

As Reported by the House Judiciary Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 432

Representatives Cupp, Rezabek

A BILL

To amend sections 1901.261, 1907.261, 2101.026, 1
2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2
2105.32, 2105.33, 2105.34, 2105.35, 2105.36, 3
2105.37, 2105.39, 2106.13, 2106.18, 2107.07, 4
2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 5
2153.081, 2301.031, 2323.58, 2323.583, 2323.584, 6
4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 7
5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 8
5814.03, 5814.04, 5814.05, 5814.06, 5814.07, 9
5814.08, 5814.09, and 5815.23; to amend, for the 10
purpose of adopting new section numbers as 11
indicated in parentheses, sections 2105.39 12
(2105.38) and 5814.09 (5814.10); to enact new 13
sections 2105.39 and 5814.09 and sections 14
2105.40, 2127.012, and 5802.04; and to repeal 15
section 2105.38 of the Revised Code to revise 16
the law governing decedent's estates by making 17
changes in the Ohio Trust Code, the Probate Law, 18
the Uniform Principal and Income Act, the 19
Transfers to Minors Act, and the Uniform 20
Simultaneous Death Act; to raise the ceilings on 21
the optional additional fees that a probate, 22
domestic relations, juvenile, municipal, or 23
county court or the Cuyahoga County Juvenile 24

Court may charge to fund computerization of the 25
court or the court clerk's office, and to 26
authorize use of the additional clerk's fees to 27
fund technological advances in the clerk's 28
office; to authorize the director or any 29
designee of the Franklin County Guardianship 30
Service Board to act on behalf of the Board on 31
guardianship matters, and to permit the Board to 32
charge a reasonable fee for services to wards; 33
and to eliminate a probate court's jurisdiction 34
over an application for approval of a transfer 35
of structured settlement payment rights if the 36
structured settlement agreement was not approved 37
by an Ohio court. 38

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

Section 1. That sections 1901.261, 1907.261, 2101.026, 39
2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 2105.33, 40
2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 2106.18, 41
2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 42
2153.081, 2301.031, 2323.58, 2323.583, 2323.584, 4505.10, 43
5801.10, 5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 5812.51, 44
5814.01, 5814.02, 5814.03, 5814.04, 5814.05, 5814.06, 5814.07, 45
5814.08, 5814.09, and 5815.23 be amended; sections 2105.39 46
(2105.38) and 5814.09 (5814.10) be amended for the purpose of 47
adopting new section numbers as shown in parentheses; and new 48
sections 2105.39 and 5814.09 and sections 2105.40, 2127.012, and 49
5802.04 of the Revised Code be enacted to read as follows: 50

Sec. 1901.261. (A) (1) A municipal court may determine that 51

for the efficient operation of the court additional funds are 52
required to computerize the court, to make available 53
computerized legal research services, or to do both. Upon making 54
a determination that additional funds are required for either or 55
both of those purposes, the court shall include in its schedule 56
of fees and costs under section 1901.26 of the Revised Code one 57
additional fee not to exceed ~~three~~six dollars on the filing of 58
each cause of action or appeal equivalent to one described in 59
division (A), (Q), or (U) of section 2303.20 of the Revised Code 60
and shall direct the clerk of the court to charge the fee. 61

(2) All fees collected under this section shall be paid on 62
or before the twentieth day of the month following the month in 63
which they are collected to the county treasurer if the court is 64
a county-operated municipal court or to the city treasurer if 65
the court is not a county-operated municipal court. The 66
treasurer shall place the funds from the fees in a separate fund 67
to be disbursed upon an order of the court, subject to an 68
appropriation by the board of county commissioners if the court 69
is a county-operated municipal court or by the legislative 70
authority of the municipal corporation if the court is not a 71
county-operated municipal court, or upon an order of the court, 72
subject to the court making an annual report available to the 73
public listing the use of all such funds, in an amount not 74
greater than the actual cost to the court of computerizing the 75
court, procuring and maintaining computerized legal research 76
services, or both. 77

(3) If the court determines that the funds in the fund 78
described in division (A) (2) of this section are more than 79
sufficient to satisfy the purpose for which the additional fee 80
described in division (A) (1) of this section was imposed, the 81
court may declare a surplus in the fund and, subject to an 82

appropriation by the board of county commissioners if the court 83
is a county-operated municipal court or by the legislative 84
authority of the municipal corporation if the court is not a 85
county-operated municipal court, expend those surplus funds, or 86
upon an order of the court, subject to the court making an 87
annual report available to the public listing the use of all 88
such funds, expend those surplus funds, for other appropriate 89
technological expenses of the court. 90

(B) (1) A municipal court may determine that, for the 91
efficient operation of the court, additional funds are required 92
to make technological advances in or to computerize the office 93
of the clerk of the court and, upon that determination, may 94
include in its schedule of fees and costs under section 1901.26 95
of the Revised Code an additional fee not to exceed ~~ten~~twenty 96
dollars on the filing of each cause of action or appeal, on the 97
filing, docketing, and endorsing of each certificate of 98
judgment, or on the docketing and indexing of each aid in 99
execution or petition to vacate, revive, or modify a judgment 100
that is equivalent to one described in division (A), (P), (Q), 101
(T), or (U) of section 2303.20 of the Revised Code. Subject to 102
division (B) (2) of this section, all moneys collected under 103
division (B) (1) of this section shall be paid on or before the 104
twentieth day of the month following the month in which they are 105
collected to the county treasurer if the court is a county- 106
operated municipal court or to the city treasurer if the court 107
is not a county-operated municipal court. The treasurer shall 108
place the funds from the fees in a separate fund to be 109
disbursed, upon an order of the municipal court and subject to 110
an appropriation by the board of county commissioners if the 111
court is a county-operated municipal court or by the legislative 112
authority of the municipal corporation if the court is not a 113

county-operated municipal court, in an amount no greater than 114
the actual cost to the court of procuring and maintaining 115
technology and computer systems for the office of the clerk of 116
the municipal court. 117

(2) If a municipal court makes the determination described 118
in division (B)(1) of this section, the board of county 119
commissioners of the county if the court is a county-operated 120
municipal court or the legislative authority of the municipal 121
corporation if the court is not a county-operated municipal 122
court, may issue one or more general obligation bonds for the 123
purpose of procuring and maintaining the technology and computer 124
systems for the office of the clerk of the municipal court. In 125
addition to the purposes stated in division (B)(1) of this 126
section for which the moneys collected under that division may 127
be expended, the moneys additionally may be expended to pay debt 128
charges and financing costs related to any general obligation 129
bonds issued pursuant to division (B)(2) of this section as they 130
become due. General obligation bonds issued pursuant to division 131
(B)(2) of this section are Chapter 133. securities. 132

Sec. 1907.261. (A)(1) A county court may determine that 133
for the efficient operation of the court additional funds are 134
required to computerize the court, to make available 135
computerized legal research services, or to do both. Upon making 136
a determination that additional funds are required for either or 137
both of those purposes, the court shall include in its schedule 138
of fees and costs under section 1907.24 of the Revised Code one 139
additional fee not to exceed ~~three~~six dollars on the filing of 140
each cause of action or appeal equivalent to one described in 141
division (A), (Q), or (U) of section 2303.20 of the Revised Code 142
and shall direct the clerk of the court to charge the fee. 143

(2) All fees collected under this section shall be paid on 144
or before the twentieth day of the month following the month in 145
which they are collected to the county treasurer. The treasurer 146
shall place the funds from the fees in a separate fund to be 147
disbursed either upon an order of the court, subject to an 148
appropriation by the board of county commissioners, or upon an 149
order of the court, subject to the court making an annual report 150
available to the public listing the use of all such funds, in an 151
amount not greater than the actual cost to the court of 152
computerizing the court, procuring and maintaining computerized 153
legal research services, or both. 154

(3) If the court determines that the funds in the fund 155
described in division (A) (2) of this section are more than 156
sufficient to satisfy the purpose for which the additional fee 157
described in division (A) (1) of this section was imposed, the 158
court may declare a surplus in the fund and, subject to an 159
appropriation by the board of county commissioners, expend those 160
surplus funds, or upon an order of the court, subject to the 161
court making an annual report available to the public listing 162
the use of all such funds, expend those surplus funds, for other 163
appropriate technological expenses of the court. 164

(B) (1) A county court may determine that, for the 165
efficient operation of the court, additional funds are required 166
to make technological advances in or to computerize the office 167
of the clerk of the court and, upon that determination, may 168
include in its schedule of fees and costs under section 1907.24 169
of the Revised Code an additional fee not to exceed ~~ten~~twenty 170
dollars on the filing of each cause of action or appeal, on the 171
filing, docketing, and endorsing of each certificate of 172
judgment, or on the docketing and indexing of each aid in 173
execution or petition to vacate, revive, or modify a judgment 174

that is equivalent to one described in division (A), (P), (Q), 175
(T), or (U) of section 2303.20 of the Revised Code. Subject to 176
division (B)(2) of this section, all moneys collected under 177
division (B)(1) of this section shall be paid on or before the 178
twentieth day of the month following the month in which they are 179
collected to the county treasurer. The treasurer shall place the 180
funds from the fees in a separate fund to be disbursed, upon an 181
order of the county court and subject to an appropriation by the 182
board of county commissioners, in an amount no greater than the 183
actual cost to the court of procuring and maintaining technology 184
and computer systems for the office of the clerk of the county 185
court. 186

(2) If a county court makes the determination described in 187
division (B)(1) of this section, the board of county 188
commissioners of that county may issue one or more general 189
obligation bonds for the purpose of procuring and maintaining 190
technology and the computer systems for the office of the clerk 191
of the county court. In addition to the purposes stated in 192
division (B)(1) of this section for which the moneys collected 193
under that division may be expended, the moneys additionally may 194
be expended to pay debt charges and financing costs related to 195
any general obligation bonds issued pursuant to division (B)(2) 196
of this section as they become due. General obligation bonds 197
issued pursuant to division (B)(2) of this section are Chapter 198
133. securities. 199

Sec. 2101.026. (A) The probate court of Franklin county 200
may accept funds or other program assistance from, or charge 201
fees for services described in division (B) of this section 202
rendered to, individuals, corporations, agencies, or 203
organizations, including, but not limited to, the board of 204
alcohol, drug addiction, and mental health services of Franklin 205

county or the Franklin county board of developmental 206
disabilities. Any funds or fees received by the probate court of 207
Franklin county under this division shall be paid into the 208
treasury of Franklin county and credited to a fund to be known 209
as the Franklin county probate court mental health fund. 210

(B) The moneys in the Franklin county probate court mental 211
health fund shall be used for services to help ensure the 212
treatment of any person who is under the care of the board of 213
alcohol, drug addiction, and mental health services of Franklin 214
county, the Franklin county board of developmental disabilities, 215
or any other guardianships. These services include, but are not 216
limited to, involuntary commitment proceedings and the 217
establishment and management of adult guardianships, including 218
all associated expenses, for wards who are under the care of the 219
board of alcohol, drug addiction, and mental health services of 220
Franklin county, the Franklin county board of developmental 221
disabilities, or any other guardianships. 222

(C) If the judge of the probate court of Franklin county 223
determines that some of the moneys in the Franklin county 224
probate court mental health fund are needed for the efficient 225
operation of that court, the moneys may be used for the 226
acquisition of equipment, the hiring and training of staff, 227
community services programs, volunteer guardianship training 228
services, the employment of magistrates, and other related 229
services. 230

(D) The moneys in the Franklin county probate court mental 231
health fund that may be used in part for the establishment and 232
management of adult guardianships under division (B) of this 233
section may be utilized to establish a Franklin county 234
guardianship service. 235

(E) (1) A Franklin county guardianship service under 236
division (D) of this section is established by creating a 237
Franklin county guardianship service board comprised of three 238
members. The judge of the probate court of Franklin county shall 239
appoint one member. The board of directors of the Franklin 240
county board of developmental disabilities shall appoint one 241
member. The board of directors of the board of alcohol, drug 242
addiction, and mental health services of Franklin county shall 243
appoint one member. The term of appointment of each member is 244
four years. 245

(2) The Franklin county guardianship service board may 246
appoint a director of the board. The board shall determine the 247
compensation of the director based on the availability of funds 248
contained in the Franklin county probate court mental health 249
fund. 250

~~(3) The members and the director, if any, of the Franklin~~ 251
~~county guardianship service board may receive appointments from~~ 252
~~the probate court of Franklin county to serve as guardians of~~ 253
~~both the person and estate of wards. The The director or any~~ 254
~~designee of the Franklin county guardianship service board may~~ 255
~~act on behalf of the board in relation to all guardianship~~ 256
~~matters.~~ 257

(4) The director of the Franklin county guardianship 258
service board may hire employees subject to available funds in 259
the Franklin county probate court mental health fund. 260

~~(4) If a new director replaces a previously appointed~~ 261
~~director of the Franklin county guardianship service board, the~~ 262
~~new director shall replace the former director serving as a~~ 263
~~guardian under division (E) (3) of this section without the need~~ 264
~~of a successor guardianship hearing conducted by the probate~~ 265

~~court of Franklin county so long as the wards are the same wards~~ 266
~~for both the former director and the new director.~~ 267

(5) The Franklin county guardianship service board may 268
charge a reasonable fee for services provided to wards. The 269
probate judge shall approve any fees charged by the board under 270
division (E) (5) of this section. 271

(6) The Franklin county guardianship service board that is 272
created under division (E) (1) of this section shall promulgate 273
all rules and regulations necessary for the efficient operation 274
of the board and the Franklin county guardianship service. 275

Sec. 2101.16. (A) Except as provided in section 2101.164 276
of the Revised Code, the fees enumerated in this division shall 277
be charged and collected, if possible, by the probate judge and 278
shall be in full for all services rendered in the respective 279
proceedings: 280

- (1) Account, in addition to advertising charges 281
 -\$ 12.00 282
 - Waivers and proof of notice of hearing on account, 283
 - per page, minimum one dollar 284
 -\$ 1.00 285
- (2) Account of distribution, in addition to 286
- advertising charges 287
-\$ 7.00 288
- (3) Adoption of child, petition for 289
-\$ 50.00 290
- (4) Alter or cancel contract for sale or purchase of 291
- real property, complaint to 292
-\$ 20.00 293
- (5) Application and order not otherwise provided for 294
- in this section or by rule adopted pursuant to 295

division (E) of this section		296
.....	5.00	297
(6) Appropriation suit, per day, hearing in		298
.....	20.00	299
(7) Birth, application for registration of		300
.....	7.00	301
(8) Birth record, application to correct		302
.....	5.00	303
(9) Bond, application for new or additional		304
.....	5.00	305
(10) Bond, application for release of surety or reduction of		306
.....	5.00	307
.....	5.00	308
(11) Bond, receipt for securities deposited in lieu of		309
.....	5.00	310
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar		311
.....	1.00	312
.....	1.00	313
(13) Citation and issuing citation, application for		314
.....	5.00	315
(14) Change of name, petition for		316
.....	20.00	317
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own		318
.....	10.00	319
.....	10.00	320
(16) Claim, application to compromise or settle		321
.....	10.00	322
(17) Claim, authority to present		323
.....	10.00	324
(18) Commissioner, appointment of		325
.....	5.00	326
(19) Compensation for extraordinary services and		327

attorney's fees for fiduciary, application for		328
.....	\$ 5.00	329
(20) Competency, application to procure adjudication of		330
.....	\$ 20.00	331
(21) Complete contract, application to		332
.....	\$ 10.00	333
(22) Concealment of assets, citation for		334
.....	\$ 10.00	335
(23) Construction of will, complaint for		336
.....	\$ 20.00	337
(24) Continue decedent's business, application to		338
.....	\$ 10.00	339
Monthly reports of operation		340
.....	\$ 5.00	341
(25) Declaratory judgment, complaint for		342
.....	\$ 20.00	343
(26) Deposit of will		344
.....	\$ 5.00	345
	<u>25.00</u>	346
(27) Designation of heir		347
.....	\$ 20.00	348
(28) Distribution in kind, application, assent, and		349
order for		350
.....	\$ 5.00	351
(29) Distribution under section 2109.36 of the Revised		352
Code, application for an order of		353
.....	\$ 7.00	354
(30) Docketing and indexing proceedings, including the		355
filing and noting of all necessary documents,		356
maximum fee, fifteen dollars		357
.....	\$ 15.00	358
(31) Exceptions to any proceeding named in this		359

section, contest of appointment or		360
.....	.....\$ 10.00	361
(32) Election of surviving partner to purchase assets		362
of partnership, proceedings relating to		363
.....	.....\$ 10.00	364
(33) Election of surviving spouse under will		365
.....	.....\$ 5.00	366
(34) Fiduciary, including an assignee or trustee of		367
an insolvent debtor or any guardian or conservator		368
accountable to the probate court, appointment of		369
.....	.....\$ 35.00	370
(35) Foreign will, application to record		371
.....	.....\$ 10.00	372
Record of foreign will, additional, per page		373
.....	.....\$ 1.00	374
(36) Forms when supplied by the probate court, not to		375
exceed		376
.....	.....\$ 10.00	377
(37) Heirship, complaint to determine		378
.....	.....\$ 20.00	379
(38) Injunction proceedings		380
.....	.....\$ 20.00	381
(39) Improve real property, petition to		382
.....	.....\$ 20.00	383
(40) Inventory with appraisement		384
.....	.....\$ 10.00	385
(41) Inventory without appraisement		386
.....	.....\$ 7.00	387
(42) Investment or expenditure of funds, application		388
for		389
.....	.....\$ 10.00	390
(43) Invest in real property, application to		391

