

**As Reported by the Senate Civil Justice Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 432**

**Representatives Cupp, Rezabek**

**Cosponsors: Representatives Bishoff, Craig, Grossman, Hayes, Johnson, G.,  
Manning, McClain, Rogers, Sweeney**

**Senators Coley, Bacon, Hackett**

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**A BILL**

To amend sections 1337.60, 1901.261, 1907.261, 1  
2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2  
2105.31, 2105.32, 2105.33, 2105.34, 2105.35, 3  
2105.36, 2105.37, 2105.39, 2106.13, 2106.18, 4  
2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 5  
2151.541, 2153.081, 2301.031, 4505.10, 5801.10, 6  
5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 7  
5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 8  
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 9  
5815.23; to amend, for the purpose of adopting 10  
new section numbers as indicated in parentheses, 11  
sections 2105.39 (2105.38) and 5814.09 12  
(5814.10); to enact new sections 2105.39 and 13  
5814.09 and sections 1337.571, 2105.40, 14  
2127.012, 2137.01, 2137.02, 2137.03, 2137.04, 15  
2137.05, 2137.06, 2137.07, 2137.08, 2137.09, 16  
2137.10, 2137.11, 2137.12, 2137.13, 2137.14, 17  
2137.15, 2137.16, 2137.17, 2137.18, and 5802.04; 18  
and to repeal section 2105.38 of the Revised 19  
Code to revise the law governing decedent's 20  
estates by making changes in the Ohio Trust 21

Code, the Probate Law, the Uniform Principal and 22  
Income Act, the Transfers to Minors Act, and the 23  
Uniform Simultaneous Death Act; to raise the 24  
ceilings on the optional additional fees that a 25  
probate, domestic relations, juvenile, 26  
municipal, or county court or the Cuyahoga 27  
County Juvenile Court may charge to fund 28  
computerization of the court or the court 29  
clerk's office, and to authorize use of the 30  
additional clerk's fees to fund technological 31  
advances in the clerk's office; to authorize the 32  
director or any designee of the Franklin County 33  
Guardianship Service Board to act on behalf of 34  
the Board on guardianship matters, and to permit 35  
the Board to charge a reasonable fee for 36  
services to wards; and to adopt the Revised 37  
Uniform Fiduciary Access to Digital Assets Act. 38

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

**Section 1.** That sections 1337.60, 1901.261, 1907.261, 39  
2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 40  
2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 41  
2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 42  
2153.081, 2301.031, 4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 43  
5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 44  
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 5815.23 be 45  
amended; sections 2105.39 (2105.38) and 5814.09 (5814.10) be 46  
amended for the purpose of adopting new section numbers as shown 47  
in parentheses; and new sections 2105.39 and 5814.09 and 48

sections 1337.571, 2105.40, 2127.012, 2137.01, 2137.02, 2137.03, 49  
2137.04, 2137.05, 2137.06, 2137.07, 2137.08, 2137.09, 2137.10, 50  
2137.11, 2137.12, 2137.13, 2137.14, 2137.15, 2137.16, 2137.17, 51  
2137.18, and 5802.04 of the Revised Code be enacted to read as 52  
follows: 53

Sec. 1337.571. Unless the power of attorney otherwise 54  
provides, language in a power of attorney granting general 55  
authority with respect to digital assets causes the agent to be 56  
an authorized user for the purpose of applicable computer fraud 57  
and unauthorized computer access laws and authorizes the agent 58  
to do all of the following: 59

(A) Have access to any catalogue of electronic 60  
communications sent or received by the principal; 61

(B) Have access to any other digital asset in which the 62  
principal has a right or interest; 63

(C) Have the right to access any of the principal's 64  
tangible personal property capable of receiving, storing, 65  
processing, or sending a digital asset; 66

(D) Take any action concerning the asset to the extent of 67  
the account holder's authority; 68

(E) Have access to the content of electronic 69  
communications sent or received by the principal. 70

**Sec. 1337.60.** A document substantially in the following 71  
form may be used to create a statutory form power of attorney 72  
that has the meaning and effect prescribed by sections 1337.21 73  
to 1337.64 of the Revised Code. 74

[INSERT NAME OF JURISDICTION] 75

STATUTORY FORM POWER OF ATTORNEY 76

IMPORTANT INFORMATION	77
This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Revised Code).	78 79 80 81 82 83 84 85
This power of attorney does not authorize the agent to make health-care decisions for you.	86 87
You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.	88 89 90 91
Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.	92 93
This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.	94 95 96 97
If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.	98 99 100
This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.	101 102
ACTIONS REQUIRING EXPRESS AUTHORITY	103
Unless expressly authorized and initialed by me in the	104

Special Instructions, this power of attorney does not grant	105
authority to my agent to do any of the following:	106
(1) Create a trust;	107
(2) Amend, revoke, or terminate an inter vivos trust, even	108
if specific authority to do so is granted to the agent in the	109
trust agreement;	110
(3) Make a gift;	111
(4) Create or change rights of survivorship;	112
(5) Create or change a beneficiary designation;	113
(6) Delegate authority granted under the power of	114
attorney;	115
(7) Waive the principal's right to be a beneficiary of a	116
joint and survivor annuity, including a survivor benefit under a	117
retirement plan;	118
(8) Exercise fiduciary powers that the principal has	119
authority to delegate.	120
CAUTION: Granting any of the above eight powers will give	121
your agent the authority to take actions that could	122
significantly reduce your property or change how your property	123
is distributed at your death.	124
If you have questions about the power of attorney or the	125
authority you are granting to your agent, you should seek legal	126
advice before signing this form.	127
DESIGNATION OF AGENT	128
I, ..... (Name of	129
Principal) name the following person as my agent:	130

Name of Agent:	131
.....	132
Agent's Address:	133
.....	134
Agent's Telephone Number:	135
.....	136
DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)	137
If my agent is unable or unwilling to act for me, I name	138
as my successor agent:	139
Name of Successor Agent:	140
.....	141
Successor Agent's Address:	142
.....	143
Successor Agent's Telephone Number:	144
.....	145
If my successor agent is unable or unwilling to act for	146
me, I name as my second successor agent:	147
Name of Second Successor Agent:	148
.....	149
Second Successor Agent's Address:	150
.....	151
Second Successor Agent's Telephone Number:	152
.....	153

GRANT OF GENERAL AUTHORITY	154
I grant my agent and any successor agent general authority	155
to act for me with respect to the following subjects as defined	156
in the Uniform Power of Attorney Act (sections 1337.21 to	157
1337.64 of the Revised Code):	158
(INITIAL each subject you want to include in the agent's	159
general authority. If you wish to grant general authority over	160
all of the subjects you may initial "All Preceding Subjects"	161
instead of initialing each subject.)	162
(...) Real Property	163
(...) Tangible Personal Property	164
(...) Stocks and Bonds	165
(...) Commodities and Options	166
(...) Banks and Other Financial Institutions	167
(...) Operation of Entity or Business	168
(...) Insurance and Annuities	169
(...) Estates, Trusts, and Other Beneficial Interests	170
(...) Claims and Litigation	171
(...) Personal and Family Maintenance	172
(...) Benefits from Governmental Programs or Civil or	173
Military Service	174
(...) Retirement Plans	175
(...) Taxes	176
<u>(...) Digital Assets</u>	177

(...) All Preceding Subjects	178
<u>(...) My agent shall have access to the content of</u>	179
<u>electronic communications sent or received by me.</u>	180
LIMITATION ON AGENT'S AUTHORITY	181
An agent that is not my ancestor, spouse, or descendant	182
MAY NOT use my property to benefit the agent or a person to whom	183
the agent owes an obligation of support unless I have included	184
that authority in the Special Instructions.	185
SPECIAL INSTRUCTIONS (OPTIONAL)	186
You may give special instructions on the following lines:	187
.....	188
.....	189
.....	190
.....	191
.....	192
.....	193
.....	194
.....	195
.....	196
EFFECTIVE DATE	197
This power of attorney is effective immediately unless I	198
have stated otherwise in the Special Instructions.	199
NOMINATION OF GUARDIAN (OPTIONAL)	200
If it becomes necessary for a court to appoint a guardian	201



