

**As Reported by the Senate Ways and Means Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 155**

**Representatives Dever, Conditt**

**Cosponsors: Representatives Amstutz, Anielski, Becker, Boyd, Brown, Buchy, Derickson, DeVitis, Dovilla, Driehaus, Duffey, Ginter, Grossman, Hall, Hambley, Hayes, Henne, Huffman, Koehler, Landis, LaTourette, Lepore-Hagan, Maag, Manning, McClain, Patmon, Patterson, Ramos, Retherford, Romanchuk, Ryan, Schuring, Sears, Slesnick, Sweeney, Terhar, Zeltwanger, Antani, Antonio, Baker, Barnes, Bishoff, Blessing, Boose, Brenner, Burkley, Butler, Clyde, Craig, Cupp, Fedor, Gerberry, Gonzales, Green, Hackett, Hagan, Howse, Johnson, G., Johnson, T., Kraus, Kuhns, Kunze, Leland, McColley, O'Brien, M., O'Brien, S., Pelanda, Phillips, Reece, Reineke, Rezabek, Rogers, Ruhl, Schaffer, Slaby, Stinziano, Strahorn, Thompson, Vitale, Speaker Rosenberger**

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**A BILL**

To amend section 2329.66 and to enact sections 1  
113.50, 113.51, 113.52, 113.53, 113.54, 113.55, 2  
and 113.56 of the Revised Code to require the 3  
Treasurer of State to create a program offering 4  
federally tax-advantaged savings accounts used 5  
to pay for a person's qualified disability 6  
expenses and to disregard the value of and 7  
income from that account in determining whether 8  
that person is eligible for state or local 9  
means-tested public assistance. 10

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

**Section 1.** That section 2329.66 be amended and sections 11  
113.50, 113.51, 113.52, 113.53, 113.54, 113.55, and 113.56 of 12  
the Revised Code be enacted to read as follows: 13

<u>Sec. 113.50. As used in sections 113.50 to 113.56 of the</u>	14
<u>Revised Code:</u>	15
<u>(A) "Account" or "ABLE account" means an individual</u>	16
<u>savings account opened in accordance with sections 113.50 to</u>	17
<u>113.56 of the Revised Code.</u>	18
<u>(B) "Account owner" means a designated beneficiary or any</u>	19
<u>other person authorized to be the owner of an ABLE account under</u>	20
<u>federal law.</u>	21
<u>(C) "Designated beneficiary" means an eligible individual</u>	22
<u>who is a resident of this state whose qualified disability</u>	23
<u>expenses may be paid from an account.</u>	24
<u>(D) "Eligible individual," "member of the family,"</u>	25
<u>"qualified disability expenses," and "qualified ABLE program"</u>	26
<u>have the same meanings as in section 529A of the Internal</u>	27
<u>Revenue Code.</u>	28
<u>(E) "Financial organization" means an insurance company,</u>	29
<u>bank, or other financial institution or a broker-dealer</u>	30
<u>registered with the securities and exchange commission.</u>	31
<u>(F) "Management contract" means a contract between the</u>	32
<u>treasurer of state and a program manager under division (B) of</u>	33
<u>section 113.52 of the Revised Code.</u>	34
<u>(G) "Maximum account value" means the dollar amount</u>	35
<u>calculated by the Ohio tuition trust authority pursuant to</u>	36
<u>sections 3334.01 to 3334.21 of the Revised Code as the maximum</u>	37
<u>amount that may be necessary to pay for the qualified higher</u>	38
<u>education expenses of a beneficiary under those sections,</u>	39
<u>consistent with the maximum contributions permitted under</u>	40
<u>section 529 of the Internal Revenue Code.</u>	41

(H) "Program" means the ABLE account program established 42  
under sections 113.50 to 113.56 of the Revised Code. 43

(I) "Program manager" means a financial organization 44  
selected by the treasurer of state to be a depository and 45  
manager of the program under section 113.52 of the Revised Code. 46

(J) "Secretary" means the secretary of the treasury of the 47  
United States. 48

(K) "Internal Revenue Code" has the same meaning as in 49  
section 5747.01 of the Revised Code. 50

**Sec. 113.51.** (A) The treasurer of state shall implement 51  
and administer a program under the terms and conditions 52  
established under sections 113.50 to 113.56 of the Revised Code. 53  
For that purpose, the treasurer shall do all of the following: 54

(1) Develop and implement the program in a manner 55  
consistent with the provisions of sections 113.50 to 113.56 of 56  
the Revised Code; 57