.....	\$ 10.00	392
(44) Lease for oil, gas, coal, or other mineral,		393
petition to		394
.....	\$ 20.00	395
(45) Lease or lease and improve real property,		396
petition to		397
.....	\$ 20.00	398
(46) Marriage license		399
.....	\$ 10.00	400
Certified abstract of each marriage		401
.....	\$ 2.00	402
(47) Minor or incompetent person, etc., disposal of		403
estate under twenty-five thousand dollars of		404
.....	\$ 10.00	405
(48) Mortgage or mortgage and repair or improve real		406
property, complaint to		407
.....	\$ 20.00	408
(49) Newly discovered assets, report of		409
.....	\$ 7.00	410
(50) Nonresident executor or administrator to bar		411
creditors' claims, proceedings by		412
.....	\$ 20.00	413
(51) Power of attorney or revocation of power, bonding		414
company		415
.....	\$ 10.00	416
(52) Presumption of death, petition to establish		417
.....	\$ 20.00	418
(53) Probating will		419
.....	\$ 15.00	420
Proof of notice to beneficiaries		421
.....	\$ 5.00	422
(54) Purchase personal property, application of		423

surviving spouse to		424
.....	.....\$ 10.00	425
(55) Purchase real property at appraised value,		426
petition of surviving spouse to		427
.....	.....\$ 20.00	428
(56) Receipts in addition to advertising charges,		429
application and order to record		430
.....	.....\$ 5.00	431
Record of those receipts, additional, per page		432
.....	.....\$ 1.00	433
(57) Record in excess of fifteen hundred words in any		434
proceeding in the probate court, per page		435
.....	.....\$ 1.00	436
(58) Release of estate by mortgagee or other lienholder		437
.....	.....\$ 5.00	438
(59) Relieving an estate from administration under		439
section 2113.03 of the Revised Code or granting		440
an order for a summary release from administration		441
under section 2113.031 of the Revised Code		442
.....	.....\$ 60.00	443
(60) Removal of fiduciary, application for		444
.....	.....\$ 10.00	445
(61) Requalification of executor or administrator		446
.....	.....\$ 10.00	447
(62) Resignation of fiduciary		448
.....	.....\$ 5.00	449
(63) Sale bill, public sale of personal property		450
.....	.....\$ 10.00	451
(64) Sale of personal property and report, application		452
for		453
.....	.....\$ 10.00	454
(65) Sale of real property, petition for		455

.....	\$ 25.00	456
(66) Terminate guardianship, petition to		457
.....	\$ 10.00	458
(67) Transfer of real property, application, entry,		459
and certificate for		460
.....	\$ 7.00	461
(68) Unclaimed money, application to invest		462
.....	\$ 7.00	463
(69) Vacate approval of account or order of		464
distribution, motion to		465
.....	\$ 10.00	466
(70) Writ of execution		467
.....	\$ 5.00	468
(71) Writ of possession		469
.....	\$ 5.00	470
(72) Wrongful death, application and settlement of		471
claim for		472
.....	\$ 20.00	473
(73) Year's allowance, petition to review		474
.....	\$ 7.00	475
(74) Guardian's report, filing and review of		476
.....	\$ 5.00	477
(75) Mentally ill person subject to court order,		478
filing of affidavit and proceedings for		479
.....	\$ 25.00	480
(B) (1) In relation to an application for the appointment		481
of a guardian or the review of a report of a guardian under		482
section 2111.49 of the Revised Code, the probate court, pursuant		483
to court order or in accordance with a court rule, may direct		484
that the applicant or the estate pay any or all of the expenses		485
of an investigation conducted pursuant to section 2111.041 or		486

division (A) (2) of section 2111.49 of the Revised Code. If the 487
investigation is conducted by a public employee or investigator 488
who is paid by the county, the fees for the investigation shall 489
be paid into the county treasury. If the court finds that an 490
alleged incompetent or a ward is indigent, the court may waive 491
the costs, fees, and expenses of an investigation. 492

(2) In relation to the appointment or functioning of a 493
guardian for a minor or the guardianship of a minor, the probate 494
court may direct that the applicant or the estate pay any or all 495
of the expenses of an investigation conducted pursuant to 496
section 2111.042 of the Revised Code. If the investigation is 497
conducted by a public employee or investigator who is paid by 498
the county, the fees for the investigation shall be paid into 499
the county treasury. If the court finds that the guardian or 500
applicant is indigent, the court may waive the costs, fees, and 501
expenses of an investigation. 502

(3) In relation to the filing of an affidavit of mental 503
illness for a mentally ill person subject to court order, the 504
court may waive the fee under division (A) (75) of this section 505
if the court finds that the affiant is indigent or for good 506
cause shown. 507

(C) Thirty dollars of the thirty-five-dollar fee collected 508
pursuant to division (A) (34) of this section and twenty dollars 509
of the sixty-dollar fee collected pursuant to division (A) (59) 510
of this section shall be deposited by the county treasurer in 511
the indigent guardianship fund created pursuant to section 512
2111.51 of the Revised Code. 513

(D) The fees of witnesses, jurors, sheriffs, coroners, and 514
constables for services rendered in the probate court or by 515
order of the probate judge shall be the same as provided for 516

similar services in the court of common pleas. 517

(E) The probate court, by rule, may require an advance 518
deposit for costs, not to exceed one hundred twenty-five 519
dollars, at the time application is made for an appointment as 520
executor or administrator or at the time a will is presented for 521
probate. 522

(F) (1) Thirty dollars of the fifty-dollar fee collected 523
pursuant to division (A) (3) of this section shall be deposited 524
into the "putative father registry fund," which is hereby 525
created in the state treasury. The department of job and family 526
services shall use the money in the fund to fund the 527
department's costs of performing its duties related to the 528
putative father registry established under section 3107.062 of 529
the Revised Code. 530

(2) If the department determines that money in the 531
putative father registry fund is more than is needed for its 532
duties related to the putative father registry, the department 533
may use the surplus moneys in the fund as permitted in division 534
(C) of section 2151.3529, division (B) of section 2151.3530, or 535
section 5103.155 of the Revised Code. 536

Sec. 2101.162. (A) (1) The probate judge may determine 537
that, for the efficient operation of the probate court, 538
additional funds are required to computerize the court, to make 539
available computerized legal research services, or to do both. 540
Upon making a determination that additional funds are required 541
for either or both of those purposes, the probate judge shall 542
charge a fee not to exceed ~~three-six~~ dollars or authorize and 543
direct a deputy clerk of the probate court to charge a fee not 544
to exceed ~~three-six~~ dollars, in addition to the fees specified 545
in divisions (A) (1), (3), (4), (6), (14) to (17), (20) to (25), 546

(27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) 547
to (61), (63) to (66), (69), and (72) of section 2101.16 of the 548
Revised Code and the fee charged in connection with the 549
docketing and indexing of an appeal. 550

(2) All moneys collected under division (A)(1) of this 551
section shall be paid to the county treasurer. The treasurer 552
shall place the moneys from the fees in a separate fund to be 553
disbursed, upon an order of the probate judge, in an amount no 554
greater than the actual cost to the court of procuring and 555
maintaining computerization of the court, computerized legal 556
research services, or both. 557

(3) If the court determines that the funds in the fund 558
described in division (A)(2) of this section are more than 559
sufficient to satisfy the purpose for which the additional fee 560
described in division (A)(1) of this section was imposed, the 561
court may declare a surplus in the fund and expend those surplus 562
funds for other appropriate technological expenses of the court. 563

(B)(1) The probate judge may determine that, for the 564
efficient operation of the probate court, additional funds are 565
required to make technological advances in or to computerize the 566
office of the clerk of the court and, upon that determination, 567
may charge a fee, not to exceed ~~ten~~ twenty dollars, or authorize 568
and direct a deputy clerk of the probate court to charge a fee, 569
not to exceed ~~ten~~ twenty dollars, in addition to the fees 570
specified in divisions (A)(1), (3), (4), (6), (14) to (17), (20) 571
to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to 572
(55), (59) to (61), (63) to (66), (69), and (72) of section 573
2101.16 of the Revised Code and the fee charged in connection 574
with the docketing and indexing of an appeal. Subject to 575
division (B)(2) of this section, all moneys collected under this 576

division shall be paid to the county treasurer to be disbursed, 577
upon an order of the probate judge and subject to appropriation 578
by the board of county commissioners, in an amount no greater 579
than the actual cost to the probate court of procuring and 580
maintaining technology and computer systems for the office of 581
the clerk of the court. 582

(2) If the probate judge makes the determination described 583
in division (B) (1) of this section, the board of county 584
commissioners may issue one or more general obligation bonds for 585
the purpose of procuring and maintaining the technology and 586
computer systems for the office of the clerk of the probate 587
court. In addition to the purposes stated in division (B) (1) of 588
this section for which the moneys collected under that division 589
may be expended, the moneys additionally may be expended to pay 590
debt charges on and financing costs related to any general 591
obligation bonds issued pursuant to this division as they become 592
due. General obligation bonds issued pursuant to this division 593
are Chapter 133. securities. 594

Sec. 2105.02. ~~When, in Chapter 2105. of the Revised Code~~ 595
~~this chapter,~~ a person is described as living, it means that the 596
person was living at the time of the death of the intestate from 597
whom the estate came and that the person lived for at least one 598
hundred twenty hours following the death of the intestate, and 599
when a person is described as having died, it means that the 600
person died before such intestate or that the person failed to 601
live for at least one hundred twenty hours following the death 602
of the intestate. 603

Sec. 2105.14. ~~Descendants of an intestate begotten before~~ 604
~~the intestate's death, but born after the intestate's death, in~~ 605
~~all cases will inherit as if born in the lifetime of the~~ 606

~~intestate and surviving the intestate; but in no other case can~~ 607
~~a person~~ No descendant of an intestate shall inherit under this 608
chapter unless living at the time of the death of surviving the 609
intestate for at least one hundred twenty hours, or unless born 610
within three hundred days after the death of the intestate and 611
living for at least one hundred twenty hours after birth. 612

Sec. 2105.31. As used in sections 2105.31 to ~~2105.39~~ 613
2105.40 of the Revised Code: 614

(A) "Co-owners with right of survivorship" includes joint 615
tenants, tenants by the entireties, and other co-owners of ~~real~~ 616
~~or personal property; insurance or other policies; or bank,~~ 617
~~savings bank, credit union, or other accounts,~~ held under 618
circumstances that entitle one or more ~~persons~~ individuals to 619
the whole of the property or account on the death of the other 620
~~person~~ individual or ~~persons~~ individuals. 621

(B) "Governing instrument" means a deed, will, trust, 622
insurance or annuity policy, account with a transfer-on-death 623
designation or the abbreviation TOD, account with a payable-on- 624
death designation or the abbreviation POD, transfer-on-death 625
designation affidavit, pension, profit-sharing, retirement, or 626
similar benefit plan, instrument creating or exercising a power 627
of appointment or a power of attorney, or a dispositive, 628
appointive, or nominative instrument of any similar type. 629

(C) "Payor" means a trustee, insurer, business entity, 630
employer, government, governmental agency, political subdivision 631
or instrumentality, or any other person authorized or obligated 632
by law or a governing instrument to make payments or transfers. 633

~~(D) "Event" includes the death of another person.~~ 634

Sec. 2105.32. (A) Except as provided in section 2105.36 of 635

the Revised Code, ~~a person~~ if title to property, the devolution 636
of property, the right to elect an interest in property, or the 637
right to exempt property, homestead, or allowance for support 638
depends upon an individual's survivorship of the death of 639
another individual, an individual who is not established by 640
clear and convincing evidence to have survived ~~another specified~~ 641
~~person~~ the other individual by one hundred twenty hours is 642
deemed to have predeceased the other ~~person for the following~~ 643
~~purposes:~~ individual. 644

~~(1) When the title to real or personal property or the~~ 645
~~devolution of real or personal property depends upon a person's~~ 646
~~survivorship of the death of another person;~~ 647

~~(2) When the right to elect an interest in or exempt a~~ 648
~~surviving spouse's share of an intestate estate under section~~ 649
~~2105.06 of the Revised Code depends upon a person's survivorship~~ 650
~~of the death of another person;~~ 651

~~(3) When the right to elect an interest in or exempt an~~ 652
~~interest of the decedent in the mansion house pursuant to~~ 653
~~section 2106.10 of the Revised Code depends upon a person's~~ 654
~~survivorship of the death of another person;~~ 655

~~(4) When the right to elect an interest in or exempt an~~ 656
~~allowance for support pursuant to section 2106.13 of the Revised~~ 657
~~Code depends upon a person's survivorship of the death of~~ 658
~~another person.~~ 659

(B) This section does not apply if its application would 660
result in a taking of an intestate estate by the state. 661

Sec. 2105.33. Except as provided in section 2105.36 of the 662
Revised Code, ~~a person~~ an individual who is not established by 663
clear and convincing evidence to have survived ~~a specified~~ an 664

event by one hundred twenty hours is deemed to have predeceased 665
the event for purposes of a provision of a governing instrument 666
that relates to the ~~person~~ individual surviving an event, 667
including the death of another individual. 668

Sec. 2105.34. Except as provided in section 2105.36 of the 669
Revised Code, the following shall apply: 670

(A) If it is not established by clear and convincing 671
evidence that one of two co-owners with right of survivorship ~~in~~ 672
~~specified real or personal property~~ survived the other co-owner 673
by one hundred twenty hours, ~~that one-half of the property shall~~ 674
~~pass or account passes~~ as if each ~~person~~ one co-owner had 675
survived the other ~~person~~ co-owner by one hundred twenty hours, 676
and one-half of the property or account passes as if the other 677
co-owner had survived the one co-owner by one hundred twenty 678
hours. 679

(B) If there are more than two co-owners with right of 680
survivorship ~~in specified real or personal property~~ and it is 681
not established by clear and convincing evidence that at least 682
one of the co-owners survived the others by one hundred twenty 683
hours, ~~that the property shall pass or account passes~~ in the 684
proportion that ~~each person owns~~ one co-owner's ownership bears 685
to the ownership of the whole number of co-owners. 686

Sec. 2105.35. In addition to any provisions of the Rules 687
of Evidence, the following provisions relating to the 688
determination of death and status apply: 689

(A) (1) ~~A person is dead if the person has been determined~~ 690
~~to be dead pursuant to standards established under section~~ 691
~~2108.40 of the Revised Code~~ An individual is dead if the 692
individual has sustained either irreversible cessation of 693

circulatory and respiratory functions or irreversible cessation 694
of all functions of the brain, including the brain stem, as 695
determined in accordance with accepted medical standards. If the 696
respiratory and circulatory functions of an individual are being 697
artificially sustained, under accepted medical standards a 698
determination that death has occurred is made by a physician by 699
observing and conducting a test to determine that the 700
irreversible cessation of all functions of the brain has 701
occurred. 702

(2) A physician who makes a determination of death in 703
accordance with division (A) of this section ~~2108.40 of the~~ 704
~~Revised Code and any person who acts in good faith in reliance~~ 705
~~on a determination of death made by a physician in accordance~~ 706
~~with that section is entitled to the immunity conveyed by that~~ 707
~~section and accepted medical standards is not liable for damages~~ 708
in any civil action or subject to prosecution in any criminal 709
proceeding for the physician's acts or the acts of others based 710
on that determination. 711

(3) Any person who acts in good faith and relies on a 712
determination of death made by a physician in accordance with 713
division (A) of this section and accepted medical standards is 714
not liable for damages in any civil action or subject to 715
prosecution in any criminal proceeding for the person's actions. 716

(B) A certified or authenticated copy of a death 717
certificate purporting to be issued by an official or agency of 718
the place where the death of ~~a person~~ an individual purportedly 719
occurred is prima-facie evidence of the fact, place, date, and 720
time of the ~~person's~~ individual's death and the identity of the 721
decedent. 722

(C) A certified or authenticated copy of any record or 723

report of a domestic or foreign governmental agency that ~~a-~~ 724
~~person-an individual~~ is missing, detained, dead, or alive is 725
prima-facie evidence of the status and of the dates, 726
circumstances, and places disclosed by the record or report. 727

(D) In the absence of prima-facie evidence of death under 728
division (B) or (C) of this section, the fact of death may be 729
established by clear and convincing evidence, including 730
circumstantial evidence. 731

(E) Except as provided in division (F) of this section, a 732
presumption of the death of ~~a person-an individual~~ arises when 733
either of the following applies: 734

(1) ~~When the person~~ The individual has disappeared and has 735
been continuously absent from the ~~person's-individual's~~ place of 736
last domicile for a five-year period without being heard from 737
during the period; 738

(2) ~~When the person~~ The individual has disappeared and has 739
been continuously absent from the ~~person's-individual's~~ place of 740
last domicile without being heard from and was at the beginning 741
of the ~~person's-individual's~~ absence exposed to a specific peril 742
of death, even though the absence has continued for less than a 743
five-year period. 744

(F) When ~~a person-an individual~~ who is on active duty in 745
the armed services of the United States has been officially 746
determined to be absent in a status of "missing" or "missing in 747
action," a presumption of death arises when the head of the 748
federal department concerned has made a finding of death 749
pursuant to the "Federal Missing Persons Act," 80 Stat. 625 750
(1966), 37 U.S.C.A. 551, as amended. 751

(G) In the absence of evidence disputing the time of death 752

stipulated on a document described in division (B) or (C) of 753
this section, a document described in either of those divisions 754
that stipulates a time of death of an individual one hundred 755
twenty hours or more after the time of death of another ~~person-~~ 756
individual, however the time of death of the other ~~person-~~ 757
individual is determined, establishes by clear and convincing 758
evidence that the ~~person-~~individual survived the other ~~person-~~ 759
individual by one hundred twenty hours. 760

~~(H) The provisions of divisions (A) to (G) of this section-~~ 761
~~are in addition to any other provisions of the Revised Code, the~~ 762
~~Rules of Criminal Procedure, or the Rules of Evidence that~~ 763
~~pertain to the determination of death and status of a person.~~ 764

Sec. 2105.36. ~~A person who is not established by clear and~~ 765
~~convincing evidence to have survived another specified person by~~ 766
~~one hundred twenty hours shall not be deemed to have predeceased-~~ 767
~~the other person.~~ Survival by one hundred twenty hours is not 768
required if any of the following ~~apply~~ applies: 769

(A) The governing instrument contains language dealing 770
explicitly with simultaneous deaths or deaths in a common 771
disaster, and that language is ~~operative~~ operable under the 772
~~situation in question~~ facts of the case. 773

(B) The governing instrument expressly indicates that a- 774
~~person~~ an individual is not required to survive an event, 775
including the death of another individual, by any specified 776
~~period in order for any right or interest governed by the~~ 777
~~instrument to properly vest or transfer,~~ or expressly requires 778
the individual to survive the event for a specified period, but 779
the survival of the event for the specified period shall be 780
established by clear and convincing evidence. 781

~~(C) The governing instrument expressly requires the person to survive the event for a specified period in order for any right or interest governed by the instrument to properly vest or transfer, and the survival of the event by the person or survival of the event by the person for the specified period is established by clear and convincing evidence.~~ 782
783
784
785
786
787

~~(D) The imposition of a one-hundred-twenty-hour requirement of the person's survival of the other specified person causes would cause a nonvested property interest or a power of appointment to be invalid under section 2131.08 of the Revised Code, and but the person's survival of the other specified person is shall be established by clear and convincing evidence.~~ 788
789
790
791
792
793
794

~~(E) (D) The application of a one-hundred-twenty-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition, and but the person's survival of the other specified person is shall be established by clear and convincing evidence.~~ 795
796
797
798
799

