u> | 77171 |
| | Federal | \$ | 13,105,167 | \$ | 12,937,222 <u>12,807,850</u> | 77172 |
| | Computer Information <u>Technology</u> Projects | \$ | 81,060,507 | \$ | 82,200,728 <u>81,378,721</u> | 77173 |
| | Total | | | | | |
| GRF 600417 | Medicaid Provider Audits | \$ | 1,312,992 | \$ | 1,312,992 <u>1,299,862</u> | 77174 |
| GRF 600420 | Child Support Administration <u>Programs</u> | \$ | 6,163,534 | \$ | 6,065,588 <u>6,004,932</u> | 77175 |
| GRF 600421 | Office of Family <u>Stability Assistance</u> Programs | \$ | 3,768,929 | \$ | 3,757,493 <u>3,719,918</u> | 77176 |
| GRF 600423 | Office of Children and <u>Families and Children</u> Programs | \$ | 5,123,406 | \$ | 4,978,756 | 77177 |
| GRF 600425 | Office of Ohio Health <u>Plans Care</u> Programs | | | | | 77178 |
| | State | \$ | 13,149,582 | \$ | 15,740,987 <u>15,583,577</u> | 77179 |
| | Federal | \$ | 12,556,921 | \$ | 12,286,234 <u>12,163,372</u> | 77180 |
| | Office of Ohio Health <u>Plans Care</u> Programs | \$ | 25,706,503 | \$ | 28,027,221 <u>27,746,949</u> | 77181 |
| | Total | | | | | |
| GRF 600502 | Administration <u>Child</u> <u>Support</u> - Local | \$ | 23,814,103 | \$ | 23,814,103 | 77182 |
| GRF 600511 | Disability Financial Assistance | \$ | 26,599,666 | \$ | 27,108,734 | 77183 |
| GRF 600521 | Entitlement | \$ | 72,200,721 | \$ | 72,200,721 | 77184 |

| | | | | | | |
|------------|---|----|--------------------------|----|---------------------------|-------|
| | Administration <u>Family</u> | | | | | |
| | <u>Assistance</u> - Local | | | | | |
| GRF 600523 | <u>Family and Children</u> and | \$ | 53,605,323 | \$ | 53,105,323 | 77185 |
| | Families Services | | <u>52,605,323</u> | | <u>54,105,323</u> | |
| GRF 600525 | Health Care/Medicaid | | | | | 77186 |
| | State | \$ | 4,313,761,372 | \$ | 4,689,051,017 | 77187 |
| | | | | | <u>4,689,701,017</u> | |
| | Federal | \$ | 7,530,008,024 | \$ | 8,429,762,527 | 77188 |
| | | | | | <u>8,430,897,261</u> | |
| | Health Care Total | \$ | 11,843,769,396 | \$ | 13,118,813,544 | 77189 |
| | | | | | <u>13,120,598,278</u> | |
| GRF 600526 | Medicare Part D | \$ | 277,996,490 | \$ | 296,964,743 | 77190 |
| GRF 600528 | Adoption Services | | | | | 77191 |
| | State | \$ | 29,257,932 | \$ | 29,257,932 | 77192 |
| | Federal | \$ | 41,085,169 | \$ | 41,085,169 | 77193 |
| | Adoption Services Total | \$ | 70,343,101 | \$ | 70,343,101 | 77194 |
| GRF 600533 | Child, Family, and | \$ | 13,500,000 | \$ | 13,500,000 | 77195 |
| | Adult Community & | | | | | |
| | Protective Services | | | | | |
| GRF 600534 | Adult Protective | \$ | 366,003 | \$ | 366,003 | 77196 |
| | Services | | | | | |
| GRF 600535 | Early Care and | \$ | 123,596,474 | \$ | 123,596,474 | 77197 |
| | Education | | | | | |
| GRF 600537 | Children's Hospital | \$ | 6,000,000 | \$ | 6,000,000 | 77198 |
| GRF 600540 | Second Harvest Food | \$ | 4,000,000 | \$ | 4,000,000 | 77199 |
| | Banks | | | | | |
| GRF 600541 | Kinship Permanency | \$ | 2,500,000 | \$ | 3,500,000 | 77200 |
| | Incentive Program | | | | | |
| TOTAL GRF | General Revenue Fund | | | | | 77201 |
| | State | \$ | 5,315,593,291 | \$ | 5,711,636,153 | 77202 |
| | | | <u>5,314,593,291</u> | | <u>5,712,005,426</u> | |
| | Federal | \$ | 7,606,077,503 | \$ | 8,505,278,593 | 77203 |
| | | | | | <u>8,506,069,018</u> | |

| | | | | | |
|-------------|--|--|------------------------------|---|----------------|
| | GRF Total | | \$ 12,921,670,794 | \$ 14,216,914,746 | 77204 |
| | | | <u>12,920,670,794</u> | <u>14,218,074,444</u> | |
| | General Services Fund Group | | | | 77205 |
| 4A80 | 600658 | Public Assistance Activities | \$ 34,000,000 | \$ 34,000,000 | 77206 |
| 5C90 | 600671 | Medicaid Program Support | \$ 85,800,878 | \$ 82,839,266 0 | 77207 |
| 5DL0 | 600639 | Medicaid Revenue and Collections <u>Health Care/Medicaid Support - Recoveries</u> | \$ 89,256,974 | \$ 84,156,974 <u>166,996,240</u> | 77208 |
| 5DM0 | 600633 | Administration & Operating | \$ 20,392,173 | \$ 19,858,928 <u>19,660,339</u> | 77209 |
| 5FX0 | 600638 | Medicaid Payment Withholding | \$ 5,000,000 | \$ 6,000,000 | 77210 |
| 5HL0 | 600602 | State and County Shared services | \$ 3,020,000 | \$ 3,020,000 | 77211 |
| 5P50 | 600692 | Prescription Drug Rebate <u>State Health Care/Medicaid Support - Drug Rebates</u> | \$ 220,600,000 | \$ 242,600,000 | 77212 |
| 6130 | 600645 | Training Activities | \$ 500,000 | \$ 500,000 | 77213 |
| | TOTAL GSF General Services Fund Group | | \$ 458,570,025 | \$ 472,975,168 <u>472,776,579</u> | 77214 77215 |
| | Federal Special Revenue Fund Group | | | | 77216 |
| 3270 | 600606 | Child Welfare | \$ 29,769,865 | \$ 29,769,866 | 77217 |
| <u>3310</u> | <u>600615</u> | <u>Veterans Programs</u> | \$ 0 | \$ <u>8,000,000</u> | 77218 |
| <u>3310</u> | <u>600624</u> | <u>Employment Services Programs</u> | \$ 0 | \$ <u>33,943,023</u> | 77219 |
| 3310 | 600686 | Federal Operating Workforce Programs | \$ 49,128,140 | \$ 48,203,023 <u>6,260,000</u> | 77220 |

| | | | | | |
|------|--------|--|------------------|---|-------|
| 3840 | 600610 | Food Assistance and State Administration <u>Programs</u> | \$ 180,381,394 | \$ 180,381,394 | 77221 |
| 3850 | 600614 | Refugee Services | \$ 11,582,440 | \$ 12,564,952 | 77222 |
| 3950 | 600616 | Special Activities/Child and Family Services <u>Federal Discretionary</u> <u>Grants</u> | \$ 2,259,264 | \$ 2,259,264 | 77223 |
| 3960 | 600620 | Social Services Block Grant | \$ 64,999,999 | \$ 64,999,998 | 77224 |
| 3970 | 600626 | Child Support = <u>Federal</u> | \$ 255,812,837 | \$ 255,813,528 | 77225 |
| 3980 | 600627 | Adoption Maintenance/ Administration Program <u>- Federal</u> | \$ 352,183,862 | \$ 352,184,253 <u>174,178,779</u> | 77226 |
| 3A20 | 600641 | Emergency Food Distribution | \$ 5,000,000 | \$ 5,000,000 | 77227 |
| 3AW0 | 600675 | Faith Based Initiatives | \$ 544,140 | \$ 544,140 | 77228 |
| 3D30 | 600648 | Children's Trust Fund Federal | \$ 2,040,524 | \$ 2,040,524 | 77229 |
| 3ER0 | 600603 | Health Information Technology | \$ 411,661,286 | \$ 416,395,286 | 77230 |
| 3F00 | 600623 | Health Care Federal | \$ 2,637,061,505 | \$ 2,720,724,869 | 77231 |
| 3F00 | 600650 | Hospital Care Assurance Match = <u>Federal</u> | \$ 372,784,046 | \$ 380,645,627 | 77232 |
| 3FA0 | 600680 | Ohio Health Care Grants - <u>Federal</u> | \$ 9,405,000 | \$ 20,000,000 | 77233 |
| 3G50 | 600655 | Interagency Reimbursement | \$ 1,621,305,787 | \$ 1,380,391,478 | 77234 |
| 3H70 | 600617 | Child Care Federal | \$ 208,290,036 | \$ 204,813,731 | 77235 |

| | | | | | | | |
|-----------------------|--------|--|----|---------------|----|------------------------|-------|
| 3N00 | 600628 | IV-E Foster Care | \$ | 133,963,142 | \$ | 133,963,142 | 77236 |
| | | Maintenance <u>Program -</u> | | | | <u>311,968,616</u> | |
| | | <u>Federal</u> | | | | | |
| 3S50 | 600622 | Child Support Projects | \$ | 534,050 | \$ | 534,050 | 77237 |
| 3V00 | 600688 | Workforce Investment | \$ | 176,496,250 | \$ | 172,805,562 | 77238 |
| | | Act <u>Programs</u> | | | | | |
| 3V40 | 600678 | Federal Unemployment | \$ | 188,680,096 | \$ | 186,723,415 | 77239 |
| | | Programs | | | | | |
| 3V40 | 600679 | Unemployment | \$ | 4,166,988 | \$ | 4,068,758 | 77240 |
| | | Compensation <u>UC</u> Review | | | | | |
| | | Commission - Federal | | | | | |
| 3V60 | 600689 | TANF Block Grant | \$ | 727,968,260 | \$ | 727,968,260 | 77241 |
| TOTAL FED | | Federal Special Revenue | | | | | 77242 |
| Fund Group | | | \$ | 7,446,018,911 | \$ | 7,302,795,120 | 77243 |
| State Special Revenue | | Fund Group | | | | | 77244 |
| 1980 | 600647 | Children's Trust Fund | \$ | 5,873,637 | \$ | 5,873,848 | 77245 |
| 4A90 | 600607 | Unemployment | \$ | 21,924,998 | \$ | 21,424,998 | 77246 |
| | | Compensation | | | | | |
| | | Administration Fund | | | | | |
| 4A90 | 600694 | Unemployment | \$ | 2,173,167 | \$ | 2,117,031 | 77247 |
| | | Compensation <u>UC</u> Review | | | | | |
| | | Commission - <u>SAF</u> | | | | | |
| 4E30 | 600605 | Nursing Home | \$ | 2,878,320 | \$ | 2,878,319 | 77248 |
| | | Assessments <u>Resident</u> | | | | | |
| | | <u>Protection Fund</u> | | | | | |
| 4E70 | 600604 | Child and Family and | \$ | 400,000 | \$ | 400,000 | 77249 |
| | | Children <u>Services</u> | | | | | |
| | | Collections | | | | | |
| 4F10 | 600609 | <u>Family and</u> Children | \$ | 683,359 | \$ | 683,549 | 77250 |
| | | and Family Services | | | | | |
| | | Activities | | | | | |
| 4K10 | 600621 | ICF/MR Bed Assessments | \$ | 41,405,596 | \$ | 44,372,874 | 77251 |
| | | <u>DDD Support -</u> | | | | | |

| | | <u>Franchise Fee</u> | | | | | |
|------|--------|--|----|------------------|----|--|-------|
| 4Z10 | 600625 | HealthCare Compliance | \$ | 11,551,076 | \$ | 14,582,000 | 77252 |
| 5AJ0 | 600631 | Money Follows the Person | \$ | 5,483,080 | \$ | 4,733,080 | 77253 |
| 5DB0 | 600637 | Military Injury Grants | \$ | 2,000,000 | \$ | 2,000,000 | 77254 |
| | | <u>Relief Subsidies</u> | | | | | |
| 5DP0 | 600634 | Adoption Assistance Loan | \$ | 500,000 | \$ | 500,000 | 77255 |
| 5ES0 | 600630 | Food <u>Bank</u> Assistance | \$ | 500,000 | \$ | 500,000 | 77256 |
| 5GF0 | 600656 | Medicaid <u>Health</u> | \$ | 436,000,000 | \$ | 436,000,000 | 77257 |
| | | <u>Care/Medicaid Support</u> | | | | | |
| | | - Hospital/ <u>UPL</u> | | | | | |
| 5KC0 | 600682 | Health Care Special <u>Activities Grants -</u> <u>State</u> | \$ | 10,000,000 | \$ | 10,000,000 | 77258 |
| 5KU0 | 600611 | <u>Unemployment</u> <u>Compensation Support -</u> <u>Other Sources</u> | \$ | <u>2,000,000</u> | \$ | <u>4,000,000</u> | 77259 |
| 5R20 | 600608 | Medicaid Nursing Facilities <u>Long-Term</u> <u>Care Support</u> | \$ | 402,489,308 | \$ | 407,100,746 | 77260 |
| 5S30 | 600629 | MR/DD Medicaid <u>Administration Health</u> <u>Care Program and</u> <u>Oversight DDD Support</u> | \$ | 9,252,738 | \$ | 9,147,791 | 77261 |
| 5U30 | 600654 | Health Care Services <u>Administration Program</u> <u>Support</u> | \$ | 24,400,000 | \$ | 24,400,000 <u>24,156,000</u> | 77262 |
| 5U60 | 600663 | Children <u>Family</u> and <u>Family Children</u> Support | \$ | 4,000,000 | \$ | 4,000,000 | 77263 |
| 6510 | 600649 | Hospital Care Assurance Program Fund | \$ | 212,526,123 | \$ | 217,008,050 | 77264 |

| | | | | |
|---|---------------------|-----------------------|---------------------------|-------|
| TOTAL SSR State Special Revenue | | | | 77265 |
| Fund Group | | \$ 1,194,041,402 | \$ 1,207,722,286 | 77266 |
| | | <u>1,196,041,402</u> | <u>1,211,478,286</u> | |
| Agency Fund Group | | | | 77267 |
| 1920 600646 | Child Support | \$ 130,000,000 | \$ 130,000,000 | 77268 |
| | Intercept - Federal | | <u>129,250,000</u> | |
| 5830 600642 | Child Support | \$ 16,000,000 | \$ 16,000,000 | 77269 |
| | Intercept - State | | <u>14,000,000</u> | |
| 5B60 600601 | Food Assistance | \$ 2,000,000 | \$ 2,000,000 | 77270 |
| | Intercept | | <u>1,000,000</u> | |
| TOTAL AGY Agency Fund Group | | \$ 148,000,000 | \$ 148,000,000 | 77271 |
| | | | <u>144,250,000</u> | |
| Holding Account Redistribution Fund Group | | | | 77272 |
| R012 600643 | Refunds and Audit | \$ 2,200,000 | \$ 2,200,000 | 77273 |
| | Settlements | | | |
| R013 600644 | Forgery Collections | \$ 10,000 | \$ 10,000 | 77274 |
| TOTAL 090 Holding Account | | \$ 2,210,000 | \$ 2,210,000 | 77275 |
| Redistribution Fund Group | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$22,170,511,132 | \$23,350,617,320 | 77276 |
| | | <u>22,171,511,132</u> | <u>23,351,584,429</u> | |

Sec. 309.30.10. HEALTH CARE/MEDICAID 77278

The foregoing appropriation item 600525, Health 77279
Care/Medicaid, shall not be limited by section 131.33 of the 77280
Revised Code. 77281

HEALTH CARE/MEDICAID ENDING BALANCE 77282

Thirty million dollars of the unexpended and unencumbered 77283
portion of appropriation item 600525, Health Care/Medicaid, at the 77284
end of fiscal year 2012 is hereby reappropriated to the Department 77285
of Job and Family Services for payments to nursing facilities for 77286
fiscal year 2013 in accordance with the section of this act titled 77287
"FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO NURSING FACILITIES." 77288

Sec. 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES 77289

(A) As used in this section, "charge high trim point" means a 77290
measure, excluding the measure established by paragraph (A)(6) of 77291
rule 5101:3-2-07.9 of the Administrative Code, used to determine 77292
whether a claim for a hospital inpatient service qualifies for a 77293
cost outlier payment under the Medicaid program. 77294

(B) For fiscal year 2012 and fiscal year 2013, the Director 77295
of Job and Family Services shall implement purchasing strategies 77296
and rate reductions for hospital and other Medicaid-covered 77297
services, as determined by the Director, that result in payment 77298
rates for those services being at least two per cent less than the 77299
respective payment rates for fiscal year 2011. In implementing the 77300
purchasing strategies and rate reductions, the Director shall do 77301
the following: 77302

(1) Notwithstanding the section of ~~this act~~ Am. Sub. H.B. 153 77303
of the 129th General Assembly titled "CONTINUATION OF MEDICAID 77304
RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES," modernize 77305
hospital inpatient and outpatient reimbursement methodologies by 77306
doing the following: 77307

(a) Modifying the inpatient hospital capital reimbursement 77308
methodology; 77309

(b) Establishing new diagnosis-related groups in a 77310
cost-neutral manner; 77311

(c) For hospital discharges that occur during the period 77312
beginning October 1, 2011, and ending January 1, 2012, modifying 77313
charge high trim points, as in effect on January 1, 2011, by a 77314
factor of 13.6%; 77315

(d) For hospital discharges that occur during the period 77316
beginning January 1, 2012, and ending on the effective date of the 77317
first of the new diagnosis-related groups established under 77318

division (B)(1)(b) of this section, modifying charge high trim 77319
points, as in effect on October 1, 2011, by a factor of 9.72%; 77320

(e) Implementing other changes the Director considers 77321
appropriate. 77322

(2) Establish selective contracting and prior authorization 77323
requirements for types of medical assistance the Director 77324
identifies. 77325

(C) The Director shall adopt rules under ~~section~~ sections 77326
5111.02 and 5111.85 of the Revised Code as necessary to implement 77327
this section. The rules adopted to implement divisions (B)(1)(a), 77328
(b), and (e) of this section shall include quality factors and 77329
quality-based incentive payments. 77330

(D) This section does not apply to nursing facility and 77331
intermediate care facility for the mentally retarded services 77332
provided under the Medicaid program. 77333

Sec. 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT 77334
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 77335
HOSPITAL INCENTIVE PAYMENT PROGRAM 77336

(A) As used in this section: 77337

(1) "Hospital" has the same meaning as in section 5112.40 of 77338
the Revised Code. 77339

(2) "Hospital Assessment Fund" means the fund created under 77340
section 5112.45 of the Revised Code. 77341

(3) "Medicaid managed care organization" means an entity 77342
under contract pursuant to section 5111.17 of the Revised Code to 77343
provide or arrange services for Medicaid recipients who are 77344
required or permitted to participate in the Medicaid care 77345
management system. 77346

(B) The Department of Job and Family Services shall submit to 77347

the United States Secretary of Health and Human Services a 77348
Medicaid state plan amendment to do both of the following: 77349

(1) Continue the Hospital Inpatient and Outpatient 77350
Supplemental Upper Payment Limit Program that was established 77351
pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th 77352
General Assembly, with any modifications necessary to implement 77353
the program as described under division (D) of this section; 77354

(2) Create the Medicaid Managed Care Hospital Incentive 77355
Payment Program, as described under division (E) of this section. 77356

(C) Of the amounts deposited into the Hospital Assessment 77357
Fund in fiscal year 2012 and fiscal year 2013: 77358

(1) Up to \$432,432,725 (state and federal) in fiscal year 77359
2012 and up to \$415,162,388 (state and federal) in fiscal year 77360
2013 shall be used for the Hospital Inpatient and Outpatient 77361
Supplemental Upper Payment Limit Program; 77362

(2) Up to \$162,000,000 (state and federal) in each fiscal 77363
year shall be used for the Medicaid Managed Care Hospital 77364
Incentive Payment Program; 77365

(3) Up to \$176,021,111 (state and federal) in fiscal year 77366
2012 and up to \$195,158,394 (state and federal) in fiscal year 77367
2013 shall be used for the program authorized by the section of 77368
~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled 77369
"CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND 77370
OUTPATIENT SERVICES." 77371

(D)(1) If the Medicaid state plan amendment submitted under 77372
division (B)(1) of this section is approved, the Department shall 77373
implement the Hospital Inpatient and Outpatient Supplemental Upper 77374
Payment Limit Program during fiscal year 2012 and fiscal year 77375
2013. Under the Program, subject to division (D)(2) of this 77376
section, supplemental Medicaid payments shall be made to hospitals 77377
for Medicaid-covered inpatient and outpatient services. The 77378

Department shall make the payments through amounts that are made 77379
available for the Program under division (C) of this section and 77380
any federal financial participation available for the Program. 77381

(2) The Department shall take all actions necessary to cease 77382
implementation of the Program if the United States Secretary 77383
determines that the assessment imposed under section 5112.41 of 77384
the Revised Code is an impermissible healthcare-related tax under 77385
section 1903(w) of the "Social Security Act," 105 Stat. 1793 77386
(1991), 42 U.S.C. 1396b(w), as amended. 77387

(E)(1) If the Medicaid state plan amendment submitted under 77388
division (B)(2) of this section is approved, the Department shall 77389
implement the Medicaid Managed Care Hospital Incentive Payment 77390
Program. The purpose of the Program is to increase access to 77391
hospital services for Medicaid recipients who are enrolled in 77392
Medicaid managed care organizations. 77393

Under the Program, subject to division (E)(3) of this 77394
section, funds shall be provided to Medicaid managed care 77395
organizations, which shall use the funds to increase payments to 77396
hospitals for providing services to Medicaid recipients who are 77397
enrolled in the organizations. The Department shall provide the 77398
funds through amounts that are made available for the Program 77399
under division (C) of this section and any federal financial 77400
participation available for the Program. 77401

(2) Not later than July 1, 2012, the Department shall select 77402
an actuary to conduct a study of the contracted reimbursement 77403
rates between Medicaid managed care organizations and hospitals. 77404
The actuary shall determine if a reduction in the capitation rates 77405
paid to Medicaid managed care organizations in fiscal year 2013 is 77406
appropriate as a result of the contracted reimbursement rates 77407
between the organizations and hospitals. The actuary shall notify 77408
the Department of its determination. 77409

If the actuary determines that a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 will not achieve \$22 million in state savings in fiscal year 2013, the state shall receive the difference between what the actuary determines the state will save and \$22 million. The Department, in consultation with the Ohio Association of Health Plans and the Ohio Hospital Association, shall establish a methodology under which the difference is paid equally by Medicaid managed care organizations and hospitals in this state.

Notwithstanding anything to the contrary specified in division (E)(3)(b) or (c) of this section, the Medicaid managed care organizations and hospitals shall pay the amounts determined under the methodology, unless the Department waives the requirement to make the payments. The requirement may be waived if spending for the Medicaid program in fiscal year 2013 is less than the amount that is budgeted for that fiscal year. If payments are made, the amount received by the Department shall be deposited into the state treasury to the credit of the Health Care Compliance Fund created under section ~~5111.171~~ 5111.946 of the Revised Code.

(3)(a) The Department shall not provide funds to Medicaid managed care organizations under the Program unless an actuary selected by the Department certifies that the Program would not violate the actuarial soundness of the capitation rates paid to Medicaid managed care organizations.

(b) The Department shall not implement the Program in a manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made

available to the organization under the Program. 77442

(d) The Department shall take all necessary actions to cease 77443
implementation of the Program if the United States Secretary 77444
determines that the assessment imposed under section 5112.41 of 77445
the Revised Code is an impermissible healthcare-related tax under 77446
section 1903(w) of the "Social Security Act," 105 Stat. 1793 77447
(1991), 42 U.S.C. 1396b(w), as amended. 77448

(F) The Director of Budget and Management may authorize 77449
additional expenditures from appropriation item 600623, Health 77450
Care Federal, appropriation item 600525, Health Care/Medicaid, and 77451
appropriation item 600656, Medicaid-Hospital, in order to 77452
implement the programs authorized by this section and to implement 77453
the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General 77454
Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL 77455
INPATIENT AND OUTPATIENT SERVICES." Any amounts authorized are 77456
hereby appropriated. 77457

(G) Nothing in this section reduces payments to children's 77458
hospitals authorized under the section of ~~this act~~ Am. Sub. H.B. 77459
153 of the 129th General Assembly titled "CHILDREN'S HOSPITALS 77460
SUPPLEMENTAL FUNDING." 77461

Sec. 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS 77462

(A) As used in this section, "disabled individual" means any 77463
individual receiving services through the program for medically 77464
handicapped children established under section 3701.023 of the 77465
Revised Code who has one or more of the following conditions: 77466

(1) Cystic fibrosis; 77467

(2) Hemophilia; 77468

(3) Cancer. 77469

(B) Notwithstanding section 5111.16 of the Revised Code, as 77470
amended by ~~this act~~ Am. Sub. H.B. 153 of the 129th General 77471

~~Assembly, the Department of Job and Family Services shall not include in the care management system established under that section in either fiscal year 2012 or fiscal year 2013 any individual receiving services through the program for medically handicapped children established under section 3701.023 of the Revised Code who has one or more of the following conditions and who was not receiving services through the care management system immediately before the effective date of this section:~~

~~(1) Cystic fibrosis;~~

~~(2) Hemophilia;~~

~~(3) Cancer any disabled individual who was not receiving services through the care management system immediately before June 30, 2011, until the later of the following:~~

~~(1) January 1, 2014;~~

~~(2) One year after the date that the Department first designates any individual who receives Medicaid on the basis of being aged, blind, or disabled who is under twenty-one years of age as an individual who is permitted or required to participate in the care management system.~~

Sec. 309.30.73. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS

(A) There is hereby created the Joint Legislative Committee for Unified Long-Term Services and Supports. The Committee shall consist of the following members:

(1) Two members of the House of Representatives from the majority party, appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;

- (3) Two members of the Senate from the majority party, 77502
appointed by the President of the Senate; 77503
- (4) One member of the Senate from the minority party, 77504
appointed by the President of the Senate. 77505
- (B) The Speaker of the House of Representatives shall 77506
designate one of the members of the Committee appointed under 77507
division (A)(1) of this section to serve as co-chairperson of the 77508
Committee. The President of the Senate shall designate one of the 77509
members of the Committee appointed under division (A)(3) of this 77510
section to serve as the other co-chairperson of the Committee. The 77511
Committee shall meet at the call of the co-chairpersons. The 77512
co-chairpersons may request assistance for the Committee from the 77513
Legislative Service Commission. 77514
- (C) The Committee may examine the following issues: 77515
- (1) The implementation of the dual eligible integrated care 77516
demonstration project authorized by section 5111.981 of the 77517
Revised Code; 77518
- (2) The implementation of a unified long-term services and 77519
support Medicaid waiver component under section 5111.864 of the 77520
Revised Code; 77521
- (3) Providing consumers choices regarding a continuum of 77522
services that meet their health-care needs, promote autonomy and 77523
independence, and improve quality of life; 77524
- (4) Ensuring that long-term care services and supports are 77525
delivered in a cost-effective and quality manner; 77526
- (5) Subjecting county homes, county nursing homes, and 77527
district homes operated pursuant to Chapter 5155. of the Revised 77528
Code to the franchise permit fee under sections 3721.50 to 3721.58 77529
of the Revised Code; 77530
- (6) Other issues of interest to the committee. 77531

(D) The co-chairpersons of the Committee shall provide for the Medical Assistance Director ~~of the Office of Ohio Health Plans in the Department of Job and Family Services~~ to testify before the Committee not later than September 30, 2011, and at least quarterly thereafter regarding the issues that the Committee examines.

Sec. 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION

Notwithstanding the provisions of section ~~5111.171~~ 5111.946 of the Revised Code specifying the uses of the ~~HealthCare~~ Health Care Compliance Fund, appropriations in appropriation item 600625, HealthCare Compliance, may be used for expenses incurred in implementation or operation of Health Home programs, contracts for consultants regarding Medicaid, and for the creation, modification, or replacement of any federally funded Medicaid healthcare systems in fiscal year 2012 and fiscal year 2013.

Sec. 309.60.20. UNEMPLOYMENT COMPENSATION INTEREST

CONTINGENCY FUND

The General Health and Human Service Pass-Through Fund (Fund 5HC0) is hereby renamed the Unemployment Compensation Interest Contingency Fund. On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$23,000,000 cash from the Child and Adult Protective Services Fund (Fund 5GV0), used by the Department of Job and Family Services, to the Unemployment Compensation Interest Contingency Fund (Fund 5HC0). ~~The~~

Notwithstanding any provision of law to the contrary, in fiscal year 2013, the Director of Budget and Management may transfer up to \$25,000,000 cash from the General Revenue Fund to Fund 5HC0.

The Director of Budget and Management may seek Controlling

Board approval to establish appropriations for payment of interest 77562
costs paid to the United States Secretary of the Treasury for the 77563
repayment of accrued interest related to federal unemployment 77564
account borrowing. 77565

Sec. 313.10. JCO JUDICIAL CONFERENCE OF OHIO 77566

General Revenue Fund 77567

| | | | | | |
|-------------------------------|----|--------------------|----|--------------------|-------|
| GRF 018321 Operating Expenses | \$ | 720,000 | \$ | 720,000 | 77568 |
| | | <u>801,000</u> | | <u>801,700</u> | |

| | | | | | |
|--------------------------------|----|--------------------|----|--------------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 720,000 | \$ | 720,000 | 77569 |
| | | <u>801,000</u> | | <u>801,700</u> | |

General Services Fund Group 77570

| | | | | | |
|-----------------------|----|---------|----|---------|-------|
| 4030 018601 Ohio Jury | \$ | 350,000 | \$ | 350,000 | 77571 |
|-----------------------|----|---------|----|---------|-------|

Instructions

| | | | | | |
|---------------------------------|----|---------|----|---------|-------|
| TOTAL GSF General Services Fund | \$ | 350,000 | \$ | 350,000 | 77572 |
|---------------------------------|----|---------|----|---------|-------|

Group

| | | | | | |
|------------------------------|----|----------------------|----|----------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,070,000 | \$ | 1,070,000 | 77573 |
| | | <u>1,151,000</u> | | <u>1,151,700</u> | |

STATE COUNCIL OF UNIFORM STATE LAWS 77574

Notwithstanding section 105.26 of the Revised Code, of the 77575
foregoing appropriation item 018321, Operating Expenses, up to 77576
\$81,000 in fiscal year 2012 and up to \$81,700 in fiscal year 2013 77577
shall be used to pay the expenses of the State Council of Uniform 77578
State Laws, including membership dues to the National Conference 77579
of Commissioners on Uniform State Laws. 77580

OHIO JURY INSTRUCTIONS FUND 77581

The Ohio Jury Instructions Fund (Fund 4030) shall consist of 77582
grants, royalties, dues, conference fees, bequests, devises, and 77583
other gifts received for the purpose of supporting costs incurred 77584
by the Judicial Conference of Ohio in its activities as a part of 77585
the judicial system of the state as determined by the Judicial 77586

Conference Executive Committee. Fund 4030 shall be used by the 77587
 Judicial Conference of Ohio to pay expenses incurred in its 77588
 activities as a part of the judicial system of the state as 77589
 determined by the Judicial Conference Executive Committee. All 77590
 moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year 77591
 2012 and in excess of \$350,000 in fiscal year 2013 are hereby 77592
 appropriated for the purposes authorized. 77593

No money in Fund 4030 shall be transferred to any other fund 77594
 by the Director of Budget and Management or the Controlling Board. 77595

Sec. 315.10. JSC THE JUDICIARY/SUPREME COURT 77596

General Revenue Fund 77597

| | | | | | | |
|------------|----------------------|----|------------------------|----|------------------------|-------|
| GRF 005321 | Operating Expenses - | \$ | 133,704,620 | \$ | 132,565,410 | 77598 |
| | Judiciary/Supreme | | <u>132,347,507</u> | | <u>133,922,523</u> | |
| | Court | | | | | |

| | | | | | | |
|------------|-----------------------|----|---------|----|---------|-------|
| GRF 005406 | Law-Related Education | \$ | 236,172 | \$ | 236,172 | 77599 |
|------------|-----------------------|----|---------|----|---------|-------|

| | | | | | | |
|------------|-----------------------|----|-----------|----|-----------|-------|
| GRF 005409 | Ohio Courts | \$ | 2,150,000 | \$ | 2,150,000 | 77600 |
| | Technology Initiative | | | | | |

| | | | | | |
|--------------------------------|----|------------------------|----|------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 136,090,792 | \$ | 134,951,582 | 77601 |
| | | <u>134,733,679</u> | | <u>136,308,695</u> | |

General Services Fund Group 77602

| | | | | | | |
|-------------|---------------------|----|---------|----|---------|-------|
| 6720 005601 | Continuing Judicial | \$ | 172,142 | \$ | 169,420 | 77603 |
| | Education | | | | | |

| | | | | | |
|---------------------------------|----|---------|----|---------|-------|
| TOTAL GSF General Services Fund | \$ | 172,142 | \$ | 169,420 | 77604 |
| Group | | | | | |

Federal Special Revenue Fund Group 77605

| | | | | | | |
|-------------|----------------|----|-----------|----|-----------|-------|
| 3J00 005603 | Federal Grants | \$ | 1,653,317 | \$ | 1,605,717 | 77606 |
|-------------|----------------|----|-----------|----|-----------|-------|

| | | | | | |
|-----------------------------------|----|-----------|----|-----------|-------|
| TOTAL FED Federal Special Revenue | \$ | 1,653,317 | \$ | 1,605,717 | 77607 |
| Fund Group | | | | | |

State Special Revenue Fund Group 77608

| | | | | | | |
|-------------|-------------------|----|-----------|----|-----------|-------|
| 4C80 005605 | Attorney Services | \$ | 3,718,328 | \$ | 3,695,192 | 77609 |
|-------------|-------------------|----|-----------|----|-----------|-------|

| | | | | | | |
|---|--|----|------------------------|----|------------------------|--|
| 5HT0 005617 | Court Interpreter Certification | \$ | 39,000 | \$ | 39,000 | 77610 |
| 5T80 005609 | Grants and Awards | \$ | 50,000 | \$ | 50,000 | 77611 |
| 6A80 005606 | Supreme Court Admissions | \$ | 1,223,340 | \$ | 1,205,056 | 77612 |
| TOTAL SSR State Special Revenue Fund Group | | \$ | 5,030,668 | \$ | 4,989,248 | 77613 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 142,946,919 | \$ | 141,715,967 | 77614 |
| | | | <u>141,589,806</u> | | <u>143,073,080</u> | |
| | OPERATING EXPENSES - JUDICIARY/SUPREME COURT | | | | | 77615 |
| | Of the foregoing appropriation item 005321, Operating Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal year may be used to support the functions of the State Criminal Sentencing Council. | | | | | 77616 77617 77618 77619 |
| | LAW-RELATED EDUCATION | | | | | 77620 |
| | The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs. | | | | | 77621 77622 77623 77624 77625 77626 77627 |
| | OHIO COURTS TECHNOLOGY INITIATIVE | | | | | 77628 |
| | The foregoing appropriation item 005409, Ohio Courts Technology Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training | | | | | 77629 77630 77631 77632 77633 77634 77635 77636 |

programs for judges and court personnel, and operation of the 77637
Commission on Technology and the Courts by the Supreme Court for 77638
the promulgation of statewide rules, policies, and uniform 77639
standards, and to aid in the orderly adoption and comprehensive 77640
use of technology in Ohio courts. 77641