.....	225
Your Address	226
.....	227
Your Telephone Number	228
State of Ohio	229
County of .....	230
This document was acknowledged before me	231
on ..... (Date), by .....	232
(Name of Principal).	233
.....	234
Signature of Notary	235
My commission expires:	236
.....	237
This document prepared by:	238
.....	239
.....	240
IMPORTANT INFORMATION FOR AGENT	241
Agent's Duties	242
When you accept the authority granted under this power of	243
attorney, a special legal relationship is created between you	244
and the principal. This relationship imposes upon you legal	245
duties that continue until you resign or the power of attorney	246
is terminated or revoked. You must:	247
(1) Do what you know the principal reasonably expects you	248

to do with the principal's property or, if you do not know the	249
principal's expectations, act in the principal's best interest;	250
(2) Act in good faith;	251
(3) Do nothing beyond the authority granted in this power	252
of attorney;	253
(4) Attempt to preserve the principal's estate plan if you	254
know the plan and preserving the plan is consistent with the	255
principal's best interest;	256
(5) Disclose your identity as an agent whenever you act	257
for the principal by writing or printing the name of the	258
principal and signing your own name as "agent" in the following	259
manner:	260
(Principal's Name) by (Your Signature) as Agent	261
Unless the Special Instructions in this power of attorney	262
state otherwise, you must also:	263
(1) Act loyally for the principal's benefit;	264
(2) Avoid conflicts that would impair your ability to act	265
in the principal's best interest;	266
(3) Act with care, competence, and diligence;	267
(4) Keep a record of all receipts, disbursements, and	268
transactions made on behalf of the principal;	269
(5) Cooperate with any person that has authority to make	270
health-care decisions for the principal to do what you know the	271
principal reasonably expects or, if you do not know the	272
principal's expectations, to act in the principal's best	273
interest.	274
Termination of Agent's Authority	275

You must stop acting on behalf of the principal if you 276  
learn of any event that terminates this power of attorney or 277  
your authority under this power of attorney. Events that 278  
terminate a power of attorney or your authority to act under a 279  
power of attorney include: 280

(1) The death of the principal; 281

(2) The principal's revocation of the power of attorney or 282  
your authority; 283

(3) The occurrence of a termination event stated in the 284  
power of attorney; 285

(4) The purpose of the power of attorney is fully 286  
accomplished; 287

(5) If you are married to the principal, a legal action is 288  
filed with a court to end your marriage, or for your legal 289  
separation, unless the Special Instructions in this power of 290  
attorney state that such an action will not terminate your 291  
authority. 292

Liability of Agent 293

The meaning of the authority granted to you is defined in 294  
the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 295  
of the Revised Code). If you violate the Uniform Power of 296  
Attorney Act or act outside the authority granted, you may be 297  
liable for any damages caused by your violation. 298

If there is anything about this document or your duties 299  
that you do not understand, you should seek legal advice. 300

**Sec. 1901.261.** (A) (1) A municipal court may determine that 301  
for the efficient operation of the court additional funds are 302  
required to computerize the court, to make available 303

computerized legal research services, or to do both. Upon making 304  
a determination that additional funds are required for either or 305  
both of those purposes, the court shall include in its schedule 306  
of fees and costs under section 1901.26 of the Revised Code one 307  
additional fee not to exceed ~~three~~six dollars on the filing of 308  
each cause of action or appeal equivalent to one described in 309  
division (A), (Q), or (U) of section 2303.20 of the Revised Code 310  
and shall direct the clerk of the court to charge the fee. 311

(2) All fees collected under this section shall be paid on 312  
or before the twentieth day of the month following the month in 313  
which they are collected to the county treasurer if the court is 314  
a county-operated municipal court or to the city treasurer if 315  
the court is not a county-operated municipal court. The 316  
treasurer shall place the funds from the fees in a separate fund 317  
to be disbursed upon an order of the court, subject to an 318  
appropriation by the board of county commissioners if the court 319  
is a county-operated municipal court or by the legislative 320  
authority of the municipal corporation if the court is not a 321  
county-operated municipal court, or upon an order of the court, 322  
subject to the court making an annual report available to the 323  
public listing the use of all such funds, in an amount not 324  
greater than the actual cost to the court of computerizing the 325  
court, procuring and maintaining computerized legal research 326  
services, or both. 327

(3) If the court determines that the funds in the fund 328  
described in division (A) (2) of this section are more than 329  
sufficient to satisfy the purpose for which the additional fee 330  
described in division (A) (1) of this section was imposed, the 331  
court may declare a surplus in the fund and, subject to an 332  
appropriation by the board of county commissioners if the court 333  
is a county-operated municipal court or by the legislative 334

authority of the municipal corporation if the court is not a 335  
county-operated municipal court, expend those surplus funds, or 336  
upon an order of the court, subject to the court making an 337  
annual report available to the public listing the use of all 338  
such funds, expend those surplus funds, for other appropriate 339  
technological expenses of the court. 340

(B) (1) A municipal court may determine that, for the 341  
efficient operation of the court, additional funds are required 342  
to make technological advances in or to computerize the office 343  
of the clerk of the court and, upon that determination, may 344  
include in its schedule of fees and costs under section 1901.26 345  
of the Revised Code an additional fee not to exceed ~~ten~~twenty 346  
dollars on the filing of each cause of action or appeal, on the 347  
filing, docketing, and endorsing of each certificate of 348  
judgment, or on the docketing and indexing of each aid in 349  
execution or petition to vacate, revive, or modify a judgment 350  
that is equivalent to one described in division (A), (P), (Q), 351  
(T), or (U) of section 2303.20 of the Revised Code. Subject to 352  
division (B) (2) of this section, all moneys collected under 353  
division (B) (1) of this section shall be paid on or before the 354  
twentieth day of the month following the month in which they are 355  
collected to the county treasurer if the court is a county- 356  
operated municipal court or to the city treasurer if the court 357  
is not a county-operated municipal court. The treasurer shall 358  
place the funds from the fees in a separate fund to be 359  
disbursed, upon an order of the municipal court and subject to 360  
an appropriation by the board of county commissioners if the 361  
court is a county-operated municipal court or by the legislative 362  
authority of the municipal corporation if the court is not a 363  
county-operated municipal court, in an amount no greater than 364  
the actual cost to the court of procuring and maintaining 365

technology and computer systems for the office of the clerk of 366  
the municipal court. 367

(2) If a municipal court makes the determination described 368  
in division (B)(1) of this section, the board of county 369  
commissioners of the county if the court is a county-operated 370  
municipal court or the legislative authority of the municipal 371  
corporation if the court is not a county-operated municipal 372  
court, may issue one or more general obligation bonds for the 373  
purpose of procuring and maintaining the technology and computer 374  
systems for the office of the clerk of the municipal court. In 375  
addition to the purposes stated in division (B)(1) of this 376  
section for which the moneys collected under that division may 377  
be expended, the moneys additionally may be expended to pay debt 378  
charges and financing costs related to any general obligation 379  
bonds issued pursuant to division (B)(2) of this section as they 380  
become due. General obligation bonds issued pursuant to division 381  
(B)(2) of this section are Chapter 133. securities. 382

**Sec. 1907.261.** (A)(1) A county court may determine that 383  
for the efficient operation of the court additional funds are 384  
required to computerize the court, to make available 385  
computerized legal research services, or to do both. Upon making 386  
a determination that additional funds are required for either or 387  
both of those purposes, the court shall include in its schedule 388  
of fees and costs under section 1907.24 of the Revised Code one 389  
additional fee not to exceed ~~three~~six dollars on the filing of 390  
each cause of action or appeal equivalent to one described in 391  
division (A), (Q), or (U) of section 2303.20 of the Revised Code 392  
and shall direct the clerk of the court to charge the fee. 393

(2) All fees collected under this section shall be paid on 394  
or before the twentieth day of the month following the month in 395

which they are collected to the county treasurer. The treasurer 396  
shall place the funds from the fees in a separate fund to be 397  
disbursed either upon an order of the court, subject to an 398  
appropriation by the board of county commissioners, or upon an 399  
order of the court, subject to the court making an annual report 400  
available to the public listing the use of all such funds, in an 401  
amount not greater than the actual cost to the court of 402  
computerizing the court, procuring and maintaining computerized 403  
legal research services, or both. 404

(3) If the court determines that the funds in the fund 405  
described in division (A)(2) of this section are more than 406  
sufficient to satisfy the purpose for which the additional fee 407  
described in division (A)(1) of this section was imposed, the 408  
court may declare a surplus in the fund and, subject to an 409  
appropriation by the board of county commissioners, expend those 410  
surplus funds, or upon an order of the court, subject to the 411  
court making an annual report available to the public listing 412  
the use of all such funds, expend those surplus funds, for other 413  
appropriate technological expenses of the court. 414

(B)(1) A county court may determine that, for the 415  
efficient operation of the court, additional funds are required 416  
to make technological advances in or to computerize the office 417  
of the clerk of the court and, upon that determination, may 418  
include in its schedule of fees and costs under section 1907.24 419  
of the Revised Code an additional fee not to exceed ~~ten~~ twenty 420  
dollars on the filing of each cause of action or appeal, on the 421  
filing, docketing, and endorsing of each certificate of 422  
judgment, or on the docketing and indexing of each aid in 423  
execution or petition to vacate, revive, or modify a judgment 424  
that is equivalent to one described in division (A), (P), (Q), 425  
(T), or (U) of section 2303.20 of the Revised Code. Subject to 426

division (B) (2) of this section, all moneys collected under 427  
division (B) (1) of this section shall be paid on or before the 428  
twentieth day of the month following the month in which they are 429  
collected to the county treasurer. The treasurer shall place the 430  
funds from the fees in a separate fund to be disbursed, upon an 431  
order of the county court and subject to an appropriation by the 432  
board of county commissioners, in an amount no greater than the 433  
actual cost to the court of procuring and maintaining technology 434  
and computer systems for the office of the clerk of the county 435  
court. 436