Sec. 2105.37. (A) A payor or other third party is not liable for any of the following: 800
801

(1) ~~Making Having made a payment, transferring or transferred an item of real or personal property, or otherwise transferring any other benefit to a person designated in a governing instrument who, under sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code, is not entitled to the payment or item of property or other benefit, if the payment or transfer was made before the payor or other third party received written notice of a claimed lack of entitlement ~~pursuant to~~ under those sections ~~2105.31 to 2105.39~~ of the Revised Code;~~ 802
803
804
805
806
807
808
809
810

(2) ~~Taking~~ Having taken any other action ~~not specified in~~ 811
~~division (A) (1) of this section~~ in good faith reliance on the 812
person's apparent entitlement under the terms of the governing 813
instrument before the payor or other third party received 814
written notice of a claimed lack of entitlement ~~pursuant to~~ 815
under sections 2105.31 to 2105.39-2105.40 of the Revised Code. 816

(B) A payor or other third party is liable for a payment, 817
transfer, or other action taken after the payor or other third 818
party receives written notice of a claimed lack of entitlement 819
~~pursuant to~~ under sections 2105.31 to 2105.39-2105.40 of the 820
Revised Code. 821

(C) Written notice of a claimed lack of entitlement under 822
~~divisions~~ division (A) or (B) of this section ~~must~~ shall be 823
mailed to the payor's or other third party's main office or home 824
by registered or certified mail, return receipt requested, or 825
served upon the payor or other third party in the same manner as 826
a summons in a civil action. Upon receipt of written notice of a 827
claimed lack of entitlement ~~pursuant to~~ under sections 2105.31 828
to ~~2105.39-2105.40~~ of the Revised Code, a payor or other third 829
party may pay any amount owed or transfer or deposit any item of 830
~~real or personal~~ property held by it to or with the probate 831
court that has jurisdiction over the decedent's estate. If no 832
probate proceedings have been commenced, upon receipt of written 833
notice of a claimed lack of entitlement ~~pursuant to~~ under 834
sections 2105.31 to ~~2105.39-2105.40~~ of the Revised Code, a payor 835
or other third party may pay any amount owed or transfer or 836
deposit any item of ~~real or personal~~ property held by it to or 837
with the probate court located in the county of the decedent's 838
residence. The court shall hold the funds or ~~real or personal~~ 839
items of property until it is determined pursuant to, and upon 840
its determination under sections 2105.31 to ~~2105.39-2105.40~~ of 841

the Revised Code to whom the funds or ~~real or personal items of~~ 842
property should be disbursed, shall order disbursement in 843
accordance with its determination. ~~The court then shall order~~ 844
~~disbursement of the funds or real or personal property in~~ 845
~~accordance with that determination.~~ Payments, transfers, or 846
deposits made to or with the court discharge the payor or other 847
third party from all claims for the value of amounts paid to or 848
items of property transferred to or deposited with the court. 849

(D) A person who purchases property for value or receives 850
a payment or other item of property or benefit in partial or 851
full satisfaction of a legally enforceable obligation, and 852
without notice that the person selling or transferring the 853
property or benefit or making a payment is not entitled to the 854
property or benefit under sections 2105.31 to 2105.40 of the 855
Revised Code, is neither obligated under those sections to 856
return the payment or item of property or benefit nor liable 857
under those sections for the amount of the payment or the value 858
of the item of property or benefit. 859

(E) A person who, not for value, receives a payment, item 860
of property, or any other benefit to which the person is not 861
entitled under sections 2105.31 to 2105.40 of the Revised Code 862
is obligated to return the payment, item of property, or 863
benefit, or is personally liable for the amount of the payment 864
or the value of the item of property or benefit, to the person 865
who is entitled to it under sections 2105.31 to 2105.40 of the 866
Revised Code. 867

(F) If sections 2105.31 to 2105.40 of the Revised Code or 868
any provision of those sections are preempted by federal law 869
with respect to a payment, an item of property, or any other 870
benefit covered by those sections, a person who, not for value, 871

receives the payment, item of property, or other benefit to 872
which the person is not entitled under sections 2105.31 to 873
2105.40 of the Revised Code is obligated to return the payment, 874
item of property, or benefit, or is personally liable for the 875
amount of the payment or the value of the item of property or 876
benefit, to the person who would have been entitled to it were 877
sections 2105.31 to 2105.40 of the Revised Code or any provision 878
of those sections not preempted. 879

Sec. ~~2105.39~~ 2105.38. (A) Sections 2105.31 to ~~2105.39~~ 880
~~2105.40~~ of the Revised Code do not impair any act done in any 881
proceeding, or any right that accrued, before ~~May 16, 2002~~ the 882
effective date of the amendment of this section. If a right is 883
acquired, extinguished, or barred upon the expiration of a 884
prescribed period of time that has commenced to run, prior to 885
~~May 16, 2002~~ the effective date of the amendment of this 886
section, under any provision of the Revised Code, the provision 887
of the applicable section of the Revised Code applies with 888
respect to that right. 889

(B) Any rule of construction ~~or presumption~~ regarding any 890
provision of a governing instrument that is provided in sections 891
2105.31 to ~~2105.39~~ 2105.40 of the Revised Code applies to any 892
governing instrument that is executed, ~~or any multiple party~~ 893
~~account that is opened,~~ prior to ~~May 16, 2002~~ the effective date 894
of the amendment of this section, unless there is a clear 895
indication of a contrary intent in the governing instrument ~~or~~ 896
~~multiple party account.~~ 897

~~(C) If any provision of sections 2105.31 to 2105.39 of the~~ 898
~~Revised Code or the application of those sections to any persons~~ 899
~~or circumstance is held invalid, the invalidity does not affect~~ 900
~~other provisions or applications of sections 2105.31 to 2105.39~~ 901

~~of the Revised Code that can be given effect without the invalid-~~ 902
~~provision or application.~~ 903

Sec. 2105.39. Sections 2105.31 to 2105.40 of the Revised 904
Code shall be applied and construed to effectuate their general 905
purpose to make uniform the law with respect to the subject of 906
those sections among the states enacting the law. 907

Sec. 2105.40. Sections 2105.31 to 2105.40 of the Revised 908
Code may be cited as the uniform simultaneous death act. 909

Sec. 2106.13. (A) If a person dies leaving a surviving 910
spouse and no minor children, leaving a surviving spouse and 911
minor children, or leaving minor children and no surviving 912
spouse, the surviving spouse, minor children, or both shall be 913
entitled to receive, subject to division (B) of this section, in 914
money or property the sum of forty thousand dollars as an 915
allowance for support. If the surviving spouse selected ~~two~~one 916
or more automobiles under section 2106.18 of the Revised Code, 917
the allowance for support prescribed by this section shall be 918
reduced by the value of the automobile having the ~~lower~~lowest 919
value ~~of the two automobiles~~ if more than one automobile is so 920
selected. The money or property set off as an allowance for 921
support shall be considered estate assets. 922

(B) The probate court shall order the distribution of the 923
allowance for support described in division (A) of this section 924
as follows: 925

(1) If the person died leaving a surviving spouse and no 926
minor children, one hundred per cent to the surviving spouse; 927

(2) If the person died leaving a surviving spouse and 928
minor children, and if all of the minor children are the 929
children of the surviving spouse, one hundred per cent to the 930

surviving spouse;	931
(3) If the person died leaving a surviving spouse and	932
minor children, and if not all of the minor children are	933
children of the surviving spouse, in equitable shares, as fixed	934
by the probate court in accordance with this division, to the	935
surviving spouse and the minor children who are not the children	936
of the surviving spouse. In determining equitable shares under	937
this division, the probate court shall do all of the following:	938
(a) Consider the respective needs of the surviving spouse,	939
the minor children who are children of the surviving spouse, and	940
the minor children who are not children of the surviving spouse;	941
(b) Allocate to the surviving spouse, the share that is	942
equitable in light of the needs of the surviving spouse and the	943
minor children who are children of the surviving spouse;	944
(c) Allocate to the minor children who are not children of	945
the surviving spouse, the share that is equitable in light of	946
the needs of those minor children.	947
(4) If the person died leaving minor children and no	948
surviving spouse, in equitable shares, as fixed by the probate	949
court in accordance with this division, to the minor children.	950
In determining equitable shares under this division, the probate	951
court shall consider the respective needs of the minor children	952
and allocate to each minor child the share that is equitable in	953
light of the child's needs.	954
(C) If the surviving spouse selected two <u>one or more</u>	955
automobiles under section 2106.18 of the Revised Code, the	956
probate court, in considering the respective needs of the	957
surviving spouse and the minor children when allocating an	958
allowance for support under division (B)(3) of this section,	959

shall consider the benefit derived by the surviving spouse from 960
the transfer of the automobile having the ~~lower~~ lowest value ~~of~~ 961
~~the two automobiles~~ if more than one automobile is so selected. 962

(D) If, pursuant to this section, the probate court must 963
allocate the allowance for support, the administrator or 964
executor, within five months of the initial appointment of an 965
administrator or executor, shall file with the probate court an 966
application to allocate the allowance for support. 967

(E) The administrator or executor shall pay the allowance 968
for support unless a competent adult or a guardian with the 969
consent of the court having jurisdiction over the guardianship 970
waives the allowance for support to which the adult or the ward 971
represented by the guardian is entitled. 972

(F) For the purposes of this section, the value of an 973
automobile that a surviving spouse selects pursuant to section 974
2106.18 of the Revised Code is the value that the surviving 975
spouse specifies for the automobile in the affidavit executed 976
pursuant to division (B) of section 4505.10 of the Revised Code. 977

Sec. 2106.18. (A) Upon the death of a married resident who 978
owned at least one automobile at the time of death, the interest 979
of the deceased spouse in ~~up to two~~ one or more automobiles that 980
are not transferred to the surviving spouse due to joint 981
ownership with right of survivorship established under section 982
2131.12 of the Revised Code, that are not transferred to a 983
transfer-on-death beneficiary or beneficiaries designated under 984
section 2131.13 of the Revised Code, and that are not otherwise 985
specifically disposed of by testamentary disposition may be 986
selected by the surviving spouse. This interest shall 987
immediately pass to the surviving spouse upon transfer of the 988
title or titles in accordance with section 4505.10 of the 989

Revised Code. The sum total of the values of the automobiles 990
selected by a surviving spouse under this division, as specified 991
in the affidavit that the surviving spouse executes pursuant to 992
division (B) of section 4505.10 of the Revised Code, shall not 993
exceed ~~forty~~sixty-five thousand dollars. Each automobile that 994
passes to a surviving spouse under this division shall not be 995
considered an estate asset and shall not be included in the 996
estate inventory. 997

(B) The executor or administrator, with the approval of 998
the probate court, may transfer title to an automobile owned by 999
the decedent to any of the following: 1000

(1) The surviving spouse, when the automobile is purchased 1001
by the surviving spouse pursuant to section 2106.16 of the 1002
Revised Code; 1003

(2) A distributee; 1004

(3) A purchaser. 1005

(C) The executor or administrator may transfer title to an 1006
automobile owned by the decedent without the approval of the 1007
probate court to any of the following: 1008

(1) A legatee entitled to the automobile under the terms 1009
of the will; 1010

(2) A distributee if the distribution of the automobile is 1011
made without court order pursuant to section 2113.55 of the 1012
Revised Code; 1013

(3) A purchaser if the sale of the automobile is made 1014
pursuant to section 2113.39 of the Revised Code. 1015

(D) As used in division (A) of this section, "automobile" 1016
includes a motorcycle and includes a truck if the truck was used 1017

as a method of conveyance by the deceased spouse or the deceased spouse's family when the deceased spouse was alive. 1018
1019

Sec. 2107.07. A will may be deposited by the testator, or by some person for the testator, in the office of the judge of the probate court in the county in which the testator lives, before or after the death of the testator, and if deposited after the death of the testator, with or without applying for its probate. Upon the payment of the fee of twenty-five dollars to the court, the judge shall receive, keep, and give a certificate of deposit for the will. That will shall be safely kept until delivered or disposed of as provided by section 2107.08 of the Revised Code. If the will is not delivered or disposed of as provided in that section within one hundred years after the date the will was deposited, the judge may dispose of the will in any manner the judge considers feasible. The judge, ~~on being paid the fee of five dollars, shall receive, keep, and give a certificate of deposit for~~ shall retain an electronic copy of the will prior to its disposal after one hundred years under this section. 1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036

Every will that is so deposited shall be enclosed in a sealed envelope that shall be indorsed with the name of the testator. The judge shall indorse on the envelope the date of delivery and the person by whom the will was delivered. The envelope may be indorsed with the name of a person to whom it is to be delivered after the death of the testator. The will shall not be opened or read until delivered to a person entitled to receive it, until the testator files a complaint in the probate court for a declaratory judgment of the validity of the will pursuant to section 2107.081 of the Revised Code, or until otherwise disposed of as provided in section 2107.08 of the Revised Code. Subject to section 2107.08 of the Revised Code, 1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048

the deposited will shall not be a public record until the time 1049
that an application is filed to probate it. 1050

Sec. 2107.10. (A) No property or right, testate or 1051
intestate, shall pass to a beneficiary named in a will who knows 1052
of the existence of the will for one year after the death of the 1053
testator and has the power to control it and, without reasonable 1054
cause, intentionally conceals or withholds it or neglects or 1055
refuses within that one year to cause it to be offered for or 1056
admitted to probate. The property devised or bequeathed to that 1057
beneficiary shall ~~descend to the heirs of the testator, not~~ 1058
~~including any heir who has concealed or withheld the will~~ pass 1059
as if the beneficiary had predeceased the testator. 1060

(B) No property or right, testate or intestate, passes to 1061
a beneficiary named in a will when the will was declared valid 1062
and filed with a probate judge pursuant to section 2107.084 of 1063
the Revised Code, the declaration and filing took place in a 1064
county different from the county in which the will of the 1065
testator would be probated under section 2107.11 of the Revised 1066
Code, and the named beneficiary knew of the declaration and 1067
filing and of the death of the testator and did not notify the 1068
probate judge with whom the will was filed. This division does 1069
not preclude a named beneficiary from acquiring property or 1070
rights from the estate of the testator for failing to notify a 1071
probate judge if the named beneficiary reasonably believes that 1072
the judge has previously been notified of the testator's death. 1073

Sec. 2109.62. (A) (1) Upon the filing of a motion by a 1074
trustee with the court that has jurisdiction over the trust, 1075
upon the provision of reasonable notice to all beneficiaries who 1076
are known and in being and who have vested or contingent 1077
interests in the trust, and after holding a hearing, the court 1078

may terminate the trust, in whole or in part, if it determines 1079
that all of the following apply: 1080

(a) It is no longer economically feasible to continue the 1081
trust. 1082

(b) The termination of the trust is for the benefit of the 1083
beneficiaries. 1084

(c) The termination of the trust is equitable and 1085
practical. 1086

(d) The current value of the trust is less than one 1087
hundred thousand dollars. 1088

(2) The existence of a spendthrift or similar provision in 1089
a trust instrument or will does not preclude the termination of 1090
a trust pursuant to this section. 1091

(B) If property is to be distributed from an estate being 1092
probated to a trust and the termination of the trust pursuant to 1093
this section does not clearly defeat the intent of the testator, 1094
the probate court has jurisdiction to order the outright 1095
distribution of the property or to make the property custodial 1096
property under sections 5814.01 to ~~5814.09~~5814.10 of the 1097
Revised Code. A probate court may so order whether the motion 1098
for the order is made by an inter vivos trustee named in the 1099
will of the decedent or by a testamentary trustee. 1100

(C) Upon the termination of a trust pursuant to this 1101
section, the probate court shall order the distribution of the 1102
trust estate in accordance with any provision specified in the 1103
trust instrument for the premature termination of the trust. If 1104
there is no provision of that nature in the trust instrument, 1105
the probate court shall order the distribution of the trust 1106
estate among the beneficiaries of the trust in accordance with 1107

their respective beneficial interests and in a manner that the 1108
court determines to be equitable. For purposes of ordering the 1109
distribution of the trust estate among the beneficiaries of the 1110
trust under this division, the court shall consider all of the 1111
following: 1112

(1) The existence of any agreement among the beneficiaries 1113
with respect to their beneficial interests; 1114

(2) The actuarial values of the separate beneficial 1115
interests of the beneficiaries; 1116

(3) Any expression of preference of the beneficiaries that 1117
is contained in the trust instrument. 1118

Sec. 2111.131. (A) The probate court may enter an order 1119
that authorizes a person under a duty to pay or deliver money or 1120
personal property to a minor who does not have a guardian of the 1121
person and estate or a guardian of the estate, to perform that 1122
duty in amounts not exceeding five thousand dollars annually, by 1123
paying or delivering the money or property to any of the 1124
following: 1125

(1) The guardian of the person only of the minor; 1126

(2) The minor's natural guardians, if any, as determined 1127
pursuant to section 2111.08 of the Revised Code; 1128

(3) The minor; 1129

(4) Any person who has the care and custody of the minor 1130
and with whom the minor resides, other than a guardian of the 1131
person only or a natural guardian; 1132

(5) A financial institution incident to a deposit in a 1133
federally insured savings account in the sole name of the minor; 1134

(6) A custodian designated by the court in its order, for 1135
the minor under sections 5814.01 to ~~5814.09~~ 5814.10 of the 1136
Revised Code. 1137

(B) An order entered pursuant to division (A) of this 1138
section authorizes the person or entity specified in it, to 1139
receive the money or personal property on behalf of the minor 1140
from the person under the duty to pay or deliver it, in amounts 1141
not exceeding five thousand dollars annually. Money or personal 1142
property so received by guardians of the person only, natural 1143
guardians, and custodians as described in division (A) (4) of 1144
this section may be used by them only for the support, 1145
maintenance, or education of the minor involved. The order of 1146
the court is prima-facie evidence that a guardian of the person 1147
only, a natural guardian, or a custodian as described in 1148
division (A) (4) of this section has the authority to use the 1149
money or personal property received. 1150

(C) A person who pays or delivers moneys or personal 1151
property in accordance with a court order entered pursuant to 1152
division (A) of this section is not responsible for the proper 1153
application of the moneys or property by the recipient. 1154

Sec. 2113.86. (A) Unless a will or another governing 1155
instrument otherwise provides, and except as otherwise provided 1156
in this section, a tax shall be apportioned equitably in 1157
accordance with the provisions of this section among all persons 1158
interested in an estate in proportion to the value of the 1159
interest of each person as determined for estate tax purposes. 1160