CONTINUING JUDICIAL EDUCATION 77642

The Continuing Judicial Education Fund (Fund 6720) shall 77643
consist of fees paid by judges and court personnel for attending 77644
continuing education courses and other gifts and grants received 77645
for the purpose of continuing judicial education. The foregoing 77646
appropriation item 005601, Continuing Judicial Education, shall be 77647
used to pay expenses for continuing education courses for judges 77648
and court personnel. If it is determined by the Administrative 77649
Director of the Supreme Court that additional appropriations are 77650
necessary, the amounts are hereby appropriated. 77651

No money in Fund 6720 shall be transferred to any other fund 77652
by the Director of Budget and Management or the Controlling Board. 77653
Interest earned on money in Fund 6720 shall be credited to the 77654
fund. 77655

FEDERAL GRANTS 77656

The Federal Grants Fund (Fund 3J00) shall consist of grants 77657
and other moneys awarded to the Supreme Court (The Judiciary) by 77658
the United States Government or other entities that receive the 77659
moneys directly from the United States Government and distribute 77660
those moneys to the Supreme Court (The Judiciary). The foregoing 77661
appropriation item 005603, Federal Grants, shall be used in a 77662
manner consistent with the purpose of the grant or award. If it is 77663
determined by the Administrative Director of the Supreme Court 77664
that additional appropriations are necessary, the amounts are 77665
hereby appropriated. 77666

No money in Fund 3J00 shall be transferred to any other fund 77667

by the Director of Budget and Management or the Controlling Board. 77668
However, interest earned on money in Fund 3J00 shall be credited 77669
or transferred to the General Revenue Fund. 77670

ATTORNEY SERVICES 77671

The Attorney Services Fund (Fund 4C80), formerly known as the 77672
Attorney Registration Fund, shall consist of money received by the 77673
Supreme Court (The Judiciary) pursuant to the Rules for the 77674
Government of the Bar of Ohio. In addition to funding other 77675
activities considered appropriate by the Supreme Court, the 77676
foregoing appropriation item 005605, Attorney Services, may be 77677
used to compensate employees and to fund appropriate activities of 77678
the following offices established by the Supreme Court: the Office 77679
of Disciplinary Counsel, the Board of Commissioners on Grievances 77680
and Discipline, the Clients' Security Fund, and the Attorney 77681
Services Division. If it is determined by the Administrative 77682
Director of the Supreme Court that additional appropriations are 77683
necessary, the amounts are hereby appropriated. 77684

No money in Fund 4C80 shall be transferred to any other fund 77685
by the Director of Budget and Management or the Controlling Board. 77686
Interest earned on money in Fund 4C80 shall be credited to the 77687
fund. 77688

COURT INTERPRETER CERTIFICATION 77689

The Court Interpreter Certification Fund (Fund 5HT0) shall 77690
consist of money received by the Supreme Court (The Judiciary) 77691
pursuant to Rules 80 through 87 of the Rules of Superintendence 77692
for the Courts of Ohio. The foregoing appropriation item 005617, 77693
Court Interpreter Certification, shall be used to provide 77694
training, to provide the written examination, and to pay language 77695
experts to rate, or grade, the oral examinations of those applying 77696
to become certified court interpreters. If it is determined by the 77697
Administrative Director that additional appropriations are 77698

necessary, the amounts are hereby appropriated. 77699

No money in Fund 5HT0 shall be transferred to any other fund 77700
by the Director of Budget and Management or the Controlling Board. 77701
Interest earned on money in Fund 5HT0 shall be credited to the 77702
fund. 77703

GRANTS AND AWARDS 77704

The Grants and Awards Fund (Fund 5T80) shall consist of 77705
grants and other money awarded to the Supreme Court (The 77706
Judiciary) by the State Justice Institute, the Division of 77707
Criminal Justice Services, or other entities. The foregoing 77708
appropriation item 005609, Grants and Awards, shall be used in a 77709
manner consistent with the purpose of the grant or award. If it is 77710
determined by the Administrative Director of the Supreme Court 77711
that additional appropriations are necessary, the amounts are 77712
hereby appropriated. 77713

No money in Fund 5T80 shall be transferred to any other fund 77714
by the Director of Budget and Management or the Controlling Board. 77715
However, interest earned on money in Fund 5T80 shall be credited 77716
or transferred to the General Revenue Fund. 77717

SUPREME COURT ADMISSIONS 77718

The foregoing appropriation item 005606, Supreme Court 77719
Admissions, shall be used to compensate Supreme Court employees 77720
who are primarily responsible for administering the attorney 77721
admissions program under the Rules for the Government of the Bar 77722
of Ohio, and to fund any other activities considered appropriate 77723
by the court. Moneys shall be deposited into the Supreme Court 77724
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 77725
Government of the Bar of Ohio. If it is determined by the 77726
Administrative Director of the Supreme Court that additional 77727
appropriations are necessary, the amounts are hereby appropriated. 77728

No money in Fund 6A80 shall be transferred to any other fund 77729

by the Director of Budget and Management or the Controlling Board. 77730
Interest earned on money in Fund 6A80 shall be credited to the 77731
fund. 77732

Sec. 323.10. LSC LEGISLATIVE SERVICE COMMISSION 77733

General Revenue Fund 77734

GRF 035321 Operating Expenses \$ 15,117,700 \$ 15,117,700 77735

GRF 035402 Legislative Fellows \$ 1,022,120 \$ 1,022,120 77736

GRF 035405 Correctional \$ 438,900 \$ 438,900 77737

Institution Inspection
Committee

GRF 035407 Legislative Task Force \$ 590,000 \$ ~~750,000~~ 77738
on Redistricting 400,000

GRF 035409 National Associations \$ 460,560 \$ 460,560 77739

GRF 035410 Legislative \$ 3,661,250 \$ ~~3,661,250~~ 77740
Information Systems 3,861,250

GRF 035411 Ohio Constitutional \$ 50,000 \$ 50,000 77741
Modernization
Commission

TOTAL GRF General Revenue Fund \$ 21,340,530 \$ ~~21,500,530~~ 77742
21,350,530

General Services Fund Group 77743

4100 035601 Sale of Publications \$ 10,000 \$ 10,000 77744

4F60 035603 Legislative Budget \$ 200,000 \$ 200,000 77745
Services

5EF0 035607 Legislative Agency \$ 30,000 \$ 30,000 77746
Telephone Usage

TOTAL GSF General Services 77747

Fund Group \$ 240,000 \$ 240,000 77748

TOTAL ALL BUDGET FUND GROUPS \$ 21,580,530 \$ ~~21,740,530~~ 77749
21,590,530

OPERATING EXPENSES 77750

On July 1, 2011, or as soon as possible thereafter, the 77751
Director of the Legislative Service Commission may certify to the 77752
Director of Budget and Management the amount of the unexpended, 77753
unencumbered balance of the foregoing appropriation item 035321, 77754
Operating Expenses, at the end of fiscal year 2011 to be 77755
reappropriated to fiscal year 2012. The amount certified is hereby 77756
reappropriated to the same appropriation item for fiscal year 77757
2012. 77758

On July 1, 2012, or as soon as possible thereafter, the 77759
Director of the Legislative Service Commission may certify to the 77760
Director of Budget and Management the amount of the unexpended, 77761
unencumbered balance of the foregoing appropriation item 035321, 77762
Operating Expenses, at the end of fiscal year 2012 to be 77763
reappropriated to fiscal year 2013. The amount certified is hereby 77764
reappropriated to the same appropriation item for fiscal year 77765
2013. 77766

LEGISLATIVE TASK FORCE ON REDISTRICTING 77767

An amount equal to the unexpended, unencumbered portion of 77768
the foregoing appropriation item 035407, Legislative Task Force on 77769
Redistricting, at the end of fiscal year 2011 is hereby 77770
reappropriated to the Legislative Service Commission for the same 77771
purpose for fiscal year 2012. 77772

An amount equal to the unexpended, unencumbered portion of 77773
the foregoing appropriation item 035407, Legislative Task Force on 77774
Redistricting, at the end of fiscal year 2012 is hereby 77775
reappropriated to the Legislative Service Commission for the same 77776
purpose for fiscal year 2013. 77777

LEGISLATIVE INFORMATION SYSTEMS 77778

On July 1, 2011, or as soon as possible thereafter, the 77779
Director of the Legislative Service Commission may certify to the 77780
Director of Budget and Management the amount of the unexpended, 77781

unencumbered balance of the foregoing appropriation item 035410, 77782
Legislative Information Systems, at the end of fiscal year 2011 to 77783
be reappropriated to fiscal year 2012. The amount certified is 77784
hereby reappropriated to the same appropriation item for fiscal 77785
year 2012. 77786

On July 1, 2012, or as soon as possible thereafter, the 77787
Director of the Legislative Service Commission may certify to the 77788
Director of Budget and Management the amount of the unexpended, 77789
unencumbered balance of the foregoing appropriation item 035410, 77790
Legislative Information Systems, at the end of fiscal year 2012 to 77791
be reappropriated to fiscal year 2013. The amount certified is 77792
hereby reappropriated to the same appropriation item for fiscal 77793
year 2013. 77794

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION 77795

The foregoing appropriation item 035411, Ohio Constitutional 77796
Modernization Commission, shall be used to support the operation 77797
and expenses of the Ohio Constitutional Modernization Commission 77798
under sections 103.61 to 103.67 of the Revised Code. 77799

Sec. 327.10. LCO LIQUOR CONTROL COMMISSION 77800

State Special Revenue Fund Group 77801

5LP0 970601 Commission Operating \$ 0 \$ 754,146 77802

Expense

TOTAL SSR State Special Revenue \$ 0 \$ 754,146 77803

Fund Group

Liquor Control Fund Group 77804

7043 970321 Operating Expenses \$ 753,933 \$ ~~754,146~~ 0 77805

TOTAL LCF Liquor Control Fund Group \$ 753,933 \$ ~~754,146~~ 0 77806

TOTAL ALL BUDGET FUND GROUPS \$ 753,933 \$ 754,146 77807

Sec. 337.10. DMH DEPARTMENT OF MENTAL HEALTH 77809

| | | | | |
|-----------------------------|----------------------|-------------------------------------|--|-------|
| General Revenue Fund | | | | 77810 |
| GRF | 332401 | Forensic Services | \$ 3,244,251 \$ 3,244,251 | 77811 |
| GRF | 333321 | Central Administration | \$ 16,000,000 \$ 16,000,000 | 77812 |
| GRF | 333402 | Resident Trainees | \$ 450,000 \$ 450,000 | 77813 |
| GRF | 333403 | Pre-Admission Screening Expenses | \$ 486,119 \$ 486,119 <u>286,119</u> | 77814 |
| GRF | 333415 | Lease-Rental Payments | \$ 18,394,250 \$ 19,907,900 <u>17,907,900</u> | 77815 |
| GRF | 333416 | Research Program Evaluation | \$ 421,724 \$ 421,998 | 77816 |
| GRF | 334412 | Hospital Services | \$ 194,918,888 \$ 192,051,209 <u>191,051,209</u> | 77817 |
| GRF | 334506 | Court Costs | \$ 584,210 \$ 584,210 | 77818 |
| GRF | 335405 | Family & Children First | \$ 1,386,000 \$ 1,386,000 | 77819 |
| GRF | 335419 | Community Medication Subsidy | \$ 8,963,818 \$ 8,963,818 | 77820 |
| GRF | 335501 | Mental Health Medicaid Match | \$ 186,400,000 \$ 0 | 77821 |
| GRF | 335505 | Local Mental Health Systems of Care | \$ 49,963,776 \$ 59,087,955 <u>62,087,955</u> | 77822 |
| GRF | 335506 | Residential State Supplement | \$ 4,702,875 \$ 4,702,875 | 77823 |
| TOTAL GRF | General Revenue Fund | | \$ 485,915,911 \$ 307,286,335 <u>307,086,335</u> | 77824 |
| General Services Fund Group | | | | 77825 |
| 1490 | 333609 | Central Office Operating | \$ 1,343,190 \$ 1,343,190 | 77826 |
| 1490 | 334609 | Hospital - Operating Expenses | \$ 28,190,000 \$ 28,190,000 | 77827 |
| 1500 | 334620 | Special Education | \$ 150,000 \$ 150,000 | 77828 |

| | | | | | | | |
|------------------------------------|-------------------------|---|----|-------------|----|--|-------|
| 4P90 | 335604 | Community Mental Health Projects | \$ | 4,061,100 | \$ | 250,000 | 77829 |
| 1510 | 336601 | Office of Support Services | \$ | 129,770,770 | \$ | 129,779,822 <u>127,297,130</u> | 77830 |
| TOTAL GSF | General Services Fund | | \$ | 163,515,060 | \$ | 159,713,012 <u>157,230,320</u> | 77831 |
| Group | | | | | | | |
| Federal Special Revenue Fund Group | | | | | | | 77832 |
| 3240 | 333605 | Medicaid/Medicare | \$ | 154,500 | \$ | 154,500 | 77833 |
| 3A60 | 333608 | Federal Miscellaneous | \$ | 140,000 | \$ | 140,000 | 77834 |
| 3A70 | 333612 | Social Services Block Grant | \$ | 50,000 | \$ | 50,000 | 77835 |
| 3A80 | 333613 | Federal Grant - Administration | \$ | 4,717,000 | \$ | 4,717,000 | 77836 |
| 3A90 | 333614 | Mental Health Block Grant - Administration | \$ | 748,470 | \$ | 748,470 | 77837 |
| 3B10 | 333635 | Community Medicaid Expansion | \$ | 13,691,682 | \$ | 13,691,682 | 77838 |
| 3240 | 334605 | Medicaid/Medicare | \$ | 28,200,000 | \$ | 28,200,000 | 77839 |
| 3A60 | 334608 | Federal Miscellaneous | \$ | 200,000 | \$ | 200,000 | 77840 |
| 3A80 | 334613 | Federal Letter of Credit | \$ | 200,000 | \$ | 200,000 | 77841 |
| 3A60 | 335608 | Federal Miscellaneous | \$ | 2,170,000 | \$ | 2,170,000 | 77842 |
| 3A70 | 335612 | Social Services Block Grant | \$ | 8,400,000 | \$ | 8,400,000 | 77843 |
| 3A80 | 335613 | Federal Grant - Community Mental Health Board Subsidy | \$ | 2,500,000 | \$ | 2,500,000 | 77844 |
| 3A90 | 335614 | Mental Health Block Grant | \$ | 14,200,000 | \$ | 14,200,000 | 77845 |
| 3B10 | 335635 | Community Medicaid Expansion | \$ | 346,200,000 | \$ | 0 | 77846 |
| TOTAL FED | Federal Special Revenue | | \$ | 421,571,652 | \$ | 75,371,652 | 77847 |

Fund Group

| | | | | |
|----------------------------------|--------|-----------------------|---------------------|------------------------------|
| State Special Revenue Fund Group | | | | 77848 |
| 2320 | 333621 | Family and Children | \$ 448,286 \$ | 432,197 77849 |
| | | First Administration | | |
| 4850 | 333632 | Mental Health | \$ 134,233 \$ | 134,233 77850 |
| | | Operating | | |
| 4X50 | 333607 | Behavioral Health | \$ 3,000,624 \$ | 3,000,624 77851 |
| | | Medicaid Services | | |
| 5V20 | 333611 | Non-Federal | \$ 100,000 \$ | 100,000 77852 |
| | | Miscellaneous | | |
| 4850 | 334632 | Mental Health | \$ 2,477,500 \$ | 2,477,500 77853 |
| | | Operating | | |
| 5AU0 | 335615 | Behavioral Healthcare | \$ 6,690,000 \$ | 6,690,000 77854 |
| 6320 | 335616 | Community Capital | \$ 350,000 \$ | 350,000 77855 |
| | | Replacement | | |
| TOTAL SSR State Special Revenue | | | \$ 13,200,643 \$ | 13,184,554 77856 |
| Fund Group | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 1,084,203,266 \$ | 555,555,553 77857 |
| | | | | <u>552,872,861</u> |

Sec. 343.10. DNR DEPARTMENT OF NATURAL RESOURCES

77859

General Revenue Fund

77860

| | | | | |
|------------|---------------|-------------------------------|------------------|------------------------|
| GRF | 725401 | Wildlife-GRF Central | \$ 1,800,000 \$ | 1,800,000 77861 |
| | | Support | | |
| GRF | 725413 | Lease Rental Payments | \$ 20,568,600 \$ | 19,734,700 77862 |
| GRF | 725456 | Canal Lands | \$ 135,000 \$ | 135,000 77863 |
| GRF | 725502 | Soil and Water | \$ 2,900,000 \$ | 2,900,000 77864 |
| | | Districts | | |
| <u>GRF</u> | <u>725505</u> | <u>Healthy Lake Erie Fund</u> | <u>\$ 0 \$</u> | <u>3,350,000</u> 77865 |
| GRF | 725903 | Natural Resources | \$ 5,375,300 \$ | 25,209,100 77866 |
| | | General Obligation | | |
| | | Debt Service | | |

| | | | | | | | |
|-----------------------------|----------------------|--|----|------------|----|--|-------|
| GRF | 727321 | Division of Forestry | \$ | 4,878,338 | \$ | 4,880,000 | 77867 |
| GRF | 729321 | Office of Information Technology | \$ | 194,118 | \$ | 197,117 | 77868 |
| GRF | 730321 | Division of Parks and Recreation | \$ | 30,000,000 | \$ | 30,000,000 | 77869 |
| GRF | 736321 | Division of Engineering | \$ | 3,024,459 | \$ | 3,025,078 <u>2,995,078</u> | 77870 |
| GRF | 737321 | Division of Soil and Water Resources | \$ | 4,982,961 | \$ | 4,983,356 | 77871 |
| GRF | 741321 | Division of Natural Areas and Preserves | \$ | 1,200,000 | \$ | 1,200,000 | 77872 |
| TOTAL GRF | General Revenue Fund | | \$ | 75,058,776 | \$ | 94,064,351 <u>97,384,351</u> | 77873 |
| General Services Fund Group | | | | | | | 77874 |
| 1550 | 725601 | Departmental Projects | \$ | 3,365,651 | \$ | 2,725,484 <u>2,512,977</u> | 77875 |
| 1570 | 725651 | Central Support Indirect | \$ | 5,854,167 | \$ | 5,857,800 | 77876 |
| 2040 | 725687 | Information Services | \$ | 4,659,276 | \$ | 4,643,835 | 77877 |
| 2070 | 725690 | Real Estate Services | \$ | 50,000 | \$ | 50,000 | 77878 |
| 2230 | 725665 | Law Enforcement Administration | \$ | 2,106,776 | \$ | 2,126,432 | 77879 |
| 2270 | 725406 | Parks Projects Personnel | \$ | 436,500 | \$ | 436,500 | 77880 |
| 4300 | 725671 | Canal Lands | \$ | 907,618 | \$ | 907,879 <u>883,879</u> | 77881 |
| 4D50 | 725618 | Recycled Materials | \$ | 50,000 | \$ | 50,000 0 | 77882 |
| 4S90 | 725622 | NatureWorks Personnel | \$ | 400,358 | \$ | 400,358 | 77883 |
| 4X80 | 725662 | Water Resources Council | \$ | 138,011 | \$ | 138,005 | 77884 |
| 5100 | 725631 | Maintenance - State-owned Residences | \$ | 303,611 | \$ | 303,611 | 77885 |

Am. Sub. H. B. No. 487
As Reported by the Committee of Conference

| | | | | | | | |
|------------------------------------|--------|-----------------------|----|------------|----|-----------------------|-------------------|
| 5160 | 725620 | Water Management | \$ | 2,541,565 | \$ | 2,559,292 | 77886 |
| 6350 | 725664 | Fountain Square | \$ | 3,544,623 | \$ | 3,548,445 | 77887 |
| | | Facilities Management | | | | <u>3,473,413</u> | |
| 6970 | 725670 | Submerged Lands | \$ | 836,162 | \$ | 848,546 | 77888 |
| TOTAL GSF General Services | | | | | | | 77889 |
| Fund Group | | | \$ | 25,194,318 | \$ | 24,596,187 | 77890 |
| | | | | | | | <u>24,234,648</u> |
| Federal Special Revenue Fund Group | | | | | | | 77891 |
| 3320 | 725669 | Federal Mine Safety | \$ | 258,102 | \$ | 258,102 | 77892 |
| | | Grant | | | | | |
| 3B30 | 725640 | Federal Forest | \$ | 600,000 | \$ | 600,000 | 77893 |
| | | Pass-Thru | | | | | |
| 3B40 | 725641 | Federal Flood | \$ | 600,000 | \$ | 600,000 | 77894 |
| | | Pass-Thru | | | | | |
| 3B50 | 725645 | Federal Abandoned | \$ | 21,007,667 | \$ | 21,207,667 | 77895 |
| | | Mine Lands | | | | | |
| 3B60 | 725653 | Federal Land and | \$ | 1,150,000 | \$ | 1,150,000 | 77896 |
| | | Water Conservation | | | | | |
| | | Grants | | | | | |
| 3B70 | 725654 | Reclamation - | \$ | 3,200,000 | \$ | 3,200,000 | 77897 |
| | | Regulatory | | | | | |
| 3P10 | 725632 | Geological Survey - | \$ | 692,401 | \$ | 692,401 | 77898 |
| | | Federal | | | | | |
| 3P20 | 725642 | Oil and Gas-Federal | \$ | 234,509 | \$ | 234,509 | 77899 |
| 3P30 | 725650 | Coastal Management - | \$ | 3,290,633 | \$ | 3,290,633 | 77900 |
| | | Federal | | | | | |
| 3P40 | 725660 | Federal - Soil and | \$ | 1,213,048 | \$ | 1,209,957 | 77901 |
| | | Water Resources | | | | | |
| 3R50 | 725673 | Acid Mine Drainage | \$ | 2,025,001 | \$ | 2,025,001 | 77902 |
| | | Abatement/Treatment | | | | | |
| 3Z50 | 725657 | Federal Recreation | \$ | 1,850,000 | \$ | 1,850,000 | 77903 |
| | | and Trails | | | | | |
| TOTAL FED Federal Special Revenue | | | | | | | 77904 |

| | | | | | | |
|----------------------------------|------------------------|----|------------|----|-------------------------------|-------|
| Fund Group | | \$ | 36,121,361 | \$ | 36,318,270 | 77905 |
| State Special Revenue Fund Group | | | | | | 77906 |
| 4J20 725628 | Injection Well Review | \$ | 130,899 | \$ | 128,466 | 77907 |
| 4M70 725686 | Wildfire Suppression | \$ | 100,000 | \$ | 100,000 | 77908 |
| 4U60 725668 | Scenic Rivers | \$ | 100,000 | \$ | 100,000 | 77909 |
| | Protection | | | | | |
| 5090 725602 | State Forest | \$ | 7,891,747 | \$ | 7,058,793 | 77910 |
| 5110 725646 | Ohio Geological | \$ | 704,777 | \$ | 705,130 | 77911 |
| | Mapping | | | | | |
| 5120 725605 | State Parks Operations | \$ | 32,284,117 | \$ | 31,550,444 | 77912 |
| 5140 725606 | Lake Erie Shoreline | \$ | 1,502,654 | \$ | 1,505,983 | 77913 |
| 5180 725643 | Oil and Gas Permit | \$ | 5,821,970 | \$ | 5,623,645 | 77914 |
| | Fees | | | | <u>9,823,645</u> | |
| 5180 725677 | Oil and Gas Well | \$ | 800,000 | \$ | 800,000 | 77915 |
| | Plugging | | | | | |
| 5210 725627 | Off-Road Vehicle | \$ | 143,490 | \$ | 143,490 | 77916 |
| | Trails | | | | | |
| 5220 725656 | Natural Areas and | \$ | 546,580 | \$ | 546,639 | 77917 |
| | Preserves | | | | | |
| 5260 725610 | Strip Mining | \$ | 2,000,000 | \$ | 2,000,000 | 77918 |
| | Administration Fee | | | | | |
| 5270 725637 | Surface Mining | \$ | 1,940,977 | \$ | 1,941,532 | 77919 |
| | Administration | | | | | |
| 5290 725639 | Unreclaimed Land Fund | \$ | 2,004,180 | \$ | 2,004,180 | 77920 |
| 5310 725648 | Reclamation Forfeiture | \$ | 1,423,000 | \$ | 1,423,000 | 77921 |
| | | | | | <u>500,000</u> | |
| 5320 725644 | Litter Control and | \$ | 4,926,730 | \$ | 4,911,575 <u>0</u> | 77922 |
| | Recycling | | | | | |
| 5860 725633 | Scrap Tire Program | \$ | 1,497,645 | \$ | 1,497,645 <u>0</u> | 77923 |
| 5B30 725674 | Mining Regulation | \$ | 28,135 | \$ | 28,135 | 77924 |
| 5BV0 725658 | Heidelberg Water | \$ | 250,000 | \$ | 250,000 | 77925 |
| | Quality Lab | | | | | |
| 5BV0 725683 | Soil and Water | \$ | 8,000,000 | \$ | 8,000,000 | 77926 |

| | | Districts | | | | |
|------------------------------------|--------|-----------------------|----|------------|----|-----------------------------|
| 5CU0 | 725647 | Mine Safety | \$ | 3,000,000 | \$ | 3,000,000 77927 |
| 5EJ0 | 725608 | Forestry Law | \$ | 1,000 | \$ | 1,000 77928 |
| | | Enforcement | | | | |
| 5EK0 | 725611 | Natural Areas & | \$ | 1,000 | \$ | 1,000 77929 |
| | | Preserves Law | | | | |
| | | Enforcement | | | | |
| 5EL0 | 725612 | Wildlife Law | \$ | 12,000 | \$ | 12,000 77930 |
| | | Enforcement | | | | |
| 5EM0 | 725613 | Park Law Enforcement | \$ | 34,000 | \$ | 34,000 77931 |
| 5EN0 | 725614 | Watercraft Law | \$ | 2,500 | \$ | 2,500 77932 |
| | | Enforcement | | | | |
| 5HK0 | 725625 | Ohio Nature Preserves | \$ | 1,000 | \$ | 1,000 77933 |
| 6150 | 725661 | Dam Safety | \$ | 925,344 | \$ | 926,028 77934 |
| TOTAL SSR State Special Revenue | | | | | | 77935 |
| Fund Group | | | \$ | 76,073,745 | \$ | 74,296,185 77936 |
| | | | | | | <u>71,163,965</u> |
| Clean Ohio Conservation Fund Group | | | | | | 77937 |
| 7061 | 725405 | Clean Ohio Operating | \$ | 300,775 | \$ | 300,775 77938 |
| TOTAL CLF Clean Ohio Conservation | | | \$ | 300,775 | \$ | 300,775 77939 |
| Fund Group | | | | | | |
| Wildlife Fund Group | | | | | | 77940 |
| 5P20 | 725634 | Wildlife Boater | \$ | 4,000,000 | \$ | 4,000,000 77941 |
| | | Angler Administration | | | | |
| 7015 | 740401 | Division of Wildlife | \$ | 52,721,044 | \$ | 51,669,158 77942 |
| | | Conservation | | | | |
| 8150 | 725636 | Cooperative | \$ | 120,449 | \$ | 120,449 77943 |
| | | Management Projects | | | | |
| 8160 | 725649 | Wetlands Habitat | \$ | 966,885 | \$ | 966,885 77944 |
| 8170 | 725655 | Wildlife Conservation | \$ | 3,240,000 | \$ | 3,240,000 77945 |
| | | Checkoff Fund | | | | |
| 8180 | 725629 | Cooperative Fisheries | \$ | 1,500,000 | \$ | 1,500,000 77946 |

| | | | |
|---|--------|--|-----------------------------------|
| Research | | | |
| 8190 | 725685 | Ohio River Management | \$ 128,584 \$ 128,584 77947 |
| TOTAL WLF Wildlife Fund Group | | | \$ 62,676,962 \$ 61,625,076 77948 |
| Waterways Safety Fund Group 77949 | | | |
| 7086 | 725414 | Waterways Improvement | \$ 5,692,601 \$ 5,693,671 77950 |
| 7086 | 725418 | Buoy Placement | \$ 52,182 \$ 52,182 77951 |
| 7086 | 725501 | Waterway Safety | \$ 120,000 \$ 120,000 77952 |
| Grants | | | |
| 7086 | 725506 | Watercraft Marine | \$ 576,153 \$ 576,153 77953 |
| Patrol | | | |
| 7086 | 725513 | Watercraft | \$ 366,643 \$ 366,643 77954 |
| Educational Grants | | | |
| 7086 | 739401 | Division of | \$ 18,040,593 \$ 17,552,370 77955 |
| Watercraft | | | |
| TOTAL WSF Waterways Safety Fund | | | 77956 |
| Group | | \$ 24,848,172 \$ 24,361,019 | 77957 |
| Accrued Leave Liability Fund Group 77958 | | | |
| 4M80 | 725675 | FOP Contract | \$ 20,219 \$ 20,219 77959 |
| TOTAL ALF Accrued Leave | | | 77960 |
| Liability Fund Group | | \$ 20,219 \$ 20,219 | 77961 |
| Holding Account Redistribution Fund Group 77962 | | | |
| R017 | 725659 | Performance Cash Bond | \$ 296,263 \$ 296,263 77963 |
| Refunds | | | |
| R043 | 725624 | Forestry | \$ 2,000,000 \$ 2,154,750 77964 |
| TOTAL 090 Holding Account | | | 77965 |
| Redistribution Fund Group | | \$ 2,296,263 \$ 2,451,013 | 77966 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 302,590,591 \$ 318,033,095 | 77967 |
| | | | <u>317,859,336</u> |

Sec. 343.40. LEASE RENTAL PAYMENTS 77969

The foregoing appropriation item 725413, Lease Rental 77970
 Payments, shall be used to meet all payments at the times they are 77971

required to be made during the period from July 1, 2011, through 77972
June 30, 2013, by the Department of Natural Resources pursuant to 77973
leases and agreements made under section 154.22 of the Revised 77974
Code. These appropriations are the source of funds pledged for 77975
bond service charges or obligations issued pursuant to Chapter 77976
154. of the Revised Code. 77977

CANAL LANDS 77978

The foregoing appropriation item 725456, Canal Lands, shall 77979
be used to transfer funds to the Canal Lands Fund (Fund 4300) to 77980
provide operating expenses for the State Canal Lands Program. The 77981
transfer shall be made using an intrastate transfer voucher and 77982
shall be subject to the approval of the Director of Budget and 77983
Management. 77984

HEALTHY LAKE ERIE FUND 77985

Of the foregoing appropriation item 725505, Healthy Lake Erie 77986
Fund, up to \$3,000,000 shall be used by the Director of Natural 77987
Resources, in consultation with the Director of Agriculture and 77988
the Director of Environmental Protection, to implement 77989
nonstatutory recommendations of the Agriculture Nutrients and 77990
Water Quality Working Group. The Director shall give priority to 77991
recommendations that encourage farmers to adopt agricultural 77992
production guidelines commonly known as 4R nutrient stewardship 77993
practices. Funds may also be used for enhanced soil testing in the 77994
Western Lake Erie Basin, monitoring the quality of Lake Erie and 77995
its tributaries, and conducting research and establishing pilot 77996
projects that have the goal of reducing algae blooms in Lake Erie. 77997

Of the foregoing appropriation item 725505, Healthy Lake Erie 77998
Fund, up to \$350,000 in fiscal year 2013 may be used by the 77999
Director of Natural Resources for monitoring inland lakes and 78000
stream water quality. 78001

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 78002

The foregoing appropriation item 725903, Natural Resources 78003
General Obligation Debt Service, shall be used to pay all debt 78004
service and related financing costs during the period July 1, 78005
2011, through June 30, 2013, on obligations issued under sections 78006
151.01 and 151.05 of the Revised Code. 78007

Sec. 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO 78008

General Services Fund Group 78009

5F60 870622 Utility and Railroad \$ 30,637,234 \$ 31,638,708 78010
Regulation

5F60 870624 NARUC/NRRI Subsidy \$ 158,000 \$ ~~158,000~~ 78011
100,000

5F60 870625 Motor Transportation \$ 4,976,641 \$ ~~5,971,218~~ 0 78012
Regulation

5Q50 870626 Telecommunications \$ 5,000,000 \$ 5,000,000 78013
Relay Service

TOTAL GSF General Services 78014

Fund Group \$ 40,771,875 \$ ~~42,767,926~~ 78015
36,738,708

Federal Special Revenue Fund Group 78016

3330 870601 Gas Pipeline Safety \$ 597,959 \$ 597,959 78017

3500 870608 Motor Carrier Safety \$ 7,351,660 \$ 7,351,660 78018

3CU0 870627 Electric Market \$ 91,183 \$ 0 78019
Modeling

3EA0 870630 Energy Assurance \$ 384,000 \$ 384,000 78020
Planning

3ED0 870631 State Regulators \$ 231,824 \$ 231,824 78021
Assistance

3V30 870604 Commercial Vehicle \$ 100,000 \$ 100,000 78022
Information
Systems/Networks