(2) If a county court makes the determination described in 437  
division (B) (1) of this section, the board of county 438  
commissioners of that county may issue one or more general 439  
obligation bonds for the purpose of procuring and maintaining 440  
technology and the computer systems for the office of the clerk 441  
of the county court. In addition to the purposes stated in 442  
division (B) (1) of this section for which the moneys collected 443  
under that division may be expended, the moneys additionally may 444  
be expended to pay debt charges and financing costs related to 445  
any general obligation bonds issued pursuant to division (B) (2) 446  
of this section as they become due. General obligation bonds 447  
issued pursuant to division (B) (2) of this section are Chapter 448  
133. securities. 449

**Sec. 2101.026.** (A) The probate court of Franklin county 450  
may accept funds or other program assistance from, or charge 451  
fees for services described in division (B) of this section 452  
rendered to, individuals, corporations, agencies, or 453  
organizations, including, but not limited to, the board of 454  
alcohol, drug addiction, and mental health services of Franklin 455  
county or the Franklin county board of developmental 456  
disabilities. Any funds or fees received by the probate court of 457

Franklin county under this division shall be paid into the 458  
treasury of Franklin county and credited to a fund to be known 459  
as the Franklin county probate court mental health fund. 460

(B) The moneys in the Franklin county probate court mental 461  
health fund shall be used for services to help ensure the 462  
treatment of any person who is under the care of the board of 463  
alcohol, drug addiction, and mental health services of Franklin 464  
county, the Franklin county board of developmental disabilities, 465  
or any other guardianships. These services include, but are not 466  
limited to, involuntary commitment proceedings and the 467  
establishment and management of adult guardianships, including 468  
all associated expenses, for wards who are under the care of the 469  
board of alcohol, drug addiction, and mental health services of 470  
Franklin county, the Franklin county board of developmental 471  
disabilities, or any other guardianships. 472

(C) If the judge of the probate court of Franklin county 473  
determines that some of the moneys in the Franklin county 474  
probate court mental health fund are needed for the efficient 475  
operation of that court, the moneys may be used for the 476  
acquisition of equipment, the hiring and training of staff, 477  
community services programs, volunteer guardianship training 478  
services, the employment of magistrates, and other related 479  
services. 480

(D) The moneys in the Franklin county probate court mental 481  
health fund that may be used in part for the establishment and 482  
management of adult guardianships under division (B) of this 483  
section may be utilized to establish a Franklin county 484  
guardianship service. 485

(E) (1) A Franklin county guardianship service under 486  
division (D) of this section is established by creating a 487

Franklin county guardianship service board comprised of three 488  
members. The judge of the probate court of Franklin county shall 489  
appoint one member. The board of directors of the Franklin 490  
county board of developmental disabilities shall appoint one 491  
member. The board of directors of the board of alcohol, drug 492  
addiction, and mental health services of Franklin county shall 493  
appoint one member. The term of appointment of each member is 494  
four years. 495

(2) The Franklin county guardianship service board may 496  
appoint a director of the board. The board shall determine the 497  
compensation of the director based on the availability of funds 498  
contained in the Franklin county probate court mental health 499  
fund. 500

~~(3) The members and the director, if any, of the Franklin~~ 501  
~~county guardianship service board may receive appointments from~~ 502  
~~the probate court of Franklin county to serve as guardians of~~ 503  
~~both the person and estate of wards. The The director or any 504  
designee of the Franklin county guardianship service board may 505  
act on behalf of the board in relation to all guardianship 506  
matters. 507~~

(4) The director of the Franklin county guardianship 508  
service board may hire employees subject to available funds in 509  
the Franklin county probate court mental health fund. 510

~~(4) If a new director replaces a previously appointed~~ 511  
~~director of the Franklin county guardianship service board, the~~ 512  
~~new director shall replace the former director serving as a~~ 513  
~~guardian under division (E) (3) of this section without the need~~ 514  
~~of a successor guardianship hearing conducted by the probate~~ 515  
~~court of Franklin county so long as the wards are the same wards~~ 516  
~~for both the former director and the new director.~~ 517

(5) The Franklin county guardianship service board may 518  
charge a reasonable fee for services provided to wards. The 519  
probate judge shall approve any fees charged by the board under 520  
division (E) (5) of this section. 521

(6) The Franklin county guardianship service board that is 522  
created under division (E) (1) of this section shall promulgate 523  
all rules and regulations necessary for the efficient operation 524  
of the board and the Franklin county guardianship service. 525

**Sec. 2101.16.** (A) Except as provided in section 2101.164 526  
of the Revised Code, the fees enumerated in this division shall 527  
be charged and collected, if possible, by the probate judge and 528  
shall be in full for all services rendered in the respective 529  
proceedings: 530

- (1) Account, in addition to advertising charges 531
  - .....\$ 12.00 532
  - Waivers and proof of notice of hearing on account, 533
  - per page, minimum one dollar 534
  - .....\$ 1.00 535
- (2) Account of distribution, in addition to 536
- advertising charges 537
- .....\$ 7.00 538
- (3) Adoption of child, petition for 539
- .....\$ 50.00 540
- (4) Alter or cancel contract for sale or purchase of 541
- real property, complaint to 542
- .....\$ 20.00 543
- (5) Application and order not otherwise provided for 544
- in this section or by rule adopted pursuant to 545
- division (E) of this section 546
- .....\$ 5.00 547
- (6) Appropriation suit, per day, hearing in 548

.....	\$ 20.00	549
(7) Birth, application for registration of		550
.....	\$ 7.00	551
(8) Birth record, application to correct		552
.....	\$ 5.00	553
(9) Bond, application for new or additional		554
.....	\$ 5.00	555
(10) Bond, application for release of surety or reduction of		556
.....	\$ 5.00	558
(11) Bond, receipt for securities deposited in lieu of		559
.....	\$ 5.00	560
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar		561
.....	\$ 1.00	563
(13) Citation and issuing citation, application for		564
.....	\$ 5.00	565
(14) Change of name, petition for		566
.....	\$ 20.00	567
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own		568
.....	\$ 10.00	570
(16) Claim, application to compromise or settle		571
.....	\$ 10.00	572
(17) Claim, authority to present		573
.....	\$ 10.00	574
(18) Commissioner, appointment of		575
.....	\$ 5.00	576
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for		577
.....	\$ 5.00	579
(20) Competency, application to procure adjudication of		580

.....	\$ 20.00	581
(21) Complete contract, application to		582
.....	\$ 10.00	583
(22) Concealment of assets, citation for		584
.....	\$ 10.00	585
(23) Construction of will, complaint for		586
.....	\$ 20.00	587
(24) Continue decedent's business, application to		588
.....	\$ 10.00	589
Monthly reports of operation		590
.....	\$ 5.00	591
(25) Declaratory judgment, complaint for		592
.....	\$ 20.00	593
(26) Deposit of will		594
.....	<del>\$ 5.00</del>	595
	<u>25.00</u>	596
(27) Designation of heir		597
.....	\$ 20.00	598
(28) Distribution in kind, application, assent, and order for		599
.....	\$ 5.00	601
(29) Distribution under section 2109.36 of the Revised Code, application for an order of		602
.....	\$ 7.00	604
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars		605
.....	\$ 15.00	608
(31) Exceptions to any proceeding named in this section, contest of appointment or		609
.....	\$ 10.00	611
(32) Election of surviving partner to purchase assets		612

of partnership, proceedings relating to		613
.....\$ 10.00		614
(33) Election of surviving spouse under will		615
.....\$ 5.00		616
(34) Fiduciary, including an assignee or trustee of		617
an insolvent debtor or any guardian or conservator		618
accountable to the probate court, appointment of		619
.....\$ 35.00		620
(35) Foreign will, application to record		621
.....\$ 10.00		622
Record of foreign will, additional, per page		623
.....\$ 1.00		624
(36) Forms when supplied by the probate court, not to		625
exceed		626
.....\$ 10.00		627
(37) Heirship, complaint to determine		628
.....\$ 20.00		629
(38) Injunction proceedings		630
.....\$ 20.00		631
(39) Improve real property, petition to		632
.....\$ 20.00		633
(40) Inventory with appraisalment		634
.....\$ 10.00		635
(41) Inventory without appraisalment		636
.....\$ 7.00		637
(42) Investment or expenditure of funds, application		638
for		639
.....\$ 10.00		640
(43) Invest in real property, application to		641
.....\$ 10.00		642
(44) Lease for oil, gas, coal, or other mineral,		643
petition to		644