(B) Except as otherwise provided in this division, any tax 1161
that is apportioned against a gift made in a clause of a will 1162
other than a residuary clause or in a provision of an inter 1163
vivos trust other than a residuary provision, shall be 1164

reapportioned to the residue of the estate or trust. It shall be 1165
charged in the same manner as a general administration expense. 1166
However, when a portion of the residue of the estate or trust is 1167
allowable as a deduction for estate tax purposes, the tax shall 1168
be reapportioned to the extent possible to the portion of the 1169
residue that is not so allowable. 1170

(C) (1) A tax shall not be apportioned against an interest 1171
that is allowable as an estate tax marital or charitable 1172
deduction, except to the extent that the interest is a part of 1173
the residue of an estate or trust against which tax is 1174
reapportioned pursuant to division (B) of this section. 1175

(2) Estate tax of this state or another jurisdiction shall 1176
not be reapportioned against an interest that is allowable as a 1177
deduction for federal estate tax purposes, to the extent that 1178
there is other property in the estate or trust that is not 1179
allowable as a deduction for federal estate tax purposes and 1180
against which estate tax of this state or another jurisdiction 1181
can be apportioned. 1182

(3) A provision in a will or other governing instrument 1183
that apportions tax to an interest that is otherwise allowable 1184
as an estate tax marital or charitable deduction is ineffective 1185
unless it refers to the marital or charitable deduction and 1186
expressly and unambiguously acknowledges and accepts any 1187
resultant partial loss of the deduction. 1188

(D) A tax shall not be apportioned against property that 1189
passes to a surviving spouse as an elective share under section 1190
2106.01 of the Revised Code or as an intestate share under 1191
section 2105.06 of the Revised Code, to the extent that there is 1192
other property in the estate that is not allowable as a 1193
deduction for estate tax purposes against which the tax can be 1194

apportioned.	1195
(E) (1) Any federal estate tax credit for state or foreign death taxes on property that is includible in an estate for federal estate tax purposes, shall inure to the benefit of the persons chargeable with the payment of the state or foreign death taxes in proportion to the amount of the taxes paid by each person, but any federal estate tax credit for state or foreign death taxes inuring to the benefit of a person cannot exceed the federal estate tax apportioned to that person.	1196 1197 1198 1199 1200 1201 1202 1203
(2) Any federal estate tax credit for gift taxes paid by a donee of a gift shall inure to the benefit of that donee for purposes of this section.	1204 1205 1206
(3) Credits against tax not covered by division (E) (1) or (2) of this section shall be apportioned equitably among persons in the manner in which the tax is apportioned among them.	1207 1208 1209
(F) Any additional estate tax that is due because a qualified heir has disposed of qualified farm property in a manner not authorized by law or ceased to use any part of the qualified farm property for a qualified use, shall be apportioned against the interest of the qualified heir.	1210 1211 1212 1213 1214
(G) If both a present interest and a future interest in property are involved, a tax shall be apportioned entirely to the principal. This shall be the case even if the future interest qualifies for an estate tax charitable deduction, even if the holder of the present interest also has rights in the principal, and even if the principal is otherwise exempt from apportionment.	1215 1216 1217 1218 1219 1220 1221
(H) Penalties shall be apportioned in the same manner as a tax, and interest on tax shall be apportioned to the income of	1222 1223

the estate or trust, unless a court directs a different 1224
apportionment of penalties or interest based on a finding that 1225
special circumstances make an apportionment as provided in this 1226
division inequitable. 1227

(I) If any part of an estate consists of property, the 1228
value of which is included in the gross estate of the decedent 1229
by reason of section 2044 of the "Internal Revenue Code of 1230
1986," 100 Stat. 2085, 26 N 2044, as amended, or of section 1231
5731.131 of the Revised Code, the estate is entitled to recover 1232
from the persons holding or receiving the property any amount by 1233
which the estate tax payable exceeds the estate tax that would 1234
have been payable if the value of the property had not been 1235
included in the gross estate of the decedent. This division does 1236
not apply if the decedent's will or another governing instrument 1237
provides otherwise and the will or instrument refers to either 1238
section mentioned in this division or to qualified terminable 1239
interest marital deduction property. 1240

Sec. 2127.012. (A) In addition to the other methods 1241
provided by law, a guardian of the estate may sell at public or 1242
private sale, grant options to sell, exchange, re-exchange, or 1243
otherwise dispose of any parcel of real estate belonging to the 1244
estate at any time, at prices, and upon terms that are 1245
consistent with this section, and may execute and deliver deeds 1246
and other instruments of conveyance if all of the following 1247
conditions are met: 1248

(1) The ward's spouse and all persons entitled to the next 1249
estate of inheritance from the ward in the real property give 1250
written consent to a power of sale for a particular parcel of 1251
real estate or to a power of sale for all the real estate 1252
belonging to the estate. Each consent to a power of sale 1253

provided for in this section shall be filed in the probate 1254
court. 1255

(2) Any sale under a power of sale authorized under this 1256
section shall be made at a price of at least eighty per cent of 1257
the appraised value, as set forth in an approved inventory, if 1258
the real estate was appraised within two years prior to the 1259
filing of the consents. If the value of the real estate in an 1260
approved inventory was not determined by an appraisal, or the 1261
appraisal was completed more than two years prior to the 1262
filing of the consents, the real estate shall be appraised and a 1263
sale shall be made at a price of at least eighty per cent of the 1264
appraised value. 1265

(3) No power of sale provided for in this section is 1266
effective if the ward's spouse or any next of kin is a minor. No 1267
person may give the consent of the minor that is required by 1268
this section. 1269

(4) Upon filing the consents under this section, the 1270
guardian shall execute such bond or additional bond payable to 1271
the state in an amount that the court considers sufficient, 1272
having regard to the amount of real property to be sold, its 1273
appraised value, the amount of the original bond given by the 1274
guardian, and the distribution to be made of the proceeds 1275
arising from the sale. 1276

(B) A ward's spouse who is the guardian of the estate may 1277
sell real estate to self pursuant to this section. 1278

Sec. 2151.541. (A) (1) The juvenile judge may determine 1279
that, for the efficient operation of the juvenile court, 1280
additional funds are required to computerize the court, to make 1281
available computerized legal research services, or to do both. 1282

Upon making a determination that additional funds are required 1283
for either or both of those purposes, the judge shall do one of 1284
the following: 1285

(a) If the judge is clerk of the court, charge one 1286
additional fee not to exceed ~~three~~-six dollars on the filing of 1287
each cause of action or appeal under division (A), (Q), or (U) 1288
of section 2303.20 of the Revised Code; 1289

(b) If the clerk of the court of common pleas serves as 1290
the clerk of the juvenile court pursuant to section 2151.12 of 1291
the Revised Code, authorize and direct the clerk to charge one 1292
additional fee not to exceed ~~three~~-six dollars on the filing of 1293
each cause of action or appeal under division (A), (Q), or (U) 1294
of section 2303.20 of the Revised Code. 1295

(2) All moneys collected under division (A)(1) of this 1296
section shall be paid to the county treasurer. The treasurer 1297
shall place the moneys from the fees in a separate fund to be 1298
disbursed either upon an order of the juvenile judge, subject to 1299
an appropriation by the board of county commissioners, or upon 1300
an order of the juvenile judge, subject to the court making an 1301
annual report available to the public listing the use of all 1302
such funds, in an amount no greater than the actual cost to the 1303
court of procuring and maintaining computerization of the court, 1304
computerized legal research services, or both. 1305

(3) If the court determines that the funds in the fund 1306
described in division (A)(2) of this section are more than 1307
sufficient to satisfy the purpose for which the additional fee 1308
described in division (A)(1) of this section was imposed, the 1309
court may declare a surplus in the fund and, subject to an 1310
appropriation by the board of county commissioners, expend those 1311
surplus funds, or upon an order of the court, subject to the 1312

court making an annual report available to the public listing 1313
the use of all such funds, expend those surplus funds, for other 1314
appropriate technological expenses of the court. 1315

(B) (1) If the juvenile judge is the clerk of the juvenile 1316
court, the judge may determine that, for the efficient operation 1317
of the juvenile court, additional funds are required to make 1318
technological advances in or to computerize the clerk's office 1319
and, upon that determination, may charge an additional fee, not 1320
to exceed ~~ten~~ twenty dollars, on the filing of each cause of 1321
action or appeal, on the filing, docketing, and endorsing of 1322
each certificate of judgment, or on the docketing and indexing 1323
of each aid in execution or petition to vacate, revive, or 1324
modify a judgment under divisions (A), (P), (Q), (T), and (U) of 1325
section 2303.20 of the Revised Code. Subject to division (B) (2) 1326
of this section, all moneys collected under this division shall 1327
be paid to the county treasurer to be disbursed, upon an order 1328
of the juvenile judge and subject to appropriation by the board 1329
of county commissioners, in an amount no greater than the actual 1330
cost to the juvenile court of procuring and maintaining 1331
technology and computer systems for the clerk's office. 1332

(2) If the juvenile judge makes the determination 1333
described in division (B) (1) of this section, the board of 1334
county commissioners may issue one or more general obligation 1335
bonds for the purpose of procuring and maintaining the 1336
technology and computer systems for the office of the clerk of 1337
the juvenile court. In addition to the purposes stated in 1338
division (B) (1) of this section for which the moneys collected 1339
under that division may be expended, the moneys additionally may 1340
be expended to pay debt charges on and financing costs related 1341
to any general obligation bonds issued pursuant to this division 1342
as they become due. General obligation bonds issued pursuant to 1343

this division are Chapter 133. securities. 1344

Sec. 2153.081. (A) (1) The juvenile judges may determine 1345
that, for the efficient operation of their court, additional 1346
funds are required to computerize the court, to make available 1347
computerized legal research services, or both. Upon making a 1348
determination that additional funds are required for either or 1349
both of those purposes, the judges shall authorize and direct 1350
the clerk or a deputy clerk of the court to charge one 1351
additional fee not to exceed ~~three~~six dollars on the filing of 1352
each cause of action or appeal under division (A), (Q), or (U) 1353
of section 2303.20 of the Revised Code. 1354

(2) All moneys collected under division (A) (1) of this 1355
section shall be paid to the county treasurer. The treasurer 1356
shall place the moneys from the fees in a separate fund to be 1357
disbursed, upon an order of the juvenile judges, in an amount no 1358
greater than the actual cost to the court of procuring and 1359
maintaining computer systems for the clerk's office, 1360
computerized legal research services, or both. 1361

(3) If the court determines that the funds in the fund 1362
described in division (A) (2) of this section are more than 1363
sufficient to satisfy the purpose for which the additional fee 1364
described in division (A) (1) of this section was imposed, the 1365
court may declare a surplus in the fund and expend those surplus 1366
funds for other appropriate technological expenses of the court. 1367

(B) (1) The juvenile judges may determine that, for the 1368
efficient operation of their court, additional funds are 1369
required to make technological advances in or to computerize the 1370
office of the clerk of the juvenile court and, upon that 1371
determination, may authorize and direct the clerk or a deputy 1372
clerk of the court to charge an additional fee, not to exceed 1373

~~ten~~-twenty dollars, on the filing of each cause of action or 1374
appeal, on the filing, docketing, and endorsing of each 1375
certificate of judgment, or on the docketing and indexing of 1376
each aid in execution or petition to vacate, revive, or modify a 1377
judgment under divisions (A), (P), (Q), (T), and (U) of section 1378
2303.20 of the Revised Code. Subject to division (B)(2) of this 1379
section, all moneys collected under this division shall be paid 1380
to the county treasurer to be disbursed, upon an order of the 1381
juvenile judges and subject to appropriation by the board of 1382
county commissioners, in an amount no greater than the actual 1383
cost to the juvenile court of procuring and maintaining 1384
technology and computer systems for the clerk's office. 1385

(2) If the juvenile judges make the determination 1386
described in division (B)(1) of this section, the board of 1387
county commissioners may issue one or more general obligation 1388
bonds for the purpose of procuring and maintaining the 1389
technology and computer systems for the office of the clerk of 1390
the juvenile court. In addition to the purposes stated in 1391
division (B)(1) of this section for which the moneys collected 1392
under that division may be expended, the moneys additionally may 1393
be expended to pay debt charges on and financing costs related 1394
to any general obligation bonds issued pursuant to this division 1395
as they become due. General obligation bonds issued pursuant to 1396
this division are Chapter 133. securities. 1397

Sec. 2301.031. (A)(1) The domestic relations judges of a 1398
domestic relations division created by section 2301.03 of the 1399
Revised Code may determine that, for the efficient operation of 1400
their division, additional funds are required to computerize the 1401
division, to make available computerized legal research 1402
services, or both. Upon making a determination that additional 1403
funds are required for either or both of those purposes, the 1404

judges shall do one of the following: 1405

(a) Authorize and direct the clerk or a deputy clerk of 1406
the division to charge one additional fee not to exceed ~~three~~ 1407
six dollars on the filing of each cause of action or appeal 1408
under division (A), (Q), or (U) of section 2303.20 of the 1409
Revised Code; 1410

(b) If the clerk of the court of common pleas serves as 1411
the clerk of the division, authorize and direct the clerk of the 1412
court of common pleas to charge one additional fee not to exceed 1413
~~three~~six dollars on the filing of each cause of action or 1414
appeal under division (A), (Q), or (U) of section 2303.20 of the 1415
Revised Code. 1416

(2) All moneys collected under division (A)(1) of this 1417
section shall be paid to the county treasurer. The treasurer 1418
shall place the moneys from the fees in a separate fund to be 1419
disbursed either upon an order of the domestic relations judges, 1420
subject to an appropriation by the board of county 1421
commissioners, or upon an order of the domestic relations judge, 1422
subject to the court making an annual report available to the 1423
public listing the use of all such funds, in an amount no 1424
greater than the actual cost to the division of procuring and 1425
maintaining computerization of the court, computerized legal 1426
research services, or both. 1427

(3) If the court determines that the funds in the fund 1428
described in division (A)(2) of this section are more than 1429
sufficient to satisfy the purpose for which the additional fee 1430
described in division (A)(1) of this section was imposed, the 1431
court may declare a surplus in the fund and, subject to an 1432
appropriation by the board of county commissioners, expend those 1433
surplus funds, or upon an order of the court, subject to the 1434

court making an annual report available to the public listing 1435
the use of all such funds, expend those surplus funds, for other 1436
appropriate technological expenses of the court. 1437

(B) (1) If the clerk of the court of common pleas is not 1438
serving as the clerk of a juvenile or domestic relations 1439
division created by section 2301.03 of the Revised Code, the 1440
juvenile or domestic relations judges may determine that, for 1441
the efficient operation of their division, additional funds are 1442
required to make technological advances in or to computerize the 1443
office of the clerk of their division and, upon that 1444
determination, may authorize and direct the clerk or a deputy 1445
clerk of their division to charge an additional fee, not to 1446
exceed ~~ten~~ twenty dollars, on the filing of each cause of action 1447
or appeal, on the filing, docketing, and endorsing of each 1448
certificate of judgment, or on the docketing and indexing of 1449
each aid in execution or petition to vacate, revive, or modify a 1450
judgment under divisions (A), (P), (Q), (T), and (U) of section 1451
2303.20 of the Revised Code. Subject to division (B) (2) of this 1452
section, all moneys collected under this division shall be paid 1453
to the county treasurer to be disbursed, upon an order of the 1454
juvenile or domestic relations judges and subject to 1455
appropriation by the board of county commissioners, in an amount 1456
no greater than the actual cost to the juvenile or domestic 1457
relations division of procuring and maintaining technology and 1458
computer systems for the clerk's office. 1459

(2) If juvenile or domestic relations judges make the 1460
determination described in division (B) (1) of this section, the 1461
board of county commissioners may issue one or more general 1462
obligation bonds for the purpose of procuring and maintaining 1463
the technology and computer systems for the office of the clerk 1464
of the juvenile or domestic relations division. In addition to 1465

the purposes stated in division (B) (1) of this section for which 1466
the moneys collected under that division may be expended, the 1467
moneys additionally may be expended to pay debt charges on and 1468
financing costs related to any general obligation bonds issued 1469
pursuant to this division as they become due. General obligation 1470
bonds issued pursuant to this division are Chapter 133. 1471
securities. 1472

Sec. 2323.58. As used in this section and sections 1473
2323.581 to 2323.587 of the Revised Code: 1474

(A) "Annuity issuer" means an insurer that has issued an 1475
insurance contract that is used to fund periodic payments under 1476
a structured settlement. 1477

(B) "Applicable law" means any of the following, as 1478
applicable in interpreting the terms of a structured settlement 1479
agreement: 1480

(1) The laws of the United States; 1481

(2) The laws of this state, including principles of equity 1482
that are applied in the courts of this state; 1483

~~(3) The laws of any other jurisdiction if any of the 1484
following applies: 1485~~

~~(a) The laws of that other jurisdiction govern the 1486
structured settlement. 1487~~

~~(b) A court or a responsible administrative authority 1488
approved the structured settlement agreement under the laws of 1489
that other jurisdiction. 1490~~

~~(c) The transfer of payments under the structured 1491
settlement is subject to the laws of that other jurisdiction. 1492~~

(C) "Dependent" means a spouse of a payee, a minor child of a payee, or any other member of the family of a payee or other person whom, by law or by court order or decree, the payee is legally obligated to support.

(D) "Discounted present value" means the fair present value of the future payments under a structured settlement that is determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity as issued by the United States internal revenue service.

(E) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser if all of the following apply:

(1) The payee has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of structured settlement payment rights.

(2) The licensed professional adviser has signed a statement to the effect that the licensed professional adviser rendered advice to the payee concerning the legal and other implications of a transfer of structured settlement payment rights.

(3) The licensed professional adviser is not affiliated in any manner with, referred by, or compensated in any manner by the transferee of the structured settlement payment rights.

(4) The compensation of the licensed professional adviser is not affected by whether or not a transfer of structured settlement payment rights occurs.