TOTAL FED Federal Special Revenue 78023

| | | | | | | |
|----------------------------------|-------------------------------|-----------|------------|-----------|-----------------------|-------|
| Fund Group | | \$ | 8,756,626 | \$ | 8,665,443 | 78024 |
| State Special Revenue Fund Group | | | | | | 78025 |
| 4A30 870614 | Grade Crossing | \$ | 1,347,357 | \$ | 1,347,357 | 78026 |
| | Protection | | | | | |
| | Devices-State | | | | | |
| 4L80 870617 | Pipeline Safety-State | \$ | 181,992 | \$ | 181,992 | 78027 |
| 4S60 870618 | Hazardous Material | \$ | 450,395 | \$ | 450,395 0 | 78028 |
| | Registration | | | | | |
| 4S60 870621 | Hazardous Materials | \$ | 373,346 | \$ | 373,346 0 | 78029 |
| | Base State | | | | | |
| | Registration | | | | | |
| 4U80 870620 | Civil Forfeitures | \$ | 277,347 | \$ | 277,496 0 | 78030 |
| 5590 870605 | Public Utilities | \$ | 3,880 | \$ | 3,880 0 | 78031 |
| | Territorial | | | | | |
| | Administration | | | | | |
| 5600 870607 | Special Assessment | \$ | 97,000 | \$ | 97,000 0 | 78032 |
| 5610 870606 | Power Siting Board | \$ | 631,508 | \$ | 631,618 | 78033 |
| | | | | | <u>581,618</u> | |
| 5BP0 870623 | Wireless 9-1-1 | \$ | 36,440,000 | \$ | 18,220,000 | 78034 |
| | Administration | | | | <u>17,757,250</u> | |
| 5HD0 870629 | Radioactive Waste | \$ | 98,800 | \$ | 98,800 0 | 78035 |
| | Transportation | | | | | |
| <u>5LT0 870640</u> | <u>Intrastate</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>180,000</u> | 78036 |
| | <u>Registration</u> | | | | | |
| <u>5LT0 870641</u> | <u>Unified Carrier</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>420,000</u> | 78037 |
| | <u>Registration</u> | | | | | |
| <u>5LT0 870642</u> | <u>Hazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>823,741</u> | 78038 |
| | <u>Registration</u> | | | | | |
| <u>5LT0 870643</u> | <u>Nonhazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>277,496</u> | 78039 |
| | <u>Civil Forfeiture</u> | | | | | |
| <u>5LT0 870644</u> | <u>Hazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>898,800</u> | 78040 |
| | <u>Civil Forfeiture</u> | | | | | |
| <u>5LT0 870645</u> | <u>Motor Carrier</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>5,401,318</u> | 78041 |

| | | | | | | |
|---------------------------------|--------|---------------------|----|------------|----|-----------------------------|
| | | <u>Enforcement</u> | | | | |
| 6380 | 870611 | Biofuels/Municipal | \$ | 570 | \$ | 0 78042 |
| | | Waste Technology | | | | |
| 6610 | 870612 | Hazardous Materials | \$ | 898,800 | \$ | 898,800 0 78043 |
| | | Transportation | | | | |
| TOTAL SSR State Special Revenue | | | | | | 78044 |
| Fund Group | | | \$ | 40,800,995 | \$ | 22,580,684 78045 |
| | | | | | | <u>27,869,572</u> |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 90,329,496 | \$ | 74,014,053 78046 |
| | | | | | | <u>73,273,723</u> |

COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM 78047

The Community-voicemail Service Pilot Program assessments 78048
authorized by Section 6 of Sub. S.B. 162 of the 128th General 78049
Assembly shall cease. These assessments shall be refunded without 78050
interest to those assessed under the program by the Public 78051
Utilities Commission within 60 days of the effective date of this 78052
section. 78053

FUND ADJUSTMENTS 78054

On July 1, 2012, or as soon as practicable thereafter, the 78055
Director of Budget and Management shall transfer the cash balances 78056
in the Hazardous Materials Registration Fund (Fund 4S60) and the 78057
Base State Registration Fund (Fund 4G40) to the Public Utilities 78058
Transportation Safety Fund (Fund 5LT0). The Director shall cancel 78059
any existing encumbrances against appropriation items 870618, 78060
Hazardous Material Registration, and 870621, Hazardous Materials 78061
Base State Registration, and reestablish them against 78062
appropriation item 870642, Hazardous Materials Registration. The 78063
amounts of the reestablished encumbrances are hereby appropriated. 78064
Upon completion of these transfers, the Hazardous Materials 78065
Registration Fund (Fund 4S60) and the Base State Registration Fund 78066
(Fund 4G40) are hereby abolished. 78067

On July 1, 2012, or as soon as practicable thereafter, the 78068

Director of Budget and Management shall transfer the cash balance 78069
in the Transportation Enforcement Fund (Fund 4U80) to the Public 78070
Utilities Transportation Safety Fund (Fund 5LT0). The Director 78071
shall cancel any existing encumbrances against appropriation item 78072
870620, Civil Forfeitures, and reestablish them against 78073
appropriation item 870643, Nonhazardous Materials Civil 78074
Forfeitures. The amounts of the reestablished encumbrances are 78075
hereby appropriated. Upon completion of these transfers, the 78076
Transportation Enforcement Fund (Fund 4U80) is hereby abolished. 78077

On July 1, 2012, or as soon as practicable thereafter, the 78078
Director of Budget and Management shall transfer the cash balance 78079
in the Radioactive Waste Transportation Fund (Fund 5HD0) to the 78080
Public Utilities Transportation Safety Fund (Fund 5LT0). The 78081
Director shall cancel any existing encumbrances against 78082
appropriation item 870629, Radioactive Waste Transportation, and 78083
reestablish them against appropriation item 870645, Motor Carrier 78084
Enforcement. The amounts of the reestablished encumbrances are 78085
hereby appropriated. Upon completion of these transfers, the 78086
Radioactive Waste Transportation Fund (Fund 5HD0) is hereby 78087
abolished. 78088

On July 1, 2012, or as soon as practicable thereafter, the 78089
Director of Budget and Management shall transfer the cash balance 78090
in the Hazardous Materials Transportation Fund (Fund 6610) to the 78091
Public Utilities Transportation Safety Fund (Fund 5LT0). The 78092
Director shall cancel any existing encumbrances against 78093
appropriation item 870612, Hazardous Materials Transportation, and 78094
reestablish them against appropriation item 870644, Hazardous 78095
Materials Civil Forfeitures. The amounts of the reestablished 78096
encumbrances are hereby appropriated. Upon completion of these 78097
transfers, the Hazardous Materials Transportation Fund (Fund 6610) 78098
is hereby abolished. 78099

On July 1, 2012, or as soon as practicable thereafter, the 78100

Director of Budget and Management shall transfer cash in an amount 78101
up to \$21,000,000 from the Public Utilities Fund (Fund 5F60) to 78102
the Public Utilities Transportation Safety Fund (Fund 5LT0). The 78103
Director shall cancel any existing encumbrances against 78104
appropriation item 870625, Motor Transportation Regulation, and 78105
reestablish encumbrances or parts of encumbrances as needed in the 78106
fiscal year in the appropriate fund and appropriation item for the 78107
same purpose and to the same vendor. The amounts of the 78108
reestablished encumbrances are hereby appropriated. 78109

The fund created by division (E) of section 4921.21 of the 78110
Revised Code is the same fund, with the same name, as the Motor 78111
Carrier Safety Fund (Fund 3500). 78112

The fund created by division (D) of section 4921.21 of the 78113
Revised Code is the same fund, with the same name, as the 78114
Commercial Vehicle Transportation Systems Fund (Fund 3V30). 78115

Sec. 367.10. PWC PUBLIC WORKS COMMISSION 78116

General Revenue Fund 78117

| | | | | |
|------------|----------------------|---------------|---------------|-------|
| GRF 150904 | Conservation General | \$ 21,953,000 | \$ 29,297,300 | 78118 |
| | Obligation Debt | | | |
| | Service | | | |

| | | | | |
|------------|---------------|----------------|---------------------------|-------|
| GRF 150907 | State Capital | \$ 106,770,600 | \$ 215,571,100 | 78119 |
| | Improvements | | <u>208,571,100</u> | |

| | | | | |
|--|--------------------|--|--|-------|
| | General Obligation | | | 78120 |
| | Debt Service | | | |

| | | | |
|--------------------------------|----------------|---------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ 128,723,600 | \$ 244,868,400 | 78121 |
| | | <u>237,868,400</u> | |

Clean Ohio Conservation Fund Group 78122

| | | | | |
|-------------|----------------------|------------|------------|-------|
| 7056 150403 | Clean Ohio Operating | \$ 300,000 | \$ 288,980 | 78123 |
| | Expenses | | | |

| | | | |
|-----------------------------------|------------|------------|-------|
| TOTAL 056 Clean Ohio Conservation | \$ 300,000 | \$ 288,980 | 78124 |
|-----------------------------------|------------|------------|-------|

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 129,023,600 \$ ~~245,157,380~~ 78125
238,157,380

CONSERVATION GENERAL OBLIGATION DEBT SERVICE 78126

The foregoing appropriation item 150904, Conservation General 78127
Obligation Debt Service, shall be used to pay all debt service and 78128
related financing costs during the period from July 1, 2011, 78129
through June 30, 2013, at the times they are required to be made 78130
for obligations issued under sections 151.01 and 151.09 of the 78131
Revised Code. 78132

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 78133

The foregoing appropriation item 150907, State Capital 78134
Improvements General Obligation Debt Service, shall be used to pay 78135
all debt service and related financing costs during the period 78136
from July 1, 2011, through June 30, 2013, at the times they are 78137
required to be made for obligations issued under sections 151.01 78138
and 151.08 of the Revised Code. 78139

CLEAN OHIO OPERATING EXPENSES 78140

The foregoing appropriation item 150403, Clean Ohio Operating 78141
Expenses, shall be used by the Ohio Public Works Commission in 78142
administering Clean Ohio Conservation Fund (Fund 7056) projects 78143
pursuant to sections 164.20 to 164.27 of the Revised Code. 78144

REIMBURSEMENT TO THE GENERAL REVENUE FUND 78145

(A) On or before July 15, 2013, the Director of the Public 78146
Works Commission shall certify to the Director of Budget and 78147
Management the following: 78148

(1) The total amount disbursed from appropriation item 78149
700409, Farmland Preservation, during the FY 2012-FY 2013 78150
biennium; and 78151

(2) The amount of interest earnings that have been credited 78152

to the Clean Ohio Conservation Fund (Fund 7056) that are in excess 78153
of the amount needed for other purposes as calculated by the 78154
Director of the Public Works Commission. 78155

(B) If the Director of Budget and Management determines under 78156
division (A)(2) of this section that there are excess interest 78157
earnings, the Director of Budget and Management shall, on or 78158
before July 15, 2013, transfer the excess interest earnings to the 78159
General Revenue Fund in an amount equal to the total amount 78160
disbursed under division (A)(1) of this section from the Clean 78161
Ohio Conservation Fund (Fund 7056). 78162

Sec. 369.10. RAC STATE RACING COMMISSION 78163

State Special Revenue Fund Group 78164

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 78165
Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 78166
Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 78167
Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 78168
Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 78169
Racing Purse

5JK0 875610 Racing Commission \$ 339,919 \$ 8,169,547 78170
Fund

TOTAL SSR State Special Revenue 78171

Fund Group \$ ~~18,590,078~~ \$ ~~18,329,087~~ 78172
18,929,996 26,498,633

Holding Account Redistribution Fund Group 78173

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 78174

TOTAL 090 Holding Account 78175
Redistribution

| | | | | | | |
|--|--|----|-----------------------|----|-----------------------|-------|
| Fund Group | | \$ | 100,000 | \$ | 100,000 | 78176 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 18,690,078 | \$ | 18,429,087 | 78177 |
| | | | <u>19,029,996</u> | | <u>26,598,633</u> | |
| | | | | | | |
| Sec. 371.10. BOR BOARD OF REGENTS | | | | | | 78179 |
| | | | | | | |
| General Revenue Fund | | | | | | 78180 |
| GRF 235321 | Operating Expenses | \$ | 2,300,000 | \$ | 2,300,000 | 78181 |
| GRF 235401 | Lease Rental Payments | \$ | 83,151,600 | \$ | 57,634,400 | 78182 |
| GRF 235402 | Sea Grants | \$ | 285,000 | \$ | 285,000 | 78183 |
| GRF 235406 | Articulation and Transfer | \$ | 2,000,000 | \$ | 2,000,000 | 78184 |
| GRF 235408 | Midwest Higher Education Compact | \$ | 95,000 | \$ | 95,000 | 78185 |
| GRF 235409 | <u>HEI</u> Information System | \$ | 800,000 | \$ | 800,000 | 78186 |
| GRF 235414 | State Grants and Scholarship Administration | \$ | 1,230,000 | \$ | 1,230,000 | 78187 |
| GRF 235417 | Ohio Learning Network <u>eStudent Services</u> | \$ | 2,532,688 | \$ | 2,532,688 | 78188 |
| GRF 235428 | Appalachian New Economy Partnership | \$ | 737,366 | \$ | 737,366 | 78189 |
| GRF 235433 | Economic Growth Challenge | \$ | 440,000 | \$ | 440,000 | 78190 |
| GRF 235438 | Choose Ohio First Scholarship | \$ | 15,750,085 | \$ | 15,750,085 | 78191 |
| GRF 235443 | Adult Basic and Literacy Education - State | \$ | 7,302,416 | \$ | 7,302,416 | 78192 |
| GRF 235444 | Post-Secondary Adult Career-Technical Education | \$ | 15,317,547 | \$ | 15,317,547 | 78193 |
| GRF 235474 | Area Health Education Centers Program | \$ | 900,000 | \$ | 900,000 | 78194 |

| | | | | | |
|------------|------------------------|------------------|------------------|-------|--|
| | Support | | | | |
| GRF 235501 | State Share of | \$ 1,735,530,031 | \$ 1,751,225,497 | 78195 | |
| | Instruction | | | | |
| GRF 235502 | Student Support | \$ 632,974 | \$ 632,974 | 78196 | |
| | Services | | | | |
| GRF 235504 | War Orphans | \$ 4,787,833 | \$ 4,787,833 | 78197 | |
| | Scholarships | | | | |
| GRF 235507 | OhioLINK | \$ 6,100,000 | \$ 6,100,000 | 78198 | |
| GRF 235508 | Air Force Institute of | \$ 1,740,803 | \$ 1,740,803 | 78199 | |
| | Technology | | | | |
| GRF 235510 | Ohio Supercomputer | \$ 3,347,418 | \$ 3,347,418 | 78200 | |
| | Center | | | | |
| GRF 235511 | Cooperative Extension | \$ 22,220,910 | \$ 22,220,910 | 78201 | |
| | Service | | | | |
| GRF 235514 | Central State | \$ 11,503,651 | \$ 10,928,468 | 78202 | |
| | Supplement | | | | |
| GRF 235515 | Case Western Reserve | \$ 2,146,253 | \$ 2,146,253 | 78203 | |
| | University School of | | | | |
| | Medicine | | | | |
| GRF 235519 | Family Practice | \$ 3,166,185 | \$ 3,166,185 | 78204 | |
| GRF 235520 | Shawnee State | \$ 2,448,523 | \$ 2,326,097 | 78205 | |
| | Supplement | | | | |
| GRF 235524 | Police and Fire | \$ 107,814 | \$ 107,814 | 78206 | |
| | Protection | | | | |
| GRF 235525 | Geriatric Medicine | \$ 522,151 | \$ 522,151 | 78207 | |
| GRF 235526 | Primary Care | \$ 1,500,000 | \$ 1,500,000 | 78208 | |
| | Residencies | | | | |
| GRF 235535 | Ohio Agricultural | \$ 33,100,000 | \$ 33,100,000 | 78209 | |
| | Research and | | | | |
| | Development Center | | | | |
| GRF 235536 | The Ohio State | \$ 9,668,941 | \$ 9,668,941 | 78210 | |
| | University Clinical | | | | |
| | Teaching | | | | |

| | | | | | | |
|--------------------------------|---|----|---------------|----|--|-------|
| GRF 235537 | University of Cincinnati Clinical Teaching | \$ | 7,952,573 | \$ | 7,952,573 | 78211 |
| GRF 235538 | University of Toledo Clinical Teaching | \$ | 6,198,600 | \$ | 6,198,600 | 78212 |
| GRF 235539 | Wright State University Clinical Teaching | \$ | 3,011,400 | \$ | 3,011,400 | 78213 |
| GRF 235540 | Ohio University Clinical Teaching | \$ | 2,911,212 | \$ | 2,911,212 | 78214 |
| GRF 235541 | Northeast Ohio Medical University Clinical Teaching | \$ | 2,994,178 | \$ | 2,994,178 | 78215 |
| GRF 235552 | Capital Component | \$ | 20,638,274 | \$ | 20,638,274 <u>13,628,639</u> | 78216 |
| GRF 235555 | Library Depositories | \$ | 1,440,342 | \$ | 1,440,342 | 78217 |
| GRF 235556 | Ohio Academic Resources Network | \$ | 3,172,519 | \$ | 3,172,519 | 78218 |
| GRF 235558 | Long-term Care Research | \$ | 195,300 | \$ | 195,300 | 78219 |
| GRF 235563 | Ohio College Opportunity Grant | \$ | 80,284,265 | \$ | 80,284,265 | 78220 |
| GRF 235572 | The Ohio State University Clinic Support | \$ | 766,533 | \$ | 766,533 | 78221 |
| GRF 235599 | National Guard Scholarship Program | \$ | 16,912,271 | \$ | 18,143,293 | 78222 |
| GRF 235909 | Higher Education General Obligation Debt Service | \$ | 108,262,500 | \$ | 201,555,000 | 78223 |
| TOTAL GRF General Revenue Fund | | \$ | 2,226,105,156 | \$ | 2,310,109,335 <u>2,303,099,700</u> | 78224 |
| General Services Fund Group | | | | | | 78225 |

| | | | | | | | |
|------------------------------------|--------|--|----|------------|----|------------------------|-------|
| 2200 | 235614 | Program Approval and Reauthorization | \$ | 1,311,567 | \$ | 1,457,959 | 78226 |
| 4560 | 235603 | Sales and Services | \$ | 199,250 | \$ | 199,250 | 78227 |
| 5JC0 | 235649 | Co-op Internship Program | \$ | 12,000,000 | \$ | 12,000,000 | 78228 |
| 5JC0 | 235667 | Ohio College Opportunity Grant-Proprietary | \$ | 6,000,000 | \$ | 6,000,000 | 78229 |
| 5JC0 | 235668 | Air Force Institute of Technology - Defense/Aerospace Graduate Studies Institute | \$ | 4,000,000 | \$ | 4,000,000 | 78230 |
| TOTAL GSF General Services | | | | | | | 78231 |
| Fund Group | | | \$ | 23,510,817 | \$ | 23,657,209 | 78232 |
| Federal Special Revenue Fund Group | | | | | | | 78233 |
| 3120 | 235609 | Tech Prep | \$ | 183,850 | \$ | 183,850 0 | 78234 |
| 3120 | 235611 | Gear-up Grant | \$ | 3,900,000 | \$ | 3,900,000 | 78235 |
| | | | | | | <u>50,000</u> | |
| 3120 | 235612 | Carl D. Perkins Grant/Plan Administration | \$ | 912,961 | \$ | 912,961 | 78236 |
| 3120 | 235617 | Improving Teacher Quality Grant | \$ | 3,200,000 | \$ | 3,200,000 | 78237 |
| 3120 | 235641 | Adult Basic and Literacy Education - Federal | \$ | 14,835,671 | \$ | 14,835,671 | 78238 |
| 3120 | 235659 | Race to the Top Scholarship Program | \$ | 2,400,000 | \$ | 3,780,000 0 | 78239 |
| 3120 | 235660 | Race to the Top Educator Preparation Reform Initiative | \$ | 448,000 | \$ | 1,120,000 0 | 78240 |
| 3120 | 235661 | Americorps Grant | \$ | 260,000 | \$ | 260,000 0 | 78241 |

| | | | | | | | |
|--|--------|---|----|---------------|----|--|-------|
| 3H20 | 235608 | Human Services Project | \$ | 3,500,000 | \$ | 3,500,000 | 78242 |
| 3N60 | 235638 | College Access Challenge Grant | \$ | 4,381,431 | \$ | 4,381,431 | 78243 |
| TOTAL FED Federal Special Revenue | | | | | | | 78244 |
| Fund Group | | | \$ | 34,021,913 | \$ | 36,073,913 <u>26,880,063</u> | 78245 |
| State Special Revenue Fund Group | | | | | | | 78246 |
| 4E80 | 235602 | Higher Educational Facility Commission Administration | \$ | 29,100 | \$ | 29,100 | 78247 |
| 5FR0 | 235640 | Joyce Foundation <u>Shifting Gears</u> Grant | \$ | 919,719 | \$ | 919,719 | 78248 |
| 5FR0 | 235647 | Developmental Education Initiatives | \$ | 135,000 | \$ | 135,000 | 78249 |
| 5FR0 | 235657 | Win-Win Grant | \$ | 37,000 | \$ | 15,000 | 78250 |
| 5P30 | 235663 | Variable Savings Plan | \$ | 8,946,994 | \$ | 9,072,136 | 78251 |
| 6450 | 235664 | Guaranteed Savings Plan | \$ | 900,293 | \$ | 907,514 | 78252 |
| 6820 | 235606 | Nursing Loan Program | \$ | 891,320 | \$ | 891,320 | 78253 |
| TOTAL SSR State Special Revenue | | | | | | | 78254 |
| Fund Group | | | \$ | 11,859,426 | \$ | 11,969,789 | 78255 |
| Third Frontier Research & Development Fund Group | | | | | | | 78256 |
| 7011 | 235634 | Research Incentive Third Frontier Fund | \$ | 8,000,000 | \$ | 8,000,000 | 78257 |
| TOTAL 011 Third Frontier Research & Development Fund Group | | | | | | | 78258 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 2,303,497,312 | \$ | 2,389,810,246 <u>2,373,606,761</u> | 78259 |

Sec. 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY 78261

The foregoing appropriation item 235508, Air Force Institute 78262

of Technology, shall be used ~~by the director of the Air Force~~ 78263
~~Institute~~ to: (A) strengthen the research and educational linkages 78264
between the Wright Patterson Air Force Base and institutions of 78265
higher education in Ohio; and (B) support the Dayton Area Graduate 78266
Studies Institute, an engineering graduate consortium of Wright 78267
State University, the University of Dayton, and the Air Force 78268
Institute of Technology, with the participation of the University 78269
of Cincinnati and The Ohio State University. 78270

Any unexpended and unencumbered portion of the foregoing 78271
appropriation item 235508, Air Force Institute of Technology, at 78272
the end of fiscal year 2012 is hereby reappropriated for the same 78273
purpose in fiscal year 2013. 78274

Sec. 371.50.61. CO-OP INTERNSHIP PROGRAM 78275

Of the foregoing appropriation item 235649, Co-op Internship 78276
Program, \$75,000 in each fiscal year shall be used by the 78277
Chancellor of the Board of Regents to support the operations of 78278
Ohio University's Voinovich School. 78279

Of the foregoing appropriation item 235649, Co-op Internship 78280
Program, \$75,000 in each fiscal year, shall be used by the 78281
Chancellor of the Board of Regents to support the operations of 78282
The Ohio State University's John Glenn School of Public Affairs. 78283

Of the foregoing appropriation item 235649, Co-op Internship 78284
Program, \$75,000 in each fiscal year shall be used to support the 78285
Bliss Institute of Applied Politics at the University of Akron. 78286

Of the foregoing appropriation item 235649, Co-op Internship 78287
Program, \$75,000 in each fiscal year shall be used to support the 78288
Center for Public Management and Regional Affairs at Miami 78289
University. 78290

Of the foregoing appropriation item 235649, Co-op Internship 78291
Program, \$75,000 in each fiscal year shall be used to support the 78292

Washington Center Internship Program. 78293

Of the foregoing appropriation item 235649, Co-op Internship 78294
Program, \$75,000 in each fiscal year shall be used to support the 78295
~~Maxine Goodman Levin College of Urban Affairs~~ mentoring program of 78296
the Ohio Center for the Advancement of Women in Public Service at 78297
the Cleveland State University. 78298

Of the foregoing appropriation item 235649, Co-op Internship 78299
Program, \$75,000 in each fiscal year shall be used to support the 78300
University of Cincinnati Internship Program. 78301

Any unexpended and unencumbered portion of the foregoing 78302
appropriation item 235649, Co-op Internship Program, at the end of 78303
fiscal year 2012 is hereby reappropriated for the same purpose in 78304
fiscal year 2013. 78305

Sec. 371.50.65. AIR FORCE INSTITUTE OF TECHNOLOGY - 78306
DEFENSE/AEROSPACE GRADUATE STUDIES INSTITUTE 78307

The foregoing appropriation item 235668, Air Force Institute 78308
of Technology - Defense/Aerospace Graduate Studies Institute, 78309
shall be used by the Defense/Aerospace Graduate Studies Institute 78310
to strengthen regional job training, equip Ohio's workforce with 78311
needed skills, and strengthen the research and educational 78312
linkages among Department of Defense facilities in Ohio, 78313
institutions of higher education in Ohio, and available industry 78314
jobs in Ohio. These funds shall be matched by private industry 78315
partners or the Department of Defense in the aggregate amount of 78316
\$2,500,000 over the FY 2012 - FY 2013 biennium. 78317

Any unexpended and unencumbered portion of the foregoing 78318
appropriation item 235668, Air Force Institute of Technology - 78319
Defense/Aerospace Graduate Studies Institute, at the end of fiscal 78320
year 2012 is hereby reappropriated for the same purpose in fiscal 78321
year 2013. 78322

Sec. 371.60.80. (A) The Ohio Digital Learning Task Force is 78323
hereby established to develop a strategy for the expansion of 78324
digital learning that enables students to customize their 78325
education, produces cost savings, and meets the needs of Ohio's 78326
economy. The Task Force shall consist of the following members: 78327

(1) The Chancellor of the Ohio Board of Regents or the 78328
Chancellor's designee; 78329

(2) The Superintendent of Public Instruction or the 78330
Superintendent's designee; 78331

(3) The Director of the Governor's Office of 21st Century 78332
Education or the Director's designee; 78333

(4) Up to six members appointed by the Governor, who shall be 78334
representatives of school districts or community schools, 78335
established under Chapter 3314. of the Revised Code, that are 78336
high-performing of their type and have demonstrated the ability to 78337
incorporate technology into the classroom successfully; 78338

(5) A member appointed by the President of the Senate; 78339

(6) A member appointed by the Speaker of the House of 78340
Representatives. 78341

(B) Members of the Task Force shall be appointed not later 78342
than sixty days after the effective date of this section. 78343
Vacancies on the Task Force shall be filled in the same manner as 78344
the original appointments. Members shall serve without 78345
compensation. 78346

(C) The Governor shall designate the chairperson of the Task 78347
Force. All meetings of the Task Force shall be held at the call of 78348
the chairperson. 78349

(D) The Task Force shall do all of the following: 78350

(1) Request information from textbook publishers about the 78351

development of digital textbooks and other new digital content 78352
distribution methods for use by primary, secondary, and 78353
post-secondary schools and institutions and examine that 78354
information; 78355

(2) Examine potential cost savings and efficiency of 78356
utilizing digital textbooks and other new digital content 78357
distribution methods in primary, secondary, and post-secondary 78358
schools and institutions; 78359

(3) Examine potential academic benefits of utilizing digital 78360
textbooks and other new digital content distribution methods, 78361
including, but not limited to, the ability to individualize 78362
content to specific student learning styles, accessibility for 78363
individuals with disabilities, and the integration of formative 78364
and other online assessments; 78365

(4) Examine digital content pilot programs and initiatives 78366
currently operating at primary, secondary, and post-secondary 78367
schools and institutions in Ohio, including, but not limited to, 78368
those financed in part with federal funds; 78369

(5) Examine any state-level initiatives to provide or 78370
facilitate use of digital content in primary, secondary, and 78371
post-secondary schools and institutions in Ohio. 78372

(E) The Task Force shall make recommendations regarding all 78373
of the following: 78374

(1) The creation of high quality digital content and 78375
instruction in grades kindergarten to twelve for free access by 78376
public and nonpublic schools and students receiving home 78377
instruction; 78378

(2) High quality professional development for teachers and 78379
principals providing online instruction or blended learning 78380
programs; 78381

| | |
|---|--|
| (3) Funding strategies that create incentives for high performance, innovation, and options in course providers and delivery; | 78382 78383 78384 |
| (4) Student assessment and accountability; | 78385 |
| (5) Infrastructure to support digital learning; | 78386 |
| (6) Mobile learning and mobile learning applications; | 78387 |
| (7) The clearinghouse established under section 3333.82 of the Revised Code; | 78388 78389 |
| (8) Ways to align the resources and digital learning initiatives of state agencies and offices; | 78390 78391 |
| (9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis; | 78392 78393 78394 78395 |
| (10) Methods of addressing future changes in technology and learning. | 78396 78397 |
| (E) (F) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon issuance of <u>After issuing</u> its report, the Task Force shall <u>monitor the implementation of its recommendations. Not later than June 30, 2012, the Task Force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives whether digital learning is advancing in Ohio schools and submit any recommendations to further enhance the full deployment of useful digital learning programs and services. The Task Force shall cease to exist on June 30, 2012.</u> | 78398 78399 78400 78401 78402 78403 78404 78405 78406 78407 78408 78409 |
| Sec. 373.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION | 78410 |

| | | | | |
|--------------------------------|--------|---|--------------------------------------|-------|
| General Revenue Fund | | | | 78411 |
| GRF | 501321 | Institutional Operations | \$ 909,547,156 \$ 866,592,589 | 78412 |
| GRF | 501403 | Prisoner Compensation | \$ 8,599,255 \$ 8,599,255 | 78413 |
| GRF | 501405 | Halfway House | \$ 43,637,069 \$ 43,622,104 | 78414 |
| GRF | 501406 | Lease Rental Payments | \$ 42,863,100 \$ 104,301,500 | 78415 |
| GRF | 501407 | Community Nonresidential Programs | \$ 25,859,382 \$ 25,839,390 | 78416 |
| GRF | 501408 | Community Misdemeanor Programs | \$ 14,906,800 \$ 14,906,800 | 78417 |
| GRF | 501501 | Community Residential Programs - CBCF | \$ 62,692,785 \$ 62,477,785 | 78418 |
| GRF | 502321 | Mental Health Services | \$ 58,525,816 \$ 51,778,513 | 78419 |
| GRF | 503321 | Parole and Community Operations | \$ 68,197,272 \$ 63,783,848 | 78420 |
| GRF | 504321 | Administrative Operations | \$ 21,996,504 \$ 20,085,474 | 78421 |
| GRF | 505321 | Institution Medical Services | \$ 209,231,014 \$ 195,241,961 | 78422 |
| GRF | 506321 | Institution Education Services | \$ 20,237,576 \$ 18,086,492 | 78423 |
| GRF | 507321 | Institution Recovery Services | \$ 5,786,109 \$ 5,375,737 | 78424 |
| TOTAL GRF General Revenue Fund | | | \$ 1,492,079,838 \$ 1,480,691,448 | 78425 |
| General Services Fund Group | | | | 78426 |
| 1480 | 501602 | Services and Agricultural Institutional Services | \$ 3,579,250 \$ 3,584,263 | 78427 |
| 2000 | 501607 | Ohio Penal Industries | \$ 38,000,000 \$ 38,000,000 | 78428 |
| 4830 | 501605 | Property Receipts | \$ 182,723 \$ 182,086 | 78429 |
| 4B00 | 501601 | Sewer Treatment | \$ 2,145,630 \$ 2,157,682 | 78430 |

| | | | | | | | |
|------------------------------------|-------------------------|--|----|---------------|------------------|--------------------------|-------|
| | | Services | | | <u>2,057,682</u> | | |
| 4D40 | 501603 | Prisoner Programs | \$ | 14,900,000 | \$ | 14,900,000 | 78431 |
| 4L40 | 501604 | Transitional Control | \$ | 1,168,843 | \$ | 1,213,120 | 78432 |
| | | | | | | <u>1,113,120</u> | |
| 4S50 | 501608 | Education Services | \$ | 2,376,041 | \$ | 2,359,775 | 78433 |
| 5710 | 501606 | Training Academy | \$ | 125,000 | \$ | 125,000 | 78434 |
| | | Receipts | | | | | |
| 5930 | 501618 | Laboratory Services | \$ | 6,665,137 | \$ | 6,664,729 | 78435 |
| 5AF0 | 501609 | State and Non-Federal | \$ | 1,440,000 | \$ | 1,440,000 | 78436 |
| | | Awards | | | | | |
| 5H80 | 501617 | Offender Financial | \$ | 2,000,000 | \$ | 2,000,000 | 78437 |
| | | Responsibility | | | | | |
| 5L60 | 501611 | Information | \$ | 600,000 | \$ | 600,000 | 78438 |
| | | Technology Services | | | | <u>350,000</u> | |
| TOTAL GSF | General Services Fund | | \$ | 73,182,624 | \$ | 73,226,655 | 78439 |
| Group | | | | | | <u>72,776,655</u> | |
| Federal Special Revenue Fund Group | | | | | | | 78440 |
| 3230 | 501619 | Federal Grants | \$ | 9,013,558 | \$ | 9,180,703 | 78441 |
| TOTAL FED | Federal Special Revenue | | | | | | 78442 |
| Fund Group | | | \$ | 9,013,558 | \$ | 9,180,703 | 78443 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 1,574,276,020 | \$ | 1,563,098,806 | 78444 |
| | | | | | | <u>1,562,648,806</u> | |
| | | TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL | | | | | 78445 |
| | | SENTENCING REFORMS | | | | | 78446 |
| | | For the purposes of implementing criminal sentencing reforms, | | | | | 78447 |
| | | and notwithstanding any other provision of law to the contrary, | | | | | 78448 |
| | | the Director of Budget and Management, at the request of the | | | | | 78449 |
| | | Director of Rehabilitation and Correction, may transfer up to | | | | | 78450 |
| | | \$14,000,000 in appropriations, in each of fiscal years 2012 and | | | | | 78451 |
| | | 2013, from appropriation item 501321, Institutional Operations, to | | | | | 78452 |
| | | any combination of appropriation items 501405, Halfway House; | | | | | 78453 |
| | | 501407, Community Residential Programs; 501408, Community | | | | | 78454 |

Misdemeanor Programs; and 501501, Community Residential Programs - 78455
CBCF. 78456

OHIO BUILDING AUTHORITY LEASE PAYMENTS 78457

The foregoing appropriation item 501406, Lease Rental 78458
Payments, shall be used to meet all payments at the times they are 78459
required to be made during the period from July 1, 2011, through 78460
June 30, 2013, by the Department of Rehabilitation and Correction 78461
to the Ohio Building Authority under the primary leases and 78462
agreements for those buildings made under Chapter 152. of the 78463
Revised Code. These appropriations are the source of funds pledged 78464
for bond service charges or obligations issued pursuant to Chapter 78465
152. of the Revised Code. 78466

OSU MEDICAL CHARGES 78467

Notwithstanding section 341.192 of the Revised Code, at the 78468
request of the Department of Rehabilitation and Correction, The 78469
Ohio State University Medical Center, including the James Cancer 78470
Hospital and Solove Research Institute and the Richard M. Ross 78471
Heart Hospital, shall provide necessary care to persons who are 78472
confined in state adult correctional facilities. The provision of 78473
necessary care shall be billed to the Department at a rate not to 78474
exceed the authorized reimbursement rate for the same service 78475
established by the Department of Job and Family Services under the 78476
Medical Assistance Program. 78477

CASH TRANSFER FROM INSTITUTIONAL SERVICES FUND TO OHIO PENAL 78478
INDUSTRIES FUND 78479

The Director of Budget and Management may transfer an amount 78480
not to exceed \$4,000,000 in cash in fiscal year 2013 from the 78481
Institutional Services Fund (Fund 1480) to the Ohio Penal 78482
Industries Fund (Fund 2000). 78483