(2) Engage the services of consultants on a contract basis 58  
for rendering professional and technical assistance and advice; 59

(3) Seek rulings and other guidance from the secretary and 60  
the internal revenue service relating to the program; 61

(4) Make modifications to the program as necessary for 62  
participants in the program to qualify for the federal income 63  
tax benefits or treatment provided under section 529A of the 64  
Internal Revenue Code or rules adopted thereunder; 65

(5) Impose and collect administrative fees and service 66  
charges in connection with any agreement or transaction relating 67  
to the program; 68

- (6) Develop marketing plans and promotional materials to publicize the program; 69  
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- (7) Establish the procedures by which funds held in accounts shall be disbursed; 71  
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- (8) Establish the procedures by which funds held in accounts shall be allocated to pay for administrative costs; 73  
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- (9) Take any other action necessary to implement and administer the program; 75  
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- (10) Adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement and administer the program; 77  
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- (11) Notify the secretary when an account has been opened for a designated beneficiary and submit other reports concerning the program as required by the secretary or under section 529A of the Internal Revenue Code. 79  
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- (B) The treasurer of state may enter into agreements with other states to either allow residents of this state to participate in an ABLE account plan operated by another state or to allow residents of other states to participate in the program. 83  
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- Sec. 113.52.** (A) The treasurer of state shall solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments that will be held in accounts. The treasurer may select more than one investment instrument for the program. The treasurer shall select as program managers the financial organization or organizations, from among the bidding financial organizations, that demonstrate the most advantageous combination, both to potential program participants and the state, of the following 88  
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<u>factors:</u>	98
<u>(1) Financial stability and integrity of the financial organization;</u>	99 100
<u>(2) The safety of the investment instruments being offered;</u>	101 102
<u>(3) The ability to satisfy record keeping and reporting requirements prescribed under sections 113.50 to 113.56 of the Revised Code;</u>	103 104 105
<u>(4) The organization's plan for promoting the program and the investment the organization is willing to make to promote the program;</u>	106 107 108
<u>(5) The fees, if any, proposed to be charged to account owners;</u>	109 110
<u>(6) The minimum initial deposit and minimum contributions that the financial organization will require;</u>	111 112
<u>(7) The ability of the organization to accept electronic deposits, including payroll deduction plans;</u>	113 114
<u>(8) Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover the program's operating expenses.</u>	115 116 117
<u>(B) The treasurer of state may enter into a contract or a series of contracts with one or more financial organizations that submit a proposal under division (A) of this section for an organization to act as a manager and depository for the program. A contract or series of contracts shall include, at a minimum, terms requiring the financial organization to do all of the following:</u>	118 119 120 121 122 123 124

- (1) Take any action required to keep the program in compliance with the requirements of sections 113.50 to 113.56 of the Revised Code and any actions not contrary to its contract to manage the program to qualify as a qualified ABLE program; 125  
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- (2) Keep adequate records of each account, keep each account segregated from each other account, and provide the treasurer with the information necessary to prepare the statements required by section 113.53 of the Revised Code; 129  
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- (3) Compile and calculate information contained in statements required to be prepared under section 113.53 of the Revised Code and provide such calculations to the treasurer; 133  
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- (4) If there is more than one program manager, provide the treasurer with information as is necessary to determine compliance with section 113.53 of the Revised Code; 136  
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- (5) Provide the treasurer with access to the books and records of the program manager to the extent needed to determine compliance with the management contract, sections 113.50 to 113.56 of the Revised Code, and section 529A of the Internal Revenue Code; 139  
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- (6) Hold all accounts for the benefit of the account owner; 144  
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- (7) Be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the treasurer; 146  
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- (8) Provide the treasurer with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any accounts, other than confidential filings or reports that will not become part of the program; 149  
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(9) Make available for review by the treasurer the results of any periodic examination of such organization by any state or federal banking, insurance, or securities agency, except to the extent that such report or reports may not be disclosed under law; 154  
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(10) Ensure that any description of the program, whether in writing or through the use of any other media, is consistent with the marketing plan developed under division (A) (6) of section 113.51 of the Revised Code. 159  
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(C) The treasurer of state may do any of the following: 163

(1) Enter into management contracts as the treasurer considers necessary and proper for the implementation of the program; 164  
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(2) Require that an audit be conducted of the operations and financial position of a program manager at any time if the treasurer has any reason to be concerned about the financial position, the record keeping practices, or the status of accounts of that program manager; 167  
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(3) Terminate or not renew a management contract. 172