(F) "Interested party" includes the payee with respect to 1522
a structured settlement, the annuity issuer, the structured 1523
settlement agreement obligor, and any other party that has 1524
continuing rights or obligations under the structured settlement 1525
agreement. 1526

(G) "Payee" means an individual who is receiving periodic 1527
payments under a structured settlement agreement that are 1528
excludable from the individual's gross income under federal 1529
income taxation laws applicable to that individual and who 1530
proposes to make a transfer of the rights to receive those 1531
periodic payments. 1532

(H) "Periodic payments" includes both continuing monthly 1533
or other periodic payments and scheduled future lump-sum 1534
payments under a structured settlement. 1535

(I) "Qualified assignment agreement" means an agreement 1536
that provides for a qualified assignment, as defined in section 1537
130 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 1538
U.S.C.A. 130(c), as amended, through an assignment of the 1539
liability under a structured settlement agreement to make 1540
periodic payments as damages, on account of personal injury or 1541
sickness. 1542

~~(J) "Responsible administrative authority" means any 1543
government authority of another state vested by the law of that 1544
state with the original exclusive jurisdiction over the settled 1545
claim resolved by a structured settlement. 1546~~

~~(K) "Settled claim" means the original tort claim resolved 1547
by a structured settlement. 1548~~

~~(L)~~ (K) "Structured settlement" means an arrangement for 1549
periodic payments of damages for injury to a person that is 1550

established by a settlement or a court judgment in resolution of 1551
a tort claim. 1552

~~(M)~~(L) "Structured settlement agreement" means an 1553
agreement, judgment, stipulation, or release that embodies the 1554
terms of a structured settlement, including the rights of a 1555
payee to receive periodic payments. 1556

~~(N)~~(M) "Structured settlement obligor" means the party 1557
that has the obligation to make continuing periodic payments to 1558
the payee under a structured settlement agreement or a qualified 1559
assignment agreement. 1560

~~(O)~~(N) "Structured settlement payment rights" means the 1561
rights under a structured settlement agreement to receive 1562
periodic payments from a structured settlement obligor or an 1563
annuity issuer if either of the following applies: 1564

(1) The payee, the structured settlement obligor, or the 1565
annuity issuer with respect to the structured settlement 1566
agreement is a resident of this state. 1567

(2) The structured settlement agreement was approved by a 1568
court in this state. 1569

~~(P)~~(O) "Terms of a structured settlement" includes the 1570
terms of a structured settlement agreement, an insurance 1571
contract, a qualified assignment agreement, and any order or 1572
approval by a court, ~~a responsible administrative authority,~~ or 1573
other government authority authorizing or approving the 1574
structured settlement. 1575

~~(Q)~~(P) "Transfer" means a sale, assignment, pledge, 1576
hypothecation, or any other form of alienation or encumbrance of 1577
structured settlement payment rights made by a payee for 1578
consideration. 1579

~~(R)~~ (Q) "Transfer agreement" means an agreement that 1580
provides for the transfer of structured settlement payment 1581
rights from a payee to a transferee. 1582

~~(S)~~ (R) "Transferee" means a party acquiring or proposing 1583
to acquire structured settlement payment rights through a 1584
transfer of those rights. 1585

Sec. 2323.583. A court of competent jurisdiction may 1586
approve a transfer of structured settlement payment rights only 1587
in a final order that is based on the express findings of the 1588
court, and the express findings shall include all of the 1589
following: 1590

(A) The transferee has provided to the payee a disclosure 1591
statement that complies with section 2323.582 of the Revised 1592
Code, and the payee has confirmed the payee's receipt of the 1593
disclosure statement, as evidenced by the payee's notarized 1594
signature on a copy of the disclosure statement. 1595

(B) (1) Except as provided in division (B) (2) of this 1596
section, the payee has established that the transfer is fair and 1597
reasonable and in the best interests of the payee and the 1598
payee's dependents. 1599

(2) If, on the effective date of the transfer agreement, a 1600
federal hardship standard exists, the payee has established that 1601
the transfer meets that hardship standard. 1602

(C) The payee has received independent professional advice 1603
regarding the legal and other implications of the transfer. 1604

(D) If the transfer contravenes the terms of the 1605
structured settlement involved, all of the following have been 1606
complied with: 1607

(1) Each dependent whom the payee is legally obligated to support by court order or decree, in a written approval and waiver, approves the transfer and waives the right to require that the structured settlement payments be made to the payee in accordance with the terms of the structured settlement.

(2) Any court ~~or responsible administrative authority~~ that previously approved the structured settlement, other than the court from which the approval of the transfer is sought under sections 2323.58 to 2323.585 of the Revised Code, has expressly approved the transfer in writing.

(3) The transferee has provided to the court in which the application for approval of the transfer was filed all of the signed original copies of the approvals required under divisions (D) (1) and (2) of this section.

(4) The transferee has furnished each interested party copies of the approvals required under divisions (D) (1) and (2) of this section.

(E) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.

(F) The transfer complies with all of the requirements of sections 2323.58 to 2323.585 of the Revised Code and does not contravene any applicable law.

Sec. 2323.584. (A) A person shall file an application under sections 2323.58 to 2323.585 of the Revised Code for the approval in advance of a transfer of structured settlement payment rights in the Ohio court that approved the structured

~~settlement agreement. If the structured settlement agreement was~~ 1637
~~not approved by an Ohio court, a person shall file an~~ 1638
~~application under sections 2323.58 to 2323.585 of the Revised~~ 1639
~~Code for the approval in advance of a transfer of structured~~ 1640
~~settlement payment rights in the probate division of the court~~ 1641
~~of common pleas of the county in which the payee, the structured~~ 1642
~~settlement obligor, or the annuity issuer resides.~~ 1643

(B) The following procedures shall apply to an application 1644
for the approval in advance by a court of a transfer of 1645
structured settlement payment rights under division (A) of this 1646
section: 1647

(1) Upon the filing of the application, the court shall 1648
set a date and time for a hearing on the application and shall 1649
notify the transferee of the date, time, and place of the 1650
hearing. 1651

(2) Not less than twenty days prior to the date set by the 1652
court for the hearing on an application filed pursuant to this 1653
section, the transferee shall file with the court and shall 1654
serve on the court ~~or any responsible administrative authority~~ 1655
that previously approved the structured settlement, on all 1656
interested parties, and on the annuity issuer and the structured 1657
settlement obligor, in the manner prescribed in the Rules of 1658
Civil Procedure for the service of process, a notice of the 1659
proposed transfer and the application for its approval in 1660
advance. The notice shall include all of the following: 1661

(a) A copy of the application; 1662

(b) A copy of the transfer agreement; 1663

(c) A copy of the disclosure statement provided by the 1664
transferee pursuant to section 2323.582 of the Revised Code and 1665

signed by the payee pursuant to division (A) of section 2323.583 1666
of the Revised Code; 1667

(d) Notification of the date, time, and place of the 1668
hearing on the application; 1669

(e) Notification that any interested party may support, 1670
oppose, or otherwise respond to the application, either in 1671
person or by counsel, by submitting to the court a written 1672
response containing the interested party's support of, 1673
opposition to, or comments on the application or by 1674
participating in the hearing; 1675

(f) Notification of the manner of filing a written 1676
response to the application and the time within which the 1677
response is required to be filed in order for the court to 1678
consider it. 1679

(3) Within fifteen days after receipt of the notice 1680
described in division (B) (2) of this section, any interested 1681
party who wishes to respond to the application shall file a 1682
written response with the court personally or by certified mail, 1683
return receipt requested. 1684

(4) At the conclusion of the hearing on an application 1685
under this section, the court may grant or deny the approval of 1686
the transfer. The court shall enter its order accordingly. If 1687
the court grants the approval of the transfer, it shall include 1688
in its order all of the express findings specified in section 1689
2323.583 of the Revised Code. If the court denies the approval 1690
of the transfer, it shall include in its order the reasons for 1691
the denial. 1692

(5) An order of the court made under division (B) (4) of 1693
this section is a final and appealable order. 1694

Sec. 4505.10. (A) In the event of the transfer of 1695
ownership of a motor vehicle by operation of law, as upon 1696
inheritance, devise, bequest, order in bankruptcy, insolvency, 1697
replevin, or execution sale, a motor vehicle is sold to satisfy 1698
storage or repair charges, or repossession is had upon default 1699
in performance of the terms of a security agreement as provided 1700
in Chapter 1309. of the Revised Code and the secured party has 1701
notified the debtor as required by division (B) of section 1702
1309.611 of the Revised Code, a clerk of a court of common 1703
pleas, upon the surrender of the prior certificate of title or 1704
the manufacturer's or importer's certificate, or, when that is 1705
not possible, upon presentation of satisfactory proof to the 1706
clerk of ownership and rights of possession to the motor 1707
vehicle, and upon payment of the fee prescribed in section 1708
4505.09 of the Revised Code and presentation of an application 1709
for certificate of title, may issue to the applicant a 1710
certificate of title to the motor vehicle. Only an affidavit by 1711
the person or agent of the person to whom possession of the 1712
motor vehicle has passed, setting forth the facts entitling the 1713
person to the possession and ownership, together with a copy of 1714
the journal entry, court order, or instrument upon which the 1715
claim of possession and ownership is founded, is satisfactory 1716
proof of ownership and right of possession. If the applicant 1717
cannot produce that proof of ownership, the applicant may apply 1718
directly to the registrar of motor vehicles and submit the 1719
evidence the applicant has, and the registrar, if the registrar 1720
finds the evidence sufficient, then may authorize a clerk to 1721
issue a certificate of title. If the registrar finds the 1722
evidence insufficient, the applicant may petition the court of 1723
common pleas for a court order ordering the clerk to issue a 1724
certificate of title. The court shall grant or deny the petition 1725
based on the sufficiency of the evidence presented to the court. 1726

If, from the records in the office of the clerk involved, there 1727
appears to be any lien on the motor vehicle, the certificate of 1728
title shall contain a statement of the lien unless the 1729
application is accompanied by proper evidence of its extinction. 1730

(B) A clerk shall transfer a decedent's interest in one or 1731
~~two more~~ automobiles to the surviving spouse of the decedent, as 1732
provided in section 2106.18 of the Revised Code, upon receipt of 1733
the title or titles. An affidavit executed by the surviving 1734
spouse shall be submitted to the clerk with the title or titles. 1735
The affidavit shall give the date of death of the decedent, 1736
shall state that each automobile for which the decedent's 1737
interest is to be so transferred is not disposed of by 1738
testamentary disposition, and shall provide an approximate value 1739
for each automobile selected to be transferred by the surviving 1740
spouse. The affidavit shall also contain a description for each 1741
automobile for which the decedent's interest is to be so 1742
transferred. The transfer does not affect any liens upon any 1743
automobile for which the decedent's interest is so transferred. 1744

(C) Upon the death of one of the persons who have 1745
established joint ownership with right of survivorship under 1746
section 2131.12 of the Revised Code in a motor vehicle, and upon 1747
presentation to a clerk of the title and the certificate of 1748
death of the decedent, the clerk shall transfer title to the 1749
motor vehicle to the survivor. The transfer does not affect any 1750
liens upon any motor vehicle so transferred. 1751

(D) Upon the death of the owner of a motor vehicle 1752
designated in beneficiary form under section 2131.13 of the 1753
Revised Code, upon application for a certificate of title by the 1754
transfer-on-death beneficiary or beneficiaries designated 1755
pursuant to that section, and upon presentation to the clerk of 1756

the certificate of title and the certificate of death of the 1757
decedent, the clerk shall transfer the motor vehicle and issue a 1758
certificate of title to the transfer-on-death beneficiary or 1759
beneficiaries. The transfer does not affect any liens upon the 1760
motor vehicle so transferred. 1761

Sec. 5801.10. (A) As used in this section, "creditor" 1762
means any of the following: 1763

(1) A person holding a debt or security for a debt entered 1764
into by a trustee on behalf of the trust; 1765

(2) A person holding a debt secured by one or more assets 1766
of the trust; 1767

(3) A person having a claim against the trustee or the 1768
assets of the trust under section 5805.06 of the Revised Code; 1769

(4) A person who has attached through legal process a 1770
beneficiary's interest in the trust. 1771

(B) (1) Subject to division (B) (2) of this section, the 1772
parties to an agreement under this section shall be any two or 1773
more of the following, or their representatives under the 1774
representation provisions of Chapter 5803. of the Revised Code, 1775
except that only the settlor and any trustee are required to be 1776
parties to an amendment of any revocable trust: 1777

(a) The settlor if living and if no adverse income or 1778
transfer tax results would arise from the settlor's 1779
participation; 1780

(b) The beneficiaries; 1781

(c) The currently serving trustees; 1782

(d) Creditors, if their interest is to be affected by the 1783

agreement. 1784

(2) In addition to the parties to an agreement under 1785
division (B)(1) of this section, the parties shall include the 1786
attorney general if an agreement described in division (C)(7) of 1787
this section is being made and either of the following applies: 1788

(a) An organization with one or more purposes that are 1789
described in division (A) of section 5804.05 of the Revised Code 1790
is a beneficiary. 1791

(b) The trust is a charitable trust. 1792

(C) The persons specified in division (B) of this section 1793
may by written instrument enter into an agreement with respect 1794
to any matter concerning the construction of, administration of, 1795
or distributions under the terms of the trust, the investment of 1796
income or principal held by the trustee, or other matters. The 1797
agreement may not effect a termination of the trust before the 1798
date specified for the trust's termination in the terms of the 1799
trust, change the interests of the beneficiaries in the trust 1800
except as necessary to effect a modification described in 1801
division (C)(5), (6), or (7) of this section, or include terms 1802
and conditions that could not be properly approved by the court 1803
under Chapters 5801. to 5811. of the Revised Code or other 1804
applicable law. The invalidity of any provision of the agreement 1805
does not affect the validity of other provisions of the 1806
agreement. Matters that may be resolved by a private settlement 1807
agreement include, but are not limited to, all of the following: 1808

(1) Determining classes of creditors, beneficiaries, 1809
heirs, next of kin, or other persons; 1810

(2) Resolving disputes arising out of the administration 1811
or distribution under the terms of the trust, including disputes 1812

over the construction of the language of the trust instrument or 1813
construction of the language of other writings that affect the 1814
terms of the trust; 1815

(3) Granting to the trustee necessary or desirable powers 1816
not granted in the terms of the trust or otherwise provided by 1817
law, to the extent that those powers either are not inconsistent 1818
with the express provisions or purposes of the terms of the 1819
trust or, if inconsistent with the express provisions or 1820
purposes of the terms of the trust, are necessary for the due 1821
administration of the terms of the trust; 1822

(4) Modifying the terms of the trust, if the modification 1823
is not inconsistent with any material purpose of the trust; 1824

(5) Modifying the terms of the trust in the manner 1825
required to qualify the gift under the terms of the trust for 1826
the charitable estate or gift tax deduction permitted by federal 1827
law, including the addition of mandatory governing instrument 1828
requirements for a charitable remainder trust as required by the 1829
Internal Revenue Code and regulations promulgated under it in 1830
any case in which the parties interested in the trust have 1831
submitted written agreements to the proposed changes or written 1832
disclaimer of interest; 1833

(6) Modifying the terms of the trust in the manner 1834
required to qualify any gift under the terms of the trust for 1835
the estate tax marital deduction available to noncitizen 1836
spouses, including the addition of mandatory governing 1837
instrument requirements for a qualified domestic trust under 1838
section 2056A of the Internal Revenue Code and regulations 1839
promulgated under it in any case in which the parties interested 1840
in the trust have submitted written agreements to the proposed 1841
changes or written disclaimer of interest; 1842

(7) Construing or modifying the terms of a trust that 1843
refer to the federal estate tax, federal generation-skipping 1844
transfer tax, or Ohio estate tax, or that contain a division of 1845
property based on the imposition or amount of one or more of 1846
those taxes, to give effect to the intent of the settlor; 1847

(8) Resolving any other matter that arises under Chapters 1848
5801. to 5811. of the Revised Code. 1849

(D) No agreement shall be entered into under this section 1850
affecting the rights of a creditor without the creditor's 1851
consent or affecting the collection rights of federal, state, or 1852
local taxing authorities. 1853

(E) Any agreement entered into under this section that 1854
complies with the requirements of division (C) of this section 1855
shall be final and binding on the parties to the agreement or 1856
persons represented by the parties to the agreement whether by 1857
reason of Chapter 5803. of the Revised Code or otherwise, and 1858
their heirs, successors, and assigns, but shall have no effect 1859
on any trustee, settlor, beneficiary, or creditor who is not a 1860
party to the agreement or is not represented by a party to the 1861
agreement. 1862

(F) Notwithstanding anything in this section, in division 1863
(D) of section 5803.03 of the Revised Code, or in any other rule 1864
of law to the contrary, a trustee serving under the terms of the 1865
trust shall only represent its own individual or corporate 1866
interests in negotiating or entering into an agreement subject 1867
to this section. No trustee serving under the terms of the trust 1868
shall be considered to represent any settlor, beneficiary, or 1869
the interests of any settlor or beneficiary in negotiating or 1870
entering into an agreement subject to this section. 1871

(G) Any party to a private settlement agreement entered 1872
into under this section may request the court to approve the 1873
agreement, to determine whether the representation as provided 1874
in Chapter 5803. of the Revised Code was adequate, and to 1875
determine whether the agreement contains terms and conditions 1876
the court could have properly approved. 1877

(H) If an agreement entered into under this section 1878
contains a provision requiring binding arbitration of any 1879
disputes arising under the agreement, the provision is 1880
enforceable. 1881

(I) Nothing in this section affects any of the following: 1882

(1) The right of a beneficiary to disclaim under section 1883
5815.36 of the Revised Code; 1884

(2) The termination or modification of a trust under 1885
section 5804.10, 5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 1886
5804.16 of the Revised Code; 1887

(3) The ability of a trustee to divide or consolidate a 1888
trust under section 5804.17 of the Revised Code; 1889

(4) The power of the trustee to make distributions 1890
pursuant to section 5808.18 of the Revised Code. 1891

(J) Nothing in this section restricts or limits the 1892
jurisdiction of any court to dispose of matters not covered by 1893
agreements under this section or to supervise the acts of 1894
trustees appointed by that court. 1895

(K) This section shall be liberally construed to favor the 1896
validity and enforceability of agreements entered into under it. 1897

(L) A trustee serving under the trust instrument is not 1898
liable to any third person arising from any loss due to that 1899

trustee's actions or inactions taken or omitted in good faith 1900
reliance on the terms of an agreement entered into under this 1901
section. 1902

(M) Subject to divisions (B) (2) and (C) (7) of this 1903
section, this section does not apply to any of the following: 1904

(1) A charitable trust that has one or more charitable 1905
organizations as qualified beneficiaries; 1906

(2) A charitable trust the terms of which authorize or 1907
direct the trustee to distribute trust income or principal to 1908
one or more charitable organizations to be selected by the 1909
trustee, or for one or more charitable purposes described in 1910
division (A) of section 5804.05 of the Revised Code, if any of 1911
the following apply: 1912

(a) The distributions may be made on the date that an 1913
agreement under this section would be entered into. 1914

(b) The distributions could be made on the date that an 1915
agreement under this section would be entered into if the 1916
interests of the current beneficiaries of the trust terminated 1917
on that date, but the termination of those interests would not 1918
cause the trust to terminate. 1919