Sec. 375.10. RSC REHABILITATION SERVICES COMMISSION 78484

| | | | | | | | |
|-----------|--------|--|----|-------------|----|--|-------|
| | | General Revenue Fund | | | | | 78485 |
| GRF | 415402 | Independent Living Council | \$ | 252,000 | \$ | 252,000 | 78486 |
| GRF | 415406 | Assistive Technology | \$ | 26,618 | \$ | 26,618 | 78487 |
| GRF | 415431 | Office for People with Brain Injury | \$ | 126,567 | \$ | 126,567 | 78488 |
| GRF | 415506 | Services for People with Disabilities | \$ | 12,777,884 | \$ | 12,777,884 | 78489 |
| GRF | 415508 | Services for the Deaf | \$ | 28,000 | \$ | 28,000 | 78490 |
| TOTAL GRF | | General Revenue Fund | \$ | 13,211,069 | \$ | 13,211,069 | 78491 |
| | | General Services Fund Group | | | | | 78492 |
| 4670 | 415609 | Business Enterprise Operating Expenses | \$ | 1,308,431 | \$ | 1,303,090 | 78493 |
| TOTAL GSF | | General Services Fund Group | \$ | 1,308,431 | \$ | 1,303,090 | 78495 |
| | | Federal Special Revenue Fund Group | | | | | 78496 |
| 3170 | 415620 | Disability Determination | \$ | 97,579,095 | \$ | 97,579,095 <u>87,579,095</u> | 78497 |
| 3790 | 415616 | Federal - Vocational Rehabilitation | \$ | 103,160,426 | \$ | 103,150,102 | 78498 |
| 3L10 | 415601 | Social Security Personal Care Assistance | \$ | 3,370,000 | \$ | 3,370,000 | 78499 |
| 3L10 | 415605 | Social Security Community Centers for the Deaf | \$ | 772,000 | \$ | 772,000 | 78500 |
| 3L10 | 415608 | Social Security Special Programs/Assistance | \$ | 1,521,406 | \$ | 1,520,184 | 78501 |
| 3L40 | 415612 | Federal Independent Living Centers or Services | \$ | 652,222 | \$ | 652,222 | 78502 |

| | | | | |
|------------------------------|---|----------------|---|---|
| 3L40 415615 | Federal - Supported Employment | \$ 929,755 | \$ 929,755 | 78503 |
| 3L40 415617 | Independent Living/Vocational Rehabilitation Programs | \$ 2,137,338 | \$ 2,137,338 | 78504 |
| TOTAL FED | Federal Special | | | 78505 |
| Revenue Fund Group | | \$ 210,122,242 | \$ 210,110,696 <u>200,110,696</u> | 78506 |
| State Special | Revenue Fund Group | | | 78507 |
| 4680 415618 | Third Party Funding | \$ 10,802,589 | \$ 10,802,589 | 78508 |
| 4L10 415619 | Services for Rehabilitation | \$ 3,700,000 | \$ 3,700,000 | 78509 |
| 4W50 415606 | Program Management Expenses | \$ 11,636,730 | \$ 11,587,201 | 78510 |
| TOTAL SSR | State Special | | | 78511 |
| Revenue Fund Group | | \$ 26,139,319 | \$ 26,089,790 | 78512 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 250,781,061 | \$ 250,714,645 <u>240,714,645</u> | 78513 |
| | INDEPENDENT LIVING COUNCIL | | | 78514 |
| | The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d. | | | 78515 78516 78517 78518 78519 78520 78521 |
| | Of the foregoing appropriation item 415402, Independent Living Council, \$67,662 in each fiscal year shall be used as state matching funds for vocational rehabilitation innovation and expansion activities. | | | 78522 78523 78524 78525 |
| | ASSISTIVE TECHNOLOGY | | | 78526 |

The total amount of the foregoing appropriation item 415406, 78527
Assistive Technology, shall be provided to Assistive Technology of 78528
Ohio to provide grants and assistive technology services for 78529
people with disabilities in the State of Ohio. 78530

OFFICE FOR PEOPLE WITH BRAIN INJURY 78531

The foregoing appropriation item 415431, Office for People 78532
with Brain Injury, shall be used to plan and coordinate 78533
head-injury-related services provided by state agencies and other 78534
government or private entities, to assess the needs for such 78535
services, and to set priorities in this area. 78536

Of the foregoing appropriation item 415431, Office for People 78537
with Brain Injury, \$44,067 in each fiscal year shall be used as 78538
state matching funds to provide vocational rehabilitation services 78539
to eligible consumers. 78540

VOCATIONAL REHABILITATION SERVICES 78541

The foregoing appropriation item 415506, Services for People 78542
with Disabilities, shall be used as state matching funds to 78543
provide vocational rehabilitation services to eligible consumers. 78544

At the request of the Chancellor of the Board of Regents, the 78545
Director of Budget and Management may transfer any unexpended, 78546
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 78547
from appropriation item 235502, Student Support Services, to 78548
appropriation item 415506, Services for People with Disabilities. 78549
Any appropriation so transferred shall be used by the Ohio 78550
Rehabilitation Services Commission to obtain additional federal 78551
matching funds to serve disabled students. 78552

SERVICES FOR THE DEAF 78553

The foregoing appropriation item 415508, Services for the 78554
Deaf, shall be used to provide grants to community centers for the 78555
deaf. 78556

| | |
|--|--|
| INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS | 78557 |
| The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs. | 78558 78559 78560 |
| SOCIAL SECURITY REIMBURSEMENT FUNDS | 78561 |
| Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows: | 78562 78563 78564 78565 78566 78567 |
| (A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code; | 78568 78569 78570 |
| (B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and | 78571 78572 78573 78574 |
| (C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87. | 78575 78576 78577 78578 78579 78580 78581 78582 |
| PROGRAM MANAGEMENT EXPENSES | 78583 |
| The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational | 78584 78585 78586 |

rehabilitation, disability determination services, and ancillary programs. 78587
78588

Sec. 379.10. RDF REVENUE DISTRIBUTION FUNDS 78589

Volunteer Firefighters' Dependents Fund 78590

7085 800985 Volunteer Firemen's \$ 300,000 \$ 300,000 78591
Dependents Fund

TOTAL 085 Volunteer Firefighters' 78592

Dependents Fund \$ 300,000 \$ 300,000 78593

Agency Fund Group 78594

4P80 001698 Cash Management \$ 3,100,000 \$ 3,100,000 78595
Improvement Fund

5JG0 110633 Gross Casino Revenue \$ 5,778,617 \$ 138,882,294 78596
County Fund

5JH0 110634 Gross Casino Revenue \$ 3,852,412 \$ 92,588,196 78597
County Student Fund

5JJ0 110636 Gross Casino Revenue \$ 566,531 \$ 13,615,911 78598
Host City Fund

~~5JK0 875610 Ohio State Racing \$ 339,919 \$ 8,169,547 78599~~
~~Commission Fund~~

~~5JL0 038629 Problem Casino \$ 226,612 \$ 5,446,364 78600~~
~~Gambling and~~
~~Addictions Fund~~

~~5JN0 055654 Ohio Law Enforcement \$ 226,612 \$ 5,446,364 78601~~
~~Training Fund~~

6080 001699 Investment Earnings \$ 50,000,000 \$ 150,000,000 78602

7062 110962 Resort Area Excise \$ 1,000,000 \$ 1,000,000 78603
Tax

7063 110963 Permissive Tax \$ 1,904,500,000 \$ 1,980,700,000 78604
Distribution

7067 110967 School District \$ 317,000,000 \$ 330,000,000 78605
Income Tax

| | | | |
|-----------------------------------|-----------------------------|-----------------------------|-------|
| TOTAL AGY Agency Fund Group | \$ 2,286,590,703 | \$ 2,728,948,676 | 78606 |
| | <u>2,285,797,560</u> | <u>2,709,886,401</u> | |
| | | | |
| Holding Account Redistribution | | | 78607 |
| R045 110617 International Fuel | \$ 40,000,000 | \$ 40,000,000 | 78608 |
| Tax Distribution | | | |
| TOTAL 090 Holding Account | | | 78609 |
| | | | |
| Redistribution Fund | | | |
| Revenue Distribution Fund Group | \$ 40,000,000 | \$ 40,000,000 | 78610 |
| 7049 038900 Indigent Drivers | \$ 2,200,000 | \$ 2,200,000 | 78611 |
| Alcohol Treatment | | | |
| 7050 762900 International | \$ 30,000,000 | \$ 30,000,000 | 78612 |
| Registration Plan | | | |
| Distribution | | | |
| 7051 762901 Auto Registration | \$ 539,000,000 | \$ 539,000,000 | 78613 |
| Distribution | | | |
| 7054 110954 Local Government | \$ 16,000,000 | \$ 11,000,000 | 78614 |
| Property Tax | | | |
| Replacement - Utility | | | |
| 7060 110960 Gasoline Excise Tax | \$ 393,000,000 | \$ 395,000,000 | 78615 |
| Fund | | | |
| 7065 110965 Public Library Fund | \$ 354,000,000 | \$ 345,000,000 | 78616 |
| 7066 800966 Undivided Liquor | \$ 14,100,000 | \$ 14,100,000 | 78617 |
| Permits | | | |
| 7068 110968 State and Local | \$ 193,000,000 | \$ 196,000,000 | 78618 |
| Government Highway | | | |
| Distribution | | | |
| 7069 110969 Local Government Fund | \$ 577,000,000 | \$ 348,000,000 | 78619 |
| 7081 110981 Local Government | \$ 291,000,000 | \$ 181,000,000 | 78620 |
| Property Tax | | | |
| Replacement-Business | | | |
| 7082 110982 Horse Racing Tax | \$ 100,000 | \$ 100,000 | 78621 |
| 7083 700900 Ohio Fairs Fund | \$ 1,400,000 | \$ 1,400,000 | 78622 |
| TOTAL RDF Revenue Distribution | | | 78623 |

| | | | |
|--|-----------------------------|-----------------------------|-------|
| Fund Group | \$ 2,410,800,000 | \$ 2,062,800,000 | 78624 |
| TOTAL ALL BUDGET FUND GROUPS | \$ 4,737,690,703 | \$ 4,832,048,676 | 78625 |
| | <u>4,736,897,560</u> | <u>4,812,986,401</u> | |
| ADDITIONAL APPROPRIATIONS | | | 78626 |
| Appropriation items in this section shall be used for the | | | 78627 |
| purpose of administering and distributing the designated revenue | | | 78628 |
| distribution funds according to the Revised Code. If it is | | | 78629 |
| determined that additional appropriations are necessary for this | | | 78630 |
| purpose, such amounts are hereby appropriated. | | | 78631 |
| GENERAL REVENUE FUND TRANSFERS | | | 78632 |
| Notwithstanding any provision of law to the contrary, in | | | 78633 |
| fiscal year 2012 and fiscal year 2013, the Director of Budget and | | | 78634 |
| Management may transfer from the General Revenue Fund to the Local | | | 78635 |
| Government Tangible Property Tax Replacement Fund (Fund 7081) in | | | 78636 |
| the Revenue Distribution Fund Group, those amounts necessary to | | | 78637 |
| reimburse local taxing units under section 5751.22 of the Revised | | | 78638 |
| Code. Also, in fiscal year 2012 and fiscal year 2013, the Director | | | 78639 |
| of Budget and Management may make temporary transfers from the | | | 78640 |
| General Revenue Fund to ensure sufficient balances in the Local | | | 78641 |
| Government Tangible Property Tax Replacement Fund (Fund 7081) and | | | 78642 |
| to replenish the General Revenue Fund for such transfers. | | | 78643 |
| Sec. 387.10. SFC SCHOOL FACILITIES COMMISSION | | | 78644 |
| General Revenue Fund | | | 78645 |
| GRF 230908 Common Schools | \$ 150,604,900 | \$ 341,919,400 | 78646 |
| General Obligation | | <u>329,919,400</u> | |
| Debt Service | | | |
| TOTAL GRF General Revenue Fund | \$ 150,604,900 | \$ 341,919,400 | 78647 |
| | | <u>329,919,400</u> | |
| State Special Revenue Fund Group | | | 78648 |
| 5E30 230644 Operating Expenses | \$ 8,950,000 | \$ 8,550,000 | 78649 |

| | | | | |
|--|----|-------------|------------------------------------|-------|
| TOTAL SSR State Special Revenue | | | | 78650 |
| Fund Group | \$ | 8,950,000 | \$ 8,550,000 | 78651 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 159,554,900 | \$ 350,469,400 | 78652 |
| | | | <u>338,469,400</u> | |
| Sec. 403.10. TAX DEPARTMENT OF TAXATION | | | | 78654 |
| General Revenue Fund | | | | 78655 |
| GRF 110321 Operating Expenses | \$ | 73,500,000 | \$ 73,550,000 | 78656 |
| | | | <u>72,814,500</u> | |
| GRF 110404 Tobacco Settlement | \$ | 200,000 | \$ 200,000 | 78657 |
| Enforcement | | | <u>198,000</u> | |
| GRF 110412 Child Support | \$ | 15,804 | \$ 15,804 <u>15,646</u> | 78658 |
| Administration | | | | |
| GRF 110901 Property Tax | \$ | 610,900,000 | \$ 616,000,000 | 78659 |
| Allocation - Taxation | | | | |
| TOTAL GRF General Revenue Fund | \$ | 684,615,804 | \$ 689,765,804 | 78660 |
| | | | <u>689,028,146</u> | |
| General Services Fund Group | | | | 78661 |
| 2280 110628 Tax Reform System | \$ | 13,638,008 | \$ 13,642,176 | 78662 |
| Implementation | | | <u>13,505,754</u> | |
| 4330 110602 Tape File Account | \$ | 197,802 | \$ 197,878 | 78663 |
| | | | <u>195,899</u> | |
| 5AP0 110632 Discovery Project | \$ | 2,445,799 | \$ 2,445,657 | 78664 |
| | | | <u>2,421,200</u> | |
| 5BW0 110630 Tax Amnesty Promotion | \$ | 2,500,000 | \$ 0 | 78665 |
| and Administration | | | | |
| 5CZ0 110631 Vendor's License | \$ | 250,000 | \$ 250,000 | 78666 |
| Application | | | | |
| 5N50 110605 Municipal Income Tax | \$ | 339,798 | \$ 339,975 | 78667 |
| Administration | | | <u>336,575</u> | |
| 5N60 110618 Kilowatt Hour Tax | \$ | 150,000 | \$ 150,000 | 78668 |
| Administration | | | <u>148,500</u> | |

| | | | | | | | |
|----------------------------------|--------|------------------------|----|------------|----|-----------------------|-------|
| 5V80 | 110623 | Property Tax | \$ | 12,195,733 | \$ | 12,099,303 | 78669 |
| | | Administration | | | | <u>11,978,310</u> | |
| 5W40 | 110625 | Centralized Tax | \$ | 200,000 | \$ | 200,000 | 78670 |
| | | Filing and Payment | | | | <u>198,000</u> | |
| 5W70 | 110627 | Exempt Facility | \$ | 50,000 | \$ | 50,000 | 78671 |
| | | Administration | | | | <u>49,500</u> | |
| TOTAL GSF General Services | | | | | | | 78672 |
| Fund Group | | | \$ | 31,967,140 | \$ | 29,374,989 | 78673 |
| | | | | | | <u>29,083,738</u> | |
| State Special Revenue Fund Group | | | | | | | 78674 |
| 4350 | 110607 | Local Tax | \$ | 19,028,339 | \$ | 19,225,941 | 78675 |
| | | Administration | | | | <u>19,033,682</u> | |
| 4360 | 110608 | Motor Vehicle Audit | \$ | 1,474,081 | \$ | 1,474,353 | 78676 |
| | | | | | | <u>1,459,609</u> | |
| 4370 | 110606 | Litter/Natural | \$ | 20,000 | \$ | 20,000 | 78677 |
| | | Resource Tax | | | | <u>19,800</u> | |
| | | Administration | | | | | |
| 4380 | 110609 | School District Income | \$ | 5,859,041 | \$ | 5,860,650 | 78678 |
| | | Tax | | | | <u>5,802,044</u> | |
| 4C60 | 110616 | International | \$ | 689,296 | \$ | 689,308 | 78679 |
| | | Registration Plan | | | | <u>682,415</u> | |
| 4R60 | 110610 | Tire Tax | \$ | 245,462 | \$ | 246,660 | 78680 |
| | | Administration | | | | <u>244,193</u> | |
| 5V70 | 110622 | Motor Fuel Tax | \$ | 5,384,254 | \$ | 5,086,236 | 78681 |
| | | Administration | | | | <u>5,035,374</u> | |
| 6390 | 110614 | Cigarette Tax | \$ | 1,384,217 | \$ | 1,384,314 | 78682 |
| | | Enforcement | | | | <u>1,370,471</u> | |
| 6420 | 110613 | Ohio Political Party | \$ | 500,000 | \$ | 500,000 | 78683 |
| | | Distributions | | | | | |
| 6880 | 110615 | Local Excise Tax | \$ | 782,630 | \$ | 782,843 | 78684 |
| | | Administration | | | | <u>775,015</u> | |
| TOTAL SSR State Special Revenue | | | | | | | 78685 |
| Fund Group | | | \$ | 35,367,320 | \$ | 35,270,305 | 78686 |

| | | | | | | |
|---|----------------------|------------------|-----------------------------|--|----------------------|-------|
| | | | | | <u>34,922,603</u> | |
| Agency Fund Group | | | | | | 78687 |
| 4250 110635 | Tax Refunds | \$ 1,546,800,000 | \$ 1,546,800,000 | | | 78688 |
| 7095 110995 | Municipal Income Tax | \$ 21,000,000 | \$ 21,000,000 | | | 78689 |
| TOTAL AGY | Agency Fund Group | \$ 1,567,800,000 | \$ 1,567,800,000 | | | 78690 |
| Holding Account Redistribution Fund Group | | | | | | 78691 |
| R010 110611 | Tax Distributions | \$ 50,000 | \$ 50,000 | | | 78692 |
| R011 110612 | Miscellaneous Income | \$ 50,000 | \$ 50,000 | | | 78693 |
| | Tax Receipts | | | | | |
| TOTAL 090 | Holding Account | | | | | 78694 |
| Redistribution Fund Group | | \$ 100,000 | \$ 100,000 | | | 78695 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 2,319,850,264 | \$ 2,322,311,098 | | | 78696 |
| | | | | | <u>2,320,934,487</u> | |

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK 78697

The foregoing appropriation item 110901, Property Tax 78698
Allocation - Taxation, is hereby appropriated to pay for the 78699
state's costs incurred due to the Homestead Exemption, the 78700
Manufactured Home Property Tax Rollback, and the Property Tax 78701
Rollback. The Tax Commissioner shall distribute these funds 78702
directly to the appropriate local taxing districts, except for 78703
school districts, notwithstanding the provisions in sections 78704
321.24 and 323.156 of the Revised Code, which provide for payment 78705
of the Homestead Exemption, the Manufactured Home Property Tax 78706
Rollback, and Property Tax Rollback by the Tax Commissioner to the 78707
appropriate county treasurer and the subsequent redistribution of 78708
these funds to the appropriate local taxing districts by the 78709
county auditor. 78710

Upon receipt of these amounts, each local taxing district 78711
shall distribute the amount among the proper funds as if it had 78712
been paid as real property taxes. Payments for the costs of 78713
administration shall continue to be paid to the county treasurer 78714
and county auditor as provided for in sections 319.54, 321.26, and 78715

| | |
|---|-------|
| 323.156 of the Revised Code. | 78716 |
| Any sums, in addition to the amounts specifically | 78717 |
| appropriated in appropriation item 110901, Property Tax Allocation | 78718 |
| - Taxation, for the Homestead Exemption, the Manufactured Home | 78719 |
| Property Tax Rollback, and the Property Tax Rollback payments, | 78720 |
| which are determined to be necessary for these purposes, are | 78721 |
| hereby appropriated. | 78722 |
| TAX AMNESTY PROMOTION AND ADMINISTRATION | 78723 |
| The foregoing appropriation item 110630, Tax Amnesty | 78724 |
| Promotion and Administration, shall be used to pay expenses | 78725 |
| incurred to promote and administer the tax amnesty program to be | 78726 |
| conducted from May 1, 2012, through June 15, 2012, by the | 78727 |
| Department of Taxation pursuant to Section 757.40 of this act <u>Am.</u> | 78728 |
| <u>Sub. H.B. 153 of the 129th General Assembly.</u> | 78729 |
| MUNICIPAL INCOME TAX | 78730 |
| The foregoing appropriation item 110995, Municipal Income | 78731 |
| Tax, shall be used to make payments to municipal corporations | 78732 |
| under section 5745.05 of the Revised Code. If it is determined | 78733 |
| that additional appropriations are necessary to make such | 78734 |
| payments, such amounts are hereby appropriated. | 78735 |
| TAX REFUNDS | 78736 |
| The foregoing appropriation item 110635, Tax Refunds, shall | 78737 |
| be used to pay refunds under section 5703.052 of the Revised Code. | 78738 |
| If it is determined that additional appropriations are necessary | 78739 |
| for this purpose, such amounts are hereby appropriated. | 78740 |
| INTERNATIONAL REGISTRATION PLAN AUDIT | 78741 |
| The foregoing appropriation item 110616, International | 78742 |
| Registration Plan, shall be used under section 5703.12 of the | 78743 |
| Revised Code for audits of persons with vehicles registered under | 78744 |
| the International Registration Plan. | 78745 |

| | |
|---|---|
| TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT | 78746 |
| Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines. | 78747 78748 78749 78750 78751 78752 78753 |
| CENTRALIZED TAX FILING AND PAYMENT FUND | 78754 |
| The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers of cash shall not exceed \$400,000 in the biennium. | 78755 78756 78757 78758 78759 78760 |
| TOBACCO SETTLEMENT ENFORCEMENT | 78761 |
| The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code. | 78762 78763 78764 78765 |
| Sec. 411.10. DVS DEPARTMENT OF VETERANS SERVICES | 78766 |
| General Revenue Fund | 78767 |
| GRF 900321 Veterans' Homes \$ 27,369,946 \$ 27,369,946 | 78768 |
| GRF 900402 Hall of Fame \$ 107,075 \$ 107,075 | 78769 |
| GRF 900408 Department of Veterans Services \$ 1,901,823 \$ 1,901,823 <u>2,001,823</u> | 78770 |
| GRF 900901 Persian Gulf, Afghanistan, and Iraq Compensation Debt Service \$ 5,486,600 \$ 10,112,100 | 78771 |

| | | | | | |
|---|----|------------|----|------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 34,865,444 | \$ | 39,490,944 | 78772 |
| | | | | <u>39,590,944</u> | |
| General Services Fund Group | | | | | 78773 |
| 4840 900603 Veterans' Homes | \$ | 305,806 | \$ | 312,458 | 78774 |
| Services | | | | | |
| TOTAL GSF General Services Fund | \$ | 305,806 | \$ | 312,458 | 78775 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 78776 |
| 3680 900614 Veterans Training | \$ | 769,500 | \$ | 754,377 | 78777 |
| 3740 900606 Troops to Teachers | \$ | 136,786 | \$ | 133,461 | 78778 |
| 3BX0 900609 Medicare Services | \$ | 2,500,000 | \$ | 2,490,169 | 78779 |
| 3L20 900601 Veterans' Homes | \$ | 23,455,379 | \$ | 23,476,269 | 78780 |
| Operations - Federal | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 78781 |
| Fund Group | \$ | 26,861,665 | \$ | 26,854,276 | 78782 |
| State Special Revenue Fund Group | | | | | 78783 |
| 4E20 900602 Veterans' Homes | \$ | 10,117,680 | \$ | 10,319,078 | 78784 |
| Operating | | | | | |
| 6040 900604 Veterans' Homes | \$ | 347,598 | \$ | 398,731 | 78785 |
| Improvement | | | | | |
| TOTAL SSR State Special Revenue | | | | | 78786 |
| Fund Group | \$ | 10,465,278 | \$ | 10,717,809 | 78787 |
| Persian Gulf, Afghanistan, and Iraq Compensation Fund Group | | | | | 78788 |
| 7041 900615 Veteran Bonus Program | \$ | 1,605,410 | \$ | 1,147,703 | 78789 |
| - Administration | | | | | |
| 7041 900641 Persian Gulf, | \$ | 25,425,000 | \$ | 24,300,000 | 78790 |
| Afghanistan, and Iraq | | | | | |
| Compensation | | | | | |
| TOTAL 041 Persian Gulf, | | | | | 78791 |
| Afghanistan, and Iraq | | | | | 78792 |
| Compensation Fund Group | \$ | 27,030,410 | \$ | 25,447,703 | 78793 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 99,528,603 | \$ | 102,823,190 | 78794 |

102,923,190

PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL 78795
OBLIGATION DEBT SERVICE 78796

The foregoing appropriation item 900901, Persian Gulf, 78797
Afghanistan and Iraq Compensation Debt Service, shall be used to 78798
pay all debt service and related financing costs during the period 78799
from July 1, 2011, through June 30, 2013, on obligations issued 78800
for Persian Gulf, Afghanistan and Iraq Conflicts Compensation 78801
purposes under sections 151.01 and 151.12 of the Revised Code. 78802

Sec. 415.10. DYS DEPARTMENT OF YOUTH SERVICES 78803

General Revenue Fund 78804

| | | | | |
|------------|-----------------------|----------------|----------------|-------|
| GRF 470401 | RECLAIM Ohio | \$ 168,716,967 | \$ 162,362,228 | 78805 |
| GRF 470412 | Lease Rental Payments | \$ 10,221,800 | \$ 27,230,100 | 78806 |
| GRF 470510 | Youth Services | \$ 16,702,728 | \$ 16,702,728 | 78807 |
| GRF 472321 | Parole Operations | \$ 10,830,019 | \$ 10,583,118 | 78808 |
| GRF 477321 | Administrative | \$ 12,222,051 | \$ 11,855,389 | 78809 |

Operations

TOTAL GRF General Revenue Fund \$ 218,693,565 \$ 228,733,563 78810

General Services Fund Group 78811

| | | | | |
|-------------|---------------|--------------|-------------------------|-------|
| 1750 470613 | Education | \$ 8,160,277 | \$ 8,151,056 | 78812 |
| | Reimbursement | | <u>6,251,056</u> | |

| | | | | |
|-------------|-----------------------|------------|------------|-------|
| 4790 470609 | Employee Food Service | \$ 150,000 | \$ 150,000 | 78813 |
|-------------|-----------------------|------------|------------|-------|

| | | | | |
|-------------|---------------|------------|------------|-------|
| 4A20 470602 | Child Support | \$ 450,000 | \$ 400,000 | 78814 |
|-------------|---------------|------------|------------|-------|

| | | | | |
|-------------|---------------------|------------|------------|-------|
| 4G60 470605 | General Operational | \$ 125,000 | \$ 125,000 | 78815 |
|-------------|---------------------|------------|------------|-------|

Funds

| | | | | |
|-------------|----------------|------------|------------|-------|
| 5BN0 470629 | E-Rate Program | \$ 535,000 | \$ 535,000 | 78816 |
|-------------|----------------|------------|------------|-------|

TOTAL GSF General Services 78817

| | | | |
|------------|--------------|-------------------------|-------|
| Fund Group | \$ 9,420,277 | \$ 9,361,056 | 78818 |
|------------|--------------|-------------------------|-------|

7,461,056

Federal Special Revenue Fund Group 78819

Am. Sub. H. B. No. 487
As Reported by the Committee of Conference

| | | | | | | | |
|-----------------------------------|--------|---|----|-------------|----|--|-------|
| 3210 | 470601 | Education | \$ | 1,774,469 | \$ | 1,517,840 | 78820 |
| 3210 | 470603 | Juvenile Justice Prevention | \$ | 300,000 | \$ | 300,000 | 78821 |
| 3210 | 470606 | Nutrition | \$ | 1,747,432 | \$ | 1,704,022 <u>1,400,000</u> | 78822 |
| 3210 | 470610 | Rehabilitation Programs | \$ | 36,000 | \$ | 36,000 <u>0</u> | 78823 |
| 3210 | 470614 | Title IV-E Reimbursements | \$ | 6,000,000 | \$ | 6,000,000 | 78824 |
| 3BY0 | 470635 | Federal Juvenile Programs FFY 07 | \$ | 56,471 | \$ | 2,000 | 78825 |
| 3BZ0 | 470636 | Federal Juvenile Programs FFY 08 | \$ | 82,000 | \$ | 1,618 | 78826 |
| 3CP0 | 470638 | Federal Juvenile Programs FFY 09 | \$ | 500,000 | \$ | 300,730 | 78827 |
| 3CR0 | 470639 | Federal Juvenile Programs FFY 10 | \$ | 800,000 | \$ | 479,900 | 78828 |
| 3FB0 | 470641 | Federal Juvenile Programs FFY 11 | \$ | 135,000 | \$ | 600,000 | 78829 |
| 3FC0 | 470642 | Federal Juvenile Programs FFY 12 | \$ | 0 | \$ | 135,000 | 78830 |
| 3V50 | 470604 | Juvenile Justice/Delinquency Prevention | \$ | 2,010,000 | \$ | 2,000,000 | 78831 |
| TOTAL FED Federal Special Revenue | | | | | | | 78832 |
| Fund Group | | | | | | | \$ |
| | | | | 13,441,372 | \$ | 13,077,110 <u>12,737,088</u> | 78833 |
| State Special Revenue Fund Group | | | | | | | 78834 |
| 1470 | 470612 | Vocational Education | \$ | 762,126 | \$ | 758,210 | 78835 |
| TOTAL SSR State Special Revenue | | | | | | | 78836 |
| Fund Group | | | | | | | \$ |
| | | | | 762,126 | \$ | 758,210 | 78837 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | \$ |
| | | | | 242,317,340 | \$ | 251,929,939 <u>249,689,917</u> | 78838 |

COMMUNITY PROGRAMS 78839

For purposes of implementing juvenile sentencing reforms, and 78840
notwithstanding any provision of law to the contrary, the 78841
Department of Youth Services may use up to forty-five per cent of 78842
the unexpended, unencumbered balance of the portion of 78843
appropriation item 470401, RECLAIM Ohio, that is allocated to 78844
juvenile correctional facilities in each fiscal year to expand 78845
Targeted RECLAIM, the Behavioral Health Juvenile Justice 78846
Initiative, and other evidence-based community programs. 78847

OHIO BUILDING AUTHORITY LEASE PAYMENTS 78848

The foregoing appropriation item 470412, Lease Rental 78849
Payments, shall be used to meet all payments at the times they are 78850
required to be made for the period from July 1, 2011, through June 78851
30, 2013, by the Department of Youth Services to the Ohio Building 78852
Authority under the leases and agreements for facilities made 78853
under Chapter 152. of the Revised Code. This appropriation is the 78854
source of funds pledged for bond service charges on related 78855
obligations issued pursuant to Chapter 152. of the Revised Code. 78856

EDUCATION REIMBURSEMENT 78857

The foregoing appropriation item 470613, Education 78858
Reimbursement, shall be used to fund the operating expenses of 78859
providing educational services to youth supervised by the 78860
Department of Youth Services. Operating expenses include, but are 78861
not limited to, teachers' salaries, maintenance costs, and 78862
educational equipment. This appropriation item may be used for 78863
capital expenses related to the education program. 78864

EMPLOYEE FOOD SERVICE AND EQUIPMENT 78865

Notwithstanding section 125.14 of the Revised Code, the 78866
foregoing appropriation item 470609, Employee Food Service, may be 78867
used to purchase any food operational items with funds received 78868
into the fund from reimbursements for state surplus property. 78869

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 78870

In collaboration with the county family and children first 78871
council, the juvenile court of that county that receives 78872
allocations from one or both of the foregoing appropriation items 78873
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 78874
portions of those allocations to a flexible funding pool as 78875
authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 78876
129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE 78877
FUNDING POOL." 78878

Sec. 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 78879
BALANCES OF OPERATING APPROPRIATIONS 78880

(A) An unexpended balance of an operating appropriation or 78881
reappropriation that a state agency lawfully encumbered prior to 78882
the close of a fiscal year is hereby reappropriated on the first 78883
day of July of the following fiscal year from the fund from which 78884
it was originally appropriated or reappropriated for the following 78885
period and shall remain available only for the purpose of 78886
discharging the encumbrance: 78887

(1) For an encumbrance for personal services, maintenance, 78888
equipment, or items for resale, other than an encumbrance for an 78889
item of special order manufacture not available on term contract 78890
or in the open market or for reclamation of land or oil and gas 78891
wells, for a period of not more than five months from the end of 78892
the fiscal year; 78893

(2) For an encumbrance for an item of special order 78894
manufacture not available on term contract or in the open market, 78895
for a period of not more than five months from the end of the 78896
fiscal year or, with the written approval of the Director of 78897
Budget and Management, for a period of not more than twelve months 78898
from the end of the fiscal year; 78899

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

(D) Notwithstanding division (C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct 78931
accounting errors committed by the staff of the Office of Budget 78932
and Management, such as ~~re-establishing~~ reestablishing 78933
encumbrances or appropriations cancelled in error, during the 78934
cancellation of operating encumbrances in November and of 78935
nonoperating encumbrances in December. 78936

(F) The Director of Budget and Management may at any time 78937
correct accounting errors committed by the staff of a state 78938
institution of higher education, as defined in section 3345.011 of 78939
the Revised Code, such as reestablishing prior year nonoperating 78940
encumbrances canceled or modified in error. The reestablished 78941
encumbrance amounts are hereby appropriated. 78942

(G) If the Controlling Board approved a purchase, that 78943
approval remains in effect so long as the appropriation used to 78944
make that purchase remains encumbered. 78945

Sec. 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS 78946

(A) The Office of Internal Auditing within the Office of 78947
Budget and Management shall, in connection with its duties under 78948
sections 126.45 to 126.48 of the Revised Code, monitor and measure 78949
the effectiveness of funds allocated to the state as part of the 78950
federal American Recovery and Reinvestment Act of 2009. As such, 78951
the Office of Internal Auditing shall review how funds allocated 78952
to each state agency are spent. For purposes of this section, 78953
"state agency" has the same meaning as in division (A) of section 78954
126.45 of the Revised Code. 78955

In addition to the reports required under section 126.47 of 78956
the Revised Code, the Office of Internal Auditing shall ~~submit~~ 78957
prepare a report of its findings for the period beginning July 1, 78958
2011, and ending December 31, 2011. The Office shall submit the 78959
report to the President of the Senate, Minority Leader of the 78960
Senate, Speaker of the House of Representatives, Minority Leader 78961

of the House of Representatives, and the Chairs of the committees 78962
in the Senate and House of Representatives handling finance and 78963
appropriations. ~~The report shall be submitted every six months at~~ 78964
~~the following intervals:~~ 78965

~~(1) For the six month period ending December 31, 2011, not~~ 78966
~~later than by February 1, 2012;~~ 78967