.....	\$ 20.00	645
(45) Lease or lease and improve real property,		646
petition to		647
.....	\$ 20.00	648
(46) Marriage license		649
.....	\$ 10.00	650
Certified abstract of each marriage		651
.....	\$ 2.00	652
(47) Minor or incompetent person, etc., disposal of		653
estate under twenty-five thousand dollars of		654
.....	\$ 10.00	655
(48) Mortgage or mortgage and repair or improve real		656
property, complaint to		657
.....	\$ 20.00	658
(49) Newly discovered assets, report of		659
.....	\$ 7.00	660
(50) Nonresident executor or administrator to bar		661
creditors' claims, proceedings by		662
.....	\$ 20.00	663
(51) Power of attorney or revocation of power, bonding		664
company		665
.....	\$ 10.00	666
(52) Presumption of death, petition to establish		667
.....	\$ 20.00	668
(53) Probating will		669
.....	\$ 15.00	670
Proof of notice to beneficiaries		671
.....	\$ 5.00	672
(54) Purchase personal property, application of		673
surviving spouse to		674
.....	\$ 10.00	675
(55) Purchase real property at appraised value,		676

petition of surviving spouse to		677
.....	.....\$ 20.00	678
(56) Receipts in addition to advertising charges,		679
application and order to record		680
.....	.....\$ 5.00	681
Record of those receipts, additional, per page		682
.....	.....\$ 1.00	683
(57) Record in excess of fifteen hundred words in any		684
proceeding in the probate court, per page		685
.....	.....\$ 1.00	686
(58) Release of estate by mortgagee or other lienholder		687
.....	.....\$ 5.00	688
(59) Relieving an estate from administration under		689
section 2113.03 of the Revised Code or granting		690
an order for a summary release from administration		691
under section 2113.031 of the Revised Code		692
.....	.....\$ 60.00	693
(60) Removal of fiduciary, application for		694
.....	.....\$ 10.00	695
(61) Requalification of executor or administrator		696
.....	.....\$ 10.00	697
(62) Resignation of fiduciary		698
.....	.....\$ 5.00	699
(63) Sale bill, public sale of personal property		700
.....	.....\$ 10.00	701
(64) Sale of personal property and report, application		702
for		703
.....	.....\$ 10.00	704
(65) Sale of real property, petition for		705
.....	.....\$ 25.00	706
(66) Terminate guardianship, petition to		707
.....	.....\$ 10.00	708

(67) Transfer of real property, application, entry,		709
and certificate for		710
.....\$	7.00	711
(68) Unclaimed money, application to invest		712
.....\$	7.00	713
(69) Vacate approval of account or order of		714
distribution, motion to		715
.....\$	10.00	716
(70) Writ of execution		717
.....\$	5.00	718
(71) Writ of possession		719
.....\$	5.00	720
(72) Wrongful death, application and settlement of		721
claim for		722
.....\$	20.00	723
(73) Year's allowance, petition to review		724
.....\$	7.00	725
(74) Guardian's report, filing and review of		726
.....\$	5.00	727
(75) Mentally ill person subject to court order,		728
filing of affidavit and proceedings for		729
.....\$	25.00	730
(B) (1) In relation to an application for the appointment		731
of a guardian or the review of a report of a guardian under		732
section 2111.49 of the Revised Code, the probate court, pursuant		733
to court order or in accordance with a court rule, may direct		734
that the applicant or the estate pay any or all of the expenses		735
of an investigation conducted pursuant to section 2111.041 or		736
division (A) (2) of section 2111.49 of the Revised Code. If the		737
investigation is conducted by a public employee or investigator		738
who is paid by the county, the fees for the investigation shall		739

be paid into the county treasury. If the court finds that an 740  
alleged incompetent or a ward is indigent, the court may waive 741  
the costs, fees, and expenses of an investigation. 742

(2) In relation to the appointment or functioning of a 743  
guardian for a minor or the guardianship of a minor, the probate 744  
court may direct that the applicant or the estate pay any or all 745  
of the expenses of an investigation conducted pursuant to 746  
section 2111.042 of the Revised Code. If the investigation is 747  
conducted by a public employee or investigator who is paid by 748  
the county, the fees for the investigation shall be paid into 749  
the county treasury. If the court finds that the guardian or 750  
applicant is indigent, the court may waive the costs, fees, and 751  
expenses of an investigation. 752

(3) In relation to the filing of an affidavit of mental 753  
illness for a mentally ill person subject to court order, the 754  
court may waive the fee under division (A) (75) of this section 755  
if the court finds that the affiant is indigent or for good 756  
cause shown. 757

(C) Thirty dollars of the thirty-five-dollar fee collected 758  
pursuant to division (A) (34) of this section and twenty dollars 759  
of the sixty-dollar fee collected pursuant to division (A) (59) 760  
of this section shall be deposited by the county treasurer in 761  
the indigent guardianship fund created pursuant to section 762  
2111.51 of the Revised Code. 763

(D) The fees of witnesses, jurors, sheriffs, coroners, and 764  
constables for services rendered in the probate court or by 765  
order of the probate judge shall be the same as provided for 766  
similar services in the court of common pleas. 767

(E) The probate court, by rule, may require an advance 768

deposit for costs, not to exceed one hundred twenty-five 769  
dollars, at the time application is made for an appointment as 770  
executor or administrator or at the time a will is presented for 771  
probate. 772

(F) (1) Thirty dollars of the fifty-dollar fee collected 773  
pursuant to division (A) (3) of this section shall be deposited 774  
into the "putative father registry fund," which is hereby 775  
created in the state treasury. The department of job and family 776  
services shall use the money in the fund to fund the 777  
department's costs of performing its duties related to the 778  
putative father registry established under section 3107.062 of 779  
the Revised Code. 780

(2) If the department determines that money in the 781  
putative father registry fund is more than is needed for its 782  
duties related to the putative father registry, the department 783  
may use the surplus moneys in the fund as permitted in division 784  
(C) of section 2151.3529, division (B) of section 2151.3530, or 785  
section 5103.155 of the Revised Code. 786

**Sec. 2101.162.** (A) (1) The probate judge may determine 787  
that, for the efficient operation of the probate court, 788  
additional funds are required to computerize the court, to make 789  
available computerized legal research services, or to do both. 790  
Upon making a determination that additional funds are required 791  
for either or both of those purposes, the probate judge shall 792  
charge a fee not to exceed ~~three-six~~ dollars or authorize and 793  
direct a deputy clerk of the probate court to charge a fee not 794  
to exceed ~~three-six~~ dollars, in addition to the fees specified 795  
in divisions (A) (1), (3), (4), (6), (14) to (17), (20) to (25), 796  
(27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) 797  
to (61), (63) to (66), (69), and (72) of section 2101.16 of the 798

Revised Code and the fee charged in connection with the 799  
docketing and indexing of an appeal. 800

(2) All moneys collected under division (A)(1) of this 801  
section shall be paid to the county treasurer. The treasurer 802  
shall place the moneys from the fees in a separate fund to be 803  
disbursed, upon an order of the probate judge, in an amount no 804  
greater than the actual cost to the court of procuring and 805  
maintaining computerization of the court, computerized legal 806  
research services, or both. 807

(3) If the court determines that the funds in the fund 808  
described in division (A)(2) of this section are more than 809  
sufficient to satisfy the purpose for which the additional fee 810  
described in division (A)(1) of this section was imposed, the 811  
court may declare a surplus in the fund and expend those surplus 812  
funds for other appropriate technological expenses of the court. 813

(B)(1) The probate judge may determine that, for the 814  
efficient operation of the probate court, additional funds are 815  
required to make technological advances in or to computerize the 816  
office of the clerk of the court and, upon that determination, 817  
may charge a fee, not to exceed ~~ten~~ twenty dollars, or authorize 818  
and direct a deputy clerk of the probate court to charge a fee, 819  
not to exceed ~~ten~~ twenty dollars, in addition to the fees 820  
specified in divisions (A)(1), (3), (4), (6), (14) to (17), (20) 821  
to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to 822  
(55), (59) to (61), (63) to (66), (69), and (72) of section 823  
2101.16 of the Revised Code and the fee charged in connection 824  
with the docketing and indexing of an appeal. Subject to 825  
division (B)(2) of this section, all moneys collected under this 826  
division shall be paid to the county treasurer to be disbursed, 827  
upon an order of the probate judge and subject to appropriation 828

by the board of county commissioners, in an amount no greater 829  
than the actual cost to the probate court of procuring and 830  
maintaining technology and computer systems for the office of 831  
the clerk of the court. 832

(2) If the probate judge makes the determination described 833  
in division (B)(1) of this section, the board of county 834  
commissioners may issue one or more general obligation bonds for 835  
the purpose of procuring and maintaining the technology and 836  
computer systems for the office of the clerk of the probate 837  
court. In addition to the purposes stated in division (B)(1) of 838  
this section for which the moneys collected under that division 839  
may be expended, the moneys additionally may be expended to pay 840  
debt charges on and financing costs related to any general 841  
obligation bonds issued pursuant to this division as they become 842  
due. General obligation bonds issued pursuant to this division 843  
are Chapter 133. securities. 844