(c) The distributions could be made on the date that an 1920
agreement under this section would be entered into if the trust 1921
terminated on that date. 1922

(3) An agreement pursuant to section 109.232 of the 1923
Revised Code. 1924

(N) This section does not prohibit some or all of the 1925
persons who could enter into an agreement under this section 1926
from entering into agreements that are not described in this 1927

section and are governed by other law, including the common law. 1928
Nothing in this section limits or negates any consents, 1929
releases, or ratifications, whether under section 5810.09 of the 1930
Revised Code or otherwise, relating to any agreement described 1931
in this section or governed by other law. 1932

Sec. 5802.04. An action brought under Chapters 5801. to 1933
5811. of the Revised Code is a civil action subject to the Rules 1934
of Civil Procedure, and unless it involves a testamentary or 1935
other trust that already is subject to court supervision, is 1936
commenced by filing a complaint. 1937

Sec. 5803.02. To the extent there is no conflict of 1938
interest between the holder of a general testamentary power of 1939
appointment and the persons represented with respect to the 1940
particular question or dispute, the holder may represent and 1941
bind persons whose interests, as permissible appointees, takers 1942
in default, or otherwise, are subject to the power. To the 1943
extent there is no conflict of interest between the holder of a 1944
limited testamentary power of appointment or a presently 1945
exercisable limited power of appointment and the persons 1946
represented with respect to the particular question or dispute, 1947
the holder may also represent and bind persons whose interests 1948
as possible appointees are subject to the power. The rights of 1949
the holder of a presently exercisable general power of 1950
appointment are governed by section 5806.03 of the Revised Code. 1951

Sec. 5804.02. (A) A trust is created only if all of the 1952
following apply: 1953

(1) The Subject to division (F) of this section, the 1954
settlor of the trust, other than the settlor of a trust created 1955
by a court order, has capacity to create a trust. 1956

(2) The <u>Subject to division (F) of this section, the</u>	1957
settlor of the trust, other than the settlor of a trust created	1958
by a court order, indicates an intention to create the trust.	1959
(3) The trust has a definite beneficiary or is one of the	1960
following:	1961
(a) A charitable trust;	1962
(b) A trust for the care of an animal, as provided in	1963
section 5804.08 of the Revised Code;	1964
(c) A trust for a noncharitable purpose, as provided in	1965
section 5804.09 of the Revised Code.	1966
(4) The trustee has duties to perform.	1967
(5) The same person is not the sole trustee and sole	1968
beneficiary.	1969
(B) A beneficiary is definite if the beneficiary can be	1970
ascertained now or in the future, subject to any applicable rule	1971
against perpetuities.	1972
(C) A power in a trustee or other person to select a	1973
beneficiary from an indefinite class is valid. If the power is	1974
not exercised within a reasonable time, the power fails, and the	1975
property subject to the power passes to the persons who would	1976
have taken the property had the power not been conferred.	1977
(D) A trust is valid regardless of the existence, size, or	1978
character of the corpus of the trust. This division applies to	1979
any trust instrument that was executed prior to, or is executed	1980
on or after, January 1, 2007.	1981
(E) A trust is not invalid because a person, including,	1982
but not limited to, the creator of the trust, is or may become	1983

the sole trustee and the sole holder of the present beneficial 1984
enjoyment of the corpus of the trust, provided that one or more 1985
other persons hold a vested, contingent, or expectant interest 1986
relative to the enjoyment of the corpus of the trust upon the 1987
cessation of the present beneficial enjoyment. A merger of the 1988
legal and equitable titles to the corpus of a trust described in 1989
this division does not occur in its creator, and, 1990
notwithstanding any contrary provision of Chapter 2107. of the 1991
Revised Code, the trust is not a testamentary trust that is 1992
required to comply with that chapter in order for its corpus to 1993
be legally distributed to other beneficiaries in accordance with 1994
the provisions of the trust upon the cessation of the present 1995
beneficial enjoyment. This division applies to any trust that 1996
satisfies the provisions of this division, whether the trust was 1997
executed prior to, on, or after October 10, 1991. 1998

(F) An agent under a power of attorney may create a trust 1999
for the principal, whether or not the principal has capacity to 2000
create the trust and indicates an intention to create the trust, 2001
but only as provided in sections 1337.21 to 1337.64 of the 2002
Revised Code, including sections 1337.42 and 1337.58 of the 2003
Revised Code and their limitations on creation of trusts and on 2004
gifts of property of the principal and the duty of the agent to 2005
attempt to preserve the principal's estate plan. 2006

Sec. 5808.16. Without limiting the authority conferred by 2007
section 5808.15 of the Revised Code, a trustee may do all of the 2008
following: 2009

(A) Collect trust property and accept or reject additions 2010
to the trust property from a settlor or any other person; 2011

(B) Acquire or sell property, for cash or on credit, at 2012
public or private sale; 2013

(C) Exchange, partition, or otherwise change the character of trust property;	2014 2015
(D) Deposit trust money in an account in a regulated financial-service institution;	2016 2017
(E) Borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;	2018 2019 2020
(F) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;	2021 2022 2023 2024 2025 2026 2027
(G) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to do any of the following:	2028 2029 2030
(1) Vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;	2031 2032 2033
(2) Hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;	2034 2035 2036
(3) Pay calls, assessments, and other sums chargeable or accruing against the securities and sell or exercise stock subscription or conversion rights;	2037 2038 2039
(4) Deposit the securities with a depository or other regulated financial-service institution.	2040 2041

(H) With respect to an interest in real property, 2042
construct, or make ordinary or extraordinary repairs to, 2043
alterations to, or improvements in, buildings or other 2044
structures, demolish improvements, raze existing or erect new 2045
party walls or buildings, subdivide or develop land, dedicate 2046
land to public use or grant public or private easements, and 2047
make or vacate plats and adjust boundaries; 2048

(I) Enter into a lease for any purpose as lessor or 2049
lessee, including a lease or other arrangement for exploration 2050
and removal of natural resources, with or without the option to 2051
purchase or renew, for a period within or extending beyond the 2052
duration of the trust; 2053

(J) Grant an option involving a sale, lease, or other 2054
disposition of trust property or acquire an option for the 2055
acquisition of property, including an option exercisable beyond 2056
the duration of the trust, and exercise an option so acquired; 2057

(K) Insure the property of the trust against damage or 2058
loss and insure the trustee, the trustee's agents, and 2059
beneficiaries against liability arising from the administration 2060
of the trust; 2061

(L) Abandon or decline to administer property of no value 2062
or of insufficient value to justify its collection or continued 2063
administration; 2064

(M) With respect to possible liability for violation of 2065
environmental law, do any of the following: 2066

(1) Inspect or investigate property the trustee holds or 2067
has been asked to hold, or property owned or operated by an 2068
organization in which the trustee holds or has been asked to 2069
hold an interest, for the purpose of determining the application 2070

of environmental law with respect to the property;	2071
(2) Take action to prevent, abate, or otherwise remedy any	2072
actual or potential violation of any environmental law affecting	2073
property held directly or indirectly by the trustee, whether	2074
taken before or after the assertion of a claim or the initiation	2075
of governmental enforcement;	2076
(3) Decline to accept property into trust or disclaim any	2077
power with respect to property that is or may be burdened with	2078
liability for violation of environmental law;	2079
(4) Compromise claims against the trust that may be	2080
asserted for an alleged violation of environmental law;	2081
(5) Pay the expense of any inspection, review, abatement,	2082
or remedial action to comply with environmental law.	2083
(N) Pay or contest any claim, settle a claim by or against	2084
the trust, and release, in whole or in part, a claim belonging	2085
to the trust;	2086
(O) Pay taxes, assessments, compensation of the trustee	2087
and of employees and agents of the trust, and other expenses	2088
incurred in the administration of the trust;	2089
(P) Exercise elections with respect to federal, state, and	2090
local taxes;	2091
(Q) Select a mode of payment under any employee benefit or	2092
retirement plan, annuity, or life insurance policy payable to	2093
the trustee, exercise rights under any employee benefit or	2094
retirement plan, annuity, or life insurance policy payable to	2095
the trustee, including the right to indemnification for expenses	2096
and against liabilities, and take appropriate action to collect	2097
the proceeds;	2098

(R) Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(S) Guarantee loans made by others to the settlor of a revocable trust and, if the settlor so directs, guarantee loans made by others to a third party and mortgage, pledge, or grant a security interest in the property of a revocable trust to secure the payment of loans made by others to the settlor of the revocable trust and, if the settlor so directs, loans made by others to a third party;

(T) Appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(U) Pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by doing any of the following:

(1) Paying it to the beneficiary's guardian of the estate, or, if the beneficiary does not have a guardian of the estate, the beneficiary's guardian of the person;

(2) Paying it to the beneficiary's custodian under sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code and, for that purpose, creating a custodianship;

(3) If the trustee does not know of a guardian of the person or estate, or custodian, paying it to an adult relative

or other person having legal or physical care or custody of the	2128
beneficiary, to be expended on the beneficiary's behalf;	2129
(4) Managing it as a separate fund on the beneficiary's	2130
behalf, subject to the beneficiary's continuing right to	2131
withdraw the distribution.	2132
(V) On distribution of trust property or the division or	2133
termination of a trust, make distributions in divided or	2134
undivided interests, allocate particular assets in proportionate	2135
or disproportionate shares, value the trust property for those	2136
purposes, and adjust for resulting differences in valuation;	2137
(W) Resolve a dispute concerning the interpretation of the	2138
trust or its administration by mediation, arbitration, or other	2139
procedure for alternative dispute resolution;	2140
(X) Prosecute or defend an action, claim, or judicial	2141
proceeding in any jurisdiction to protect trust property and the	2142
trustee in the performance of the trustee's duties;	2143
(Y) Sign and deliver contracts and other instruments that	2144
are useful to achieve or facilitate the exercise of the	2145
trustee's powers;	2146
(Z) On termination of the trust, exercise the powers	2147
appropriate to wind up the administration of the trust and	2148
distribute the trust property to the persons entitled to it;	2149
(AA) Employ agents, attorneys, accountants, investment	2150
advisors, and other professionals.	2151
Sec. 5812.32. (A) As used in this section, "payment" <u>is</u>	2152
<u>(1) "Payment"</u> means a payment that a trustee may receive	2153
over a fixed number of years or during the life of one or more	2154
individuals because of services rendered or property transferred	2155

to the payer in exchange for future payments. "Payment" includes 2156
a payment made in money or property from the payer's general 2157
assets or from a separate fund created by the payer, ~~including~~. 2158
For purposes of divisions (D), (E), (F), and (G) of this 2159
section, "payment" also includes any payment made from any 2160
separate fund regardless of the reason for the payment. 2161

(2) "Separate fund" includes a private or commercial 2162
annuity, an individual retirement account, or a pension, profit- 2163
sharing, stock-bonus, or stock-ownership plan. 2164

(B) To the extent that a payment is characterized as 2165
interest ~~or~~, a dividend, or a payment made in lieu of interest 2166
or a dividend, a trustee shall allocate ~~it~~ the payment to 2167
income. The trustee shall allocate to principal the balance of 2168
the payment and any other payment received in the same 2169
accounting period that is not characterized as interest, a 2170
dividend, or an equivalent payment. 2171

(C) If no part of a payment is characterized as interest, 2172
a dividend, or an equivalent payment, and all or part of the 2173
payment is required to be made, a trustee shall allocate to 2174
income ten per cent of the part that is required to be made 2175
during the accounting period and the balance to principal. If no 2176
part of a payment is required to be made or the payment received 2177
is the entire amount to which the trustee is entitled, the 2178
trustee shall allocate the entire payment to principal. For 2179
purposes of this division, a payment is not "required to be 2180
made" to the extent that it is made because the trustee 2181
exercises a right of withdrawal. 2182

~~(D) If, to obtain an estate tax marital deduction for a~~ 2183
~~trust, a trustee must allocate more of a payment to income than~~ 2184
~~is provided for by this section, the trustee shall allocate to~~ 2185

~~income the additional amount necessary to obtain the marital-~~ 2186
~~deduction. Except as otherwise provided in division (E) of this~~ 2187
~~section, divisions (F) and (G) of this section apply, and~~ 2188
~~divisions (B) and (C) of this section do not apply, in~~ 2189
~~determining the allocation of a payment made from a separate~~ 2190
~~fund to either of the following:~~ 2191

(1) A trust for which an election to qualify for a marital 2192
deduction under section 2056(b) (7) of the Internal Revenue Code 2193
of 1986, 26 U.S.C. 2056(b) (7), as amended, has been made; 2194

(2) A trust that qualifies for the marital deduction under 2195
section 2056(b) (5) of the Internal Revenue Code of 1986, 26 2196
U.S.C. 2056(b) (5), as amended. 2197

(E) Divisions (D), (F), and (G) of this section do not 2198
apply if and to the extent that the series of payments would, 2199
without the application of division (D) of this section, qualify 2200
for the marital deduction under section 2056(b) (7) (C) of the 2201
Internal Revenue Code of 1986, 26 U.S.C. 2056(b) (7) (C), as 2202
amended. 2203

(F) A trustee shall determine the internal income of each 2204
separate fund for the accounting period as if the separate fund 2205
were a trust subject to sections 5812.01 to 5812.52 of the 2206
Revised Code. Upon request of the surviving spouse, the trustee 2207
shall demand that the person administering the separate fund 2208
distribute the internal income to the trust. The trustee shall 2209
allocate a payment from the separate fund to income to the 2210
extent of the internal income of the separate fund and 2211
distribute that amount to the surviving spouse. The trustee 2212
shall allocate the balance of the payment to principal. Upon 2213
request of the surviving spouse, the trustee shall allocate 2214
principal to income to the extent the internal income of the 2215

separate fund exceeds payments made from the separate fund to 2216
the trust during the accounting period. 2217

(G) If a trustee cannot determine the internal income of a 2218
separate fund but can determine the value of the separate fund, 2219
the internal income of the separate fund is deemed to equal four 2220
per cent of the fund's value according to the most recent 2221
statement of value preceding the beginning of the accounting 2222
period. If the trustee can determine neither the internal income 2223
of the separate fund nor the value of the fund, the internal 2224
income of the fund is deemed to equal the product of the 2225
interest rate and the present value of the expected future 2226
payments, as determined under section 7520 of the Internal 2227
Revenue Code of 1986, 26 U.S.C. 7520, as amended, for the month 2228
preceding the accounting period for which the computation is 2229
made. 2230

(H) This section does not apply to ~~payments~~ a payment to 2231
which section 5812.33 of the Revised Code applies. 2232

(I) (1) This section applies to a trust described in 2233
division (D) of this section on and after any of the following 2234
dates: 2235

(a) If the trust has not received a payment from a 2236
separate fund on the effective date of the amendment of this 2237
section, the date of the decedent's death; 2238

(b) If the trust receives the first payment from any and 2239
all separate funds payable to the trust in the calendar year 2240
beginning January 1 of the year in which the amendment of this 2241
section takes effect, the date of the decedent's death; 2242

(c) If the trust is not described in division (I) (1) (a) or 2243
(b) of this section, January 1 of the year in which the 2244

<u>amendment of this section takes effect.</u>	2245
<u>(2) For purposes of division (I) (1) of this section,</u>	2246
<u>"decedent" means the individual by reason of whose death the</u>	2247
<u>trust may receive a payment from the separate fund.</u>	2248
Sec. 5812.46. (A) A tax required to be paid by a trustee	2249
based on receipts allocated to income shall be paid from income.	2250
(B) A tax required to be paid by a trustee based on	2251
receipts allocated to principal shall be paid from principal,	2252
even if the tax is called an income tax by the taxing authority.	2253
(C) A tax required to be paid by a trustee on the trust's	2254
share of an entity's taxable income shall be paid	2255
proportionately as follows:	2256
(1) From income, to the extent that receipts from the	2257
entity are allocated <u>only</u> to income;	2258
(2) From principal, as follows:	2259
(a) To <u>to</u> the extent that receipts from the entity are	2260
allocated <u>only</u> to principal; and	2261
(b) To <u>(3) Proportionately from principal and income, to</u>	2262
<u>the extent that receipts from the entity are allocated to both</u>	2263
<u>income and principal;</u>	2264
<u>(4) From principal, to the extent that the trust's share</u>	2265
<u>of the entity's taxable income tax exceeds the total receipts</u>	2266
<u>described in divisions (C) (1) and (2) (a) of this section from</u>	2267
<u>the entity.</u>	2268
(D) For purposes of this section, receipts allocated to	2269
principal or income shall be reduced by the amount distributed	2270
to a beneficiary from principal or income for which the trust	2271

~~receives a deduction in calculating the tax. After applying~~ 2272
~~divisions (A) to (C) of this section, the trustee shall adjust~~ 2273
~~income or principal receipts to the extent that the trust's~~ 2274
~~taxes are reduced because the trust receives a deduction for~~ 2275
~~payments made to a beneficiary.~~ 2276

Sec. 5812.51. (A) Sections 5812.01 to 5812.52 of the 2277
Revised Code may be cited as the "uniform principal and income 2278
act~~(1997)~~." 2279

(B) In applying and construing the "uniform principal and 2280
income act~~(1997)~~," ~~7~~ consideration shall be given to the need to 2281
promote uniformity of the law with respect to its subject matter 2282
among states that enact the "uniform principal and income 2283
act~~(1997)~~." ~~7~~ 2284

Sec. 5814.01. As used in sections 5814.01 to ~~5814.09~~ 2285
5814.10 of the Revised Code, unless the context otherwise 2286
requires: 2287

(A) "Benefit plan" means any plan of an employer for the 2288
benefit of any employee, any plan for the benefit of any 2289
partner, or any plan for the benefit of a proprietor, and 2290
includes, but is not limited to, any pension, retirement, death 2291
benefit, deferred compensation, employment agency, stock bonus, 2292
option, or profit-sharing contract, plan, system, account, or 2293
trust. 2294