(D) The treasurer of state, the department of medicaid, the department of job and family services, the department of health, the department of mental health and addiction services, the department of developmental disabilities, opportunities for Ohioans with disabilities agency, and the department of aging may exchange information relating to eligible individuals for the purpose of administering or enforcing sections 113.50 to 113.56 of the Revised Code, except to the extent prohibited under federal law. 173  
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(E) If the treasurer of state terminates or does not renew 182

a management contract under this section, the treasurer shall 183  
take custody of accounts held by the program manager and shall 184  
seek to promptly transfer such accounts to another financial 185  
organization that is selected as a program manager and into 186  
investment instruments as similar to the original instruments as 187  
possible. 188

**Sec. 113.53.** (A) A designated beneficiary, or a trustee or 189  
guardian of a designated beneficiary who lacks capacity to enter 190  
into an agreement, may apply, on forms prescribed by the 191  
treasurer of state, to open an ABLE account. A beneficiary may 192  
have only one account. The treasurer of state may impose a 193  
nonrefundable application fee. The application shall require the 194  
applicant to provide the following information: 195

(1) The name, address, social security number, and birth 196  
date of the account owner; 197

(2) The name, address, and social security number of the 198  
designated beneficiary, if the account owner is not the 199  
beneficiary; 200

(3) Certification by the applicant that the applicant 201  
understands the maximum account value and the consequences under 202  
division (C) of this section for excess contributions and 203  
understands how account values exceeding the amount designated 204  
under section 103 of the "Stephen Beck, Jr., ABLE Act of 2014," 205  
26 U.S.C. 529A note, may affect the applicant's resources for 206  
determining the applicant's eligibility for the supplemental 207  
security income program; 208

(4) Any additional information required by the treasurer 209  
of state. 210

(B) (1) To qualify for an account, a designated beneficiary 211

must be an eligible individual at the time the account is 212  
opened. Before opening an ABLE account, the treasurer of state 213  
or program manager shall enter into an agreement with the 214  
account owner that discloses the requirements and restrictions 215  
on contributions and withdrawals from the account. 216

(2) Any person may make contributions to an ABLE account 217  
after the account is opened, subject to the limitations imposed 218  
by section 529A of the Internal Revenue Code and any rules 219  
adopted by the secretary. 220

(C) Contributions to ABLE accounts shall be made in cash. 221  
The treasurer of state or program manager shall reject or 222  
promptly withdraw a contribution to an account if that 223  
contribution would exceed the annual limits prescribed in 224  
subsection (b) (2) (B) of section 529A of the Internal Revenue 225  
Code. The treasurer or program manager shall reject or promptly 226  
withdraw a contribution if the value of the account equals or 227  
exceeds the maximum account value or the designated beneficiary 228  
is not an eligible individual in the current calendar year. 229

(D) (1) To the extent authorized by federal law, and in 230  
accordance with rules adopted by the treasurer of state, an 231  
account owner may change the designated beneficiary of an 232  
account to another individual. 233

(2) No account owner may use an interest in an account as 234  
security for a loan. Any pledge of an interest in an account 235  
shall be void and of no force and effect. 236

(E) (1) A distribution from an account to any individual or 237  
for the benefit of any individual during a calendar year shall 238  
be reported to the internal revenue service and each account 239  
owner, the designated beneficiary, or the distributee to the 240

extent required under state or federal law. 241

(2) Statements shall be provided to each account owner at 242  
least four times each year within thirty days after the end of 243  
the quarterly period to which a statement relates. The statement 244  
shall identify the contributions made during the preceding 245  
quarter, the total contributions made to the account through the 246  
last day of that quarter, the value of the account on the last 247  
day of that quarter, distributions made during that quarter, and 248  
any other information that the treasurer of state requires to be 249  
reported to the account owner. 250

(3) Statements and information relating to accounts shall 251  
be prepared and filed to the extent required under sections 252  
113.50 to 113.56 of the Revised Code and any other state or 253  
federal law. 254

(F) The program shall provide separate accounting for each 255  
designated beneficiary. An annual fee may be imposed upon the 256  
account owner for the maintenance of an account. 257

(G) Money in an ABLE account shall be exempt from 258  
attachment, execution, or garnishment as provided in section 259  
2329.66 of the Revised Code, and is subject to claims made under 260  
the medicaid estate recovery program instituted pursuant to 261  
section 5162.21 of the Revised Code, in accordance with 262  
subsection (f) of section 529A of the Internal Revenue Code and 263  
subject to any limitations imposed by the secretary. 264