~~(2) For the six month period ending June 30, 2012, not later~~ 78968
~~than August 1, 2012;~~ 78969

~~(3) For the six month period ending December 31, 2012, not~~ 78970
~~later than February 1, 2013;~~ 78971

~~(4) For the six month period ending June 30, 2013, not later~~ 78972
~~than August 1, 2013.~~ 78973

(B) When, as part of its compliance with the federal American 78974
Recovery and Reinvestment Act of 2009 requirements to monitor and 78975
measure the effectiveness of funds for which the state of Ohio is 78976
the prime recipient, and for which reporting authority has not 78977
been delegated to a ~~sub-recipient~~ subrecipient, the Office of 78978
Budget and Management submits quarterly reports to the federal 78979
government, the Office of Budget and Management shall also submit 78980
those reports to the President of the Senate, Minority Leader of 78981
the Senate, Speaker of the House of Representatives, Minority 78982
Leader of the House of Representatives, and Chairs and ranking 78983
members of the committees in the Senate and House of 78984
Representatives handling finance and appropriations. The Office of 78985
Budget and Management shall continue to submit quarterly reports 78986
to the legislature for the duration of the period in which the 78987
state of Ohio is required to make reports to the federal 78988
government concerning Ohio's use of the federal American Recovery 78989
and Reinvestment Act of 2009 funds. 78990

Sec. 701.40. (A) There is hereby created the Ohio Housing 78991

Study Committee with the purpose of formulating a comprehensive 78992
review of the policies and results of the Ohio Housing Finance 78993
Agency, its programs and its working relationships to ensure that 78994
all Agency programs are evaluated by an objective process to 78995
ensure all Ohioans receive optimal and measurable benefits 78996
afforded to them through the authority of the Agency. 78997

(B) The Committee shall do all of the following: 78998

(1) Perform a comprehensive review of Chapter 175. of the 78999
Revised Code to determine the relevance of the chapter and 79000
determine whether it should be formally reviewed or amended by the 79001
General Assembly, up to and including appropriate legislative 79002
oversight and accountability; 79003

(2) Review the Agency's relationships to ensure an equitable 79004
and level playing field regarding its single- and multi-family 79005
housing programs; 79006

(3) Review the Agency's policy leadership and the measurable 79007
economic impact and other effects of its programs; 79008

(4) Review the Agency's Qualified Allocation Plan development 79009
process and underlying policies to understand whether objective 79010
and measurable results are achieved to fulfill clearly articulated 79011
public policy goals; 79012

(5) Create a quantitative report measuring the economic 79013
benefits of the Agency's single- and multi-family programming over 79014
the last ten years; 79015

(6) Evaluate the possible efficiencies of combining existing 79016
Ohio Department of Development housing-related programming with 79017
those of the Agency. 79018

The Chairperson of the Committee may include other relevant 79019
areas of study as necessary. 79020

(C) The Committee shall commence on ~~the effective date of~~ 79021

~~this act~~ September 29, 2011, and shall provide a report expressing 79022
its findings and financial, policy, or legislative recommendations 79023
to the Governor, the Speaker of the House of Representatives, and 79024
the President of the Senate on or before March 31, 2012. The 79025
Committee shall cease to exist on December 31, 2012. 79026

(D) The Committee shall be comprised of the Auditor of State, 79027
or the Auditor's designee, the Director of Commerce, or the 79028
Director's designee, the Director of Development, or the 79029
Director's designee, and four members of the General Assembly. Two 79030
members shall be appointed by the Speaker of the House of 79031
Representatives and two members shall be appointed by the 79032
President of the Senate. 79033

The Governor, Speaker of the House of Representatives, and 79034
the President of the Senate shall determine the chairperson of the 79035
Committee. 79036

(E) The Committee shall meet on a reasonable basis at the 79037
discretion of the chairperson. 79038

(F) All reasonable expenses incurred by the Committee in 79039
carrying out its responsibilities shall be paid by Ohio Housing 79040
Finance Agency funds. In addition to reasonable expenses, the 79041
Committee shall have the discretion to allocate Agency funds to 79042
contract with the Auditor of State for services rendered in 79043
relation to the Committee carrying out its responsibilities, 79044
including financial- and performance-based audits and other 79045
services. The Auditor of State may contract with an independent 79046
auditor. 79047

The Committee may also contract with other independent 79048
entities for services rendered in relation to the Committee 79049
carrying out its responsibilities. Expenditures to pay for the 79050
services of the Auditor of State, independent auditor, or other 79051
services shall not exceed two hundred thousand dollars. 79052

No entity contracting with the Committee for services 79053
rendered shall have a financial or vested interest in the Ohio 79054
Housing Finance Agency, its affiliates, or its nonprofit partners. 79055

Sec. 753.25. (A) The Governor is authorized to execute a deed 79056
in the name of the state conveying to the Board of County Hospital 79057
Trustees of The MetroHealth System ("MetroHealth"), in the name of 79058
the County of Cuyahoga, State of Ohio, its successors and assigns, 79059
all of the state's right, title, and interest in the following 79060
~~listed parcels of described~~ real estate located in the County of 79061
Cuyahoga, State of Ohio: ~~00821-008, 00821-009, 00821-010,~~ 79062
~~00821-011, 00821-012, 00821-013, 00821-014, 00821-015, 00821-016,~~ 79063
and ~~00821-017.~~ 79064

~~In preparing the deed, the Auditor of State, with the 79065
assistance of the Attorney General, shall develop a legal 79066
description of the real estate in conformity with the actual 79067
bounds of the real estate.~~ 79068

Parcel I 79069

Description of a 2.732 Acre Tract 79070

Located northerly of the intersection of South Point Drive and 79071
Ginger Court, Cleveland, Ohio. 79072

Situated in the City of Cleveland, County of Cuyahoga, State of 79073
Ohio, being part of the Original Brooklyn Township Lot No. 73, 79074
Range 13 West, Township 7 North of the Connecticut Western Reserve 79075
Survey and being all of a tract of land as conveyed to the State 79076
of Ohio by deed of record in Deed Volume 10350, Page 563 and being 79077
of all of subplot numbers 18 through 26 and part of subplot number 79078
27 as shown in the East View Addition by plat of record in Plat 79079
Volume 16, Page 19 as conveyed to the State of Ohio by deeds of 79080
records in Deed Volume 6640, Page 166; Deed Volume 6640, Page 168; 79081
Deed Volume 7285, Page 321; Deed Volume 7227, Page 11; Deed Volume 79082

7678, Page 487; Deed Volume 7627, Page 589; Deed Volume 7287, page 79083
718; Deed Volume 7285, page 319; Deed Volume 7420, Page 102; and 79084
Deed Volume 7638, Page 296 respectively; all record document 79085
references in this legal description being to the Recorder's 79086
Office, Cuyahoga County, Ohio and being more particularly bounded 79087
and described as follows: 79088

Beginning at the southwesterly corner of said subplot 18, at a 79089
southeasterly corner of a tract of land conveyed to the County of 79090
Cuyahoga, Ohio by deed of record in Automatic Filing Number 79091
(A.F.N.) 199911231424 and on the northerly right-of-way line of 79092
South Point Drive, 50 feet in width and also known as Aiken 79093
Avenue, said point also being the TRUE POINT OF BEGINNING of the 79094
herein described tract of land; 79095

01. Thence North 00°02'06" West, a distance of 362.37 feet along 79096
the extension of and the westerly line of said subplot number 18, 79097
along the westerly line of said State of Ohio tract as conveyed in 79098
Deed Volume 10350, Page 563 and along an easterly line of said 79099
County of Cuyahoga, Ohio tract to a point; 79100

02. Thence South 76°52' 15" East, a distance of 415.12 feet along 79101
the northerly line of said State of Ohio tract as conveyed in Deed 79102
Volume 10350, Page 563 and along a southerly line of said County 79103
of Cuyahoga, Ohio tract to a point; 79104

03. Thence South 13°06'56" West, a distance of 275.04 feet along 79105
the easterly line of said State of Ohio tract as conveyed in Deed 79106
Volume 10350, Page 563, along a westerly line of said County of 79107
Cuyahoga tract and along the westerly line of a tract of land as 79108
conveyed to the Board of Trustees of the Cuyahoga County Hospital 79109
by deed of record in Deed Volume 11670, Page 921 passing through 79110
said subplot number 27 to a point on the southerly line of said 79111
subplot number 27 and on the northerly right-of-way line of said 79112
South Point Drive; 79113

04. Thence South 89°57'54" West, a distance of 341.64 feet along 79114
the southerly lines of said subplot numbers 27, 26, 25, 24, 23, 22, 79115
21, 20, 19 and 18 and along the northerly line of said South Point 79116
Drive to the True Point of Beginning and containing 2.732 acres, 79117
more or less, and subject to all legal easements, restrictions, 79118
reservations, conditions and right-of-ways of previous record. 79119

The basis of bearing in this description is based on the 79120
centerline line of South Point Drive being 79121

North 89°58'22" East as recorded in the Map of Lot Split and 79122
Consolidation for The County of Cuyahoga in Plat Volume 300, Page 79123
30. 79124

This description is intended to describe Cuyahoga County Auditor's 79125
parcel numbers 008-21-008, 008-21-009, 008-21-010, 008-21-011, 79126
008-21-012, 008-21-013, 008-21-014, 008-21-015, 008-21 -016 and 79127
008-21-017. 79128

This description is based on a field survey made by Michael Benza 79129
& Associates, Inc. in October 2011 under project number 5290. 79130

Parcel 2 79131

Description of a 0.597 Acre Tract 79132

Located southwesterly of the intersection of South Point Drive and 79133
Ginger Court, Cleveland, Ohio. 79134

Situated in the City of Cleveland, County of Cuyahoga, State of 79135
Ohio, being part of the Original Brooklyn Township Lot No. 73, 79136
Range 13 West, Township 7 North of the Connecticut Western Reserve 79137
Survey and being of all of subplot numbers 32 through 38 and part 79138
of subplot number 39 as shown in the East View Addition by plat of 79139
record in Plat Volume 16, Page 19 as conveyed to the State of Ohio 79140
by deeds of records in Deed Volume 11317, Page 91; Deed Volume 79141
11369, Page 27; Deed Volume 12168, Page 997; Deed Volume 12117, 79142
Page 239; Deed Volume 11861, Page 587; Deed Volume 12111, Page 951 79143

and Deed Volume 11870, page 961; respectively; all record document 79144
references in this legal description being to the Recorder's 79145
Office, Cuyahoga County, Ohio and being more particularly bounded 79146
and described as follows: 79147

Beginning at the northeasterly corner of said subplot number 32, at 79148
the southwesterly corner of the intersection of South Point Drive, 79149
50 feet in width and also known as Aiken Avenue, and Ginger Court, 79150
12 feet in width, said point also being the TRUE POINT OF 79151
BEGINNING of the herein described tract of land; 79152

01. Thence South 02°57'49" West, a distance of 94.11 feet along 79153
the easterly line of said subplot number 32 and along the westerly 79154
right-of-way line of said Ginger Court to a point; 79155

02. Thence South 46°10'37" West, a distance of 8.77 feet along the 79156
southeasterly line of said subplot number 32 and along the 79157
northwesterly right-of-way line of said Ginger Court to a point; 79158

03. Thence South 89°58'22" West, a distance of 251.42 feet along 79159
the southerly lines of said subplot numbers 32 through 29 and along 79160
the northerly line of said Ginger Court to a point; 79161

04. Thence North 00°01'38" West, a distance of 100.05 feet along 79162
the westerly of line of the said tract of land conveyed to the 79163
State of Ohio by Deed Volume 11870, Page 961 and along the 79164
easterly line of the tract of land as conveyed to the County of 79165
Cuyahoga by deed of record in Deed Volume 12525, Page 665 to a 79166
point on the southerly right-of-way line of said South Point 79167
Drive; 79168

05. Thence North 89°58'18" East, a distance of 262.66 feet along 79169
the northerly lines of said subplot numbers 39, 38, 37, 36, 35, 34, 79170
33 and 32 and along the southerly line of said South Point Drive 79171
to the True Point of Beginning and containing 0.597 acres, more or 79172
less, and subject to all legal easements, restrictions, 79173

reservations, conditions and right-of-ways of previous record. 79174

The basis of bearing in this description is based on the 79175
centerline line of South Point Drive being North 89°57'55" East as 79176
recorded in the Map of Lot Split and Consolidation for The County 79177
of Cuyahoga in Plat Volume 300, Page 30. 79178

This description is intended to describe Cuyahoga County Auditor's 79179
parcel numbers 008-21-019, 008-21-020, 008-21-021, 008-21-022, 79180
008-21-023, 008-21-024 and 008-21-025. 79181

This description is based on a field survey made by Michael Benza 79182
& Associates, Inc. in October 2011 under project number 5290. 79183

Parcel 3 79184

Description of a 0.035 Acre Tract 79185

Located southeasterly of the intersection of South Point Drive and 79186
Ginger Court, Cleveland, Ohio. 79187

Situated in the City of Cleveland, County of Cuyahoga, State of 79188
Ohio, being part of the Original Brooklyn Township Lot No. 73, 79189
Range 13 West, Township 7 North of the Connecticut Western Reserve 79190
Survey and being part of subplot numbers 29, 30 and 31 as shown in 79191
the East View Addition by plat of record in Plat Volume 16, Page 79192
19 as conveyed to the State of Ohio by deeds of records in Deed 79193
Volume 11177, Page 349; Deed Volume 11164, Page 285 and Deed 79194
Volume 11165, Page 113; respectively; all record document 79195
references in this legal description being to the Recorder's 79196
Office, Cuyahoga County, Ohio and being more particularly bounded 79197
and described as follows: 79198

Beginning at the northwesterly corner of said subplot number 29, at 79199
a southeasterly corner of the intersection of South Point Drive, 79200
50 feet in width and also known as Aiken Avenue, and Ginger Court, 79201
12 feet in width, said point also being the TRUE POINT OF 79202
BEGINNING of the herein described tract of land; 79203

01. Thence North 89°57'55" East, a distance of 15.85 feet along 79204
the northerly line of said subplot number 29 and along the 79205
southerly right-of-way line of said South Point Drive to a point 79206
on the northwesterly corner of a tract of land conveyed to the 79207
Cuyahoga County Commissioners, Cuyahoga County, Ohio by deed of 79208
record in Automatic Filing Number (A.F.N.) 199904160080, 79209
designated as State Parcel 3049EL; 79210

02. Thence along a curve to the right having a radius of 23.50 79211
feet, an arc length of 23.01 feet a chord bearing South 39°31'07" 79212
East and chord distance of 22.10 feet and along an easterly line 79213
of said Cuyahoga County Commissioners tract, passing through said 79214
subplot number 29 to a point; 79215

03. Thence along a curve to the right having a radius of 520.30 79216
feet, an arc length of 73.94 feet, a chord bearing of South 79217
27°33'59" West and a chord distance of 73.88 feet and along an 79218
easterly line of said Cuyahoga County Commissioners tract, passing 79219
through said subplot numbers 29, 30 and 31 to a point on the 79220
easterly right-of-way line of said Ginger Court; 79221

04. Thence North 02°57'49" East, a distance of 82.65 feet along 79222
the westerly of lines of said subplot numbers 31, 30 and 29 and 79223
along the easterly right-of-way line of said Ginger Court to the 79224
True Point of Beginning and containing 0.035 acres, more or less, 79225
and subject to all legal easements, restrictions, reservations, 79226
conditions and right-of-ways of previous record. 79227

The basis of bearing in this description is based on the 79228
centerline line of South Point Drive being North 89°57'55" East as 79229
recorded in the Map of Lot Split and Consolidation for The County 79230
of Cuyahoga in Plat Volume 300, Page 30. 79231

This description is intended to describe Cuyahoga County Auditor's 79232
parcel numbers 008-21-074, 008-21-075 and 008-21-076. 79233

This description is based on a field survey made by Michael Benza & Associates, Inc. in October 2011 under project number 5290. 79234
79235

Parcel 4 79237

Description of a 0.494 Acre Tract 79238

Located northerly of the Eglindale Avenue, southerly of Ginger Court and easterly of Scranton Road Cleveland, Ohio. 79239
79240

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, being part of the Original Brooklyn Township Lot No. 73, Range 13 West, Township 7 North of the Connecticut Western Reserve Survey and being all of subplot numbers 77 through 81 and being part of subplot numbers 82 and 83 as shown in the East View Addition by plat of record in Plat Volume 16, Page 19 as conveyed to the State of Ohio by deeds of records in Deed Volume 12789, Page 311; Deed Volume 12930, Page 567; Deed Volume 12781, Page 999; Deed Volume 12902, Page 155; Deed Volume 12773, Page 135; Deed Volume 12777, Page 287 and Deed Volume 11362, Page 445; respectively; all record document references in this legal description being to the Recorder's Office, Cuyahoga County, Ohio and being more particularly bounded and described as follows: 79241
79242
79243
79244
79245
79246
79247
79248
79249
79250
79251
79252
79253

Beginning at the southwesterly corner of said subplot number 77 and on the northerly right-of-way line of Eglindale Avenue, 50 feet in width, said point also being the TRUE POINT OF BEGINNING of the herein described tract of land; 79254
79255
79256
79257

01. Thence North 00°01'38" West, a distance of 100.02 feet along the westerly line of said subplot number 77 and along the easterly line of a tract of land as conveyed to the County of Cuyahoga by deed of record in Deed Volume 12527, Page 595 to a point on the southerly right-of-way line of Ginger Court; 79258
79259
79260
79261
79262

02. Thence North 89°58'22" East, a distance of 255.00 feet along 79263

the northerly lines of said subplot numbers 77 through 83 and along 79264
the southerly right-of-way line of Ginger Court to a point on an 79265
westerly line of a tract of land conveyed to the Cuyahoga County 79266
Commissioners, Cuyahoga County, Ohio by deed of record in 79267
Automatic Filing Number (A.F.N.) 199904160080, designated as State 79268
Parcel 3049EL; 79269

03. Thence South 38°37'28" West, a distance of 128.09 feet along 79270
an easterly line of said Cuyahoga County Commissioners tract, 79271
passing through said subplot numbers 82 and 83 to a point on the 79272
southeasterly corner of said subplot 81 and on the northerly 79273
right-of-way line of said Eglindale Avenue; 79274

04. Thence South 89°58'45" West, a distance of 175.00 feet along 79275
the southerly lines of said subplot numbers 81, 80, 79, 78 and 77 79276
and along the northerly right-of-way line of said Eglindale Avenue 79277
to the True Point of Beginning and containing 0.494 acres, more or 79278
less, and subject to all legal easements, restrictions, 79279
reservations, conditions and right-of- ways of previous record. 79280

The basis of bearing in this description is based on the 79281
centerline line of Eglindale Avenue being North 89°58'45" East as 79282
recorded in the Map of Lot Split and Consolidation for The County 79283
of Cuyahoga in Plat Volume 300, Page 30. 79284

This description is intended to describe Cuyahoga County Auditor's 79285
parcel numbers 008-21-040, 008-21-041, 008-21-042, 008-21-043, 79286
008-21-044, 008-21-045 and 008-21-046. 79287

This description is based on a field survey made by Michael Benza 79288
& Associates, Inc. in October 2011 under project number 5290. 79289

This description may be modified to final form if modifications 79290
are needed. 79291

Authority to complete this conveyance is dependent upon the 79292
City of Cleveland's release of its reversionary interest in the 79293

property, where applicable. 79294

Notwithstanding ORC Chapter 5709, on the effective date of this 79295
section, any real estate taxes, interest, penalties, or 79296
assessments, if any, now payable or as a lien on the parcels of 79297
this section, are abated, remitted, and exempted. 79298

(B) Consideration for conveyance of the real estate shall be 79299
ten dollars. 79300

(C) The state shall convey the real estate described in 79301
division (A) of this section together with the building situated 79302
upon it, along with the amount of \$3,400,000 to demolish the 79303
building. Notwithstanding any provision of law to the contrary, 79304
the Director of Mental Health shall disburse \$3,400,000 from 79305
appropriation item C58010, Campus Consolidation, as set forth in 79306
Sub. H.B. 462 of the 128th General Assembly, to the grantee within 79307
thirty days after the conveyance of the real estate. After the 79308
disbursement, the state shall, within four months, complete a 79309
physical inventory of assets, relocate assets that are to be 79310
removed from the building, and itemize assets that are to remain 79311
with the transferred real estate and building. 79312

(D) The real estate described in division (A) of this section 79313
shall be sold as an entire tract and not in parcels. 79314

(E) The grantee shall pay all costs associated with the 79315
purchase and conveyance of the real estate, including costs of any 79316
surveys and recordation costs of the deed. 79317

(F) The grantee shall not, during any period that any bonds 79318
issued by the state to finance or refinance all or a portion of 79319
the real estate described in division (A) of this section are 79320
outstanding, use any portion of the real estate for a private 79321
business use without the prior written consent of the state. As 79322
used in this division: 79323

(1) "Private business use" means use, directly or indirectly, 79324
in a trade or business carried on by any private person other than 79325
use as a member of, and on the same basis as, the general public. 79326
Any activity carried on by a private person who is not a natural 79327
person shall be presumed to be a trade or business. 79328

(2) "Private person" means any natural person or any 79329
artificial person, including a corporation, partnership, limited 79330
liability company, trust, or other entity and including the United 79331
States or any agency or instrumentality of the United States, but 79332
excluding any state, territory, or possession of the United 79333
States, the District of Columbia, or any political subdivision 79334
thereof that is referred to as a "state or local governmental 79335
unit" in Treasury Regulation 1.103-1(a) and any person that is 79336
acting solely and directly as an officer or employee of or on 79337
behalf of such a governmental unit. 79338

(G) The grantee shall not sell, convey, or transfer ownership 79339
of the real estate described in division (A) of this section 79340
before December 1, 2019, or before receiving written confirmation 79341
from the state that all of the state's bonded capital indebtedness 79342
associated with any of the buildings located on the real estate 79343
has been fully satisfied. 79344

(H) The Auditor of State, with the assistance of the Attorney 79345
General, shall prepare a deed to the real estate. The deed shall 79346
state the consideration and the conditions and restrictions and 79347
shall be executed by the Governor in the name of the state, 79348
countersigned by the Secretary of State, sealed with the Great 79349
Seal of the State, presented in the Office of the Auditor of State 79350
for recording, and delivered to the grantee. The grantee shall 79351
present the deed for recording in the Office of the Cuyahoga 79352
County Recorder. 79353

(I) This section expires one year after its effective date. 79354

Section 601.41. That existing Sections 205.10, 207.10, 79355
 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 79356
 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 245.10, 79357
 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 79358
 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 79359
 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 79360
 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 79361
 267.10.40, 267.30.20, 267.30.40, 267.40.40, 279.10, 283.10, 79362
 285.10, 287.10, 291.10, 305.10, 307.10, 309.10, 309.30.10, 79363
 309.30.30, 309.30.33, 309.30.53, 309.30.73, 309.35.73, 309.60.20, 79364
 313.10, 315.10, 323.10, 327.10, 337.10, 343.10, 343.40, 365.10, 79365
 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 79366
 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 79367
 503.50, 521.70, 701.40, and 753.25 of Am. Sub. H.B. 153 of the 79368
 129th General Assembly are hereby repealed. 79369

Section 601.43. That Section 247.10 of Am. Sub. H.B. 153 of 79370
 the 129th General Assembly, as amended by Sub. H.B. 319 of the 79371
 129th General Assembly, be amended to read as follows: 79372

Sec. 247.10. CEB CONTROLLING BOARD 79373

| | | | | |
|------------------------------|-----------------------|-----------------------|-----------------------------|-------|
| General Revenue Fund | | | | 79374 |
| GRF | 911404 | Mandate Assistance | \$ 2,750,000 \$ 0 | 79375 |
| GRF | 911441 | Ballot Advertising | \$ 475,000 \$ 475,000 | 79376 |
| Costs | | | | |
| TOTAL GRF | General Revenue Fund | | \$ 3,225,000 \$ 475,000 | 79377 |
| General Services Fund Group | | | | 79378 |
| 5KM0 | 911614 | CB Emergency Purposes | \$ 10,000,000 \$ 10,000,000 | 79379 |
| TOTAL GSF | General Services Fund | | \$ 10,000,000 \$ 10,000,000 | 79380 |
| Group | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 13,225,000 \$ 10,475,000 | 79381 |
| FEDERAL SHARE | | | | 79382 |

In transferring appropriations to or from appropriation items 79383
that have federal shares identified in this act, the Controlling 79384
Board shall add or subtract corresponding amounts of federal 79385
matching funds at the percentages indicated by the state and 79386
federal division of the appropriations in this act. Such changes 79387
are hereby appropriated. 79388

REDISTRICTING IMPLEMENTATION 79389

The foregoing appropriation item 911404, Mandate Assistance, 79390
shall be used in a method prescribed by the Secretary of State and 79391
transferred by the Director of Budget and Management to implement 79392
this act, which includes remapping and reprecincting counties, and 79393
reprogramming database systems and voting machines. At the end of 79394
fiscal year 2012, an amount equal to the unexpended, unencumbered 79395
portion of appropriation item 911404, Mandate Assistance, is 79396
hereby reappropriated in fiscal year 2013 for the same purpose. 79397

DISASTER SERVICES 79398

Pursuant to requests submitted by the Department of Public 79399
Safety, the Controlling Board may approve transfers from the 79400
Disaster Services Fund (5E20) to a fund and appropriation item 79401
used by the Department of Public Safety to provide for assistance 79402
to political subdivisions made necessary by natural disasters or 79403
emergencies. These transfers may be requested and approved prior 79404
to the occurrence of any specific natural disasters or emergencies 79405
in order to facilitate the provision of timely assistance. The 79406
Emergency Management Agency of the Department of Public Safety 79407
shall use the funding to fund the State Disaster Relief Program 79408
for disasters that have been declared by the Governor, and the 79409
State Individual Assistance Program for disasters that have been 79410
declared by the Governor and the federal Small Business 79411
Administration. The Ohio Emergency Management Agency shall publish 79412
and make available application packets outlining procedures for 79413
the State Disaster Relief Program and the State Individual 79414

Assistance Program. 79415

Fund 5E20 shall be used by the Controlling Board, pursuant to 79416
requests submitted by state agencies, to transfer cash and 79417
appropriations to any fund and appropriation item for the payment 79418
of state agency disaster relief program expenses for disasters 79419
declared by the Governor, if the Director of Budget and Management 79420
determines that sufficient funds exist. 79421

Upon the request of the Department of Public Safety, the 79422
Controlling Board may release up to \$3,000,000 for Blanchard River 79423
flood mitigation projects. 79424

BALLOT ADVERTISING COSTS 79425

Pursuant to section 3501.17 of the Revised Code, and upon 79426
requests submitted by the Secretary of State, the Controlling 79427
Board shall approve transfers from the foregoing appropriation 79428
item 911441, Ballot Advertising Costs, to appropriation item 79429
050621, Statewide Ballot Advertising, in order to pay for the cost 79430
of public notices associated with statewide ballot initiatives. 79431

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS 79432
ELIGIBILITY 79433

A state agency director shall request that the Controlling 79434
Board increase the amount of the agency's capital appropriations 79435
if the director determines such an increase is necessary for the 79436
agency to receive and use funds under the federal American 79437
Recovery and Reinvestment Act of 2009. The Controlling Board may 79438
increase the capital appropriations pursuant to the request up to 79439
the exact amount necessary under the federal act if the Board 79440
determines it is necessary for the agency to receive and use those 79441
federal funds. 79442

Section 601.44. That existing Section 247.10 of Am. Sub. H.B. 79443
153 of the 129th General Assembly, as amended by Sub. H.B. 319 of 79444

the 129th General Assembly, is hereby repealed. 79445

Section 601.46. That Sections 261.10 and 261.20.93 of Am. 79446
Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. 79447
H.B. 371 of the 129th General Assembly, be amended to read as 79448
follows: 79449

Sec. 261.10. DEV ~~DEPARTMENT OF~~ DEVELOPMENT SERVICES AGENCY 79450

General Revenue Fund 79451

GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0 79452

GRF 195402 Coal ~~Development~~ \$ 260,983 \$ 261,205 79453

Office Research

Operating

GRF 195404 Small Business \$ 1,565,770 \$ 0 79454

Development

GRF 195405 Minority Business \$ 1,118,528 \$ 0 79455

Enterprise Division

GRF 195407 Travel and Tourism \$ 5,000,000 \$ ~~0~~ 5,000,000 79456

GRF 195412 Rapid Outreach Grants \$ 9,000,000 \$ 0 79457

GRF 195415 ~~Strategic~~ Business \$ 4,500,000 \$ ~~0~~ 2,413,387 79458

~~Investment Division~~

~~and Regional Offices~~

Development Services

GRF 195416 Governor's Office of \$ 3,700,000 \$ ~~3,700,000~~ 0 79459

Appalachia

GRF 195422 Technology Action \$ 547,341 \$ 0 79460

GRF 195426 Clean Ohio \$ 468,365 \$ ~~0~~ 468,365 79461

Implementation

GRF 195432 Global Markets \$ 3,500,000 \$ 0 79462

GRF 195434 Industrial Training \$ 10,000,000 \$ 0 79463

Grants

GRF 195497 CDBG Operating Match \$ 1,015,000 \$ ~~0~~ 1,015,000 79464

| | | | | | | | |
|-----------------------------|----------------------|---|---------------|--------------|---------------|--|-------|
| GRF | 195501 | Appalachian Local Development Districts | \$ | 391,482 | \$ | 391,482 0 | 79465 |
| GRF | 195502 | Appalachian Regional Commission Dues | \$ | 195,000 | \$ | 195,000 0 | 79466 |
| GRF | 195528 | Economic Development Projects | \$ | 0 | \$ | 26,943,518 | 79467 |
| GRF | <u>195532</u> | <u>Technology Programs and Grants</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>13,547,341</u> | 79468 |
| GRF | <u>195533</u> | <u>Business Assistance</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>5,899,465</u> | 79469 |
| GRF | <u>195535</u> | <u>Appalachia Assistance</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>4,286,482</u> | 79470 |
| GRF | 195901 | Coal Research & Development General Obligation Debt Service | \$ | 7,861,100 | \$ | 5,577,700 | 79471 |
| GRF | 195905 | Third Frontier Research & Development General Obligation Debt Service | \$ | 29,323,300 | \$ | 63,640,300 | 79472 |
| GRF | 195912 | Job Ready Site Development General Obligation Debt Service | \$ | 9,859,200 | \$ | 15,680,500 | 79473 |
| TOTAL GRF | General Revenue Fund | | \$ | 103,126,423 | \$ | 116,389,705 <u>118,039,745</u> | 79474 |
| General Services Fund Group | | | | | | | 79475 |
| 1350 | 195684 | Supportive Development Services <u>Operations</u> | \$ | 11,700,000 | \$ | 11,700,000 | 79476 |
| 4W10 | 195646 | Minority Business Enterprise Loan | \$ | 2,500,000 | \$ | 2,500,000 | 79477 |
| 5AD0 | 195633 | Legacy Projects | \$ | 15,000,000 | \$ | 15,000,000 <u>18,600,000</u> | 79478 |