(B) "Broker" means a person that is lawfully engaged in 2295
the business of effecting transactions in securities for the 2296
account of others. A "broker" includes a financial institution 2297
that effects such transactions and a person who is lawfully 2298
engaged in buying and selling securities for the person's own 2299
account, through a broker or otherwise, as a part of a regular 2300

business.	2301
(C) "Court" means the probate court.	2302
(D) "The custodial property" includes:	2303
(1) All securities, money, life or endowment insurance	2304
policies, annuity contracts, benefit plans, real estate,	2305
tangible and intangible personal property, proceeds of a life or	2306
endowment insurance policy, an annuity contract, or a benefit	2307
plan, and other types of property under the supervision of the	2308
same custodian for the same minor as a consequence of a transfer	2309
or transfers made to the minor, a gift or gifts made to the	2310
minor, or a purchase made by the custodian for the minor, in a	2311
manner prescribed in sections 5814.01 to 5814.09 <u>5814.10</u> of the	2312
Revised Code;	2313
(2) The income from the custodial property;	2314
(3) The proceeds, immediate and remote, from the sale,	2315
exchange, conversion, investment, reinvestment, or other	2316
disposition of the securities, money, life or endowment	2317
insurance policies, annuity contracts, benefit plans, real	2318
estate, tangible and intangible personal property, proceeds of a	2319
life or endowment insurance policy, an annuity contract, or a	2320
benefit plan, other types of property, and income.	2321
(E) "Custodian" or "successor custodian" means a person so	2322
designated in a manner prescribed in sections 5814.01 to 5814.09	2323
<u>5814.10</u> of the Revised Code.	2324
(F) "Financial institution" means any bank, as defined in	2325
section 1101.01, any building and loan association, as defined	2326
in section 1151.01, any credit union as defined in section	2327
1733.01 of the Revised Code, and any federal credit union, as	2328
defined in the "Federal Credit Union Act," 73 Stat. 628 (1959),	2329

12 U.S.C.A. 1752, as amended. 2330

(G) "Guardian of the minor" includes the general guardian, 2331
guardian, tutor, or curator of the property, estate, or person 2332
of a minor. 2333

(H) "Issuer" means a person who places or authorizes the 2334
placing of the person's name on a security, other than as a 2335
transfer agent, to evidence that it represents a share, 2336
participation, or other interest in the person's property or in 2337
an enterprise, or to evidence the person's duty or undertaking 2338
to perform an obligation that is evidenced by the security, or 2339
who becomes responsible for or in place of any such person. 2340

(I) "Legal representative" of a person means the executor, 2341
administrator, general guardian, guardian, committee, 2342
conservator, tutor, or curator of the person's property or 2343
estate. 2344

(J) "Member of the minor's family" means a parent, 2345
stepparent, spouse, grandparent, brother, sister, uncle, or aunt 2346
of the minor, whether of the whole or half blood, or by 2347
adoption. 2348

(K) ~~"Minor"~~ (1) Except as provided in division (K) (2) of 2349
this section, "minor" means a person an individual who has not 2350
attained the age of twenty-one years. 2351

(2) When used with reference to the beneficiary for whose 2352
benefit custodial property is held or is to be held, "minor" 2353
means an individual who has not attained the age at which the 2354
custodian is required under section 5814.09 of the Revised Code 2355
to transfer the custodial property to the beneficiary. 2356

(L) "Security" includes any note, stock, treasury stock, 2357
common trust fund, bond, debenture, evidence of indebtedness, 2358

certificate of interest or participation in an oil, gas, or 2359
mining title or lease or in payments out of production under an 2360
oil, gas, or mining title or lease, collateral trust 2361
certificate, transferable share, voting trust certificate, or, 2362
in general, any interest or instrument commonly known as a 2363
security, or any certificate of interest or participation in, 2364
any temporary or interim certificate, receipt or certificate of 2365
deposit for, or any warrant or right to subscribe to or 2366
purchase, any of the foregoing. A "security" does not include a 2367
security of which the donor or transferor is the issuer. A 2368
security is in "registered form" when it specifies a person who 2369
is entitled to it or to the rights that it evidences and its 2370
transfer may be registered upon books maintained for that 2371
purpose by or on behalf of the issuer. 2372

(M) "Transfer" means a disposition, other than a gift, by 2373
a person who is eighteen years of age or older that creates 2374
custodial property under sections 5814.01 to ~~5814.09~~ 5814.10 of 2375
the Revised Code. 2376

(N) "Transfer agent" means a person who acts as 2377
authenticating trustee, transfer agent, registrar, or other 2378
agent for an issuer in the registration of transfers of its 2379
securities, in the issue of new securities, or in the 2380
cancellation of surrendered securities. 2381

(O) "Transferor" means a person who is eighteen years of 2382
age or older, who makes a transfer. 2383

(P) "Trust company" means a financial institution that is 2384
authorized to exercise trust powers. 2385

(Q) "Administrator" includes an "administrator with the 2386
will annexed." 2387

Sec. 5814.02. (A) A person who is eighteen years of age or 2388
older may, during the person's lifetime, make a gift or transfer 2389
of a security, money, a life or endowment insurance policy, an 2390
annuity contract, a benefit plan, real estate, tangible or 2391
intangible personal property, or any other property to, may 2392
designate as beneficiary of a life or endowment insurance 2393
policy, an annuity contract, or a benefit plan, or make a 2394
transfer by the irrevocable exercise of a power of appointment 2395
in favor of, a person who is a minor on the date of the gift or 2396
transfer: 2397

(1) If the subject of the gift or transfer is a security 2398
in registered form, by registering it in the name of the donor 2399
or transferor, another person who is eighteen years of age or 2400
older, or a trust company, followed, in substance, by the words: 2401
"as custodian for (name of minor) under the 2402
Ohio Transfers to Minors Act;" 2403

(2) If the subject of the gift or transfer is a security 2404
not in registered form, by delivering it to the donor or 2405
transferor, another person who is eighteen years of age or 2406
older, or a trust company, accompanied by a statement of a gift 2407
or transfer in the following form, in substance, signed by the 2408
donor or transferor and the person or trust company designated 2409
as custodian: 2410

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2411

I, (name of donor or transferor), 2412
hereby deliver to (name of custodian) as custodian 2413
for (name of minor) under the Ohio Transfers 2414
to Minors Act, the following security (ies): (insert an 2415
appropriate description of the security or securities delivered, 2416
sufficient to identify it or them). 2417

.....	2418
(signature of donor or transferor)	2419
..... (name of custodian) hereby acknowledges	2420
receipt of the above described security (ies) as custodian for	2421
the above minor under the Ohio Transfers to Minors Act.	2422
Dated:	2423
(signature of custodian)"	2424
(3) If the subject of the gift or transfer is money, by	2425
paying or delivering it to a broker, or a financial institution	2426
for credit to an account in the name of the donor or transferor,	2427
another person who is eighteen years of age or older, or a trust	2428
company, followed, in substance, by the words: "as custodian for	2429
..... (name of minor) under the Ohio Transfers to	2430
Minors Act."	2431
(4) If the subject of the gift or transfer is a life or	2432
endowment insurance policy, an annuity contract, or a benefit	2433
plan, by assigning the policy, contract, or plan to the donor or	2434
transferor, another person who is eighteen years of age or	2435
older, or a trust company, followed, in substance by the words:	2436
"as custodian for (name of minor) under the	2437
Ohio Transfers to Minors Act."	2438
(5) If the subject of the gift or transfer is an interest	2439
in real estate, by executing and delivering in the appropriate	2440
manner a deed, assignment, or similar instrument in the name of	2441
the donor or transferor, another person who is eighteen years of	2442
age or older, or a trust company, followed, in substance, by the	2443
words: "as custodian for (name of minor) under	2444
the Ohio Transfers to Minors Act."	2445
(6) If the subject of the gift or transfer is tangible	2446

personal property, by delivering it to the donor or transferor, 2447
another person who is eighteen years of age or older, or a trust 2448
company, accompanied by a statement of a gift or transfer in the 2449
following form, in substance, signed by the donor or transferor 2450
and the person or trust company designated as custodian: 2451

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2452

I, (name of donor or transferor), hereby 2453
deliver to (name of custodian) as custodian 2454
for (name of minor) under the Ohio Transfers 2455
to Minors Act, the following property: (insert an appropriate 2456
description of the property delivered, sufficient to identify 2457
it). 2458

..... 2459

(signature of donor or transferor) 2460

..... (name of custodian) hereby 2461
acknowledges receipt of the above described property as 2462
custodian for the above minor under the Ohio Transfers to Minors 2463
Act. 2464

Dated: 2465

(signature of custodian)" 2466

(7) If the subject of the gift or transfer is tangible 2467
personal property, title to which is evidenced by a certificate 2468
of title issued by a department or agency of a state or of the 2469
United States, by issuing title to the donor or transferor, 2470
another person who is eighteen years of age or older, or a trust 2471
company, accompanied by a statement of a gift or transfer in the 2472
following form, in substance: "as custodian 2473
for (name of minor) under the Ohio 2474
Transfers to Minors Act;" or by delivering the title to another 2475
person who is eighteen years of age or older or a trust company, 2476

endorsed to that person followed in substance by the following 2477
words: "as custodian for..... (name of minor) 2478
under the Ohio Transfers to Minors Act." 2479

(8) If the subject of the gift or transfer is the 2480
designation of a minor as beneficiary of a life or endowment 2481
insurance policy, an annuity contract, or a benefit plan, by 2482
designating as beneficiary of the policy, contract, or plan the 2483
donor or transferor, another person who is eighteen years of age 2484
or older, or a trust company, followed, in substance, by the 2485
words: "as custodian for (name of minor) 2486
under the Ohio Transfers to Minors Act." 2487

(9) If the subject of the gift or transfer is an 2488
irrevocable exercise of a power of appointment in favor of a 2489
minor or is an interest in any property that is not described in 2490
divisions (A) (1) to (8) of this section, by causing the 2491
ownership of the property to be transferred by any written 2492
document in the name of the donor or transferor, another person 2493
who is eighteen years of age or older, or a trust company, 2494
followed, in substance, by the words: "as custodian 2495
for (name of minor) under the Ohio Transfers 2496
to Minors Act." 2497

(B) Trustees, inter vivos or testamentary, executors, and 2498
administrators having authority to distribute or pay any trust 2499
or estate property to or for the benefit of a minor, or having 2500
authority to distribute or pay any trust or estate property to 2501
any other person for the benefit of a minor may, if authorized 2502
by a will or trust instrument, distribute or pay trust or estate 2503
property of any type mentioned in division (A) of this section 2504
in the manner and form provided in that division, and may name 2505
the custodian or successor custodian of the property if the will 2506

or trust instrument does not name an eligible custodian, or if 2507
the will or trust does not name an eligible successor custodian 2508
and the naming of a successor custodian is necessary. A person 2509
who is eighteen years of age or older, in the person's will or 2510
trust instrument, may provide that the fiduciary shall make any 2511
payment or distribution as provided in this division and may 2512
name the custodian and a successor custodian of the trust or 2513
estate property. As to any distribution or payment so made, the 2514
testator of a will, under the provisions of which a testamentary 2515
trust or estate is being administered, or the settlor of an 2516
inter vivos trust shall be deemed the donor or transferor. 2517

(C) Any gift, transfer, payment, or distribution that is 2518
made in a manner prescribed in division (A), (B), or (E) of this 2519
section may be made to only one minor and only one person may be 2520
the custodian. All gifts, transfers, payments, and distributions 2521
made by a person in a manner prescribed in sections 5814.01 to 2522
~~5814.09~~ 5814.10 of the Revised Code to the same custodian for 2523
the benefit of the same minor result in a single custodianship. 2524

(D) A donor or transferor who makes a gift or transfer to 2525
a minor in a manner prescribed in division (A) of this section 2526
and a trustee, executor, or administrator acting under division 2527
(B) or (E) of this section shall promptly do all things within 2528
the donor's, transferor's, trustee's, executor's, or 2529
administrator's power to put the subject of the gift or transfer 2530
in the possession and control of the custodian, but neither the 2531
donor's, transferor's, trustee's, executor's, or administrator's 2532
failure to comply with this division, nor the designation by the 2533
donor, transferor, trustee, executor, or administrator of an 2534
ineligible custodian, nor the renunciation by the person or 2535
trust company designated as custodian, affects the consummation 2536
of the gift or transfer. 2537

(E) If there is no will, or if a will, trust, or other governing instrument does not contain an authorization to make a transfer as described in this division, a trustee, executor, or administrator may make a transfer in a manner prescribed in division (A) of this section to self, another person who is eighteen years of age or older, or a trust company, as custodian, if all of the following apply:

(1) Irrespective of the value of the property, the trustee, executor, or administrator considers the transfer to be in the best interest of the minor;

(2) Irrespective of the value of the property, the transfer is not prohibited by or inconsistent with the applicable will, trust agreement, or other governing instrument;

(3) If the value of the property exceeds ~~ten~~ twenty-five thousand dollars, the transfer is authorized by the appropriate court.

(F) Except with respect to real property, a donor or transferor who makes a gift or transfer to a minor in a manner prescribed in division (A) of this section and a trustee, executor, or administrator acting under division (B) or (E) of this section may also designate one or more successor custodians, in substance, by adding to such designation the following words or words of similar import for the successor or successors designated: "In the event of the death or inability or unwillingness to serve of (name of custodian), or any successor custodian designated hereby, (name of first successor custodian), followed by (name of second successor custodian), in the order named, shall serve as successor custodian."

Sec. 5814.03. (A) A gift or transfer made in a manner 2568
prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the Revised 2569
Code, is irrevocable and conveys to the minor indefeasibly 2570
vested legal title to the security, money, life or endowment 2571
insurance policy, annuity contract, benefit plan, real estate, 2572
tangible or intangible personal property, or other property 2573
given or, subject to the right of the owner of the policy, 2574
contract, or benefit plan to change the beneficiary if the 2575
custodian is not the owner, to the proceeds of a life or 2576
endowment insurance policy, an annuity contract, or a benefit 2577
plan given, but no guardian of the minor has any right, power, 2578
duty, or authority with respect to the custodial property except 2579
as provided in sections 5814.01 to ~~5814.09~~5814.10 of the 2580
Revised Code. 2581

(B) By making a gift or transfer in a manner prescribed in 2582
sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, the 2583
donor or transferor incorporates in the gift or transfer all the 2584
provisions of these sections and grants to the custodian, and to 2585
any issuer, transfer agent, financial institution, broker, or 2586
third person dealing with a person or trust company designated 2587
as custodian, the respective powers, rights, and immunities 2588
provided in these sections. 2589

Sec. 5814.04. (A) The custodian shall collect, hold, 2590
manage, invest, and reinvest the custodial property. 2591

(B) The custodian shall pay over to the minor for 2592
expenditure by the minor, or expend for the use or benefit of 2593
the minor, as much of or all the custodial property as the 2594
custodian considers advisable for the use and benefit of the 2595
minor in the manner, at the time or times, and to the extent 2596
that the custodian in the custodian's discretion considers 2597

suitable and proper, with or without court order, with or 2598
without regard to the duty or ability of the custodian or of any 2599
other person to support the minor or the minor's ability to do 2600
so, and with or without regard to any other income or property 2601
of the minor that may be applicable or available for any 2602
purpose. Any payment or expenditure that is made under this 2603
division is in addition to, is not a substitute for, and does 2604
not affect the obligation of any person to support the minor for 2605
whom the payment or expenditure is made. 2606

(C) The court, on the petition of a parent or guardian of 2607
the minor or of the minor, if the minor has attained the age of 2608
fourteen years, may order the custodian to pay over to the minor 2609
for expenditure by the minor or to expend as much of or all the 2610
custodial property as is necessary for the use and benefit of 2611
the minor. 2612

(D) (1) Except as provided in division (D) (2) of this 2613
section and in section 5814.09 of the Revised Code, to the 2614
extent that the custodial property is not so expended, the 2615
custodian shall deliver or pay the custodial property over to 2616
the minor on the minor's attaining the age of twenty-one years 2617
or, if the minor dies before attaining the age of twenty-one 2618
years, shall, upon the minor's death, deliver or pay the 2619
custodial property over to the estate of the minor. 2620

(2) If the donor or transferor, in the written instrument 2621
that makes or provides for the gift or transfer, directs the 2622
custodian to deliver or pay over the custodial property to the 2623
minor on the minor's attaining any age between eighteen and 2624
twenty-one, the custodian shall deliver or pay over the 2625
custodial property to the minor on the minor's attaining that 2626
age, or, if the minor dies before attaining that age, the 2627

custodian shall, upon the minor's death, deliver or pay the 2628
custodial property over to the estate of the minor. 2629

(E) The custodian, notwithstanding statutes restricting 2630
investments by fiduciaries, shall invest and reinvest the 2631
custodial property as would a prudent person of discretion and 2632
intelligence dealing with the property of another, except that 2633
the custodian may, in the discretion of the custodian and 2634
without liability to the minor or the estate of the minor, 2635
retain any custodial property received in a manner prescribed in 2636
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. If a 2637
custodian has special skills or is named custodian on the basis 2638
of representations of special skills or expertise, the custodian 2639
is under a duty to use those skills or that expertise. 2640

(F) The custodian may sell, exchange, convert, or 2641
otherwise dispose of custodial property in the manner, at the 2642
time or times, for the price or prices, and upon the terms the 2643
custodian considers advisable. The custodian may vote in person 2644
or by general or limited proxy a security that is custodial 2645
property. The custodian may consent, directly or through a 2646
committee or other agent, to the reorganization, consolidation, 2647
merger, dissolution, or liquidation of an issuer of a security 2648
that is custodial property, and to the sale, lease, pledge, or 2649
mortgage of any property by or to such an issuer, and to any 2650
other action by such an issuer. The custodian may purchase any 2651
life or endowment insurance policy or annuity contract on the 2652
life of the minor or any member of the family of the minor and 2653
pay, from funds in the custodian's custody, any premiums on any 2654
life or endowment insurance policy or annuity contract held by 2655
the custodian as custodial property. The custodian may execute 2656
and deliver any and all instruments in writing that the 2657
custodian considers advisable to carry out any of the 2658

custodian's powers as custodian. 2659

(G) The custodian shall register each security that is 2660
custodial property and in registered form in the name of the 2661
custodian, followed, in substance, by the words: "as custodian 2662
for (name of minor) under the Ohio Transfers to 2663
Minors Act," or shall maintain each security that is custodial 2664
property and in registered form in an account with a broker or 2665
in a financial institution in the name of the custodian, 2666
followed, in substance, by the words: "as custodian 2667
for (name of minor) under the Ohio Transfers to 2668
Minors Act." A security held in account with a broker or in a 2669
financial institution in the name of the custodian may be held 2670
in the name of the broker or financial institution. A security 2671
that is custodial property and in registered form and that is 2672
held by a broker or in a financial institution in which the 2673
broker or financial institution does not have a lien for 2674
indebtedness due to it from a custodial account may not be 2675
pledged, lent, hypothecated, or disposed of except upon the 2676
specific instructions of the custodian. The custodian shall hold 2677
all money that is custodial property in an account with a broker 2678
or in a financial institution in the name of the custodian, 2679
followed, in substance, by the words: "as custodian 2680
for (name of minor) under the Ohio Transfers to 2681
Minors Act." The custodian shall hold all life or endowment 2682
insurance policies, annuity contracts, or benefit plans that are 2683
custodial property in the name of the custodian, followed, in 2684
substance, by the words "as custodian for (name 2685
of minor) under the Ohio Transfers to Minors Act." The custodian 2686
shall take title to all real estate that is custodial property 2687
in the name of the custodian, followed, in substance, by the 2688
words: "as custodian for (name of minor) under the 2689