**Sec. 2105.02.** ~~When, in Chapter 2105. of the Revised Code~~ 845  
~~this chapter,~~ a person is described as living, it means that the 846  
person was living at the time of the death of the intestate from 847  
whom the estate came and that the person lived for at least one 848  
hundred twenty hours following the death of the intestate, and 849  
when a person is described as having died, it means that the 850  
person died before such intestate or that the person failed to 851  
live for at least one hundred twenty hours following the death 852  
of the intestate. 853

**Sec. 2105.14.** ~~Descendants of an intestate begotten before~~ 854  
~~the intestate's death, but born after the intestate's death, in~~ 855  
~~all cases will inherit as if born in the lifetime of the~~ 856  
~~intestate and surviving the intestate, but in no other case can~~ 857  
~~a person~~ No descendant of an intestate shall inherit under this 858

~~chapter unless living at the time of the death of surviving the~~ 859  
~~intestate for at least one hundred twenty hours, or unless born~~ 860  
~~within three hundred days after the death of the intestate and~~ 861  
~~living for at least one hundred twenty hours after birth.~~ 862

**Sec. 2105.31.** As used in sections 2105.31 to ~~2105.39~~ 863  
2105.40 of the Revised Code: 864

(A) "Co-owners with right of survivorship" includes joint 865  
tenants, tenants by the entirety, and other co-owners of ~~real~~ 866  
~~or personal property; insurance or other policies; or bank,~~ 867  
~~savings bank, credit union, or other accounts,~~ held under 868  
circumstances that entitle one or more ~~persons~~individuals to 869  
the whole of the property or account on the death of the other 870  
~~person~~individual or ~~persons~~individuals. 871

(B) "Governing instrument" means a deed, will, trust, 872  
insurance or annuity policy, account with a transfer-on-death 873  
designation or the abbreviation TOD, account with a payable-on- 874  
death designation or the abbreviation POD, transfer-on-death 875  
designation affidavit, pension, profit-sharing, retirement, or 876  
similar benefit plan, instrument creating or exercising a power 877  
of appointment or a power of attorney, or a dispositive, 878  
appointive, or nominative instrument of any similar type. 879

(C) "Payor" means a trustee, insurer, business entity, 880  
employer, government, governmental agency, political subdivision 881  
or instrumentality, or any other person authorized or obligated 882  
by law or a governing instrument to make payments or transfers. 883

~~(D) "Event" includes the death of another person.~~ 884

**Sec. 2105.32.** (A) Except as provided in section 2105.36 of 885  
the Revised Code, ~~a person~~if title to property, the devolution 886  
of property, the right to elect an interest in property, or the 887

right to exempt property, homestead, or allowance for support 888  
depends upon an individual's survivorship of the death of 889  
another individual, an individual who is not established by 890  
clear and convincing evidence to have survived ~~another specified~~ 891  
~~person~~ the other individual by one hundred twenty hours is 892  
deemed to have predeceased the other ~~person for the following~~ 893  
~~purposes:~~ individual. 894

~~(1) When the title to real or personal property or the~~ 895  
~~devolution of real or personal property depends upon a person's~~ 896  
~~survivorship of the death of another person;~~ 897

~~(2) When the right to elect an interest in or exempt a~~ 898  
~~surviving spouse's share of an intestate estate under section~~ 899  
~~2105.06 of the Revised Code depends upon a person's survivorship~~ 900  
~~of the death of another person;~~ 901

~~(3) When the right to elect an interest in or exempt an~~ 902  
~~interest of the decedent in the mansion house pursuant to~~ 903  
~~section 2106.10 of the Revised Code depends upon a person's~~ 904  
~~survivorship of the death of another person;~~ 905

~~(4) When the right to elect an interest in or exempt an~~ 906  
~~allowance for support pursuant to section 2106.13 of the Revised~~ 907  
~~Code depends upon a person's survivorship of the death of~~ 908  
~~another person.~~ 909

(B) This section does not apply if its application would 910  
result in a taking of an intestate estate by the state. 911

**Sec. 2105.33.** Except as provided in section 2105.36 of the 912  
Revised Code, ~~a person~~ an individual who is not established by 913  
clear and convincing evidence to have survived ~~a specified~~ an 914  
event by one hundred twenty hours is deemed to have predeceased 915  
the event for purposes of a provision of a governing instrument 916

that relates to the ~~person~~individual surviving an event, 917  
including the death of another individual. 918

**Sec. 2105.34.** Except as provided in section 2105.36 of the 919  
Revised Code, the following shall apply: 920

(A) If it is not established by clear and convincing 921  
evidence that one of two co-owners with right of survivorship ~~in~~ 922  
~~specified real or personal property~~ survived the other co-owner 923  
by one hundred twenty hours, ~~that one-half of the property shall~~ 924  
~~pass or account passes as if each person~~ one co-owner had 925  
survived the other ~~person~~co-owner by one hundred twenty hours, 926  
and one-half of the property or account passes as if the other 927  
co-owner had survived the one co-owner by one hundred twenty 928  
hours. 929

(B) If there are more than two co-owners with right of 930  
survivorship ~~in specified real or personal property~~ and it is 931  
not established by clear and convincing evidence that at least 932  
one of the co-owners survived the others by one hundred twenty 933  
hours, ~~that the property shall pass or account passes in the~~ 934  
proportion that each person owns one co-owner's ownership bears 935  
to the ownership of the whole number of co-owners. 936

**Sec. 2105.35.** In addition to any provisions of the Rules 937  
of Evidence, the following provisions relating to the 938  
determination of death and status apply: 939

(A) (1) ~~A person is dead if the person has been determined~~ 940  
~~to be dead pursuant to standards established under section~~ 941  
~~2108.40 of the Revised Code~~ An individual is dead if the 942  
individual has sustained either irreversible cessation of 943  
circulatory and respiratory functions or irreversible cessation 944  
of all functions of the brain, including the brain stem, as 945

determined in accordance with accepted medical standards. If the 946  
respiratory and circulatory functions of an individual are being 947  
artificially sustained, under accepted medical standards a 948  
determination that death has occurred is made by a physician by 949  
observing and conducting a test to determine that the 950  
irreversible cessation of all functions of the brain has 951  
occurred. 952

(2) A physician who makes a determination of death in 953  
accordance with division (A) of this section~~2108.40 of the~~ 954  
~~Revised Code and any person who acts in good faith in reliance~~ 955  
~~on a determination of death made by a physician in accordance~~ 956  
~~with that section is entitled to the immunity conveyed by that~~ 957  
~~section and accepted medical standards is not liable for damages~~ 958  
in any civil action or subject to prosecution in any criminal 959  
proceeding for the physician's acts or the acts of others based 960  
on that determination. 961

(3) Any person who acts in good faith and relies on a 962  
determination of death made by a physician in accordance with 963  
division (A) of this section and accepted medical standards is 964  
not liable for damages in any civil action or subject to 965  
prosecution in any criminal proceeding for the person's actions. 966

(B) A certified or authenticated copy of a death 967  
certificate purporting to be issued by an official or agency of 968  
the place where the death of ~~a person~~an individual purportedly 969  
occurred is prima-facie evidence of the fact, place, date, and 970  
time of the ~~person's~~individual's death and the identity of the 971  
decedent. 972

(C) A certified or authenticated copy of any record or 973  
report of a domestic or foreign governmental agency that ~~a~~ 974  
~~person~~an individual is missing, detained, dead, or alive is 975

prima-facie evidence of the status and of the dates, 976  
circumstances, and places disclosed by the record or report. 977

(D) In the absence of prima-facie evidence of death under 978  
division (B) or (C) of this section, the fact of death may be 979  
established by clear and convincing evidence, including 980  
circumstantial evidence. 981

(E) Except as provided in division (F) of this section, a 982  
presumption of the death of ~~a person~~ an individual arises when 983  
either of the following applies: 984

(1) ~~When the person~~ The individual has disappeared and has 985  
been continuously absent from the ~~person's~~ individual's place of 986  
last domicile for a five-year period without being heard from 987  
during the period; 988

(2) ~~When the person~~ The individual has disappeared and has 989  
been continuously absent from the ~~person's~~ individual's place of 990  
last domicile without being heard from and was at the beginning 991  
of the ~~person's~~ individual's absence exposed to a specific peril 992  
of death, even though the absence has continued for less than a 993  
five-year period. 994

(F) When ~~a person~~ an individual who is on active duty in 995  
the armed services of the United States has been officially 996  
determined to be absent in a status of "missing" or "missing in 997  
action," a presumption of death arises when the head of the 998  
federal department concerned has made a finding of death 999  
pursuant to the "Federal Missing Persons Act," 80 Stat. 625 1000  
(1966), 37 U.S.C.A. 551, as amended. 1001