Am. Sub. H. B. No. 487
As Reported by the Committee of Conference

| | | | | | | | |
|------------------------------------|---------------|---|----|------------|----|--|-------|
| 5AD0 | 195677 | Economic Development Contingency | \$ | 10,000,000 | \$ | 0 | 79479 |
| <u>5MB0</u> | <u>195623</u> | <u>Business Incentive Grants</u> | \$ | <u>0</u> | \$ | <u>20,000,000</u> | 79480 |
| <u>5MB0</u> | <u>195637</u> | <u>Workforce Training Grants</u> | \$ | <u>0</u> | \$ | <u>10,000,000</u> | 79481 |
| 5W50 | 195690 | Travel and Tourism Cooperative Projects | \$ | 50,000 | \$ | 50,000 | 79482 |
| 6850 | 195636 | Direct Cost Recovery <u>Development Services</u> <u>Reimbursable</u> Expenditures | \$ | 750,000 | \$ | 750,000 | 79483 |
| TOTAL GSF General Services Fund | | | | | | | 79484 |
| Group | | | \$ | 40,000,000 | \$ | 30,000,000 <u>63,600,000</u> | 79485 |
| Federal Special Revenue Fund Group | | | | | | | 79486 |
| 3080 | 195602 | Appalachian Regional Commission | \$ | 475,000 | \$ | 475,000 | 79487 |
| 3080 | 195603 | Housing and Urban Development <u>Assistance Programs</u> | \$ | 6,000,000 | \$ | 6,000,000 | 79488 |
| 3080 | 195605 | Federal Projects | \$ | 85,028,606 | \$ | 85,470,106 <u>0</u> | 79489 |
| 3080 | 195609 | Small Business Administration <u>Grants</u> | \$ | 6,438,143 | \$ | 5,511,381 | 79490 |
| 3080 | 195618 | Energy Federal Grants | \$ | 38,000,000 | \$ | 3,400,000 | 79491 |
| <u>3080</u> | <u>195670</u> | <u>Home Weatherization Program</u> | \$ | <u>0</u> | \$ | <u>72,670,106</u> | 79492 |
| <u>3080</u> | <u>195671</u> | <u>Brownfield Redevelopment</u> | \$ | <u>0</u> | \$ | <u>6,800,000</u> | 79493 |
| <u>3080</u> | <u>195672</u> | <u>Manufacturing Extension Partnership</u> | \$ | <u>0</u> | \$ | <u>6,000,000</u> | 79494 |
| 3350 | 195610 | Energy Conservation and Emerging | \$ | 1,100,000 | \$ | 1,100,000 | 79495 |

| | | <u>Technology Programs</u> | | | | | |
|-------------|---------------|--|----|-------------|----|------------------------|-------|
| 3AE0 | 195643 | Workforce Development Initiatives | \$ | 16,300,000 | \$ | 16,300,000 | 79496 |
| 3DB0 | 195642 | Federal Stimulus - Energy Efficiency & Conservation Block Grants | \$ | 3,000,000 | \$ | 42,485 | 79497 |
| 3EG0 | 195608 | Federal <u>Energy Sector Training Grants</u> | \$ | 5,000,000 | \$ | 1,344,056 | 79498 |
| 3K80 | 195613 | Community Development Block Grant | \$ | 76,795,818 | \$ | 65,210,000 | 79499 |
| 3K90 | 195611 | Home Energy Assistance Block Grant | \$ | 115,743,608 | \$ | 115,743,608 | 79500 |
| 3K90 | 195614 | HEAP Weatherization | \$ | 22,000,000 | \$ | 22,000,000 | 79501 |
| 3L00 | 195612 | Community Services Block Grant | \$ | 27,240,217 | \$ | 27,240,217 | 79502 |
| 3V10 | 195601 | HOME Program | \$ | 40,000,000 | \$ | 40,000,000 | 79503 |
| TOTAL FED | | Federal Special Revenue Fund Group | \$ | 443,121,392 | \$ | 389,836,853 | 79504 |
| | | State Special Revenue Fund Group | | | | | 79506 |
| 4500 | 195624 | Minority Business Bonding Program Administration | \$ | 160,110 | \$ | 159,069 | 79507 |
| 4510 | 195625 | Economic Development Financing Operating | \$ | 3,000,000 | \$ | 3,000,000 0 | 79508 |
| <u>4510</u> | <u>195649</u> | <u>Business Assistance Programs</u> | \$ | 0 | \$ | <u>3,700,800</u> | 79509 |
| 4F20 | 195639 | State Special Projects | \$ | 180,437 | \$ | 180,436 | 79510 |
| 4F20 | 195676 | Marketing Initiatives | \$ | 5,000,000 | \$ | 0 | 79511 |
| 4F20 | 195699 | Utility Provided Funds <u>Community Assistance</u> | \$ | 500,000 | \$ | 500,000 | 79512 |
| 4S00 | 195630 | Tax Incentive Programs | \$ | 650,800 | \$ | 650,800 0 | 79513 |

| | | | | | | | |
|-------------|---------------|--|----|-------------|----|--|-------|
| 5CG0 | 195679 | Alternative Fuel Transportation | \$ | 750,000 | \$ | 750,000 | 79514 |
| 5HJ0 | 195604 | Motion Picture Tax Credit Program | \$ | 50,000 | \$ | 50,000 0 | 79515 |
| 5HR0 | 195526 | Ohio Incumbent Workforce Job Training <u>Vouchers</u> | \$ | 20,000,000 | \$ | 30,000,000 | 79516 |
| 5HR0 | 195622 | Defense Development Assistance | \$ | 5,000,000 | \$ | 5,000,000 | 79517 |
| <u>5JR0</u> | <u>195635</u> | <u>Redevelopment Program</u> <u>Support</u> | \$ | 0 | \$ | <u>100,000</u> | 79518 |
| 5JR0 | 195656 | New Market Tax Credit Program | \$ | 50,000 | \$ | 50,000 0 | 79519 |
| 5KD0 | 195621 | Brownfield Stormwater Loan | \$ | 50,000 | \$ | 50,000 0 | 79520 |
| 5KN0 | 195640 | Local Government Innovation | \$ | 175,000 | \$ | 44,825,000 | 79521 |
| <u>5LK0</u> | <u>195655</u> | <u>Workforce Development</u> <u>Programs</u> | \$ | 0 | \$ | <u>10,000,000</u> | 79522 |
| 5M40 | 195659 | Low Income Energy Assistance (<u>USF</u>) | \$ | 245,000,000 | \$ | 245,000,000 | 79523 |
| 5M50 | 195660 | Advanced Energy <u>Loan</u> Programs | \$ | 8,000,000 | \$ | 0 | 79524 |
| 5W60 | 195691 | International Trade Cooperative Projects | \$ | 160,000 | \$ | 160,000 | 79525 |
| 6170 | 195654 | Volume Cap Administration | \$ | 94,397 | \$ | 92,768 | 79526 |
| 6460 | 195638 | Low- and Moderate- Income Housing Trust Fund | \$ | 53,000,000 | \$ | 53,000,000 | 79527 |
| TOTAL SSR | | State Special Revenue | | | | | 79528 |
| Fund Group | | | \$ | 341,820,744 | \$ | 383,468,073 <u>393,468,073</u> | 79529 |

| | | | | |
|--|--------|--|-------------------------------|-------|
| Facilities Establishment Fund Group | | | | 79530 |
| 5S90 | 195628 | Capital Access Loan Program | \$ 1,500,000 \$ 1,500,000 | 79531 |
| 7009 | 195664 | Innovation Ohio | \$ 15,000,000 \$ 15,000,000 | 79532 |
| 7010 | 195665 | Research and Development | \$ 22,000,000 \$ 22,000,000 | 79533 |
| 7037 | 195615 | Facilities Establishment | \$ 50,000,000 \$ 50,000,000 | 79534 |
| TOTAL 037 Facilities Establishment Fund Group | | | | 79535 |
| Clean Ohio Revitalization Fund | | | | 79537 |
| 7003 | 195663 | Clean Ohio Operating Program | \$ 950,000 \$ 950,000 | 79538 |
| TOTAL 7003 Clean Ohio Revitalization Fund | | | | 79539 |
| Third Frontier Research & Development Fund Group | | | | 79540 |
| 7011 | 195686 | Third Frontier Operating | \$ 1,149,750 \$ 1,149,750 | 79541 |
| 7011 | 195687 | Third Frontier Research & Development Projects | \$ 183,850,250 \$ 133,850,250 | 79542 |
| 7014 | 195620 | Third Frontier Operating - Tax | \$ 1,700,000 \$ 1,700,000 | 79543 |
| 7014 | 195692 | Research & Development Taxable Bond Projects | \$ 38,300,000 \$ 38,300,000 | 79544 |
| TOTAL 011 Third Frontier Research & Development Fund Group | | | | 79545 |
| Job Ready Site Development Fund Group | | | | 79546 |
| 7012 | 195688 | Job Ready Site Operating Program | \$ 800,000 \$ 800,000 | 79547 |
| TOTAL 012 Job Ready Site Development Fund Group | | | | 79548 |

Development Fund Group

| | | | | | |
|--|----|---------------|----|--------------------------|-------|
| Tobacco Master Settlement Agreement Fund Group | | | | 79549 | |
| M087 195435 Biomedical Research | \$ | 1,999,224 | \$ | 1,999,224 | 79550 |
| and Technology | | | | | |
| Transfer | | | | | |
| TOTAL TSF Tobacco Master Settlement | \$ | 1,999,224 | \$ | 1,999,224 | 79551 |
| Agreement Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,245,317,783 | \$ | 1,186,943,855 | 79552 |
| | | | | <u>1,232,193,895</u> | |

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 79554

The foregoing appropriation item 195640, Local Government 79555
Innovation, shall be used for the purposes of making loans and 79556
grants to political subdivisions under the Local Government 79557
Innovation Program in accordance with sections 189.01 to 189.10 of 79558
the Revised Code. Of the foregoing appropriation item 195640, 79559
Local Government Innovation, up to \$175,000 in fiscal year 2012 79560
and \$175,000 in fiscal year 2013 shall be used for administrative 79561
costs incurred by the ~~Department of Development~~ Services Agency. 79562

On the effective date of this amendment, or as soon as 79563
possible thereafter, the Director of Budget and Management shall 79564
transfer \$175,000 in cash from the General Revenue Fund to the 79565
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 79566
as soon as possible thereafter, the Director of Budget and 79567
Management shall transfer \$44,825,000 in cash from the General 79568
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 79569

Section 601.47. That existing Sections 261.10 and 261.20.93 79570
of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 79571
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 79572

Section 601.48. That Section 8 of Sub. H.B. 369 of the 129th 79573
General Assembly be amended to read as follows: 79574

Sec. 8. (A) There is hereby created the Redistricting Reform Task Force, comprised of eight members of the General Assembly who shall be equally divided between the members of the two major political parties. Not later than thirty days after the effective date of this section, the legislative leader of the majority caucus and the legislative leader of the minority caucus in each house of the General Assembly shall each appoint two members to the Task Force.

The Task Force shall be co-chaired by two members, one from each major political party. The legislative leaders in the House of Representatives and in the Senate who are members of the same political party shall jointly appoint a chairperson.

(B) The purpose of the Task Force shall be to create a redistricting reform proposal for consideration by the General Assembly during 2012.

(C) The Task Force shall issue a report, not later than ~~June 30~~ December 15, 2012, that includes the Task Force's recommendations for reforming the redistricting process.

(D) The Task Force shall hold a minimum of three public hearings, one of which shall be conducted after the Task Force issues its report, to allow for meaningful public discussion of the recommendations included in the report.

Section 601.49. That existing Section 8 of Sub. H.B. 369 of the 129th General Assembly is hereby repealed.

Section 601.49.10. That Section 205.80 of Sub. H.B. 482 of the 129th General Assembly be amended to read as follows:

Sec. 205.80. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit

of the Clean Ohio Trail Fund (Fund 7061) that are not otherwise 79603
appropriated. 79604

DNR DEPARTMENT OF NATURAL RESOURCES 79605

| | Appropriations | |
|---------------------------------------|----------------|-------|
| C72514 Clean Ohio Local Grants | \$ 6,000,000 | 79606 |
| Total Department of Natural Resources | \$ 6,000,000 | 79607 |
| TOTAL Clean Ohio Trail Fund | \$ 6,000,000 | 79608 |

~~Notwithstanding divisions (B) and (C) of section 151.09 and 79609
division (B) of section 1519.05 of the Revised Code, upon receipt 79610
of a certification from the Department of Natural Resources of the 79611
amount needed to pay the costs of projects appropriated from the 79612
Clean Ohio Trail Fund (Fund 7061) created by section 1519.05 of 79613
the Revised Code, the Ohio Public Facilities Commission shall 79614
issue obligations as defined in division (A) of section 151.09 of 79615
the Revised Code in the amount determined to be authorized and 79616
necessary for that purpose, and, for the period from July 1, 2012 79617
through June 30, 2014, net proceeds of obligations issued and sold 79618
pursuant to sections 151.01 and 151.09 of the Revised Code shall 79619
be deposited solely into the Clean Ohio Trail Fund. 79620~~

Section 601.49.11. That existing Section 205.80 of Sub. H.B. 79621
482 of the 129th General Assembly is hereby repealed. 79622

Section 601.50. That Section 4 of Sub. S.B. 171 of the 129th 79623
General Assembly be amended to read as follows: 79624

Sec. 4. The following agencies are retained under division 79625
(D) of section 101.83 of the Revised Code and expire on December 79626
31, 2016: 79627

| AGENCY NAME | REVISED CODE OR | 79628 |
|-------------|-----------------|-------|
| | UNCODIFIED | |
| | SECTION | |

| | | |
|--|----------------------|-------|
| Academic Distress Commission | 3302.10 | 79629 |
| Advisory Board of Governor's Office of Faith-Based and Community Initiatives | 107.12 | 79630 |
| Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence | 3323.33, 3323.34 | 79631 |
| Advisory Council on Amusement Ride Safety | 1711.51, 1711.52 | 79632 |
| Advisory Council of Directors for Prison Labor | 5145.162 | 79633 |
| Advisory Council for Wild, Scenic, or Recreational River Area(s) | 1547.84 | 79634 |
| Advisory Committee on Livestock Exhibitions | 901.71 | 79635 |
| Agricultural Commodity Marketing Programs Operating Committees | 924.07 | 79636 |
| Agricultural Commodity Marketing Programs Coordinating Committee | 924.14 | 79637 |
| Alternative Energy Advisory Committee | 4928.64(D) | 79638 |
| AMBER Alert Advisory Committee | 5502.521 | 79639 |
| Apprenticeship Council | Chapter 4139. | 79640 |
| Armory Board of Control | 5911.09, 5911.12 | 79641 |
| Automated Title Processing Board | 4505.09(C)(1) | 79642 |
| Backflow Advisory Board | 3703.21 | 79643 |
| Banking Commission | 1123.01 | 79644 |
| Board of Directors of the Great Lakes Protection Fund | 1506.22 (6161.04) | 79645 |
| Board of Directors of the Medical Liability Underwriting Association Stabilization Fund | 3929.631 | 79646 |
| Board of Directors of the Ohio Appalachian Center for Higher Education | 3333.58 | 79647 |
| Board of Directors of the Ohio Health Reinsurance Program | 3924.08 - 3924.11 | 79648 |
| Board of Governors of the Commercial Insurance Joint Underwriting Association | 3930.03 | 79649 |
| Board of Governors of the Medical Liability | 3929.64 | 79650 |

| | | |
|--|-----------------------|-------|
| Underwriting Association | | |
| Board of Voting Machines Examiners | 3506.05 | 79651 |
| Budget Planning and Management Commission | Section 509.10, | 79652 |
| | H.B. 1, 128th | |
| | G.A. | |
| Brain Injury Advisory Committee | 3304.231 | 79653 |
| Bureau of Workers' Compensation Board of Directors | 4121.12 | 79654 |
| Capitol Square Review and Advisory Board | 105.41 | 79655 |
| Child Care Advisory Council | 5104.08 | 79656 |
| Child Support Guideline Advisory Council | 3119.024 | 79657 |
| Children's Trust Fund Board | 3109.15 - 3109.17 | 79658 |
| Citizen's Advisory Council | 5123.092, 5123.093 | 79659 |
| Clean Ohio Trail Advisory Board | 1519.06 | 79660 |
| Coastal Resources Advisory Council | 1506.12 | 79661 |
| Commission on African-American Males | 4112.12, 4112.13 | 79662 |
| Commission on Hispanic-Latino Affairs | 121.31 | 79663 |
| Commission on Minority Health | 3701.78 | 79664 |
| Committee on Prescriptive Governance | 4723.49 - 4723.492 | 79665 |
| Commodity Advisory Commission | 926.32 | 79666 |
| Consumer Advisory Committee to the Rehabilitation Services Commission | 3304.24 | 79667 |
| Continuing Education Committee | 109.80(B) | 79668 |
| Council on Alcohol and Drug Addiction Services | 3793.09 | 79669 |
| Council on Unreclaimed Strip Mined Lands | 1513.29 | 79670 |
| County Sheriff's Standard Car Marking and Uniform Commission | 311.25 - 311.27 | 79671 |
| Credential Review Board | 3319.65 | 79672 |
| Credit Union Council | 1733.329 | 79673 |
| Criminal Sentencing Advisory Committee | 181.22 | 79674 |

| | | |
|---|-----------------------------------|-------|
| Data Collection and Analysis Group | 3727.32 | 79675 |
| Dentist Loan Repayment Advisory Board | 3702.92 | 79676 |
| Department Advisory Council(s) | 107.18, 121.13 | 79677 |
| Development Financing Advisory Council | 122.40, 122.41 | 79678 |
| Early Childhood Advisory Council | 3301.90 | 79679 |
| Education Commission of the States (Interstate Compact for Education) | 3301.48, 3301.49 | 79680 |
| Education Management Information System Advisory Board | 3301.0713 | 79681 |
| Educator Standards Board | 3319.60 | 79682 |
| Electrical Safety Inspector Advisory Committee | 3783.08 | 79683 |
| Emergency Response Commission | 3750.02 | 79684 |
| Engineering Experiment Station Advisory Committee | 3335.27 | 79685 |
| Environmental Education Council | 3745.21 | 79686 |
| Environmental Protection Agency Advisory Board(s) | 121.13, 3704.03, 3745.01 | 79687 |
| eTech Ohio Commission | 3353.02 - 3353.04 | 79688 |
| Ex-Offender Reentry Coalition | 5120.07 | 79689 |
| Farmland Preservation Advisory Board | 901.23 | 79690 |
| Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township | 118.05 | 79691 |
| Financial Planning and Supervision Commission for a school district | 3316.05 | 79692 |
| Forestry Advisory Council | 1503.40 | 79693 |
| Governance Authority for a State University or College | 3345.75 | 79694 |
| Governor's Council on People with Disabilities | 3303.41 | 79695 |
| Governor's Policy Information Working Group | Section 313, H.B. 420, 127th G.A. | 79696 |
| Governor's Residence Advisory Commission | 107.40 | 79697 |
| Grain Marketing Program Operating Committee | 924.20 - 924.30 | 79698 |

| | | |
|---|---|-------|
| Great Lakes Commission (Great Lakes Basin Compact) | 6161.01 | 79699 |
| Gubernatorial Transition Committee | 107.29, 126.26 | 79700 |
| Help Me Grow Advisory Council | 3701.611 | 79701 |
| Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council | 3701.0210 | 79702 |
| Homeland Security Advisory Council | 5502.011(E) | 79703 |
| Hospital Measures Advisory Council | 3727.31 | 79704 |
| Housing Trust Fund Advisory Committee | 174.06 | 79705 |
| Industrial Commission Nominating Council | 4121.04 | 79706 |
| Industrial Technology and Enterprise Advisory Council | 122.29, 122.30 | 79707 |
| Infant Hearing Screening Subcommittee | 3701.507 | 79708 |
| Infection Control Group | 3727.312(D) | 79709 |
| Insurance Agent Education Advisory Council | 3905.483 | 79710 |
| Interstate Rail Passenger Advisory Council | 4981.35 | 79711 |
| Joint Select Committee on Volume Cap | 133.021 | 79712 |
| Labor-Management Government Advisory Council | 4121.70 | 79713 |
| Legislative Programming Committee of the Ohio Government Telecommunications Service | 3353.07 | 79714 |
| Legislative Task Force on Redistricting, Reapportionment, and Demographic Research | 103.51 | 79715 |
| Maternity and Newborn Advisory Council | 3711.20, 3711.21 | 79716 |
| Medically Handicapped Children's Medical Advisory Council | 3701.025 | 79717 |
| Midwest Interstate Passenger Rail Compact Commission | 4981.361 | 79718 |
| Milk Sanitation Board | 917.03 - 917.032 | 79719 |
| Mine Subsidence Insurance Governing Board | 3929.51 | 79720 |
| Minority Development Financing Advisory Board | 122.72, 122.73 | 79721 |
| Multi-Agency Radio Communications System (MARCS) Steering Committee | Section 15.02, H.B. 640, 123rd G.A. | 79722 |

| | | |
|--|------------------|-------|
| National Museum of Afro-American History and Culture Planning Committee | 149.303 | 79723 |
| New African Immigrants Commission | 4112.31, 4112.32 | 79724 |
| Ohio Accountability Task Force | 3302.021(E) | 79725 |
| Ohio Advisory Council for the Aging | 173.03 | 79726 |
| Ohio Agriculture License Plate Scholarship Fund Board | 901.90 | 79727 |
| Ohio Arts Council | Chapter 3379. | 79728 |
| Ohio Business Gateway Steering Committee | 5703.57 | 79729 |
| Ohio Cemetery Dispute Resolution Commission | 4767.05, 4767.06 | 79730 |
| Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils | 4112.04(B)(4) | 79731 |
| Ohio Commercial Market Assistance Plan Executive Committee | 3930.02 | 79732 |
| Ohio Commission on Dispute Resolution and Conflict Management | 179.02 - 179.04 | 79733 |
| Ohio Commission on Fatherhood | 5101.34 | 79734 |
| Ohio Community Service Council | 121.40 - 121.404 | 79735 |
| Ohio Council for Interstate Adult Offender Supervision | 5149.22 | 79736 |
| Ohio Cultural Facilities Commission | Chapter 3383. | 79737 |
| Ohio Cystic Fibrosis Legislative Task Force | 101.38 | 79738 |
| Ohio Developmental Disabilities Council | 5123.35 | 79739 |
| Ohio Expositions Commission | 991.02 | 79740 |
| Ohio Family and Children First Cabinet Council | 121.37 | 79741 |
| Ohio Geographically Referenced Information Program Council | 125.901, 125.902 | 79742 |
| Ohio Geology Advisory Council | 1501.11 | 79743 |
| Ohio Grape Industries Committee | 924.51 - 924.55 | 79744 |
| Ohio Historic Site Preservation Advisory Board | 149.301 | 79745 |
| Ohio Historical Society Board of Trustees | 149.30 | 79746 |
| Ohio Judicial Conference | 105.91 - 105.97 | 79747 |
| Ohio Lake Erie Commission | 1506.21 | 79748 |

| | | |
|--|--|-------|
| Ohio Legislative Commission on the Education and Preservation of State History | Section 701.05, H.B. 1, 128th G.A. | 79749 |
| Ohio Medical Quality Foundation | 3701.89 | 79750 |
| Ohio Parks and Recreation Council | 1541.40 | 79751 |
| Ohio Peace Officer Training Commission | 109.71, 109.72 | 79752 |
| Ohio Private Investigation and Security Services Commission | 4749.021, 4743.01 | 79753 |
| Ohio Public Defender Commission | 120.01 - 120.03 | 79754 |
| Ohio Public Library Information Network Board of Trustees | 3375.65, 3375.66 | 79755 |
| Ohio Quarter Horse Development Commission | 3769.086 | 79756 |
| Ohio Small Government Capital Improvements Commission | 164.02(C)(D) | 79757 |
| Ohio Soil and Water Conservation Commission | 1515.02 | 79758 |
| Ohio Standardbred Development Commission | 3769.085 | 79759 |
| Ohio Subrogation Rights Commission | 2323.44 | 79760 |
| Ohio Thoroughbred Racing Advisory Committee | 3769.084 | 79761 |
| Ohio Transportation Finance Commission | 5531.12(B) to (D) | 79762 |
| Ohio Tuition Trust Authority | 3334.03, 3334.08 | 79763 |
| Ohio University College of Osteopathic Medicine Advisory Committee | 3337.10, 3337.11 | 79764 |
| Ohio Vendors Representative Committee | 3304.34, 20 USC 107 | 79765 |
| Ohio War Orphans Scholarship Board | 5910.02 - 5910.06 | 79766 |
| Ohio Water Advisory Council | 1521.031 | 79767 |
| Ohio Water Resources Council Advisory Group | 1521.19 | 79768 |
| Ohio Water Resources Council | 1521.19 | 79769 |
| Oil and Gas Commission | 1509.35 | 79770 |
| Operating Committee of the Oil and Gas Marketing Program | 1510.06, 1510.11 | 79771 |

| | | |
|---|--|-------|
| Organized Crime Investigations Commission | 177.01 | 79772 |
| Pharmacy and Therapeutics Committee of the Department of Job and Family Services | 5111.084 | 79773 |
| Physician Assistant Policy Committee of the State Medical Board | 4730.05, 4730.06 | 79774 |
| Physician Loan Repayment Advisory Board | 3702.81 | 79775 |
| Power Siting Board | 4906.02 | 79776 |
| Prequalification Review Board | 5525.07 | 79777 |
| Private Water Systems Advisory Council | 3701.346 | 79778 |
| Public Health Council | 3701.33, 3701.34 | 79779 |
| Public Utilities Commission Nominating Council | 4901.021 | 79780 |
| Public Utility Property Tax Study Committee | 5727.85(K) | 79781 |
| Radiation Advisory Council | 3748.20 | 79782 |
| Reclamation Commission | 1513.05 | 79783 |
| Reclamation Forfeiture Fund Advisory Board | 1513.182 | 79784 |
| Recreation and Resources Commission | 1501.04 | 79785 |
| Recycling and Litter Prevention Advisory Council | 1502.04 | 79786 |
| School and Ministerial Lands Divestiture Committee | 501.041 | 79787 |
| Savings and Loan Associations and Savings Banks Board | 1181.16 | 79788 |
| Second Chance Trust Fund Advisory Committee | 2108.35 | 79789 |
| Service Coordination Workgroup | Section 751.20, H.B. 1, 128th G.A. | 79790 |
| Ski Tramway Board | 4169.02 | 79791 |
| Small Business Stationary Source Technical and Environmental Compliance Assistance Council | 3704.19 | 79792 |
| Solid Waste Management Advisory Council | 3734.51 | 79793 |
| Special Commission to Consider the Suspension of Local Government Officials | 3.16 | 79794 |
| Speed to Scale Task Force | Section 375.60.80, H.B. | 79795 |

| | | |
|--|----------------------|-------|
| | 119, 128th G.A. | |
| State Agency Coordinating Group | 1521.19 | 79796 |
| State Audit Committee | 126.46 | 79797 |
| State Council of Uniform State Laws | 105.21 - 105.27 | 79798 |
| State Criminal Sentencing Commission | 181.22 - 181.26 | 79799 |
| State Fire Council | 3737.81 | 79800 |
| State Library Board | 3375.01 | 79801 |
| State Victims Assistance Advisory Council | 109.91(B) and (C) | 79802 |
| Statewide Consortium of County Law Library | 3375.481 | 79803 |
| Resource Boards | | |
| STEM Committee | 3326.02 | 79804 |
| Student Tuition Recovery Authority | 3332.081 | 79805 |
| Sunset Review Committee | 101.84 - 101.87 | 79806 |
| Tax Credit Authority | 122.17(M) | 79807 |
| Technical Advisory Committee to Assist Director of the Ohio Coal Development Office | 1551.35 | 79808 |
| Technical Advisory Council on Oil and Gas | 1509.38 | 79809 |
| Transportation Review Advisory Council | 5512.07 - 5512.09 | 79810 |
| Unemployment Compensation Advisory Council | 4141.08 | 79811 |
| Unemployment Compensation Review Commission | 4141.06 | 79812 |
| Veterans Advisory Committee | 5902.02(K) | 79813 |
| Volunteer Fire Fighters' Dependents Fund Boards (private volunteer) | 146.02 - 146.06 | 79814 |
| Volunteer Fire Fighters' Dependents Fund Boards (public) | 146.02 - 146.06 | 79815 |
| Water and Sewer Commission | 1525.11(C) | 79816 |
| Waterways Safety Council | 1547.73 | 79817 |
| Wildlife Council | 1531.03 - 1531.05 | 79818 |
| Workers' Compensation Board of Directors | 4121.123 | 79819 |
| Nominating Committee | | |

Section 601.51. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly is hereby repealed. 79820
79821

Section 610.10. That Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly be amended to read as follows: 79822
79823

Sec. 3. Sections 109.57, 109.572, 2950.08, and 2953.32, ~~and 3701.881~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly regarding employment of persons who provide direct care to older adults, and sections ~~173.41,~~ 3712.09, 3721.121, and 3722.151 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly, apply only to persons who apply for employment on or after ~~the effective date of this act~~ January 27, 1997. 79824
79825
79826
79827
79828
79829
79830
79831

Section 610.11. That existing Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly is hereby repealed. 79832
79833

Section 620.10. That Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly be amended to read as follows: 79834
79835

Sec. 3. Sections 3301.54, and 5104.09, ~~and 5126.28~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 38 of the 120th General Assembly, and sections 109.572, 2151.86, 3301.32, 3301.541, ~~3319.311~~ 3319.39, ~~3701.881,~~ 5104.012, 5104.013, and 5153.111 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 38 of the 120th General Assembly, apply only to persons who apply for employment for a position on or after ~~the effective date of this act~~ October 29, 1993. 79836
79837
79838
79839
79840
79841
79842
79843

Section 620.11. That existing Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly is hereby repealed. 79844
79845

Section 650.10. That Sections 261.10.10, 261.10.20, 79846
261.10.30, 261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 79847
261.20.20, 261.20.70, 261.30.50, and 263.10.80 of Am. Sub. H.B. 79848
153 of the 129th General Assembly are hereby repealed. 79849

Section 701.10.10. OHIO STATEHOUSE SAFETY AND SECURITY STUDY 79850

The Capitol Square Review and Advisory Board and the 79851
Department of Public Safety jointly shall contract for a study of 79852
the safety and security of the Ohio Statehouse complex, including 79853
the buildings, parking garage, and grounds. The Board and the 79854
Department jointly shall determine with whom to contract. The 79855
study shall include recommendations for security protocols while 79856
providing for the health, safety, and convenience of those who 79857
work in, or visit, the statehouse. The report shall be submitted 79858
to the Capitol Square Review and Advisory Board for adoption not 79859
later than December 1, 2012. 79860

Section 701.23. As used in this section, "political 79861
subdivision" has the meaning defined in section 2744.01 of the 79862
Revised Code. 79863

The Auditor of State shall establish, operate, and maintain 79864
one or more web sites to serve as an online clearinghouse of 79865
information about streamlining government operations, 79866
collaboration, and shared services to reduce the cost of 79867
government in this state. The web site may be developed by the 79868
Auditor of State or through the use of outside vendors. Existing 79869
web sites may be used if their content conforms to the 79870
requirements of this section. In establishing, maintaining, and 79871
operating the online clearinghouse web site, the Auditor of State 79872
shall: 79873

(A) Use a domain name for the web site that will be easily 79874
recognized, remembered, and understood by the users of the web 79875

site; 79876

(B) Maintain the web site so that it is fully accessible to 79877
and searchable by members of the public at all times; 79878

(C) Not charge a fee to a person who accesses, searches, or 79879
otherwise uses the web site; 79880

(D) Compile information provided by political subdivisions 79881
that includes savings recommendations from performance audits, 79882
examples of shared services among communities, shared services 79883
agreements to use as templates, and other tools developed 79884
independently by the Auditor of State or requested by political 79885
subdivisions and agreed to by the Auditor of State; 79886

(E) Enable political subdivisions to register and request 79887
inclusion of their submitted information on the web site, as well 79888
as to report state and local barriers to collaboration; 79889

(F) Enable information to be accessed by key word or other 79890
useful identifiers; 79891

(G) Maintain adequate systemic security and back-up features, 79892
and develop and maintain a contingency plan for coping with and 79893
recovering from power outages, systemic failures, and other 79894
unforeseen difficulties; and 79895

(H) Maintain the web site in such a manner that it will not 79896
infringe legally protected interests, so that vulnerability of the 79897
web site to interruption because of litigation or the threat of 79898
litigation is reduced. 79899

Section 701.33. As used in this section, "political 79900
subdivision" has the meaning defined in section 2744.01 of the 79901
Revised Code. 79902

The Department of Administrative Services, by itself or by 79903
contract with another entity, shall establish, operate, and 79904
maintain a web site to serve as an online clearinghouse of 79905

information about existing joint purchasing programs between or 79906
among political subdivisions in the state. In establishing, 79907
maintaining, and operating the online clearinghouse web site, the 79908
department shall: 79909

(A) Use a domain name for the web site that will be easily 79910
recognized, remembered, and understood by the users of the web 79911
site; 79912

(B) Maintain the web site so that it is fully accessible to 79913
and searchable by members of the public at all times; 79914

(C) Not charge a fee to a person who accesses, searches, or 79915
otherwise uses the web site; 79916

(D) Compile information provided by political subdivisions 79917
about joint purchasing arrangements they are involved in that the 79918
department verifies, through meetings with various statewide 79919
associations and others, to have resulted in verifiable cost 79920
savings, and consolidate that information on the web site in a 79921
consistent manner; 79922

(E) Enable political subdivisions to register and request 79923
inclusion of their submitted information on the web site; 79924

(F) Enable information to be accessed by key word, by program 79925
name, by county, by type of product or service, and by other 79926
useful identifiers; 79927

(G) Maintain adequate systemic security and back-up features, 79928
and develop and maintain a contingency plan for coping with and 79929
recovering from power outages, systemic failures, and other 79930
unforeseen difficulties; and 79931

(H) Maintain the web site in such a manner that it will not 79932
infringe legally protected interests, so that vulnerability of the 79933
web site to interruption because of litigation or the threat of 79934
litigation is reduced. 79935

The department shall bear the expense of establishing, 79936
operating, and maintaining the online clearinghouse web site. 79937

Section 701.41. The Department of Administrative Services 79938
shall analyze opportunities to reduce travel expenses through 79939
teleconferencing and web conferencing within state government. The 79940
Department shall assess current teleconferencing capabilities 79941
within state government operations, research industry standards 79942
and best practices, and make recommendations that will optimize 79943
the use of these technologies. Not later than December 31, 2012, 79944
the Department of Administrative Services shall produce a report 79945
with its findings and shall deliver the report to the Speaker and 79946
Minority Leader of the House of Representatives, the President and 79947
Minority Leader of the Senate, and the Governor. 79948

Section 701.50. MARCS STEERING COMMITTEE AND STATEWIDE 79949
COMMUNICATIONS SYSTEM 79950

There is hereby created a Multi-Agency Radio Communications 79951
System (MARCS) Steering Committee consisting of the designees of 79952
the Directors of Administrative Services, Public Safety, Natural 79953
Resources, Transportation, Rehabilitation and Correction, and 79954
Budget and Management, and the State Fire Marshal or the State 79955
Fire Marshal's designee. The Director of Administrative Services 79956
or the Director's designee shall chair the Committee. The 79957
Committee shall provide assistance to the Director of 79958
Administrative Services for effective and efficient implementation 79959
of the MARCS system as well as develop policies for the ongoing 79960
management of the system. Upon dates prescribed by the Directors 79961
of Administrative Services and Budget and Management, the MARCS 79962
Steering Committee shall report to the Directors on the progress 79963
of MARCS implementation and the development of policies related to 79964
the system. 79965

Section 701.60. As used in this section, "business day" means 79966
a day of the week, excluding Saturday, Sunday, or a legal holiday 79967
as defined in section 1.14 of the Revised Code. 79968

Any regional council of governments that was formed and is 79969
operating before the effective date of the amendment by this act 79970
of section 167.04 of the Revised Code shall notify the Auditor of 79971
State of its existence within 30 business days after the effective 79972
date of that amendment, and shall provide on a form prescribed by 79973
the Auditor of State the information required under that section. 79974
The Auditor of State shall review the information and, within one 79975
year after the effective date of that amendment, shall issue a 79976
report to the Governor and the General Assembly. The report shall 79977
address how many regional councils of governments are operating 79978
under Chapter 167. of the Revised Code, whether those regional 79979
councils continue to meet the objectives for which regional 79980
councils were first authorized in 1967, and whether regional 79981
councils are an efficient and effective way for local governments 79982
to share services or to participate in cooperative arrangements. 79983

Section 701.70.10. (A) The construction and energy operations 79984
of the Office of the State Architect and Engineer (OSAE) under 79985
Chapters 123. and 153. are transferred and consolidated into the 79986
construction and capital funding operations of the Ohio Facilities 79987
Construction Commission (OFCC). And the Ohio School Facilities 79988
Commission (OSFC) becomes an independent agency within the Ohio 79989
Facilities Construction Commission. Notwithstanding Chapter 153. 79990
of the Revised Code, the OFCC is thereupon and thereafter 79991
successor to, assumes the power and obligations of, and otherwise 79992
constitutes the continuation of the construction and energy 79993
operations and related management functions of the OSAE as 79994
provided in the applicable sections of Chapter 153. of the Revised 79995
Code or in any agreements relating to capital expenditures for 79996

construction operations functions to which the OSAE is a party. 79997
All statutory references to the OSAE are deemed to be references 79998
to the OFCC. 79999

(B) Any activities relating to the operations and related 80000
management functions commenced but not completed by the OSAE shall 80001
be completed by the OFCC in the same manner and with the same 80002
effect as if completed by the OSAE. No validation, cure, right, 80003
privilege, remedy, obligation, or liability is lost or impaired by 80004
reason of the consolidation, and shall be administered by the 80005
OFCC. All rules, orders, and determinations related to design, 80006
planning, and construction and energy operations and related 80007
management functions of the OSAE continue in effect as rules, 80008
orders, and determinations of the OFCC, until modified or 80009
rescinded by the OFCC. The Director of the Legislative Service 80010
Commission shall renumber the OSAE rules related to the design, 80011
planning, and construction and energy operations and related 80012
management functions to reflect their transfer to the OFCC. 80013

(C) To the extent possible, all employees of the OSAE shall 80014
be transferred to the OFCC, as the OFCC determines to be necessary 80015
for the successful implementation of this section. All employees 80016
of the OSFC shall remain in their current classifications unless 80017
the OFCC determines otherwise. 80018