(H) (1) Notwithstanding any other provision of state law, 265  
all of the following shall be disregarded for the purposes of 266  
determining an individual's eligibility for a means-tested 267  
public assistance program funded only with state, local, or 268  
state and local funds and the amount of assistance or benefits 269

<u>the individual is eligible to receive under the program:</u>	270
<u>(a) Any amount in an ABLE account, including earnings on the account;</u>	271 272
<u>(b) Any contributions to an ABLE account;</u>	273
<u>(c) Any distribution from an ABLE account for qualified disability expenses.</u>	274 275
<u>(2) Division (H) (1) of this section applies only to an individual who is either of the following:</u>	276 277
<u>(a) The account owner or designated beneficiary of the ABLE account;</u>	278 279
<u>(b) An individual whose eligibility for the means-tested program is conditioned on the ABLE account's account owner or designated beneficiary disclosing the account owner's or designated beneficiary's income, resources, or both to the entity administering the means-tested public assistance program.</u>	280 281 282 283 284
<u><b>Sec. 113.54.</b> (A) Nothing in sections 113.50 to 113.56 of the Revised Code creates any obligation of the treasurer of state, the state, or any state agency to guarantee for the benefit of any account owner or designated beneficiary any of the following:</u>	285 286 287 288 289
<u>(1) Return of principal;</u>	290
<u>(2) Rate of interest or other return on any account;</u>	291
<u>(3) Payment of interest or other return on any account.</u>	292
<u>(B) Every contract, application, or other similar document that may be used in connection with opening an account shall clearly indicate that the account is not insured by the state and that the principal deposited and the investment return are</u>	293 294 295 296

not guaranteed by the state. 297

**Sec. 113.55.** (A) The Ohio ABLE savings program trust fund 298  
is hereby created, which shall be in the custody of the 299  
treasurer of state but shall not be part of the state treasury. 300  
The fund shall be used if the treasurer of state elects to 301  
accept deposits from contributors rather than have deposits sent 302  
directly to a program manager. The fund shall consist of any 303  
moneys deposited by contributors in accordance with sections 304  
113.50 to 113.56 of the Revised Code that are not deposited 305  
directly with the program manager. Money shall be disbursed from 306  
the fund upon an order of the treasurer. All interest from the 307  
money in the fund shall be credited to the Ohio ABLE savings 308  
expense fund. 309

(B) (1) The Ohio ABLE savings expense fund is hereby 310  
created in the state treasury. The fund shall consist of money 311  
received from program managers, governmental or private grants, 312  
or appropriations for the program. 313

(2) All expenses incurred by the treasurer of state in 314  
developing and administering the ABLE account program and all 315  
expenses and reimbursements allowed for the ABLE account program 316  
advisory board created under section 113.56 of the Revised Code 317  
shall be payable from the Ohio ABLE savings expense fund. 318

**Sec. 113.56.** (A) There is hereby created the ABLE account 319  
program advisory board, consisting of nine members, composed of 320  
the following: 321

(1) The director of developmental disabilities or the 322  
director's designee; 323

(2) One member of the house of representatives appointed 324  
by the speaker of the house of representatives; 325

<u>(3) One member of the senate appointed by the president of</u>	326
<u>the senate;</u>	327
<u>(4) One member appointed by the governor who is a</u>	328
<u>representative of an intellectual or developmental disability</u>	329
<u>advocacy organization;</u>	330
<u>(5) One member appointed by the governor who is a</u>	331
<u>representative of a service provider for individuals with</u>	332
<u>disabilities;</u>	333
<u>(6) One member appointed by the governor who is the parent</u>	334
<u>of a child with a disability and who has significant experience</u>	335
<u>with disability issues;</u>	336
<u>(7) One member appointed by the governor who is a person</u>	337
<u>with a disability and who has significant experience with</u>	338
<u>disability issues;</u>	339
<u>(8) Two members appointed by the governor who have</u>	340
<u>significant experience in finance, accounting, investment</u>	341
<u>management, or other areas that may assist the board in carrying</u>	342
<u>out its duties.</u>	343
<u>(B) Terms of office of the appointed members described in</u>	344
<u>divisions (A) (4) to (8) of this section are for four years,</u>	345
<u>which shall end on the thirty-first day of December. Terms of</u>	346
<u>office of the appointed members described in divisions (A) (2)</u>	347
<u>and (3) of this section shall be for the term of the general</u>	348
<u>assembly. Any member may be reappointed, provided the member</u>	349
<u>continues to meet all other eligibility requirements. Vacancies</u>	350
<u>shall be filled in the manner provided for original</u>	351
<u>appointments. Any such member appointed to fill a vacancy before</u>	352
<u>the expiration of the term for which the predecessor was</u>	353
<u>appointed shall hold office as a member for the remainder of</u>	354

that term. Appointed members of the board serve at the pleasure 355  
of the member's appointing authority and may be removed only by 356  
that authority. 357