Ohio Transfers to Minors Act." In the event one or more 2690
successor custodians have been designated by the donor, 2691
transferor, trustee, executor, or administrator pursuant to 2692
division (F) of section 5814.02 of the Revised Code or by the 2693
custodian pursuant to division (E) of section 5814.07 of the 2694
Revised Code, each registration, account, policy, contract, 2695
plan, or title in the name of the custodian set forth in this 2696
division shall include such designation of successor custodian 2697
or custodians. The custodian shall keep all other custodial 2698
property separate and distinct from the custodian's own property 2699
in a manner to identify it clearly as custodial property. 2700

(H) The custodian shall keep records of all transactions 2701
with respect to the custodial property and make the records 2702
available for inspection at reasonable intervals by a parent or 2703
legal representative of the minor or by the minor, if the minor 2704
has attained the age of fourteen years. 2705

(I) A custodian has, with respect to the custodial 2706
property, in addition to the rights and powers provided in 2707
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, all the 2708
rights and powers that a guardian has with respect to property 2709
not held as custodial property. 2710

(J) The custodian may invest in or pay premiums on any 2711
life or endowment insurance policy or annuity contract on either 2712
of the following: 2713

(1) The life of the minor, if the minor or the estate of 2714
the minor is the sole beneficiary under the policy or contract; 2715

(2) The life of any person in whom the minor has an 2716
insurable interest, if the minor, the minor's estate, or the 2717
custodian in the custodian's capacity as custodian is the sole 2718

beneficiary.	2719
(K) All of the rights, powers, and authority of the	2720
custodian over custodial property, including all of the	2721
incidents of ownership in any life or endowment insurance	2722
policy, annuity contract, or benefit plan, are held only in the	2723
capacity of the custodian as custodian.	2724
Sec. 5814.05. (A) A custodian is entitled to reimbursement	2725
from the custodial property for reasonable expenses incurred in	2726
the performance of the custodian's duties.	2727
(B) A custodian may act without compensation for the	2728
custodian's services.	2729
(C) Unless the custodian is a donor or transferor, the	2730
custodian may receive from custodial property reasonable	2731
compensation for the custodian's services determined by one of	2732
the following standards in the order stated:	2733
(1) A direction by the donor or transferor when the gift	2734
or transfer is made;	2735
(2) A statute of this state applicable to custodians;	2736
(3) The statute of this state applicable to guardians;	2737
(4) An order of the court.	2738
(D) Except as otherwise provided in sections 5814.01 to	2739
5814.09 <u>5814.10</u> of the Revised Code, a custodian shall not be	2740
required to give a bond for the performance of the custodian's	2741
duties.	2742
(E) A custodian not compensated for the custodian's	2743
services is not liable for losses to the custodial property	2744
unless they result from the custodian's bad faith, intentional	2745

wrongdoing, or gross negligence or from the custodian's failure 2746
to maintain the standard of prudence in investing the custodial 2747
property provided in sections 5814.01 to ~~5814.09~~ 5814.10 of the 2748
Revised Code. 2749

Sec. 5814.06. An issuer, transfer agent, financial 2750
institution, broker, life insurance company, or other person 2751
acting on the instructions of or otherwise dealing with any 2752
person purporting to act as a donor or transferor or dealing 2753
with any person or trust company purporting to act as a 2754
custodian is not required to do any of the following: 2755

(A) Determine either of the following: 2756

(1) Whether the person or trust company designated by the 2757
purported donor or transferor, or the person or trust company 2758
purporting to act as a custodian, has been duly designated; 2759

(2) Whether any purchase, sale, or transfer to or by, or 2760
any other act of, any person or trust company purporting to act 2761
as a custodian is in accordance with or authorized by sections 2762
5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. 2763

(B) Inquire into the validity or propriety under sections 2764
5814.01 to ~~5814.09~~ 5814.10 of the Revised Code of any instrument 2765
or instructions executed or given by a person purporting to act 2766
as a donor or transferor or by a person or trust company 2767
purporting to act as a custodian; 2768

(C) See to the application by any person or trust company 2769
purporting to act as a custodian of any money or other property 2770
paid or delivered to the person or trust company. 2771

Sec. 5814.07. (A) Any person who is eighteen years of age 2772
or older or a trust company is eligible to become a successor 2773
custodian. A successor custodian has all the rights, powers, 2774

duties, and immunities of a custodian designated in a manner 2775
prescribed by sections 5814.01 to ~~5814.09~~5814.10 of the Revised 2776
Code. 2777

(B) A custodian may resign and designate the custodian's 2778
successor by doing all of the following: 2779

(1) Executing an instrument of resignation that designates 2780
the successor custodian; 2781

(2) Causing each security that is custodial property and 2782
in registered form to be registered in the name of the successor 2783
custodian followed, in substance, by the words: "as custodian 2784
for (name of minor) under the Ohio 2785
Transfers to Minors Act;" 2786

(3) Executing in the appropriate manner a deed, 2787
assignment, or similar instrument for all interest in real 2788
estate that is custodial property in the name of the successor 2789
custodian, followed, in substance, by the words: "as custodian 2790
for (name of minor) under the Ohio 2791
Transfers to Minors Act;" 2792

(4) Delivering to the successor custodian the instrument 2793
of resignation, each security registered in the name of the 2794
successor custodian, each deed, assignment, or similar 2795
instrument for all interest in real estate that is in the name 2796
of the successor custodian, and all other custodial property, 2797
together with any additional instruments that are required for 2798
the transfer of the custodial property. 2799

(C) A custodian may petition the court for permission to 2800
resign and for the designation of a successor custodian. 2801

(D) A custodian may designate by the custodian's will a 2802
successor custodian, which designation is effective at the 2803

custodian's death. Upon the custodian's death, the custodian's 2804
legal representative shall do each of the following: 2805

(1) Cause each security that is custodial property and in 2806
registered form to be registered in the name of the successor 2807
custodian, followed, in substance, by the words: "as custodian 2808
for (name of minor) under the Ohio 2809
Transfers to Minors Act;" 2810

(2) Execute in the appropriate manner a deed, assignment, 2811
or similar instrument for all interest in real estate that is 2812
custodial property in the name of the successor custodian, 2813
followed, in substance, by the words: "as custodian 2814
for (name of minor) under the Ohio 2815
Transfers to Minors Act;" 2816

(3) Deliver to the successor custodian each security 2817
registered in the name of the successor custodian, each deed, 2818
assignment, or similar instrument for all interest in real 2819
estate that is in the name of the successor custodian, and all 2820
other custodial property, together with any additional 2821
instruments that are required for the transfer of the custodial 2822
property. 2823

(E) A custodian may designate one or more successor 2824
custodians by transferring the property of any type specified in 2825
division (A) of section 5814.02 of the Revised Code, other than 2826
real estate, in the manner and form provided in that division, 2827
to self as custodian, followed by the designation of the 2828
successor custodian or custodians in the manner and form 2829
provided in division (F) of section 5814.02 of the Revised Code. 2830
A custodian may designate one or more successor custodians of 2831
real property by designating the successor custodian or 2832
custodians in the manner and form provided in sections 5302.22 2833

to 5302.23 of the Revised Code. A designation of a successor 2834
custodian or custodians by the custodian shall replace any 2835
previous designation of successor custodians by the donor, 2836
transferor, or previous custodian. 2837

(F) If no eligible successor custodian is designated by 2838
the donor ~~or~~, transferor, trustee, executor, or administrator 2839
pursuant to division (F) of section 5814.02 of the Revised Code 2840
or in the donor's or transferor's will or trust, or by the 2841
custodian in the custodian's will, ~~or if the custodian dies~~ 2842
~~intestate~~ pursuant to division (D) of this section or by 2843
transfer pursuant to division (E) of this section, the legal 2844
representative of a custodian who is deceased or is adjudged to 2845
be an incompetent by a court, ~~the legal representative of the~~ 2846
~~custodian~~ may designate a successor custodian. If the court in 2847
which the estate or guardianship proceedings relative to the 2848
custodian are pending approves the designation, the designation 2849
shall be regarded as having been effective as of the date of the 2850
death of the custodian or as of the date the custodian was 2851
adjudged to be an incompetent. Upon the approval of the court, 2852
the legal representative of the custodian shall cause the 2853
custodial property to be transferred or registered in the name 2854
of the successor custodian as provided in divisions (D) (1) to 2855
(3) of this section. 2856

~~(F)~~ (G) If a person or entity designated as successor 2857
custodian is not eligible, or renounces or dies before the minor 2858
attains the age of twenty-one years or before the minor attains 2859
the age at which the custodian is required under section 5814.09 2860
of the Revised Code to deliver the custodial property to the 2861
minor, or if the custodian dies without designating a successor 2862
custodian and division ~~(E)~~ (F) of this section does not apply 2863
because the custodian does not have a legal representative, the 2864

guardian of the minor shall be the successor custodian. If the 2865
minor does not have a guardian, a donor or transferor, the legal 2866
representative of the donor or transferor, the legal 2867
representative of the custodian, a member of the minor's family 2868
who is eighteen years of age or older, or the minor, if the 2869
minor has attained the age of fourteen years, may petition the 2870
court for the designation of a successor custodian. 2871

~~(G)~~ (H) A donor or transferor, the legal representative of 2872
a donor or transferor, a member of the minor's family who is 2873
eighteen years of age or older, a guardian of the minor, or the 2874
minor, if the minor has attained the age of fourteen years, may 2875
petition the court that, for cause shown in the petition, the 2876
custodian be removed and a successor custodian be designated or, 2877
in the alternative, that the custodian be required to give bond 2878
for the performance of the custodian's duties. 2879

~~(H)~~ (I) Upon the filing of a petition as provided in this 2880
section, the court shall grant an order, directed to the persons 2881
and returnable on any notice that the court may require, to show 2882
cause why the relief prayed for in the petition should not be 2883
granted and, in due course, grant any relief that the court 2884
finds to be in the best interests of the minor. 2885

Sec. 5814.08. (A) The minor, if the minor has attained the 2886
age of fourteen years, or the legal representative of the minor, 2887
a member of the minor's family who is eighteen years of age or 2888
older, or a donor or transferor or the donor's or transferor's 2889
legal representative may petition the court for an accounting by 2890
the custodian or the custodian's legal representative. A 2891
successor custodian may petition the court for an accounting by 2892
the custodian that the successor custodian succeeded. 2893

(B) The court, in a proceeding under sections 5814.01 to 2894

~~5814.09~~5814.10 of the Revised Code, or otherwise, may require 2895
or permit the custodian or the custodian's legal representative 2896
to account and, if the custodian is removed, shall so require 2897
and order delivery of all custodial property to the successor 2898
custodian and the execution of all instruments required for the 2899
transfer of the custodial property. 2900

Sec. 5814.09. (A) Subject to the requirements and 2901
limitations of this section, the time for delivery to the minor 2902
of custodial property transferred under or pursuant to division 2903
(A) of section 5814.02 of the Revised Code may be delayed until 2904
a specified time after the minor attains the age of twenty-one 2905
years, which time shall be specified in the written instrument 2906
that makes or provides for the gift or transfer pursuant to 2907
divisions (A) (1) to (9) of section 5814.02 of the Revised Code. 2908

(B) To specify a delayed time for delivery to the minor of 2909
the custodial property, the words "as custodian 2910
for (name of minor) until age 2911
(age of delivery of property to minor) under the Ohio Transfers 2912
to Minors Act," shall be substituted in substance for the words 2913
"as custodian for (name of minor) under the 2914
Ohio Transfers to Minors Act." 2915

(C) The time for delivery to the minor of custodial 2916
property transferred under a will, trust instrument, or 2917
irrevocable exercise of a testamentary power of appointment may 2918
be delayed under this section only if the governing will, trust, 2919
or exercise of the power of appointment provides in substance 2920
that the custodianship is to continue until the time the minor 2921
attains a specified age, which time shall not be later than the 2922
date the minor attains the age of twenty-five years. 2923

(D) If the custodial property is transferred by inter 2924

vivos gift and the time for delivery of the custodial property 2925
to the minor is delayed beyond the time the minor attains the 2926
age of twenty-one years, the custodian, nevertheless, shall 2927
deliver the custodial property to the minor if requested in 2928
writing by the minor within sixty days of the minor attaining 2929
the age of twenty-one years, unless the donor or transferor, in 2930
the written instrument of gift or transfer pursuant to divisions 2931
(A) (1) to (9) of section 5814.02 of the Revised Code, provides 2932
that the custodial property may not be delivered to the minor 2933
prior to attaining the specified age of delivery, which time 2934
shall not be later than the date the minor attains the age of 2935
twenty-five years. 2936

(E) If the time for delivery to the minor of custodial 2937
property is delayed until a specified time after the minor 2938
attains the age of twenty-one years and the minor dies prior to 2939
attaining that age, the custodian shall, upon the minor's death, 2940
deliver the custodial property to the estate of the minor. 2941

(F) A custodian may not commingle the assets of custodial 2942
property that have different delivery dates. 2943

Sec. ~~5814.09~~ 5814.10. (A) Sections 5814.01 to ~~5814.09~~ 2944
~~5814.10~~ of the Revised Code shall be construed to effectuate 2945
their general purpose to make uniform the law of those states 2946
that enact similar provisions. 2947

(B) Sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised 2948
Code shall not be construed as providing an exclusive method for 2949
making gifts or transfers to minors. 2950

(C) Nothing in sections 5814.01 to ~~5814.09~~ 5814.10 of the 2951
Revised Code, shall affect gifts made under former sections 2952
1339.19 to 1339.28 of the Revised Code, nor the powers, duties, 2953

and immunities conferred by gifts in such manner upon custodians 2954
and persons dealing with custodians. Sections 5814.01 to ~~5814.09~~ 2955
5814.10 of the Revised Code henceforth apply, however, to all 2956
gifts made in a manner and form prescribed in former sections 2957
1339.19 to 1339.28 of the Revised Code, except insofar as the 2958
application impairs constitutionally vested rights. Sections 2959
5814.01 to ~~5814.09~~ 5814.10 of the Revised Code shall be 2960
construed as a continuation of the provisions of former sections 2961
1339.19 to 1339.28 of the Revised Code, according to the 2962
language employed, and not as a new enactment. 2963

(D) Nothing in sections 5814.01 to ~~5814.09~~ 5814.10 of the 2964
Revised Code, as of May 7, 1986, shall affect gifts made under 2965
those sections as they existed prior to May 7, 1986, or the 2966
powers, duties, and immunities conferred by the gifts in any 2967
manner upon custodians and persons dealing with custodians. 2968
Sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, as of 2969
May 7, 1986, hereafter apply to all gifts made in a manner and 2970
form prescribed in those sections as they existed prior to May 2971
7, 1986, except to the extent that the application of those 2972
sections, as of May 7, 1986, would impair constitutionally 2973
vested rights. 2974

Sec. 5815.23. (A) Except as provided in division (B) of 2975
this section, an instrument that creates an inter vivos or 2976
testamentary trust shall not require or permit the accumulation 2977
for more than one year of any income of property that satisfies 2978
both of the following: 2979

(1) The property is granted to a surviving spouse of the 2980
testator or other settlor. 2981

(2) The property qualifies for the federal estate tax 2982
marital deduction allowed by subtitle B, Chapter 11 of the 2983

"Internal Revenue Code of 1986," 26 U.S.C. 2056, as amended, the 2984
estate tax marital deduction allowed by division (A) of section 2985
5731.15 of the Revised Code, or the qualified terminable 2986
interest property deduction allowed by division (B) of section 2987
5731.15 of the Revised Code. 2988

(B) (1) Division (A) of this section does not apply if an 2989
instrument that creates an inter vivos or testamentary trust 2990
expressly states the intention of the testator or other settlor 2991
that obtaining a marital deduction or a qualified terminable 2992
interest property deduction as described in division (A) (2) of 2993
this section is less important than requiring or permitting the 2994
accumulation of income of property in accordance with a 2995
provision in the instrument that requires or permits the 2996
accumulation for more than one year of any income of property. 2997

(2) Division (A) of this section does not apply to any 2998
beneficiary of an inter vivos or testamentary trust other than 2999
the surviving spouse of the testator or other settlor or to any 3000
inter vivos or testamentary trust of which the surviving spouse 3001
of the testator or other settlor is a beneficiary if an interest 3002
in property does not qualify for a marital deduction or a 3003
qualified terminable interest property deduction as described in 3004
division (A) (2) of this section. 3005

~~(C) (1) The trustee of a trust that qualifies for an estate 3006
tax marital deduction for federal or Ohio estate tax purposes 3007
and that is the beneficiary of an individual retirement account 3008
has a fiduciary duty, in regard to the income distribution 3009
provision of the trust, to withdraw and distribute the income of 3010
the individual retirement account, at least annually, to the 3011
surviving spouse of the testator or other settlor. 3012~~

~~(2) A trustee's fiduciary duty as described in division 3013~~

~~(C) (1) of this section is satisfied if the terms of the trust instrument expressly provide the surviving spouse a right to withdraw all of the assets from the trust or a right to compel the trustee to withdraw and distribute the income of the individual retirement account to the surviving spouse.~~

~~(D)~~ Divisions (A) and (B) and ~~(C) (1)~~ of this section are intended to codify existing fiduciary and trust law principles relating to the interpretation of a testator's or other settlor's intent with respect to the income provisions of a trust. Divisions (A) and (B) and ~~(C)~~ of this section apply to trust instruments executed prior to and existing on October 1, 1996, or executed thereafter. The trustee of a trust described in division (A) or (B) of this section, in a written trust amendment, may elect to not apply divisions (A) and (B) of this section to the trust. Any election of that nature, when made, is irrevocable.

Section 2. That existing sections 1901.261, 1907.261, 2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 2153.081, 2301.031, 2323.58, 2323.583, 2323.584, 4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 5815.23 and section 2105.38 of the Revised Code are hereby repealed.

Section 3. Section 2101.16 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 23 and Am. Sub. S.B. 43 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments

are to be harmonized if reasonably capable of simultaneous	3044
operation, finds that the composite is the resulting version of	3045
the section in effect prior to the effective date of the section	3046
as presented in this act.	3047