(G) In the absence of evidence disputing the time of death 1002  
stipulated on a document described in division (B) or (C) of 1003  
this section, a document described in either of those divisions 1004

that stipulates a time of death of an individual one hundred 1005  
twenty hours or more after the time of death of another ~~person~~ 1006  
individual, however the time of death of the other ~~person~~ 1007  
individual is determined, establishes by clear and convincing 1008  
evidence that the ~~person~~ individual survived the other ~~person~~ 1009  
individual by one hundred twenty hours. 1010

~~(H) The provisions of divisions (A) to (G) of this section 1011  
are in addition to any other provisions of the Revised Code, the 1012  
Rules of Criminal Procedure, or the Rules of Evidence that 1013  
pertain to the determination of death and status of a person. 1014~~

**Sec. 2105.36.** A ~~person who is not established by clear and 1015  
convincing evidence to have survived another specified person by 1016  
one hundred twenty hours shall not be deemed to have predeceased 1017  
the other person~~ Survival by one hundred twenty hours is not 1018  
required if any of the following ~~apply~~ applies: 1019

(A) The governing instrument contains language dealing 1020  
explicitly with simultaneous deaths or deaths in a common 1021  
disaster, and that language is ~~operative~~ operable under the 1022  
~~situation in question~~ facts of the case. 1023

(B) The governing instrument expressly indicates that a ~~a 1024  
person~~ an individual is not required to survive an event, 1025  
including the death of another individual, by any specified 1026  
~~period in order for any right or interest governed by the 1027  
instrument to properly vest or transfer, or expressly requires 1028  
the individual to survive the event for a specified period, but 1029  
the survival of the event for the specified period shall be 1030  
established by clear and convincing evidence.~~ 1031

(C) ~~The governing instrument expressly requires the person 1032  
to survive the event for a specified period in order for any 1033~~

~~right or interest governed by the instrument to properly vest or~~ 1034  
~~transfer, and the survival of the event by the person or~~ 1035  
~~survival of the event by the person for the specified period is~~ 1036  
~~established by clear and convincing evidence.~~ 1037

~~(D)~~ The imposition of a one-hundred-twenty-hour 1038  
requirement of ~~the person's survival of the other specified~~ 1039  
~~person causes would cause~~ a nonvested property interest or a 1040  
power of appointment to be invalid under section 2131.08 of the 1041  
Revised Code, ~~and but~~ the ~~person's survival of the other~~ 1042  
~~specified person is shall be~~ established by clear and convincing 1043  
evidence. 1044

~~(E)~~ ~~(D)~~ The application of a one-hundred-twenty-hour 1045  
requirement of survival to multiple governing instruments would 1046  
result in an unintended failure or duplication of a disposition, 1047  
~~and but~~ the ~~person's survival of the other specified person is~~ 1048  
~~shall be~~ established by clear and convincing evidence. 1049

**Sec. 2105.37.** (A) A payor or other third party is not 1050  
liable for any of the following: 1051

(1) ~~Making~~ Having made a payment, ~~transferring or~~ 1052  
transferred an item of ~~real or personal~~ property, or ~~otherwise~~ 1053  
~~transferring~~ any other benefit to a person designated in a 1054  
governing instrument who, under sections 2105.31 to ~~2105.39~~ 1055  
2105.40 of the Revised Code, is not entitled to the payment or 1056  
item of property or other benefit, if the payment or transfer 1057  
was made before the payor or other third party received written 1058  
notice of a claimed lack of entitlement ~~pursuant to under those~~ 1059  
~~sections 2105.31 to 2105.39 of the Revised Code;~~ 1060

(2) ~~Taking~~ Having taken any other action ~~not specified in~~ 1061  
~~division (A) (1) of this section~~ in good faith reliance on the 1062

person's apparent entitlement under the terms of the governing 1063  
instrument before the payor or other third party received 1064  
written notice of a claimed lack of entitlement ~~pursuant to~~ 1065  
under sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code. 1066

(B) A payor or other third party is liable for a payment, 1067  
transfer, or other action taken after the payor or other third 1068  
party receives written notice of a claimed lack of entitlement 1069  
~~pursuant to~~ under sections 2105.31 to ~~2105.39~~ 2105.40 of the 1070  
Revised Code. 1071

(C) Written notice of a claimed lack of entitlement under 1072  
~~divisions~~ division (A) or (B) of this section ~~must~~ shall be 1073  
mailed to the payor's or other third party's main office or home 1074  
by registered or certified mail, return receipt requested, or 1075  
served upon the payor or other third party in the same manner as 1076  
a summons in a civil action. Upon receipt of written notice of a 1077  
claimed lack of entitlement ~~pursuant to~~ under sections 2105.31 1078  
to ~~2105.39~~ 2105.40 of the Revised Code, a payor or other third 1079  
party may pay any amount owed or transfer or deposit any item of 1080  
~~real or personal~~ property held by it to or with the probate 1081  
court that has jurisdiction over the decedent's estate. If no 1082  
probate proceedings have been commenced, upon receipt of written 1083  
notice of a claimed lack of entitlement ~~pursuant to~~ under 1084  
sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code, a payor 1085  
or other third party may pay any amount owed or transfer or 1086  
deposit any item of ~~real or personal~~ property held by it to or 1087  
with the probate court located in the county of the decedent's 1088  
residence. The court shall hold the funds or ~~real or personal~~ 1089  
items of property until it is determined pursuant to, and upon 1090  
its determination under sections 2105.31 to ~~2105.39~~ 2105.40 of 1091  
the Revised Code to whom the funds or ~~real or personal~~ items of 1092  
property should be disbursed, shall order disbursement in 1093

~~accordance with its determination. The court then shall order~~ 1094  
~~disbursement of the funds or real or personal property in~~ 1095  
~~accordance with that determination. Payments, transfers, or~~ 1096  
deposits made to or with the court discharge the payor or other 1097  
third party from all claims for the value of amounts paid to or 1098  
items of property transferred to or deposited with the court. 1099

(D) A person who purchases property for value or receives 1100  
a payment or other item of property or benefit in partial or 1101  
full satisfaction of a legally enforceable obligation, and 1102  
without notice that the person selling or transferring the 1103  
property or benefit or making a payment is not entitled to the 1104  
property or benefit under sections 2105.31 to 2105.40 of the 1105  
Revised Code, is neither obligated under those sections to 1106  
return the payment or item of property or benefit nor liable 1107  
under those sections for the amount of the payment or the value 1108  
of the item of property or benefit. 1109

(E) A person who, not for value, receives a payment, item 1110  
of property, or any other benefit to which the person is not 1111  
entitled under sections 2105.31 to 2105.40 of the Revised Code 1112  
is obligated to return the payment, item of property, or 1113  
benefit, or is personally liable for the amount of the payment 1114  
or the value of the item of property or benefit, to the person 1115  
who is entitled to it under sections 2105.31 to 2105.40 of the 1116  
Revised Code. 1117

(F) If sections 2105.31 to 2105.40 of the Revised Code or 1118  
any provision of those sections are preempted by federal law 1119  
with respect to a payment, an item of property, or any other 1120  
benefit covered by those sections, a person who, not for value, 1121  
receives the payment, item of property, or other benefit to 1122  
which the person is not entitled under sections 2105.31 to 1123

2105.40 of the Revised Code is obligated to return the payment, 1124  
item of property, or benefit, or is personally liable for the 1125  
amount of the payment or the value of the item of property or 1126  
benefit, to the person who would have been entitled to it were 1127  
sections 2105.31 to 2105.40 of the Revised Code or any provision 1128  
of those sections not preempted. 1129

**Sec. ~~2105.39~~ 2105.38.** (A) Sections 2105.31 to ~~2105.39~~ 1130  
2105.40 of the Revised Code do not impair any act done in any 1131  
proceeding, or any right that accrued, before ~~May 16, 2002~~ the 1132  
effective date of the amendment of this section. If a right is 1133  
acquired, extinguished, or barred upon the expiration of a 1134  
prescribed period of time that has commenced to run, prior to 1135  
May 16, 2002 the effective date of the amendment of this 1136  
section, under any provision of the Revised Code, the provision 1137  
of the applicable section of the Revised Code applies with 1138  
respect to that right. 1139

(B) Any rule of construction ~~or presumption regarding any~~ 1140  
provision of a governing instrument that is provided in sections 1141  
2105.31 to ~~2105.39~~ 2105.40 of the Revised Code applies to any 1142  
governing instrument that is executed, ~~or any multiple party~~ 1143  
~~account that is opened,~~ prior to May 16, 2002 the effective date 1144  
of the amendment of this section, unless there is a clear 1145  
indication of a contrary intent in the governing instrument ~~or~~ 1146  
~~multiple party account~~. 1147

~~(C) If any provision of sections 2105.31 to 2105.39 of the~~ 1148  
~~Revised Code or the application of those sections to any persons~~ 1149  
~~or circumstance is held invalid, the invalidity does not affect~~ 1150  
~~other provisions or applications of sections 2105.31 to 2105.39~~ 1151  
~~of the Revised Code that can be given effect without the invalid~~ 1152  
~~provision or application.~~ 1153