(C) The member described in division (A) (1) of this 358  
section shall call the first meeting of the ABLE account program 359  
advisory board, which shall occur not later than sixty days 360  
after the effective date of the enactment of this section. At 361  
the board's first meeting, members of the board shall elect a 362  
chairperson. If a vacancy occurs in the office of chairperson, 363  
members shall elect a new chairperson. The board shall meet at 364  
least four times each year or more frequently at the call of the 365  
chairperson. The board is a public body for purposes of section 366  
121.22 of the Revised Code. 367

(D) A vacancy on the board does not impair the right of 368  
the other members to exercise all the functions of the board. 369  
The presence of a majority of the members of the board 370  
constitutes a quorum for the conduct of business of the board. 371  
The concurrence of at least a majority of the members of the 372  
board is necessary for any action to be taken by the board. On 373  
request to the treasurer of state, each member of the board 374  
shall be reimbursed for the actual and necessary travel expenses 375  
incurred in the performance of the member's official duties. 376

(E) (1) The board shall do all of the following: 377

(a) Review the work of the treasurer of state related to 378  
the program; 379

(b) Advise the treasurer on the program as requested by 380  
the treasurer; 381

(c) Make recommendations to the treasurer for the 382  
improvement of the program; 383

(d) On or before the thirty-first day of December of each 384  
year, in consultation with the treasurer of state, prepare a 385  
report of the board's activities and recommendations and deliver 386  
that report to the governor, speaker of the house of 387  
representatives, and president of the senate. 388

(2) The board may prepare reports of the board's 389  
activities and recommendations in addition to the report 390  
described in division (E) (1) (d) of this section. The board shall 391  
deliver such a report to the governor, speaker of the house of 392  
representatives, and president of the senate. 393

(F) The treasurer of state shall provide the board with 394  
the resources necessary to conduct its business. The board may 395  
accept uncompensated assistance from individuals, research 396  
organizations, and other state agencies. 397

**Sec. 2329.66.** (A) Every person who is domiciled in this 398  
state may hold property exempt from execution, garnishment, 399  
attachment, or sale to satisfy a judgment or order, as follows: 400

(1) (a) In the case of a judgment or order regarding money 401  
owed for health care services rendered or health care supplies 402  
provided to the person or a dependent of the person, one parcel 403  
or item of real or personal property that the person or a 404  
dependent of the person uses as a residence. Division (A) (1) (a) 405  
of this section does not preclude, affect, or invalidate the 406  
creation under this chapter of a judgment lien upon the exempted 407  
property but only delays the enforcement of the lien until the 408  
property is sold or otherwise transferred by the owner or in 409  
accordance with other applicable laws to a person or entity 410  
other than the surviving spouse or surviving minor children of 411  
the judgment debtor. Every person who is domiciled in this state 412  
may hold exempt from a judgment lien created pursuant to 413

division (A) (1) (a) of this section the person's interest, not to 414  
exceed one hundred twenty-five thousand dollars, in the exempted 415  
property. 416

(b) In the case of all other judgments and orders, the 417  
person's interest, not to exceed one hundred twenty-five 418  
thousand dollars, in one parcel or item of real or personal 419  
property that the person or a dependent of the person uses as a 420  
residence. 421

(c) For purposes of divisions (A) (1) (a) and (b) of this 422  
section, "parcel" means a tract of real property as identified 423  
on the records of the auditor of the county in which the real 424  
property is located. 425

(2) The person's interest, not to exceed three thousand 426  
two hundred twenty-five dollars, in one motor vehicle; 427

(3) The person's interest, not to exceed four hundred 428  
dollars, in cash on hand, money due and payable, money to become 429  
due within ninety days, tax refunds, and money on deposit with a 430  
bank, savings and loan association, credit union, public 431  
utility, landlord, or other person, other than personal 432  
earnings. 433