(D) No judicial or administrative action or proceeding, to 80019
which the OSAE or an authorized officer of either is a party, that 80020
is pending on the effective date of this section, or on such later 80021
date as may be established by an authorized officer of the OFCC 80022
and that is related to its construction, capital funding, or 80023
energy operation or related management functions, is affected by 80024
the transfer and consolidation of functions. Any such action or 80025
proceeding shall be prosecuted or defended in the name of the 80026
OFCC. On application to the court or agency, the OFCC shall be 80027

substituted for the OSAE or an authorized officer of either as a 80028
party to the action or proceeding. 80029

(E) Notwithstanding any provision of the law to the contrary, 80030
and not sooner than 90 days after the effective date of this 80031
section, and if requested by the OFCC, the Director of Budget and 80032
Management shall make budget changes made necessary by the 80033
transfer, if any, including administrative organization, program 80034
transfers, the creation of new funds, the transfer of state funds, 80035
and the consolidation of funds, as authorized by this section. The 80036
Director of Budget and Management may, if necessary, establish 80037
encumbrances or parts of encumbrances created in fiscal years 2012 80038
and 2013 in the appropriate fund and appropriation item for the 80039
same purpose and for payment to the same vendor in fiscal year 80040
2013. The established encumbrances plus any additional amounts 80041
determined to be necessary for the OFCC to perform the 80042
construction, energy, and capital funding operation and related 80043
management functions of the OSAE are hereby appropriated. 80044

(F) Not later than 30 days after the transfer and 80045
consolidation of the construction, energy, and capital funding 80046
operations and related management functions of the OSAE to the 80047
OFCC, an authorized officer of the OSAE shall certify to the OFCC 80048
the unexpended balance and location of any funds and accounts 80049
designated for building and facility operation and management 80050
functions, and the custody of such funds and accounts shall be 80051
transferred to the OFCC. 80052

(G) The OFCC and the Department of Natural Resources (DNR) 80053
shall cooperate in a study to determine which operation functions, 80054
if any, of the DNR Division of Engineering should be integrated 80055
and consolidated into the OFCC. The study shall be completed not 80056
later than December 31, 2012. 80057

Section 701.70.20. The Division of Labor in the Department of 80058

Commerce is hereby renamed the Division of Industrial Compliance 80059
on the effective date of section 121.04 of the Revised Code, as 80060
amended by this act. The Division and the Superintendent of 80061
Industrial Compliance shall have and perform all the duties, 80062
powers, and obligations of the Division and Superintendent of 80063
Labor. All rules, actions, determinations, commitments, 80064
resolutions, decisions, and agreements pertaining to the duties, 80065
powers, obligations, functions, and rights of the Division or 80066
Superintendent of Labor, in force or in effect on the effective 80067
date of section 121.04 of the Revised Code, as amended by this 80068
act, shall continue in force and effect and apply to the Division 80069
or Superintendent of Industrial Compliance as applicable and 80070
subject to any further lawful action thereon by the Division or 80071
Superintendent of Industrial Compliance. Wherever the 80072
Superintendent of Labor or Division of Labor are referred to in 80073
any provision of law, or in any agreement or document that 80074
pertains to those duties, powers, obligations, functions, and 80075
rights, the reference is to the Superintendent of Industrial 80076
Compliance or Division of Industrial Compliance, as appropriate. 80077

All authorized obligations and supplements thereto of the 80078
Superintendent and Division of Labor are binding on the 80079
Superintendent or Division of Industrial Compliance and nothing in 80080
this act impairs those obligations or rights or the obligations or 80081
rights under any contract. The renaming of the Division of Labor 80082
and Superintendent of Labor does not affect the validity of 80083
agreements or obligations made by that superintendent or division 80084
pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 80085
4740. of the Revised Code or any other provisions of law. 80086

In connection with the renaming of the Division of Labor, all 80087
real property and interest therein, documents, books, money, 80088
papers, records, machinery, furnishings, office equipment, 80089
furniture, and all other property over which the Superintendent 80090

and Division of Labor have control and the rights of the 80091
Superintendent and Division of Labor to enforce or receive any of 80092
those is automatically transferred to the Superintendent and 80093
Division of Industrial Compliance without necessity for further 80094
action on the part of the Superintendent or Division of Industrial 80095
Compliance, or the Director of Commerce. Additionally, all 80096
appropriations or reappropriations made to the Superintendent and 80097
Division of Labor for the purposes of the performance of their 80098
duties, powers, and obligations, are transferred to the 80099
Superintendent and Division of Industrial Compliance to the extent 80100
of the remaining unexpended or unencumbered balance thereof, 80101
whether allocated or unallocated, and whether obligated or 80102
unobligated. 80103

Section 701.121. (A) The state of Ohio requests that the 80104
Joint Committee on the Library of Congress approve the replacement 80105
of Ohio's statue of Governor William Allen in the National 80106
Statuary Hall Collection with a statue of Thomas Edison. 80107

(B) In accordance with the Procedure for Replacement of 80108
Statues in the National Statuary Hall Collection, Ohio submits the 80109
following information for consideration by the Joint Committee on 80110
the Library of Congress: 80111

(1) Thomas Edison, a native of Milan, Ohio, was a world 80112
famous inventor and highly successful businessperson whose 80113
inventions, such as the phonograph, the kinetoscope (a precursor 80114
to the film projector), and the first practical incandescent light 80115
bulb, have had a tremendous impact on the world. In addition to 80116
these inventions, Thomas Edison's service to the United States 80117
Government has also impacted world history. During World War I, he 80118
consulted for the government, examining inventions submitted for 80119
military use and working on defensive devices for submarines and 80120
ships. For his service, he eventually was awarded a Distinguished 80121

Service Medal by the Department of the Navy. By the time of his 80122
death, he had received over one thousand patents. 80123

Thomas Edison also has had a significant impact on the state 80124
of Ohio. He established the Edison Steel Company in Cleveland, 80125
Ohio, and established one of the first electric power stations in 80126
Tiffin, Ohio. His General Electric Company established the first 80127
industrial park in Ohio, which has employed hundreds of thousands 80128
of people over time. And the Ohio Department of Development 80129
sponsors The Thomas Edison Award, which was established in 80130
partnership with the Edison Birthplace Museum in Milan, Ohio. The 80131
Edison Birthplace Museum also has been instrumental in the 80132
issuance of a Thomas Edison stamp and commemorative silver dollar, 80133
and has received, on Thomas Edison's behalf, a posthumously 80134
awarded GRAMMY Award. 80135

Thomas Edison's impact on the world, and, in particular, on 80136
the state of Ohio, through his inventions, business endeavors, and 80137
government service, merits inclusion of a statue of him in the 80138
National Statuary Hall Collection. 80139

(2) The Ohio Statuary Hall Commission, a nonprofit Ohio 80140
corporation, was established in 2009 for the purpose of assisting 80141
with the process of recommending an Ohio citizen for statuary 80142
representation in the National Statuary Hall Collection, including 80143
raising funds and providing financial support for that effort. If 80144
the Joint Committee on the Library of Congress approves this 80145
replacement statue request, the Commission shall be responsible 80146
for the selection of a sculptor for the Thomas Edison statue as 80147
well as for paying all costs incurred for placing the Thomas 80148
Edison statue in the United States Capitol, including costs 80149
incurred for all of the following: 80150

(a) Paying the sculptor; 80151

(b) Carving or casting the statue; 80152

| | |
|--|--|
| (c) Creating a pedestal and any inscription; | 80153 |
| (d) Transporting the statue and pedestal to the United States Capitol; | 80154 80155 |
| (e) Removing and transporting the replaced statue; | 80156 |
| (f) Temporarily erecting the new statue in the Rotunda of the Capitol for the unveiling ceremony; | 80157 80158 |
| (g) Expenses related to the unveiling ceremony; and | 80159 |
| (h) Any other expenses that the Ohio Statuary Hall Commission finds it to be necessary to incur. | 80160 80161 |
| (C) As required by the Procedure for Replacement of Statues in the National Statuary Hall Collection, the Governor shall submit to the Architect of the Capitol a copy of this act, along with a letter from the Governor, requesting approval from the Joint Committee on the Library of Congress to replace Ohio's statue of Governor William Allen in the National Statuary Hall Collection with a statue of Thomas Edison. | 80162 80163 80164 80165 80166 80167 80168 |
| Section 701.141. The Department of Administrative Services shall conduct a study of the use of compressed natural gas in the motor vehicle fleets of the state and political subdivisions. The study shall examine the feasibility, budgetary effect, and return on investment from the use of compressed natural gas in the motor vehicle fleets of the state and political subdivisions, including transit fleets operated under Chapter 306. of the Revised Code. In examining the potential return on investment, the Department shall consider the impact of converting all or part of the different motor vehicle fleets over a period of two to four years and shall develop various proposals for funding the conversion of the motor vehicle fleets. The Department may conduct public hearings and may consult with experts and other persons as the Department considers necessary to fulfill its duties under this act. | 80169 80170 80171 80172 80173 80174 80175 80176 80177 80178 80179 80180 80181 80182 |

Not later than six months after the effective date of this section, the Department shall issue a report on its findings and recommendations on using compressed natural gas to fuel the motor vehicle fleets of the state and political subdivisions, including any recommendation for funding the conversion to compressed natural gas. The Department shall furnish copies of its report to the Governor, the Ohio Senate, and the Ohio House of Representatives.

As used in this section, "political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

Section 701.151. Upon the effective date of this act, all references to the Development Services Agency or Director of Development Services in uncodified sections of law in this act shall be deemed to refer to the Department of Development or the Director of Development, respectively.

Section 707.10. For fiscal years 2013 and 2014, the legislative authority of a municipal corporation in a county, with a population between three hundred seventy-five thousand and four hundred thousand according to the most recent federal decennial census, may conduct a pilot program whereby the legislative authority may use up to five per cent of the aggregate amount of money deposited in the municipal corporation's sewer fund and up to five per cent of the aggregate amount of money deposited in a fund created by the municipal corporation for water-works for the purpose of extending the municipal corporation's water or sewerage system, as applicable, if both of the following apply:

(A) The water or sewerage system is being extended to areas for economic development purposes.

(B) The areas into which the water or sewerage system is 80213
being extended are the subject of a cooperative economic 80214
development agreement entered into by the municipal corporation 80215
under section 701.07 of the Revised Code. 80216

With regard to either fund, the legislative authority shall 80217
not exceed the five per cent limit established in this section. 80218

Section 709.11. Upon the expiration of the term of a member 80219
who is serving on the Ohio Grape Industries Committee created in 80220
section 924.51 of the Revised Code immediately prior to the 80221
effective date of this act, the Director of Agriculture shall 80222
appoint a member for a new term in accordance with that section as 80223
amended by this act. 80224

Section 729.20. BIOMETRIC ENROLLMENT AND VERIFICATION SYSTEM 80225
PILOT PROJECT 80226

(A) As used in this section, "dangerous drug" and 80227
"prescriber" have the same meanings as in section 4729.01 of the 80228
Revised Code. 80229

(B) For the purpose of reducing the occurrence of activities 80230
known as "drug diversion" and "doctor shopping," there is hereby 80231
established the Biometric Enrollment and Verification System Pilot 80232
Project. Contracts for the pilot project shall be entered into as 80233
follows: (1) Not later than June 1, 2012, the Department of 80234
Alcohol and Drug Addiction Services shall enter into a contract 80235
with a hospital in Gallia County to administer the project. 80236

(2) Not later than June 27, 2012, the hospital shall enter 80237
into a contract with a vendor to implement the project. 80238

(C) Not later than July 1, 2012, the vendor under contract 80239
for the pilot project shall implement the project in one or more 80240
counties selected by the vendor from among the following: Athens, 80241
Gallia, Jackson, Lawrence, Meigs, Scioto, and Vinton counties. 80242

In the selected counties, the vendor shall develop a system 80243
under which a prescriber of dangerous drugs may use biometric 80244
authentication to compare health records from multiple sources to 80245
confirm the eligibility of a patient to receive a prescription for 80246
a dangerous drug. In developing the system, the vendor shall 80247
establish a real-time patient registration and verification 80248
process that includes unique identifiers, including photographic 80249
images of individuals and images of their fingerprints. The system 80250
shall be developed in such a manner that a prescriber is able to 80251
compare the identity of a patient who is seeking a prescription 80252
with the unique identifiers included in the system. 80253

(D) Not later than December 31, 2012, the vendor under 80254
contract to implement the pilot project shall prepare a report and 80255
submit copies to the Governor, Department of Alcohol and Drug 80256
Addiction Services, and, in accordance with section 101.68 of the 80257
Revised Code, the General Assembly. The report shall include an 80258
analysis of the efficacy of the pilot project and recommendations 80259
for the establishment of a Medicaid billing code for use in a 80260
statewide system based on the system used in the pilot project. 80261

The pilot project shall cease to exist on submission of the 80262
report. 80263

Section 733.05. Not later than ninety days after the 80264
effective date of this section, the Ohio Board of Regents shall 80265
complete a review of each entity that held the Department of 80266
Insurance's designation under section 3305.03 of the Revised Code 80267
immediately prior to the effective date of this act. In conducting 80268
the review, the Board shall comply with the applicable 80269
requirements of sections 3305.03 and 3305.031 of the Revised Code, 80270
as amended and enacted by this act. 80271

Section 733.10. (A) This section applies to a state 80272

university, as defined in section 3345.011 of the Revised Code, 80273
that has a main campus subsidy-eligible undergraduate enrollment 80274
of more than 17,000 but less than 22,000 students for fiscal year 80275
2012. 80276

(B) Notwithstanding section 3313.41 of the Revised Code, when 80277
a school district board of education decides to dispose of real 80278
property that the board owns in its corporate capacity, exceeds in 80279
value ten thousand dollars, and is located within one hundred 80280
yards of any classroom or administrative building on the main 80281
campus of the state university as described in division (A) of 80282
this section, prior to offering that property for sale under 80283
divisions (A) to (G) of section 3313.41 of the Revised Code, the 80284
board may offer that property to the board of trustees of the 80285
state university in either or both of the following manners: 80286

(1) In an "as is" condition in return for an agreement 80287
between the board of trustees and the school district board, under 80288
which the university will provide the school district with in-kind 80289
services, educational programs, or other assistance valued in the 80290
aggregate in an amount reasonably related to the appraised fair 80291
market value of the property; 80292

(2) For sale for money at a price that is not higher than the 80293
appraised fair market value of that property. 80294

(C) If the board of trustees does not accept either offer, or 80295
if the agreement is not entered into between the school district 80296
board and the board of trustees, within sixty days after the offer 80297
is made by the district board, the district board then shall offer 80298
the property for sale as provided in division (G) of section 80299
3313.41 of the Revised Code. 80300

(D) This section expires on December 31, 2012. 80301

Section 733.15. A new conversion community school established 80302

under division (B) of section 3314.02 of the Revised Code may open 80303
for operation not later than September 30, 2012, notwithstanding 80304
the deadlines prescribed by division (D) of section 3314.02 of the 80305
Revised Code for adoption and signing of the contract under 80306
section 3314.03 of the Revised Code, but those parties shall adopt 80307
and sign the contract, and file a copy of it with the 80308
Superintendent of Public Instruction, prior to the school's 80309
opening. 80310

Section 737.10. ABOLISHMENT OF THE PUBLIC HEALTH COUNCIL 80311

On the effective date of this section, the Public Health 80312
Council is abolished and the responsibilities of the Public Health 80313
Council are transferred to the Director of Health. 80314

Any business before the Public Health Council commenced but 80315
not completed before the effective date of this section shall be 80316
completed by the Director of Health. The business shall be 80317
completed in the same manner, and with the same effect, as if 80318
completed by the Director of Health immediately prior to the 80319
effective date of this section. 80320

No validation, cure, right, privilege, remedy, obligation, or 80321
liability is lost or impaired by reason of this act's abolishment 80322
of the Public Health Council and transfer of responsibility to the 80323
Director of Health. Each such validation, cure, right, privilege, 80324
remedy, obligation, or liability shall be administered by the 80325
Director of Health. 80326

All rules, orders, and determinations of the Public Health 80327
Council adopted or made immediately prior to the effective date of 80328
this section shall continue in effect as rules, orders, and 80329
determinations of the Director of Health until modified or 80330
rescinded by the Director of Health. If necessary to ensure the 80331
integrity of the numbering system of the Administrative Code, the 80332

Director of the Legislative Service Commission shall renumber the 80333
rules to reflect the transfer of the Public Health Council's 80334
responsibilities to the Director of Health. 80335

Any action or proceeding that is related to the functions or 80336
duties of the Public Health Council pending on the effective date 80337
of this section is not affected by the transfer and shall be 80338
prosecuted or defended in the name of the Director of Health. In 80339
all such actions and proceedings, the Director of Health, on 80340
application to the court, shall be substituted as a party. 80341

Section 737.20. (A) On the effective date of the amendment of 80342
the statutes governing the Division of Recycling and Litter 80343
Prevention in the Department of Natural Resources by this act or 80344
on July 1, 2012, whichever is later, the Division of Recycling and 80345
Litter Prevention is abolished, and all of its functions, together 80346
with its assets and liabilities, are transferred from within the 80347
Department of Natural Resources to within the Environmental 80348
Protection Agency. 80349

(B) Any business commenced but not completed by the Division 80350
of Recycling and Litter Prevention in the Department of Natural 80351
Resources on the effective date of the transfer shall be completed 80352
by the Environmental Protection Agency. Any validation, cure, 80353
right, privilege, remedy, obligation, or liability is not lost or 80354
impaired solely by reason of the transfer required by this section 80355
and shall be administered by the Environmental Protection Agency 80356
in accordance with this act. 80357

(C) All of the rules, orders, and determinations of the 80358
Division of Recycling and Litter Prevention in the Department of 80359
Natural Resources or of the Department of Natural Resources in 80360
relation to that Division continue in effect as rules, orders, and 80361
determinations of the Environmental Protection Agency until 80362
modified or rescinded by the Environmental Protection Agency. If 80363

necessary to ensure the integrity of the numbering of the 80364
Administrative Code, the Director of the Legislative Service 80365
Commission shall renumber rules of the Department of Natural 80366
Resources in relation to the former Division of Recycling and 80367
Litter Prevention in that Department to reflect the transfer to 80368
the Environmental Protection Agency. 80369

(D) Subject to the provisions of the applicable bargaining 80370
unit agreements, all of the positions of the Division of Recycling 80371
and Litter Prevention in the Department of Natural Resources are 80372
transferred to the Environmental Protection Agency. Employees who 80373
transfer with the positions shall retain their same or 80374
substantially similar positions and all the benefits accruing 80375
thereto. Upon completion of the transfer, the employees shall be 80376
subject to the policies and procedures of the Environmental 80377
Protection Agency. 80378

(E) Whenever the Division of Recycling and Litter Prevention 80379
in the Department of Natural Resources or the Chief of the 80380
Division of Recycling and Litter Prevention is referred to in any 80381
law, contract, or other document, the reference shall be deemed to 80382
refer to the Environmental Protection Agency or to the Director of 80383
Environmental Protection, whichever is appropriate in context. 80384

(F) Any action or proceeding pending on the effective date of 80385
the amendment of the statutes governing the Division of Recycling 80386
and Litter Prevention by this act is not affected by the transfer 80387
of the functions of that Division by this act and shall be 80388
prosecuted or defended in the name of the Environmental Protection 80389
Agency. In all such actions and proceedings, the Environmental 80390
Protection Agency, upon application to the court, shall be 80391
substituted as a party. 80392

Section 737.30. The Recycling and Litter Prevention Advisory 80393
Council created within the Environmental Protection Agency by 80394

section 3736.04 of the Revised Code, as amended and renumbered by 80395
this act, is a continuation of the Recycling and Litter Prevention 80396
Advisory Council created within the Division of Recycling and 80397
Litter Prevention in the Department of Natural Resources by 80398
section 1502.04 of the Revised Code prior to its amendment and 80399
renumbering by this act. 80400

Section 737.40. (A) As used in this section: 80401

(1) "Food service operation," "retail food establishment," 80402
and "vending machine location" have the same meanings as in 80403
section 3717.01 of the Revised Code. 80404

(2) "Micro market" means an area or room that has displays of 80405
not more than two hundred fifty linear feet that offer either of 80406
the following: 80407

(a) Prepackaged foods that are not time- or 80408
temperature-controlled for food safety purposes; 80409

(b) Prepackaged foods that are refrigerated or frozen and 80410
time- or temperature-controlled for food safety purposes and that 80411
are stored in equipment that complies with Chapter 3717-1 of the 80412
Administrative Code. 80413

(B) Until the Director of Agriculture adopts rules under 80414
section 3717.04 of the Revised Code governing the licensure of 80415
micro markets, the operation of a micro market is exempt from the 80416
licensure requirements for retail food establishments, food 80417
service operations, and vending machine locations established 80418
under Chapter 3717. of the Revised Code. This division applies to 80419
a micro market that was previously exempted under division (B)(5) 80420
of section 3717.22 of the Revised Code by the Director from being 80421
licensed as a retail food establishment. 80422

(C) Not later than sixty days following the adoption of rules 80423
by the Director under section 3717.04 of the Revised Code 80424

governing the licensure of micro markets, the operator of a micro 80425
market shall apply for a license in accordance with those rules. 80426

Section 737.50. Not later than 30 days after the amendment by 80427
this act of section 3791.11 of the Revised Code takes effect, the 80428
Treasurer of State shall give written notice to each property 80429
owner or lessee who, under former division (D) of that section, 80430
deposited money or a surety or government-issued bond with the 80431
Treasurer of State that the money will be refunded or the bond 80432
will be released within the following time period, and that the 80433
property owner or lessee must file a bond in the manner required 80434
by division (C) of section 3791.11 of the Revised Code immediately 80435
after the refund or release: 80436

(A) If money was deposited, the Treasurer of State will 80437
refund the money to the property owner or lessee within 180 days 80438
after the effective date of section 3791.11 of the Revised Code, 80439
as amended by this act; 80440

(B) If a surety bond was deposited, the Treasurer of State 80441
will release the bond to the property owner or lessee upon the 80442
earlier of the expiration of the bond or within two years after 80443
the effective date of section 3791.11 of the Revised Code, as 80444
amended by this act; 80445

(C) If a government-issued bond was deposited, the Treasurer 80446
of State will release the bond to the property owner or lessee 80447
within 180 days after the effective date of section 3791.11 of the 80448
Revised Code, as amended by this act. 80449

Section 737.60. LUPUS EDUCATION AND AWARENESS PROGRAM 80450

(A) In establishing the Lupus Education and Awareness Program 80451
under sections 3701.77 to 3701.775 of the Revised Code, as enacted 80452
by this act, the General Assembly hereby finds the following: 80453

(1) Lupus is a serious, complex, and debilitating autoimmune 80454

disease that can cause inflammation and tissue damage to virtually 80455
any organ system in the body, including the skin, joints, other 80456
connective tissue, blood and blood vessels, heart, lungs, kidneys, 80457
and brain. 80458

(2) The Lupus Foundation of America, Inc., estimates that 80459
approximately 1.5 to 2 million Americans live with lupus. 80460

(3) According to the Centers for Disease Control and 80461
Prevention, the rate of lupus mortality has increased since the 80462
late 1970s. 80463

(4) The pain and fatigue associated with lupus can threaten 80464
the ability to live independently, maintain employment, and lead a 80465
normal life. One in five individuals with lupus is disabled by the 80466
disease, and consequently receives support from government 80467
programs, including Medicare, Medicaid, Social Security 80468
Disability, and Social Security Supplemental Income. 80469

(5) The estimated average annual cost of medical treatment 80470
for an individual with lupus is between \$10,000 and \$30,000; for 80471
individuals who have the most serious form of lupus, medical costs 80472
can greatly exceed this amount, causing a significant economic, 80473
emotional, and social burden to the entire family and society. 80474

(6) More than half of individuals with lupus suffer four or 80475
more years and visit three or more physicians before obtaining a 80476
diagnosis of lupus; early diagnosis of and treatment for lupus can 80477
prevent or reduce serious organ damage, disability, and death. 80478

(7) Despite the magnitude of lupus and its impact on 80479
individuals and families, health professional and public 80480
understanding of lupus remains low; only one in five Americans can 80481
provide basic information about lupus, and awareness of lupus is 80482
lowest among adults 18 to 34 years of age - the age group most 80483
likely to develop lupus. 80484

(8) Lupus is a significant national health issue that 80485

deserves a comprehensive and coordinated response by state and 80486
federal governments with involvement of the health care provider, 80487
patient, and public health communities. 80488

(B) The purpose of sections 3701.77 to 3701.775 of the 80489
Revised Code, as enacted by this act, is to create a 80490
multi-pronged, statewide program to promote public and health 80491
professional awareness and increase knowledge concerning the 80492
causes and consequences of lupus, the importance of early 80493
diagnosis and appropriate management, and effective treatment and 80494
management strategies by all of the following: 80495

(1) Conducting educational and training programs for health 80496
professionals on lupus diagnosis and management; 80497

(2) Developing and disseminating educational materials and 80498
information to patients and health professionals on lupus research 80499
results and health care services available; 80500

(3) Designing and implementing a statewide public education 80501
campaign aimed at heightening public awareness of lupus; 80502

(4) Leveraging educational and training resources and 80503
services previously developed by organizations with appropriate 80504
expertise and knowledge of lupus. 80505

Section 737.70. PILOT PROGRAM FOR OPIOID- AND 80506
ALCOHOL-DEPENDENT OFFENDERS 80507

(A) The Department of Alcohol and Drug Addiction Services 80508
shall conduct a pilot program to provide to certain 80509
opioid-dependent, alcohol-dependent, or opioid- and 80510
alcohol-dependent offenders within the criminal justice system 80511
treatment to prevent relapse into dependency, including 80512
medication-assisted treatment. The medication-assisted treatment 80513
shall be provided by using one or more drugs that constitute 80514
long-acting antagonist therapy and meet all of the following 80515

conditions: 80516

(1) There is no potential for abuse of the drugs by the 80517
person to whom they are given or through diversion of the drugs to 80518
others. 80519

(2) There is no potential for a person to become addicted to 80520
or otherwise dependent on the drugs. 80521

(3) The drugs have been approved by the United States Food 80522
and Drug Administration to prevent relapse into opioid dependency, 80523
alcohol dependency, or opioid and alcohol dependency. 80524

(B) The Department shall conduct the program in Franklin 80525
County and Scioto County and may conduct the program in any one or 80526
more other counties the Department selects. In conducting the 80527
program, the Department shall collaborate with the boards of 80528
alcohol, drug addiction, and mental health services that serve the 80529
counties included in the program. The Department also shall 80530
collaborate with the Departments of Mental Health, Job and Family 80531
Services, and Health and with any other state agency that the 80532
Department determines may be of assistance in accomplishing the 80533
objectives of the program. 80534

(C) The program shall serve not more than one hundred fifty 80535
opioid-dependent or alcohol-dependent offenders selected by the 80536
Department, each of whom meets all of the following criteria: 80537

(1) Is either being released from a community-based 80538
correctional facility or being diverted from prosecution under 80539
section 2935.36 of the Revised Code by a county drug court or 80540
municipal court; 80541

(2) Is transitioning to community-based programs as 80542
prescribed by the court; 80543

(3) Was opioid dependent, alcohol dependent, or opioid and 80544
alcohol dependent at the time of committing the offense for which 80545

the offender was most recently sentenced; 80546

(4) Resides in this state and in the offender's own 80547
court-approved residence or court-approved transitional housing. 80548

(D) A program participant shall do both of the following: 80549

(1) Commit to participate in the program for twelve months 80550
and comply with all requirements established by the program, 80551
sentencing court, and treatment providers, including testing, 80552
counseling, medication therapies, and reporting requirements; 80553

(2) Attend any on-site programming specified by the 80554
sentencing court or treatment provider. 80555

(E) Treatment under the program shall be provided by an 80556
alcohol and drug addiction program certified by the Department 80557
under section 3793.06 of the Revised Code. Treatment shall be 80558
based on an integrated service delivery model. The treatment 80559
provider shall do all of the following: 80560

(1) Conduct a professional, comprehensive substance abuse and 80561
mental health diagnostic assessment of each person who is a 80562
potential program participant to determine whether the person is 80563
opioid dependent, alcohol dependent, or opioid and alcohol 80564
dependent and would benefit from substance abuse treatment and 80565
monitoring to address the dependency; 80566

(2) Determine treatment needs for each program participant 80567
based on the diagnostic assessment; 80568

(3) Develop individualized goals and objectives for each 80569
program participant that follow guidelines provided by the 80570
Department; 80571

(4) Provide initial treatment to each program participant by 80572
persons professionally qualified to provide substance abuse 80573
counseling or treatment; 80574

(5) Provide substance abuse and co-occurring disorder 80575

treatment that includes psychosocial therapies and monthly medication-assisted treatment; 80576
80577

(6) Provide access to long-acting antagonist therapies to the same extent that access may be provided to any other medication-assisted treatment approved by the United States Food and Drug Administration; 80578
80579
80580
80581

(7) Monitor program compliance through regular urinalysis drug testing. 80582
80583

(F) Not later than three months after the program has ended, Kent State University shall prepare a report of the findings obtained from the program, along with its recommendations, if any. The University shall include in the report data derived from the drug testing performed under the program. In preparing the report, the University shall obtain assistance from the Department of Alcohol and Drug Addition Services. When the report is complete, the University shall submit the report to the Governor; President of the Senate; Speaker of the House of Representatives; Departments of Mental Health, Job and Family Services, and Health; and any other agency the Department collaborates with in conducting the program. 80584
80585
80586
80587
80588
80589
80590
80591
80592
80593
80594
80595

Section 737.91. It is expected that the Futures Committee of the Ohio Association of Health Commissioners will release a report in June 2012 on the future of local public health in Ohio. The Legislative Committee on Public Health Futures shall review the Future Committee's report, and, on the basis of its review, recommend legislative and fiscal policies that would improve local public health services in Ohio. The Legislative Committee, not later than October 31, 2012, shall prepare a report that describes its review of the Future Committee's report, and that states, and provides explanations of, its policy recommendations. The Legislative Committee shall transmit a copy of its report to the 80596
80597
80598
80599
80600
80601
80602
80603
80604
80605
80606

Governor, the President and Minority Leader of the Senate, and the 80607
Speaker and Minority Leader of the House of Representatives for 80608
consideration as part of the operating budget for fiscal years 80609
2014 and 2015. Upon transmitting its report, the Legislative 80610
Committee ceases to exist. 80611

There is the Legislative Committee on Public Health Futures. 80612
Each of the following associations shall appoint one individual to 80613
the Legislative Committee: the County Commissioners Association of 80614
Ohio, the Ohio Township Association, the Department of Health, the 80615
Ohio Public Health Association, the Ohio Environmental Health 80616
Association, the Ohio Boards of Health Association, the Ohio 80617
Municipal League, and the Ohio Hospital Association. The 80618
Association of Ohio Health Commissioners shall appoint two 80619
individuals to the Legislative Committee. The President and 80620
Minority Leader of the Senate each shall appoint two members to 80621
the Legislative Committee. The Speaker and Minority Leader of the 80622
House of Representatives each shall appoint two members to the 80623
Legislative Committee. Of the two appointments made by each 80624
legislative leader, one shall be a member of the General Assembly 80625
from the appointing member's chamber. Appointments shall be made 80626
as soon as possible but not later than thirty days after the 80627
effective date of this section. Vacancies on the Legislative 80628
Committee shall be filled in the same manner as the original 80629
appointment. 80630

As soon as all members have been appointed to the Legislative 80631
Committee, the President of the Senate shall fix a time and place 80632
for the committee to hold its first meeting. At that meeting, the 80633
committee shall elect from among its membership a chairperson, a 80634
vice-chairperson, and a secretary. The Director of Health shall 80635
provide the Legislative Committee with meeting and office space, 80636
equipment, and professional, technical, and clerical staff as are 80637
necessary to enable the Legislative Committee successfully to 80638

complete its work. 80639

Section 747.10.10. (A) The Manufactured Homes Commission 80640
shall adopt the rules required by section 4781.26 of the Revised 80641
Code as amended by this act not later than December 1, 2012. After 80642
adopting the rules, the Commission immediately shall notify the 80643
Director of Health. 80644

(B)(1) The rules governing manufactured home parks adopted by 80645
the Public Health Council under former section 3733.02 of the 80646
Revised Code shall remain in effect in a health district until the 80647
Commission adopts rules under section 4781.26 of the Revised Code 80648
as amended by this act. 80649

(2) On the effective date of the rules adopted by the 80650
Commission as required by section 4781.26 of the Revised Code as 80651
amended by this act, the Public Health Council rules adopted under 80652
former section 3733.02 of the Revised Code cease to be effective 80653
within the jurisdiction of that board of health. 80654

(C) No board of health of a city or general health district 80655
shall invoice or collect manufactured home park licensing fees for 80656
calendar year 2013. 80657

(D) As used in this section: 80658

(1) "Manufactured home park," "board of health," and "health 80659
district" have the same meanings as in section 4781.01 of the 80660
Revised Code, as amended by this act. 80661

(2) "Public Health Council" means the Public Health Council 80662
created by section 3701.33 of the Revised Code. 80663

Section 747.10.20. Any manufactured home park license and 80664
inspection fees collected pursuant to former section 3733.04 of 80665
the Revised Code by a board of health prior to the transition of 80666
the annual license and inspection program to the Manufactured 80667

Homes Commission as required under this act in the amount of two 80668
thousand dollars or less may be transferred to the health fund of 80669
the city or general health district. Any of those funds in excess 80670
of two thousand dollars shall be transferred to the Manufactured 80671
Homes Commission Regulatory Fund created in section 4781.54 of the 80672
Revised Code as enacted by this act. 80673

Section 747.10.30. Notwithstanding the original term of the 80674
appointment, the term of the Manufactured Homes Commission member 80675
who was appointed by the Governor as a representative of the 80676
Department of Health pursuant to division (B)(2)(b) of section 80677
4781.02 of the Revised Code shall end on the effective date of 80678
that section as amended by this act. The initial term of the 80679
registered sanitarian appointed to the Manufactured Homes 80680
Commission pursuant to section 4781.02 of the Revised Code, as 80681
amended by this act, shall expire on the date when the 80682
representative of the Department of Health's term would have 80683
expired, but for this section. 80684

Section 747.31. A licensee whose license is in a voluntary 80685
hold status under Chapter 4735. of the Revised Code on the 80686
effective date of this section may apply to the Superintendent of 80687
the Division of Real Estate and Professional Licensing for 80688
reactivation of the license in accordance with rules adopted by 80689
the Ohio Real Estate Commission or may apply to place the license 80690
in a resigned status within the ninety-day period after the 80691
effective date of this section. The license of a licensee who does 80692
not reactivate or resign a license that is in a voluntary hold 80693
status on the effective date of this section shall be 80694
automatically suspended. A suspended license may be reactivated 80695
within twelve months of the date of suspension, provided that the 80696
renewal fee plus a penalty fee of fifty per cent of the renewal 80697

fee is paid to the Superintendent. Failure to reactivate the 80698
suspended license within twelve months as provided in this section 80699
shall result in automatic revocation of the license without the 80700
taking of any action by the Superintendent. 80701

Section 751.03. TRANSFER OF MEDICAID AND CHILDREN'S HEALTH 80702
INSURANCE PROGRAM 80703

(A) Notwithstanding the amendments made by this act to 80704
section 5111.01 of the Revised Code: 80705

(1) The Office of Medical Assistance shall not replace the 80706
Department of Job and Family Services as the single state agency 80707
to supervise the administration of Medicaid until the replacement 80708
is approved by the United States Centers for Medicare and Medicaid 80709
Services if such approval is needed. 80710

(2) A contract regarding Medicaid or the Children's Health 80711
Insurance Program that is in effect on the effective date of this 80712
section shall continue to be operated in accordance with the 80713
contract's terms until the contract is amended, expires, or is 80714
terminated. 80715

(B) Subject to division (A)(1) of this section: 80716

(1) The Office of Medical Assistance is responsible for 80717
entering into contracts regarding Medicaid and the Children's 80718
Health Insurance Program on or after the effective date of this 80719
section. 80720

(2) Any rules of the Department of Job and Family Services 80721
regarding Medicaid or the Children's Health Insurance Program that 80722
are in effect on the effective date of this section are hereby 80723
rules of the Office of Medical Assistance and the Medical 80724
Assistance Director may amend or rescind the rules in a manner 80725
consistent with the statutes that authorize the rules. 80726

(C) The Director of Job and Family Services and Medical 80727

Assistance Director shall collaborate as necessary to provide for 80728
the Office of Medical Assistance to assume the Department of Job 80729
and Family Services' duties and authorities regarding Medicaid and 80730
the Children's Health Insurance Program. 80731

(D) It is the General Assembly's intent to amend the laws 80732
governing Medicaid and the Children's Health Insurance Program to 80733
replace references to the Director of Job and Family Services with 80734
references to the Medical Assistance Director and to replace 80735
references to the Department of Job and Family Services with 80736
references to the Office of Medical Assistance as appropriate in 80737
the context of transferring authority for those programs from the 80738
Department of Job and Family Services to the Office of Medical 80739
Assistance. 80740

Section 751.05. FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO 80741
NURSING FACILITIES 80742

(A) As used in this section: 80743

(1) "Medicaid days," "nursing facility," and "provider" have 80744
the same meanings as in section 5111.20 of the Revised Code. 80745

(2) "Point days" means the product of the following: 80746

(a) A qualifying nursing facility's quality bonus points for 80747
fiscal year 2013; 80748

(b) The number of the qualifying nursing facility's Medicaid 80749
days in fiscal year 2012. 80750

(3) "Qualifying nursing facility" means a nursing facility 80751
that qualifies for a quality bonus for fiscal year 2013 as 80752
determined under division (C) of this section. 80753

(4) "Quality bonus points" means the amount determined by 80754
subtracting five from the number of points awarded to a qualifying 80755
nursing facility under division (C) of section 5111.244 of the 80756
Revised Code for fiscal year 2013. 80757

(B) In addition to the quality bonuses, if any, to be paid to nursing facilities in accordance with section 5111.245 of the Revised Code for fiscal year 2013, quality bonuses also shall be paid to nursing facilities in accordance with this section for fiscal year 2013.