Sec. 2105.39. Sections 2105.31 to 2105.40 of the Revised Code shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of those sections among the states enacting the law. 1154  
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Sec. 2105.40. Sections 2105.31 to 2105.40 of the Revised Code may be cited as the uniform simultaneous death act. 1158  
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**Sec. 2106.13.** (A) If a person dies leaving a surviving spouse and no minor children, leaving a surviving spouse and minor children, or leaving minor children and no surviving spouse, the surviving spouse, minor children, or both shall be entitled to receive, subject to division (B) of this section, in money or property the sum of forty thousand dollars as an allowance for support. If the surviving spouse selected ~~two-one~~ or more automobiles under section 2106.18 of the Revised Code, the allowance for support prescribed by this section shall be reduced by the value of the automobile having the ~~lower~~ lowest value of the ~~two automobiles~~ if more than one automobile is so selected. The money or property set off as an allowance for support shall be considered estate assets. 1160  
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(B) The probate court shall order the distribution of the allowance for support described in division (A) of this section as follows: 1173  
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(1) If the person died leaving a surviving spouse and no minor children, one hundred per cent to the surviving spouse; 1176  
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(2) If the person died leaving a surviving spouse and minor children, and if all of the minor children are the children of the surviving spouse, one hundred per cent to the surviving spouse; 1178  
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(3) If the person died leaving a surviving spouse and 1182

minor children, and if not all of the minor children are 1183  
children of the surviving spouse, in equitable shares, as fixed 1184  
by the probate court in accordance with this division, to the 1185  
surviving spouse and the minor children who are not the children 1186  
of the surviving spouse. In determining equitable shares under 1187  
this division, the probate court shall do all of the following: 1188

(a) Consider the respective needs of the surviving spouse, 1189  
the minor children who are children of the surviving spouse, and 1190  
the minor children who are not children of the surviving spouse; 1191

(b) Allocate to the surviving spouse, the share that is 1192  
equitable in light of the needs of the surviving spouse and the 1193  
minor children who are children of the surviving spouse; 1194

(c) Allocate to the minor children who are not children of 1195  
the surviving spouse, the share that is equitable in light of 1196  
the needs of those minor children. 1197

(4) If the person died leaving minor children and no 1198  
surviving spouse, in equitable shares, as fixed by the probate 1199  
court in accordance with this division, to the minor children. 1200  
In determining equitable shares under this division, the probate 1201  
court shall consider the respective needs of the minor children 1202  
and allocate to each minor child the share that is equitable in 1203  
light of the child's needs. 1204

(C) If the surviving spouse selected ~~two~~ one or more 1205  
automobiles under section 2106.18 of the Revised Code, the 1206  
probate court, in considering the respective needs of the 1207  
surviving spouse and the minor children when allocating an 1208  
allowance for support under division (B) (3) of this section, 1209  
shall consider the benefit derived by the surviving spouse from 1210  
the transfer of the automobile having the ~~lower~~ lowest value ~~of~~ 1211

~~the two automobiles~~ if more than one automobile is so selected. 1212

(D) If, pursuant to this section, the probate court must 1213  
allocate the allowance for support, the administrator or 1214  
executor, within five months of the initial appointment of an 1215  
administrator or executor, shall file with the probate court an 1216  
application to allocate the allowance for support. 1217

(E) The administrator or executor shall pay the allowance 1218  
for support unless a competent adult or a guardian with the 1219  
consent of the court having jurisdiction over the guardianship 1220  
waives the allowance for support to which the adult or the ward 1221  
represented by the guardian is entitled. 1222

(F) For the purposes of this section, the value of an 1223  
automobile that a surviving spouse selects pursuant to section 1224  
2106.18 of the Revised Code is the value that the surviving 1225  
spouse specifies for the automobile in the affidavit executed 1226  
pursuant to division (B) of section 4505.10 of the Revised Code. 1227

**Sec. 2106.18.** (A) Upon the death of a married resident who 1228  
owned at least one automobile at the time of death, the interest 1229  
of the deceased spouse in ~~up to two~~ one or more automobiles that 1230  
are not transferred to the surviving spouse due to joint 1231  
ownership with right of survivorship established under section 1232  
2131.12 of the Revised Code, that are not transferred to a 1233  
transfer-on-death beneficiary or beneficiaries designated under 1234  
section 2131.13 of the Revised Code, and that are not otherwise 1235  
specifically disposed of by testamentary disposition may be 1236  
selected by the surviving spouse. This interest shall 1237  
immediately pass to the surviving spouse upon transfer of the 1238  
title or titles in accordance with section 4505.10 of the 1239  
Revised Code. The sum total of the values of the automobiles 1240  
selected by a surviving spouse under this division, as specified 1241

in the affidavit that the surviving spouse executes pursuant to 1242  
division (B) of section 4505.10 of the Revised Code, shall not 1243  
exceed ~~forty-sixty-five~~ thousand dollars. Each automobile that 1244  
passes to a surviving spouse under this division shall not be 1245  
considered an estate asset and shall not be included in the 1246  
estate inventory. 1247

(B) The executor or administrator, with the approval of 1248  
the probate court, may transfer title to an automobile owned by 1249  
the decedent to any of the following: 1250

(1) The surviving spouse, when the automobile is purchased 1251  
by the surviving spouse pursuant to section 2106.16 of the 1252  
Revised Code; 1253

(2) A distributee; 1254

(3) A purchaser. 1255

(C) The executor or administrator may transfer title to an 1256  
automobile owned by the decedent without the approval of the 1257  
probate court to any of the following: 1258

(1) A legatee entitled to the automobile under the terms 1259  
of the will; 1260

(2) A distributee if the distribution of the automobile is 1261  
made without court order pursuant to section 2113.55 of the 1262  
Revised Code; 1263

(3) A purchaser if the sale of the automobile is made 1264  
pursuant to section 2113.39 of the Revised Code. 1265

(D) As used in division (A) of this section, "automobile" 1266  
includes a motorcycle and includes a truck if the truck was used 1267  
as a method of conveyance by the deceased spouse or the deceased 1268  
spouse's family when the deceased spouse was alive. 1269

**Sec. 2107.07.** A will may be deposited by the testator, or 1270  
by some person for the testator, in the office of the judge of 1271  
the probate court in the county in which the testator lives, 1272  
before or after the death of the testator, and if deposited 1273  
after the death of the testator, with or without applying for 1274  
its probate. Upon the payment of the fee of twenty-five dollars 1275  
to the court, the judge shall receive, keep, and give a 1276  
certificate of deposit for the will. That will shall be safely 1277  
kept until delivered or disposed of as provided by section 1278  
2107.08 of the Revised Code. If the will is not delivered or 1279  
disposed of as provided in that section within one hundred years 1280  
after the date the will was deposited, the judge may dispose of 1281  
the will in any manner the judge considers feasible. The judge, 1282  
~~on being paid the fee of five dollars, shall receive, keep, and~~ 1283  
~~give a certificate of deposit for~~ shall retain an electronic 1284  
copy of the will prior to its disposal after one hundred years 1285  
under this section. 1286

Every will that is so deposited shall be enclosed in a 1287  
sealed envelope that shall be indorsed with the name of the 1288  
testator. The judge shall indorse on the envelope the date of 1289  
delivery and the person by whom the will was delivered. The 1290  
envelope may be indorsed with the name of a person to whom it is 1291  
to be delivered after the death of the testator. The will shall 1292  
not be opened or read until delivered to a person entitled to 1293  
receive it, until the testator files a complaint in the probate 1294  
court for a declaratory judgment of the validity of the will 1295  
pursuant to section 2107.081 of the Revised Code, or until 1296  
otherwise disposed of as provided in section 2107.08 of the 1297  
Revised Code. Subject to section 2107.08 of the Revised Code, 1298  
the deposited will shall not be a public record until the time 1299  
that an application is filed to probate it. 1300

**Sec. 2107.10.** (A) No property or right, testate or 1301  
intestate, shall pass to a beneficiary named in a will who knows 1302  
of the existence of the will for one year after the death of the 1303  
testator and has the power to control it and, without reasonable 1304  
cause, intentionally conceals or withholds it or neglects or 1305  
refuses within that one year to cause it to be offered for or 1306  
admitted to probate. The property devised or bequeathed to that 1307  
beneficiary shall ~~descend to the heirs of the testator, not~~ 1308  
~~including any heir who has concealed or withheld the will~~ pass 1309  
as if the beneficiary had predeceased the testator. 1310

(B) No property or right, testate or intestate, passes to 1311  
a beneficiary named in a will when the will was declared valid 1312  
and filed with a probate judge pursuant to section 2107.084 of 1313  
the Revised Code, the declaration and filing took place in a 1314  
county different from the county in which the will of the 1315  
testator would be probated under section 2107.11 of the Revised 1316  
Code, and the named beneficiary knew of the declaration and 1317  
filing and of the death of the testator and did not notify the 1318  
probate judge with whom the will was filed. This division does 1319  
not preclude a named beneficiary from acquiring property or 1320  
rights from the estate of the testator for failing to notify a 1321  
probate judge if the named beneficiary reasonably believes that 1322  
the judge has previously been notified of the testator's death. 1323