(4) (a) The person's interest, not to exceed five hundred 434  
twenty-five dollars in any particular item or ten thousand seven 435  
hundred seventy-five dollars in aggregate value, in household 436  
furnishings, household goods, wearing apparel, appliances, 437  
books, animals, crops, musical instruments, firearms, and 438  
hunting and fishing equipment that are held primarily for the 439  
personal, family, or household use of the person; 440

(b) The person's aggregate interest in one or more items 441  
of jewelry, not to exceed one thousand three hundred fifty 442

dollars, held primarily for the personal, family, or household use of the person or any of the person's dependents. 443  
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(5) The person's interest, not to exceed an aggregate of two thousand twenty-five dollars, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture; 445  
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(6) (a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code; 449  
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(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code; 452  
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(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code; 455  
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(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code; 458  
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(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code. 462  
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(7) The person's professionally prescribed or medically necessary health aids; 466  
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(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code; 468  
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(9) The person's interest in the following:	471
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	472 473
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	474 475
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	476 477
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	478 479
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	480 481 482
(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code;	483 484
(g) Payments under section 24 or 32 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.	485 486
(10) (a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C) (2) (b) of that section, in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, in cases in which an order for forfeiture was issued under division (A) or (B) of section 2929.192 of the Revised Code, and in cases in which an order was issued under section 2929.193 or 2929.194 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the	487 488 489 490 491 492 493 494 495 496 497 498

person's rights to or interests in a pension, benefit, annuity, 499  
retirement allowance, or accumulated contributions, the person's 500  
rights to or interests in a participant account in any deferred 501  
compensation program offered by the Ohio public employees 502  
deferred compensation board, a government unit, or a municipal 503  
corporation, or the person's other accrued or accruing rights or 504  
interests, as exempted by section 145.56, 146.13, 148.09, 505  
742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and 506  
the person's rights to or interests in benefits from the Ohio 507  
public safety officers death benefit fund; 508

(b) Except as provided in sections 3119.80, 3119.81, 509  
3121.02, 3121.03, and 3123.06 of the Revised Code, the person's 510  
rights to receive or interests in receiving a payment or other 511  
benefits under any pension, annuity, or similar plan or 512  
contract, not including a payment or benefit from a stock bonus 513  
or profit-sharing plan or a payment included in division (A) (6) 514  
(b) or (10) (a) of this section, on account of illness, 515  
disability, death, age, or length of service, to the extent 516  
reasonably necessary for the support of the person and any of 517  
the person's dependents, except if all the following apply: 518

(i) The plan or contract was established by or under the 519  
auspices of an insider that employed the person at the time the 520  
person's rights or interests under the plan or contract arose. 521

(ii) The payment is on account of age or length of 522  
service. 523

(iii) The plan or contract is not qualified under the 524  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 525  
amended. 526

(c) Except for any portion of the assets that were 527

deposited for the purpose of evading the payment of any debt and 528  
except as provided in sections 3119.80, 3119.81, 3121.02, 529  
3121.03, and 3123.06 of the Revised Code, the person's rights or 530  
interests in the assets held in, or to directly or indirectly 531  
receive any payment or benefit under, any individual retirement 532  
account, individual retirement annuity, "Roth IRA," ~~"529 plan,"~~ 533  
account opened pursuant to a program administered by a state 534  
under section 529 or 529A of the "Internal Revenue Code of 535  
1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, or education 536  
individual retirement account that provides payments or benefits 537  
by reason of illness, disability, death, retirement, or age or 538  
provides payments or benefits for purposes of education or 539  
qualified disability expenses, to the extent that the assets, 540  
payments, or benefits described in division (A)(10)(c) of this 541  
section are attributable to or derived from any of the following 542  
or from any earnings, dividends, interest, appreciation, or 543  
gains on any of the following: 544

(i) Contributions of the person that were less than or 545  
equal to the applicable limits on deductible contributions to an 546  
individual retirement account or individual retirement annuity 547  
in the year that the contributions were made, whether or not the 548  
person was eligible to deduct the contributions on the person's 549  
federal tax return for the year in which the contributions were 550  
made; 551

(ii) Contributions of the person that were less than or 552  
equal to the applicable limits on contributions to a Roth IRA or 553  
education individual retirement account in the year that the 554  
contributions were made; 555

(iii) Contributions of the person that are within the 556  
applicable limits on rollover contributions under subsections 557

219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3) 558  
(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 559  
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended; 560

(iv) Contributions by any person into any plan, fund, or 561  
account that is formed, created, or administered pursuant to, or 562  
is otherwise subject to, section 529 or 529A of the "Internal 563  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 564