(C) Not later than July 31, 2012, the Department of Job and Family Services shall pay a nursing facility provider a quality bonus for fiscal year 2013 if the provider's nursing facility is awarded more than five points under division (C) of section 5111.244 of the Revised Code for fiscal year 2013 and at least one of the points is awarded to the nursing facility pursuant to division (C)(10), (11), (12), (13), or (14) of that section.

(D) The total quality bonus to be paid to the provider of a qualifying nursing facility for fiscal year 2013 shall equal the product of the following:

(1) The quality bonus per Medicaid day for the fiscal year determined for the provider's qualifying nursing facility under division (E) of this section;

(2) The number of the qualifying nursing facility's Medicaid days in fiscal year 2012.

(E) A qualifying nursing facility's quality bonus per Medicaid day for fiscal year 2013 shall be the product of the following:

(1) The nursing facility's quality bonus points for fiscal year 2013;

(2) The quality bonus per point for fiscal year 2013 determined under division (F) of this section.

(F) The quality bonus per point for fiscal year 2013 shall be determined as follows:

(1) Determine the number of each qualifying nursing

| | |
|--|---|
| facility's point days for fiscal year 2013. | 80788 |
| (2) Determine the sum of all qualifying nursing facilities' point days for fiscal year 2013. | 80789 80790 |
| (3) Divide thirty million dollars by the sum determined under division (F)(2) of this section. | 80791 80792 |
| (G) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code. | 80793 80794 80795 |
| (H) The Director of Job and Family Services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. | 80796 80797 80798 |
| Section 751.10. LICENSURE OF ICFs/MR AS RESIDENTIAL FACILITIES | 80799 80800 |
| (A) Until July 1, 2013, a person or government agency that, on the effective date of this section, operates an intermediate care facility for the mentally retarded pursuant to a nursing home license issued under Chapter 3721. of the Revised Code shall not be subject to a penalty under section 5123.99 of the Revised Code for operating the facility without a license issued under section 5123.19 of the Revised Code notwithstanding sections 5123.20 and 5123.99 of the Revised Code. | 80801 80802 80803 80804 80805 80806 80807 80808 |
| (B) Notwithstanding the amendments by this act to sections 3702.62, 3721.01, and 5123.19 of the Revised Code and the repeal by this act of section 5123.192 of the Revised Code, an intermediate care facility for the mentally retarded that is licensed as a nursing home under Chapter 3721. of the Revised Code on the effective date of this section shall continue to be a nursing home for the purposes for which it is considered to be a nursing home under the law in effect on the day immediately preceding the effective date of those amendments and that repeal | 80809 80810 80811 80812 80813 80814 80815 80816 80817 |

until the earliest of the following: 80818

(1) The date that the facility's nursing home license is 80819
revoked or voided under section 3721.07 of the Revised Code; 80820

(2) The date that a residential facility license is obtained 80821
for the facility under section 5123.19 of the Revised Code; 80822

(3) July 1, 2013. 80823

(C) Notwithstanding the amendment by this act to section 80824
3721.21 of the Revised Code, a nursing home or part of a nursing 80825
home certified as an intermediate care facility for the mentally 80826
retarded on the effective date of this section shall continue to 80827
be excluded from the definition of "long-term care facility" in 80828
that section for as long as it is certified as an intermediate 80829
care facility for the mentally retarded. 80830

(D) Notwithstanding the amendment by this act to section 80831
3721.50 of the Revised Code, a nursing home or part of a nursing 80832
home licensed under section 3721.02 or 3721.09 of the Revised Code 80833
that is certified as an intermediate care facility for the 80834
mentally retarded on the effective date of this section shall 80835
continue to be exempt from the franchise permit fee under sections 80836
3721.50 to 3721.58 of the Revised Code and instead subject to the 80837
franchise permit fee under sections 5112.30 to 5112.39 of the 80838
Revised Code for as long as it is certified as an intermediate 80839
care facility for the mentally retarded. 80840

(E) Notwithstanding the amendment by this act to section 80841
5123.41 of the Revised Code, a nursing home or part of a nursing 80842
home that is certified as an intermediate care facility for the 80843
mentally retarded on the effective date of this section shall 80844
continue to be a residential facility for the purpose of section 80845
5123.41 of the Revised Code for as long as it is certified as an 80846
intermediate care facility for the mentally retarded or is 80847
licensed under section 5123.19 of the Revised Code. 80848

(F) Notwithstanding the amendment by this act to section 80849
5126.51 of the Revised Code, a nursing home or part of a nursing 80850
home that is certified as an intermediate care facility for the 80851
mentally retarded on the effective date of this section shall 80852
continue to be a residential facility for the purpose of section 80853
5126.51 of the Revised Code for as long as it is certified as an 80854
intermediate care facility for the mentally retarded or otherwise 80855
meets the definition of "residential facility" in section 5123.19 80856
of the Revised Code. 80857

Section 751.10.10. ADULT CARE FACILITY LICENSURE TRANSITION 80858

Pursuant to the amendment and repeal by this act of sections 80859
5119.22, 5119.70 to 5119.88, and 5119.99 of the Revised Code, the 80860
Director of Mental Health may convert an adult care facility's 80861
license in effect immediately before the effective date of this 80862
section to a license as a residential facility. Until the Director 80863
converts the license or issues an order denying the conversion, 80864
the adult care facility's license is deemed to be a residential 80865
facility license. All rules, orders, and determinations pertaining 80866
to the adult care facility license continue in effect as rules, 80867
orders, and determinations pertaining to the residential facility 80868
license. 80869

Section 751.12. TRANSITION FOR CERTIFIED ADULT FOSTER HOMES 80870

Pursuant to the amendment and repeal by this act of sections 80871
5119.22, 5119.692, and 5119.693 of the Revised Code, the Director 80872
of Mental Health may convert an adult foster home's certification 80873
in effect immediately before the effective date of this section to 80874
a license as a residential facility. Until the Director converts 80875
the certification or issues an order denying the conversion, the 80876
adult foster home's certification is deemed to be a residential 80877
facility license. All rules, orders, and determinations pertaining 80878

to the adult foster home's certification continue in effect as 80879
rules, orders, and determinations pertaining to the residential 80880
facility license. 80881

Section 751.15. AGING IN PLACE PILOT PROGRAM 80882

(A) As used in this section: 80883

(1) "Aging in Place administrator" means the organization 80884
that contracts with the Department of Aging pursuant to division 80885
(E) of this section to administer the Aging in Place pilot 80886
program. 80887

(2) "Nursing home" and "residential care facility" have the 80888
same meanings as in section 3721.01 of the Revised Code. 80889

(3) "Residential facility" means a residential facility as 80890
defined in section 5119.22 or a residential facility as defined in 80891
section 5123.19 of the Revised Code. 80892

(4) "Veteran" means either of the following: 80893

(a) A former member of the armed forces of the United States 80894
who served on active military duty and received an honorable 80895
discharge or honorable separation; 80896

(b) A member of the United States army transport service or 80897
the United States naval transport service who has an honorable 80898
report of separation from the active duty military service, form 80899
DD214 or DD215. 80900

(B) The Department of Aging shall establish the Aging in 80901
Place pilot program in Butler, Clermont, Hamilton, and Warren 80902
counties. Up to one hundred eighty eligible individuals may enroll 80903
in the pilot program to receive home repairs and modifications 80904
that are covered by the pilot program. The pilot program shall be 80905
operated for two years. 80906

(C) To be eligible to enroll in the Aging in Place pilot 80907

program, an individual must meet all of the following requirements: 80908
80909

(1) The individual must be at least fifty years of age or a veteran of any age. 80910
80911

(2) The individual must be a resident of one of the counties in which the pilot program is established. 80912
80913

(3) The individual must reside in a private residence that is not a nursing home, residential care facility, residential facility, or other facility that may not operate legally without a license, certificate, or other authority issued by an agency of this state or a political subdivision of this state. 80914
80915
80916
80917
80918

(4) The individual or a member of the individual's household must own the private residence in which the individual resides. 80919
80920

(5) The individual must be at risk of moving to a nursing home or residential care facility due to a medical condition. 80921
80922

(6) The private residence in which the individual resides must be in need of a repair or modification covered by the pilot program. 80923
80924
80925

(7) The individual must meet any other requirements specified in rules adopted under this section. 80926
80927

(D) The Aging in Place pilot program shall cover home repairs and modifications specified in rules adopted under this section. 80928
80929

(E) The Department of Aging shall contract with an organization that meets all of the following requirements to administer the Aging in Place pilot program: 80930
80931
80932

(1) It must have been founded not later than 1975. 80933

(2) It must provide professional and critical home repair and modification services to individuals who reside in the counties in which the pilot program is established and have low incomes or are elderly or disabled. 80934
80935
80936
80937

(3) It must be exempt from federal income taxation under 80938
section 501(a) and described in section 501(c)(3) of the "Internal 80939
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended. 80940

(F) The Aging in Place administrator may help coordinate the 80941
home repairs and modifications provided under the Aging in Place 80942
pilot program with home health services that individuals enrolled 80943
in the pilot program receive under the Medicaid program or other 80944
programs. 80945

(G) The Aging in Place administrator shall seek 80946
nongovernmental funds to help pay the costs of the Aging in Place 80947
pilot program. 80948

(H) The Department of Job and Family Services shall apply to 80949
the United States Secretary of Health and Human Services for a 80950
federal Medicaid waiver to make the Aging in Place pilot program a 80951
component of the Medicaid program. If the waiver is granted, the 80952
Department of Job and Family Services shall enter into an 80953
interagency agreement with the Department of Aging under section 80954
5111.91 of the Revised Code regarding the Department of Aging's 80955
duties under this section and the Department of Aging shall 80956
establish the pilot program as a Medicaid component. If the waiver 80957
is not granted, the Department of Aging shall establish the pilot 80958
program as a non-Medicaid program. 80959

(I) The Director of Aging shall adopt rules in accordance 80960
with Chapter 119. of the Revised Code as necessary to implement 80961
this section. If the Aging in Place pilot program is established 80962
as a Medicaid component, the Director of Job and Family Services 80963
shall adopt any rules that are necessary for the Director of Aging 80964
to be able to adopt the rules for the pilot program. 80965

(J) Not later than ninety days after the termination of the 80966
Aging in Place pilot program, the Department of Aging shall 80967
prepare a report regarding the pilot program. On completion of the 80968

report, the Department shall submit it to the Governor and, in 80969
accordance with section 101.68 of the Revised Code, the General 80970
Assembly. The report shall include the Department's conclusions 80971
regarding all of the following: 80972

(1) The number of individuals in the state who would benefit 80973
from the services covered by the pilot program if the services 80974
were made available statewide; 80975

(2) How governmental and nongovernmental resources can be 80976
leveraged most efficiently to make the services available 80977
statewide; 80978

(3) The costs, if any, that the Medicaid program and other 80979
governmental health care programs would incur if the services were 80980
available statewide; 80981

(4) The impact that the services would have on the quality of 80982
patient care and treatment; 80983

(5) The impact that the services would have on the 80984
communities in which they would be provided; 80985

(6) The overall costs and benefits to the state that the 80986
services would have. 80987

Section 751.20. The amendments by this act to Section 3 of 80988
Am. Sub. S.B. 38 of the 120th General Assembly eliminate the 80989
exemptions from the requirements of sections 3701.881 and 5126.28 80990
of the Revised Code that Section 3 of that act gave to persons 80991
who, before October 29, 1993, were employed or had applied for 80992
employment in positions covered by sections 3701.881 and 5126.28 80993
of the Revised Code. The amendments by this act to Section 3 of 80994
Am. Sub. S.B. 160 of the 121st General Assembly eliminate the 80995
exemptions from the requirements of sections 173.41 (as 80996
subsequently renumbered as 173.394) and 3701.881 of the Revised 80997
Code that Section 3 of that act gave to persons who, before 80998

January 27, 1997, were employed or had applied for employment in 80999
positions covered by sections 173.41 (173.394) and 3701.881 of the 81000
Revised Code. The exemptions are eliminated in conjunction with 81001
this act's amendments to sections 173.394, 3701.881, and 5123.081 81002
of the Revised Code and the repeal of section 5126.28 of the 81003
Revised Code so that the Directors of Aging, Health, and 81004
Developmental Disabilities may adopt rules under those amended 81005
sections to make persons formerly exempt from the requirements of 81006
sections 173.394, 3701.881, and 5126.28 of the Revised Code 81007
subject to the requirements of sections 173.394, 3701.881, and 81008
5123.081 of the Revised Code. 81009

Section 751.31. RULES GOVERNING DATABASE REVIEWS AND CRIMINAL 81010
RECORDS CHECKS 81011

The Directors of Aging, Health, Job and Family Services, and 81012
Developmental Disabilities shall collaborate with each other when 81013
adopting the initial rules to be adopted for the purpose of 81014
implementing sections 173.27, 173.394, 3701.881, 5111.032, 81015
5111.033, 5111.034, 5123.081, 5123.16, 5123.169, and 5123.1610 of 81016
the Revised Code, as amended or enacted by this act. In the 81017
collaboration, the Directors shall strive to do both of the 81018
following: 81019

(A) Balance the risk mitigation that the database reviews and 81020
criminal records checks to be conducted under those sections are 81021
expected to realize with the costs of conducting the database 81022
reviews and criminal records checks; 81023

(B) Make the policies established by the rules as similar as 81024
possible among the Departments of Aging, Health, Job and Family 81025
Services, and Developmental Disabilities. 81026

Section 753.11. (A) Notwithstanding section 3313.41 of the 81027
Revised Code, during the period beginning June 30, 2005, and 81028

ending December 31, 2005, a school district board of education in support of economic development within the territory of the district may dispose of real property that it owns in its corporate capacity, and that exceeds in value ten thousand dollars, by direct sale in lieu of offering the property for sale at public auction as provided in division (A) of that section, in lieu of offering the property for sale to an entity listed in division (C) of that section, or in lieu of offering the property for sale to a community school as provided in division (G) of that section, if all of the following conditions are satisfied:

(1) The real property is encumbered by easements, liens, or other use restrictions that benefit the person acquiring the property under this section;

(2) The real property was part of or adjacent to real property previously disposed of by the board of education;

(3) The real property when sold will be used for commercial development.

(B) Notwithstanding division (A)(3) of this section, on or after the effective date of this section, the real property may be used for residential development as well as commercial development.

Section 753.13. That Section 2 of Am. Sub. S.B. 63 of the 121st General Assembly is repealed.

This repeal releases the use, ownership, and conveyance restrictions, and rescinds the state's right of reversion, with respect to real estate conveyed to the City of Broadview Heights under Section 1 of Am. Sub. S.B. 63 of the 121st General Assembly.

Section 753.14. Within thirty days after the effective date of Section 753.13 of this act, the Auditor of State, with the

assistance of the Attorney General, shall, consistent with that 81058
section, prepare a deed to the real estate. The deed shall be 81059
executed by the Governor in the name of the state, countersigned 81060
by the Secretary of State, sealed with the Great Seal of the 81061
State, presented in the office of the Auditor of State for 81062
recording, and delivered to the City of Broadview Heights. The 81063
City of Broadview Heights shall present the deed for recording in 81064
the Office of the Cuyahoga County Recorder. 81065

Section 755.10. One year after the effective date of this 81066
act, the Director of the Department of Rehabilitation and 81067
Correction, after consultation with the State Highway Patrol, the 81068
Department of Public Safety, the Fraternal Order of Police of 81069
Ohio, and the Buckeye State Sheriff's Association, shall submit a 81070
written report to the Governor, the President of the Senate, the 81071
Speaker of the House of Representatives, the minority leader of 81072
the Senate, and the minority leader of the House of 81073
Representatives on the effectiveness of the State Highway Patrol's 81074
authority to enforce the criminal laws in the Lake Erie 81075
Correctional Institution pursuant to section 5503.03 of the 81076
Revised Code, as amended by this act. 81077

Section 757.10. A board of township trustees or the 81078
legislative authority of a municipal corporation to which section 81079
5705.19 or 5705.252 of the Revised Code applies, as enacted or 81080
amended by this act, may adopt the resolution proposing the levy 81081
of the tax or the combined questions authorized by those 81082
enactments or amendments and certify a copy of the resolution to 81083
the proper county board of elections as otherwise prescribed by 81084
law after this act becomes law and before the effective date of 81085
those enactments or amendments, requesting that the board of 81086
elections submit the proposal to the electors at the general 81087

election occurring on November 6, 2012. The board of elections, 81088
upon receiving a properly certified copy of such a resolution not 81089
later than four p.m. on August 8, 2012, shall submit the proposal 81090
to electors at that election as otherwise provided under section 81091
5705.25 or 5705.252 of the Revised Code, and such actions of the 81092
board of township trustees, municipal legislative authority, and 81093
board of elections are hereby ratified. 81094

Section 757.20. As used in this section, "qualified property" 81095
means real property that either: 81096

(A) Satisfies the qualifications for tax exemption under the 81097
terms of section 5709.07 of the Revised Code and is owned by a 81098
church as defined in that section; 81099

(B) Satisfies the qualifications for tax exemption under the 81100
terms of section 5709.08 of the Revised Code and is owned by a 81101
township that acquired the property from a county. 81102

Notwithstanding section 5713.081 of the Revised Code, when 81103
qualified property has not received tax exemption due to a failure 81104
to comply with Chapter 5713. or section 5715.27 of the Revised 81105
Code, the current owner of the property, or the prior owner of the 81106
property requesting exemption from prior taxes, at any time on or 81107
before twelve months after the effective date of this section, may 81108
file with the Tax Commissioner an application requesting that the 81109
property be placed on the tax-exempt list and that all unpaid 81110
taxes, penalties, and interest on the property be abated. 81111

The application shall be made on the form prescribed by the 81112
Tax Commissioner under section 5715.27 of the Revised Code and 81113
shall list the name of the county in which the property is 81114
located; the property's legal description; its taxable value; the 81115
amount in dollars of the unpaid taxes, penalties, and interest; 81116
the date of acquisition of title to the property; the use of the 81117
property during any time that the unpaid taxes accrued; and any 81118

other information required by the Tax Commissioner. The county auditor shall supply the required information upon request of the applicant.

Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the qualified property before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The Tax Commissioner shall not consider an application filed under this section unless such a certificate is attached to it.

Upon receipt of the application and after consideration of it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax-exempt list of the county and that all unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption described in section 5709.07 or 5709.08 of the Revised Code be abated. If the Tax Commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the Tax Commissioner shall issue an order denying the application.

If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the current or prior owner claims an exemption or abatement, the Tax Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with

law. 81151

The Tax Commissioner may apply this section to any qualified 81152
property that is the subject of an application for exemption 81153
pending before the Tax Commissioner on the effective date of this 81154
section, without requiring the property owner to file an 81155
additional application. The Tax Commissioner also may apply this 81156
section to any qualified property that is the subject of an 81157
application for exemption filed on or after the effective date of 81158
this section and on or before twelve months after that effective 81159
date, even though the application does not expressly request 81160
abatement of unpaid taxes, penalties, and interest. 81161

Section 757.51. The amendment by this act of section 5713.03 81162
of the Revised Code applies to the first tax year, after tax year 81163
2012, to which division (A) or (B) of section 5715.24 of the 81164
Revised Code applies in the county. 81165

Section 757.61. The General Assembly hereby declares that the 81166
intent of the amendment by this act of section 5739.02 of the 81167
Revised Code is to clarify the law as it existed prior to the 81168
amendment by this act of that section. 81169

Section 806.10. The items of law contained in this act, and 81170
their applications, are severable. If any item of law contained in 81171
this act, or if any application of any item of law contained in 81172
this act, is held invalid, the invalidity does not affect other 81173
items of law contained in this act and their applications that can 81174
be given effect without the invalid item of law or application. 81175

Section 809.10. Sections 301.11 to 301.15 of this act are and 81176
remain in full force and effect commencing on July 1, 2012, and 81177
terminating on June 30, 2014, for the purpose of drawing money 81178
from the state treasury in payment of liabilities lawfully 81179

incurred under those sections, and on June 30, 2014, and not 81180
before, the moneys hereby appropriated lapse into the funds from 81181
which they are severally appropriated. If, under Section 1c of 81182
Article II, Ohio Constitution, Sections 301.11 to 301.15 of this 81183
act do not take effect until after July 1, 2012, the sections are 81184
and remain in full force and effect commencing on that effective 81185
date. 81186

Section 812.10. Sections subject to referendum: general 81187
effective date. Except as otherwise provided in this act, the 81188
amendment, enactment, or repeal by this act of a section is 81189
subject to the referendum under Ohio Constitution, Article II, 81190
Section 1c and therefore takes effect on the ninety-first day 81191
after this act is filed with the Secretary of State. 81192

Section 812.11. Sections subject to referendum: special 81193
effective date. The amendment by this act of sections 4735.01, 81194
4735.02, 4735.052, 4735.10, 4735.13, 4735.14, 4735.141, and 81195
4735.142 of the Revised Code is subject to the referendum under 81196
Ohio Constitution, Article II, Section 1c and takes effect on the 81197
ninetieth day after the day on which this section takes effect. 81198

The amendment, enactment, or repeal of sections 173.27, 81199
173.391, 173.394, 1123.23, 1155.03, 1163.05, 1315.141, 1321.37, 81200
1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 81201
3701.881, 4763.05, 5104.012, 5104.013, 5104.09, 5111.031, 81202
5111.032, 5111.033, 5111.034, 5123.16, 5123.161, 5123.162, 81203
5123.163, 5123.164, new 5123.169, 5123.169 (5123.1610), 5123.542, 81204
5126.0221, 5126.28, and 5126.281 of the Revised Code takes effect 81205
January 1, 2013. 81206

Sections 610.10, 610.11, 620.10, 620.11, and 751.20 of this 81207
act take effect January 1, 2013. 81208

| Section 812.12. Sections subject to referendum: mixed | | | 81209 |
|--|------------------------|------------------------|-------|
| effective dates. The sections listed in the left-hand column of | | | 81210 |
| the following table combine amendments by this act that take | | | 81211 |
| effect either on the ninety-first day after this act is filed with | | | 81212 |
| the Secretary of State or January 1, 2013. The middle column | | | 81213 |
| identifies amendments to the listed sections that take effect on | | | 81214 |
| the ninety-first day after this act is filed with the Secretary of | | | 81215 |
| State. The right-hand column identifies amendments to the listed | | | 81216 |
| sections that take effect January 1, 2013. | | | 81217 |
| Section of law | Amendments that take | Amendments that take | 81218 |
| | effect on the | effect January 1, 2013 | |
| | ninety-first day after | | |
| | this act is filed with | | |
| | the Secretary of State | | |
| 109.57 | The amendment in | All except as | 81219 |
| | division (G) | described in the | |
| | | middle column | |
| 109.572 | The amendment in | All except as | 81220 |
| | relettered division | described in the | |
| | (A)(2) striking the | middle column | |
| | second comma, | | |
| | inserting "or", and | | |
| | striking ", 5119.693, | | |
| | or 5119.85", the | | |
| | amendment in | | |
| | relettered division | | |
| | (A)(12), the | | |
| | amendments in the | | |
| | first paragraph of | | |
| | division (B) and | | |
| | divisions (C)(1), | | |
| | (C)(2), and (C)(3) | | |

| | | | |
|----------|---|------------------------|-------|
| | striking "5119.85," | | |
| | the amendment in | | |
| | division (B)(1) | | |
| | striking "5119.693, | | |
| | 5119.85," and the | | |
| | amendment in division | | |
| | (C)(3) inserting | | |
| | "2151.33, 2151.412," | | |
| 3712.09 | The amendments in | All except as | 81221 |
| | divisions (C)(1) and | described in the | |
| | (F) | middle column | |
| 3721.121 | The amendment in | All except as | 81222 |
| | division (A)(1) | described in the | |
| | | middle column | |
| 5123.033 | All except as | The amendment striking | 81223 |
| | described in the | "5123.169" and | |
| | right-hand column | inserting "5123.1610" | |
| 5123.081 | The amendment in | All except as | 81224 |
| | relettered division | described in the | |
| | (I)(1)(e)(ii) | middle column | |
| 5123.166 | The amendment in | All except as | 81225 |
| | division (D)(1)(c)(ii) | described in the | |
| | | middle column | |
| | Section 812.20. Sections exempt from referendum: general | | 81226 |
| | effective date. The amendment, enactment, or repeal by this act of | | 81227 |
| | the following sections is exempt from the referendum under Ohio | | 81228 |
| | Constitution, Article II, Section 1d and section 1.471 of the | | 81229 |
| | Revised Code and therefore takes effect immediately when this act | | 81230 |
| | becomes law: | | 81231 |
| | Sections 145.01, 145.012, 167.04, 306.04, 306.36, 340.091, | | 81232 |
| | 901.54, 2927.023, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, | | 81233 |
| | 3125.41, 3734.131, 3734.15, 3743.06, 3743.19, 3752.06, 4163.07, | | 81234 |

4303.22, 4501.01, 4501.06, 4503.81, 4506.01, 4506.03, 4506.22, 81235
4506.25, 4511.78, 4513.50, 4905.01, 4905.02, 4905.03, 4905.05, 81236
4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.80, 4905.801, 81237
4905.81, 4905.82, 4905.83, 4905.84, 4907.01, 4907.02, 4907.04, 81238
4907.08, 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 4907.49, 81239
4907.57, 4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 4909.02, 81240
4909.03, 4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 4919.75, 81241
4919.76, 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, 4921.02, 81242
4921.03, 4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 4921.09, 81243
4921.10, 4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 4921.15, 81244
4921.16, 4921.17, 4921.18, 4921.19, 4921.20, 4921.21, 4921.23, 81245
4921.24, 4921.25, 4921.26, 4921.27, 4921.28, 4921.30, 4921.31, 81246
4921.32, 4921.34, 4921.35, 4921.36, 4921.37, 4921.38, 4921.39, 81247
4921.40, 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, 4923.05, 81248
4923.06, 4923.07, 4923.08, 4923.09, 4923.10, 4923.11, 4923.12, 81249
4923.13, 4923.14, 4923.15, 4923.17, 4923.20, 4923.26, 4923.99, 81250
4927.01, 4929.01, 4929.02, 4933.18, 4933.19, 4939.01, 4953.04, 81251
4961.03, 4965.54, 5119.691, 5502.01, 5503.02, 5503.34, 5743.031, 81252
5751.033, and 5753.03 of the Revised Code. 81253

Section 205.10 of Am. Sub. H.B. 114 of the 129th General 81254
Assembly, as amended by Am. Sub. H.B. 153 of the 129th General 81255
Assembly. 81256

Section 201 of Sub. H.B. 123 of the 129th General Assembly. 81257

Section 1 of H.B. 124 of the 129th General Assembly. 81258

Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 81259
207.20.90, 209.10, 209.30, 211.10, 215.10, 223.10, 229.10, 243.10, 81260
245.10, 261.10.10, 261.10.20, 261.10.30, 261.10.40, 261.10.50, 81261
261.10.60, 261.10.70, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 81262
261.20.40, 261.20.50, 261.20.60, 261.20.70, 261.20.80, 261.20.90, 81263
261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.50, 261.30.60, 81264
261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 81265
263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.20, 267.10.40, 81266

267.30.40, 267.40.40, 279.10, 283.10, 285.10, 287.10, 291.10, 81267
305.10, 307.10, 309.10, 313.10, 315.10, 323.10, 327.10, 337.10, 81268
343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 81269
371.50.61, 371.50.65, 371.60.80, 373.10, 375.10, 379.10, 387.10, 81270
403.10, 411.10, 415.10, 503.50, 521.70, 701.40, and 753.25 of Am. 81271
Sub. H.B. 153 of the 129th General Assembly. 81272

Section 247.10 of Am. Sub. H.B. 153 of the 129th General 81273
Assembly, as amended by Sub. H.B. 319 of the 129th General 81274
Assembly. 81275

Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 81276
129th General Assembly, as amended by Sub. H.B. 371 of the 129th 81277
General Assembly. 81278

Sections 701.70.10, 701.80, 701.151, 733.10, and 733.15 of 81279
this act. 81280

Sections 812.20 and 812.21 of this act. 81281

Section 812.30 of this act insofar as it refers to parts of 81282
sections that are exempt from the referendum. 81283

Section 812.21. Sections exempt from the referendum: special 81284
effective date. The amendment by this act of sections 3313.976, 81285
3313.978, and 3313.979 of the Revised Code is exempt from the 81286
referendum under Ohio Constitution, Article II, Section 1d and 81287
section 1.471 of the Revised Code and is therefore entitled to 81288
take effect immediately when this act becomes law. However, the 81289
amendment of those sections takes effect on July 1, 2012, or the 81290
date this act becomes law, whichever is later. 81291

Section 812.30. Mixed sections: general effective dates. The 81292
sections listed in the left-hand column of the following table 81293
combine amendments by this act that are and that are not exempt 81294
from the referendum. The middle column identifies amendments to 81295
the listed sections that are subject to the referendum under Ohio 81296

| | |
|---|-----------------------------|
| Constitution, Article II, Section 1c and therefore take effect on | 81297 |
| the ninety-first day after this act is filed with the Secretary of | 81298 |
| State. The right-hand column identifies amendments to the listed | 81299 |
| sections that are exempt from the referendum under Ohio | 81300 |
| Constitution, Article II, Section 1d and section 1.471 of the | 81301 |
| Revised Code and therefore take effect immediately when this act | 81302 |
| becomes law. | 81303 |
| Section of Amendments subject to Amendments exempt from | 81304 |
| law referendum referendum | |
| 4905.90 The amendment in division (A) | All amendments except 81305 |
| | as described in the |
| | middle column |
| 5111.941 The amendment that inserts | All amendments except 81306 |
| division (A)(4) | as described in the |
| | middle column |
| 5119.61 All amendments except as | The amendment in 81307 |
| described in the right-hand | division (A) striking |
| column | "(C)" and inserting |
| | "(D)" and the |
| | amendment in division |
| | (F) striking "abuse" |
| | and inserting |
| | "addiction" |
| 5119.69 The amendments in relettered | All amendments except 81308 |
| divisions (D)(1)(b) and (c) | as described in the |
| | middle column |
| 5502.01 All amendments except as | The amendment in 81309 |
| described in the right-hand | division (F) |
| column | |
| Section 815.20. The General Assembly, applying the principle | 81310 |
| stated in division (B) of section 1.52 of the Revised Code that | 81311 |
| amendments are to be harmonized if reasonably capable of | 81312 |

simultaneous operation, finds that the following sections, 81313
presented in this act as composites of the sections as amended by 81314
the acts indicated, are the resulting versions of the sections in 81315
effect prior to the effective date of the sections as presented in 81316
this act: 81317

Section 102.02 of the Revised Code as amended by both Am. 81318
Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. 81319

Section 121.04 of the Revised Code as amended by both Am. 81320
Sub. H.B. 153 and Sub. H.B. 229 of the 129th General Assembly. 81321

Section 123.01 of the Revised Code as amended by both Am. 81322
Sub. H.B. 133 and Am. Sub. H.B. 153 of the 129th General Assembly. 81323

Section 124.11 of the Revised Code as amended by both Am. 81324
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 81325

Section 149.43 of the Revised Code as amended by both Sub. 81326
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. 81327

Section 1923.01 of the Revised Code as amended by both Sub. 81328
H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. 81329

Section 1923.02 of the Revised Code as amended by both Sub. 81330
H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. 81331

Section 3301.55 of the Revised Code as amended by both Am. 81332
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 81333

Section 4123.54 of the Revised Code as amended by both Am. 81334
Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. 81335

Section 4731.22 of the Revised Code as amended by both H.B. 81336
78 and Am. Sub. H.B. 93 of the 129th General Assembly. 81337