(d) Except for any portion of the assets that were 565  
deposited for the purpose of evading the payment of any debt and 566  
except as provided in sections 3119.80, 3119.81, 3121.02, 567  
3121.03, and 3123.06 of the Revised Code, the person's rights or 568  
interests in the assets held in, or to receive any payment 569  
under, any Keogh or "H.R. 10" plan that provides benefits by 570  
reason of illness, disability, death, retirement, or age, to the 571  
extent reasonably necessary for the support of the person and 572  
any of the person's dependents. 573

(e) The person's rights to or interests in any assets held 574  
in, or to directly or indirectly receive any payment or benefit 575  
under, any individual retirement account, individual retirement 576  
annuity, "Roth IRA," ~~"529 plan,"~~ account opened pursuant to a 577  
program administered by a state under section 529 or 529A of the 578  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 579  
amended, or education individual retirement account that a 580  
decedent, upon or by reason of the decedent's death, directly or 581  
indirectly left to or for the benefit of the person, either 582  
outright or in trust or otherwise, including, but not limited 583  
to, any of those rights or interests in assets or to receive 584  
payments or benefits that were transferred, conveyed, or 585  
otherwise transmitted by the decedent by means of a will, trust, 586  
exercise of a power of appointment, beneficiary designation, 587

transfer or payment on death designation, or any other method or 588  
procedure. 589

(f) The exemptions under divisions (A) (10) (a) to (e) of 590  
this section also shall apply or otherwise be available to an 591  
alternate payee under a qualified domestic relations order 592  
(QDRO) or other similar court order. 593

(g) A person's interest in any plan, program, instrument, 594  
or device described in divisions (A) (10) (a) to (e) of this 595  
section shall be considered an exempt interest even if the plan, 596  
program, instrument, or device in question, due to an error made 597  
in good faith, failed to satisfy any criteria applicable to that 598  
plan, program, instrument, or device under the "Internal Revenue 599  
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 600

(11) The person's right to receive spousal support, child 601  
support, an allowance, or other maintenance to the extent 602  
reasonably necessary for the support of the person and any of 603  
the person's dependents; 604

(12) The person's right to receive, or moneys received 605  
during the preceding twelve calendar months from, any of the 606  
following: 607

(a) An award of reparations under sections 2743.51 to 608  
2743.72 of the Revised Code, to the extent exempted by division 609  
(D) of section 2743.66 of the Revised Code; 610

(b) A payment on account of the wrongful death of an 611  
individual of whom the person was a dependent on the date of the 612  
individual's death, to the extent reasonably necessary for the 613  
support of the person and any of the person's dependents; 614

(c) Except in cases in which the person who receives the 615  
payment is an inmate, as defined in section 2969.21 of the 616

Revised Code, and in which the payment resulted from a civil 617  
action or appeal against a government entity or employee, as 618  
defined in section 2969.21 of the Revised Code, a payment, not 619  
to exceed twenty thousand two hundred dollars, on account of 620  
personal bodily injury, not including pain and suffering or 621  
compensation for actual pecuniary loss, of the person or an 622  
individual for whom the person is a dependent; 623

(d) A payment in compensation for loss of future earnings 624  
of the person or an individual of whom the person is or was a 625  
dependent, to the extent reasonably necessary for the support of 626  
the debtor and any of the debtor's dependents. 627

(13) Except as provided in sections 3119.80, 3119.81, 628  
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 629  
earnings of the person owed to the person for services in an 630  
amount equal to the greater of the following amounts: 631

(a) If paid weekly, thirty times the current federal 632  
minimum hourly wage; if paid biweekly, sixty times the current 633  
federal minimum hourly wage; if paid semimonthly, sixty-five 634  
times the current federal minimum hourly wage; or if paid 635  
monthly, one hundred thirty times the current federal minimum 636  
hourly wage that is in effect at the time the earnings are 637  
payable, as prescribed by the "Fair Labor Standards Act of 638  
1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended; 639

(b) Seventy-five per cent of the disposable earnings owed 640  
to the person. 641

(14) The person's right in specific partnership property, 642  
as exempted by the person's rights in a partnership pursuant to 643  
section 1776.50 of the Revised Code, except as otherwise set 644  
forth in section 1776.50 of the Revised Code; 645

(15) A seal and official register of a notary public, as 646  
exempted by section 147.04 of the Revised Code; 647

(16) The person's interest in a tuition unit or a payment 648  
under section 3334.09 of the Revised Code pursuant to a tuition 649  
payment contract, as exempted by section 3334.15 of the Revised 650  
Code; 651

(17) Any other property that is specifically exempted from 652  
execution, attachment, garnishment, or sale by federal statutes 653  
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 654  
11 U.S.C.A. 101, as amended; 655

(18) The person's aggregate interest in any property, not 656  
to exceed one thousand seventy-five dollars, except that 657  
division (A)(18) of this section applies only in bankruptcy 658  
proceedings. 659

(B) On April 1, 2010, and on the first day of April in 660  
each third calendar year after 2010, the Ohio judicial 661  
conference shall adjust each dollar amount set forth in this 662  
section to reflect any increase in the consumer price index for 663  
all urban consumers, as published by the United States 664  
department of labor, or, if that index is no longer published, a 665  
generally available comparable index, for the three-year period 666  
ending on the thirty-first day of December of the preceding 667  
year. Any adjustments required by this division shall be rounded 668  
to the nearest twenty-five dollars. 669

The Ohio judicial conference shall prepare a memorandum 670  
specifying the adjusted dollar amounts. The judicial conference 671  
shall transmit the memorandum to the director of the legislative 672  
service commission, and the director shall publish the 673  
memorandum in the register of Ohio. (Publication of the 674

memorandum in the register of Ohio shall continue until the next 675  
memorandum specifying an adjustment is so published.) The 676  
judicial conference also may publish the memorandum in any other 677  
manner it concludes will be reasonably likely to inform persons 678  
who are affected by its adjustment of the dollar amounts. 679

(C) As used in this section: 680

(1) "Disposable earnings" means net earnings after the 681  
garnishee has made deductions required by law, excluding the 682  
deductions ordered pursuant to section 3119.80, 3119.81, 683  
3121.02, 3121.03, or 3123.06 of the Revised Code. 684

(2) "Insider" means: 685

(a) If the person who claims an exemption is an 686  
individual, a relative of the individual, a relative of a 687  
general partner of the individual, a partnership in which the 688  
individual is a general partner, a general partner of the 689  
individual, or a corporation of which the individual is a 690  
director, officer, or in control; 691

(b) If the person who claims an exemption is a 692  
corporation, a director or officer of the corporation; a person 693  
in control of the corporation; a partnership in which the 694  
corporation is a general partner; a general partner of the 695  
corporation; or a relative of a general partner, director, 696  
officer, or person in control of the corporation; 697

(c) If the person who claims an exemption is a 698  
partnership, a general partner in the partnership; a general 699  
partner of the partnership; a person in control of the 700  
partnership; a partnership in which the partnership is a general 701  
partner; or a relative in, a general partner of, or a person in 702  
control of the partnership; 703

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (C) (2) (d) (i) of this section applies.

(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a person or entity to which division (C) (2) (d) (i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;

(f) A managing agent of the person who claims an exemption.

(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.

(4) "Government unit" has the same meaning as in section 733  
148.06 of the Revised Code. 734

(D) For purposes of this section, "interest" shall be 735  
determined as follows: 736

(1) In bankruptcy proceedings, as of the date a petition 737  
is filed with the bankruptcy court commencing a case under Title 738  
11 of the United States Code; 739

(2) In all cases other than bankruptcy proceedings, as of 740  
the date of an appraisal, if necessary under section 2329.68 of 741  
the Revised Code, or the issuance of a writ of execution. 742

An interest, as determined under division (D) (1) or (2) of 743  
this section, shall not include the amount of any lien otherwise 744  
valid pursuant to section 2329.661 of the Revised Code. 745

**Section 2.** That existing section 2329.66 of the Revised 746  
Code is hereby repealed. 747

**Section 3.** It is the intent of the General Assembly that 748  
the program created under sections 113.50 to 113.56 of the 749  
Revised Code, as enacted by this act, comply and conform to 750  
"Stephen Beck, Jr., ABLE act of 2014," 26 U.S.C. 259A, and rules 751  
adopted pursuant to that act. 752

**Section 4.** Section 2329.66 of the Revised Code is 753  
presented in this act as a composite of the section as amended 754  
by both Sub. H.B. 479 and Sub. S.B. 343 of the 129th General 755  
Assembly. The General Assembly, applying the principle stated in 756  
division (B) of section 1.52 of the Revised Code that amendments 757  
are to be harmonized if reasonably capable of simultaneous 758  
operation, finds that the composite is the resulting version of 759  
the section in effect prior to the effective date of the section 760  
as presented in this act. 761