**Sec. 2109.62.** (A) (1) Upon the filing of a motion by a 1324  
trustee with the court that has jurisdiction over the trust, 1325  
upon the provision of reasonable notice to all beneficiaries who 1326  
are known and in being and who have vested or contingent 1327  
interests in the trust, and after holding a hearing, the court 1328  
may terminate the trust, in whole or in part, if it determines 1329  
that all of the following apply: 1330

(a) It is no longer economically feasible to continue the trust. 1331  
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(b) The termination of the trust is for the benefit of the beneficiaries. 1333  
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(c) The termination of the trust is equitable and practical. 1335  
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(d) The current value of the trust is less than one hundred thousand dollars. 1337  
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(2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section. 1339  
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(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. A probate court may so order whether the motion for the order is made by an inter vivos trustee named in the will of the decedent or by a testamentary trustee. 1342  
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(C) Upon the termination of a trust pursuant to this section, the probate court shall order the distribution of the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the probate court shall order the distribution of the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the court determines to be equitable. For purposes of ordering the 1351  
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distribution of the trust estate among the beneficiaries of the 1360  
trust under this division, the court shall consider all of the 1361  
following: 1362

(1) The existence of any agreement among the beneficiaries 1363  
with respect to their beneficial interests; 1364

(2) The actuarial values of the separate beneficial 1365  
interests of the beneficiaries; 1366

(3) Any expression of preference of the beneficiaries that 1367  
is contained in the trust instrument. 1368

**Sec. 2111.131.** (A) The probate court may enter an order 1369  
that authorizes a person under a duty to pay or deliver money or 1370  
personal property to a minor who does not have a guardian of the 1371  
person and estate or a guardian of the estate, to perform that 1372  
duty in amounts not exceeding five thousand dollars annually, by 1373  
paying or delivering the money or property to any of the 1374  
following: 1375

(1) The guardian of the person only of the minor; 1376

(2) The minor's natural guardians, if any, as determined 1377  
pursuant to section 2111.08 of the Revised Code; 1378

(3) The minor; 1379

(4) Any person who has the care and custody of the minor 1380  
and with whom the minor resides, other than a guardian of the 1381  
person only or a natural guardian; 1382

(5) A financial institution incident to a deposit in a 1383  
federally insured savings account in the sole name of the minor; 1384

(6) A custodian designated by the court in its order, for 1385  
the minor under sections 5814.01 to ~~5814.09~~ 5814.10 of the 1386

Revised Code. 1387

(B) An order entered pursuant to division (A) of this 1388  
section authorizes the person or entity specified in it, to 1389  
receive the money or personal property on behalf of the minor 1390  
from the person under the duty to pay or deliver it, in amounts 1391  
not exceeding five thousand dollars annually. Money or personal 1392  
property so received by guardians of the person only, natural 1393  
guardians, and custodians as described in division (A)(4) of 1394  
this section may be used by them only for the support, 1395  
maintenance, or education of the minor involved. The order of 1396  
the court is prima-facie evidence that a guardian of the person 1397  
only, a natural guardian, or a custodian as described in 1398  
division (A)(4) of this section has the authority to use the 1399  
money or personal property received. 1400

(C) A person who pays or delivers moneys or personal 1401  
property in accordance with a court order entered pursuant to 1402  
division (A) of this section is not responsible for the proper 1403  
application of the moneys or property by the recipient. 1404

**Sec. 2113.86.** (A) Unless a will or another governing 1405  
instrument otherwise provides, and except as otherwise provided 1406  
in this section, a tax shall be apportioned equitably in 1407  
accordance with the provisions of this section among all persons 1408  
interested in an estate in proportion to the value of the 1409  
interest of each person as determined for estate tax purposes. 1410

(B) Except as otherwise provided in this division, any tax 1411  
that is apportioned against a gift made in a clause of a will 1412  
other than a residuary clause or in a provision of an inter 1413  
vivos trust other than a residuary provision, shall be 1414  
reapportioned to the residue of the estate or trust. It shall be 1415  
charged in the same manner as a general administration expense. 1416

However, when a portion of the residue of the estate or trust is 1417  
allowable as a deduction for estate tax purposes, the tax shall 1418  
be reapportioned to the extent possible to the portion of the 1419  
residue that is not so allowable. 1420

(C) (1) A tax shall not be apportioned against an interest 1421  
that is allowable as an estate tax marital or charitable 1422  
deduction, except to the extent that the interest is a part of 1423  
the residue of an estate or trust against which tax is 1424  
reapportioned pursuant to division (B) of this section. 1425

(2) Estate tax of this state or another jurisdiction shall 1426  
not be reapportioned against an interest that is allowable as a 1427  
deduction for federal estate tax purposes, to the extent that 1428  
there is other property in the estate or trust that is not 1429  
allowable as a deduction for federal estate tax purposes and 1430  
against which estate tax of this state or another jurisdiction 1431  
can be apportioned. 1432

(3) A provision in a will or other governing instrument 1433  
that apportions tax to an interest that is otherwise allowable 1434  
as an estate tax marital or charitable deduction is ineffective 1435  
unless it refers to the marital or charitable deduction and 1436  
expressly and unambiguously acknowledges and accepts any 1437  
resultant partial loss of the deduction. 1438

(D) A tax shall not be apportioned against property that 1439  
passes to a surviving spouse as an elective share under section 1440  
2106.01 of the Revised Code or as an intestate share under 1441  
section 2105.06 of the Revised Code, to the extent that there is 1442  
other property in the estate that is not allowable as a 1443  
deduction for estate tax purposes against which the tax can be 1444  
apportioned. 1445

(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.

(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.

(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.

(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.

(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.

(H) Penalties shall be apportioned in the same manner as a tax, and interest on tax shall be apportioned to the income of the estate or trust, unless a court directs a different

apportionment of penalties or interest based on a finding that 1475  
special circumstances make an apportionment as provided in this 1476  
division inequitable. 1477

(I) If any part of an estate consists of property, the 1478  
value of which is included in the gross estate of the decedent 1479  
by reason of section 2044 of the "Internal Revenue Code of 1480  
1986," 100 Stat. 2085, 26 N 2044, as amended, or of section 1481  
5731.131 of the Revised Code, the estate is entitled to recover 1482  
from the persons holding or receiving the property any amount by 1483  
which the estate tax payable exceeds the estate tax that would 1484  
have been payable if the value of the property had not been 1485  
included in the gross estate of the decedent. This division does 1486  
not apply if the decedent's will or another governing instrument 1487  
provides otherwise and the will or instrument refers to either 1488  
section mentioned in this division or to qualified terminable 1489  
interest marital deduction property. 1490

Sec. 2127.012. (A) In addition to the other methods 1491  
provided by law, a guardian of the estate may sell at public or 1492  
private sale, grant options to sell, exchange, re-exchange, or 1493  
otherwise dispose of any parcel of real estate belonging to the 1494  
estate at any time, at prices, and upon terms that are 1495  
consistent with this section, and may execute and deliver deeds 1496  
and other instruments of conveyance if all of the following 1497  
conditions are met: 1498

(1) The ward's spouse and all persons entitled to the next 1499  
estate of inheritance from the ward in the real property give 1500  
written consent to a power of sale for a particular parcel of 1501  
real estate or to a power of sale for all the real estate 1502  
belonging to the estate. Each consent to a power of sale 1503  
provided for in this section shall be filed in the probate 1504

court. 1505

(2) Any sale under a power of sale authorized under this 1506  
section shall be made at a price of at least eighty per cent of 1507  
the appraised value, as set forth in an approved inventory, if 1508  
the real estate was appraised within two years prior to the 1509  
filing of the consents. If the value of the real estate in an 1510  
approved inventory was not determined by an appraisal, or the 1511  
appraisal was completed more than two years prior to the 1512  
filing of the consents, the real estate shall be appraised and a 1513  
sale shall be made at a price of at least eighty per cent of the 1514  
appraised value. 1515

(3) No power of sale provided for in this section is 1516  
effective if the ward's spouse or any next of kin is a minor. No 1517  
person may give the consent of the minor that is required by 1518  
this section. 1519

(4) Upon filing the consents under this section, the 1520  
guardian shall execute such bond or additional bond payable to 1521  
the state in an amount that the court considers sufficient, 1522  
having regard to the amount of real property to be sold, its 1523  
appraised value, the amount of the original bond given by the 1524  
guardian, and the distribution to be made of the proceeds 1525  
arising from the sale. 1526

(B) A ward's spouse who is the guardian of the estate may 1527  
sell real estate to self pursuant to this section. 1528

**Sec. 2137.01.** As used in this chapter: 1529

(A) "Account" means an arrangement under a terms-of- 1530  
service agreement in which a custodian carries, maintains, 1531  
processes, receives, or stores a digital asset of the user or 1532  
provides goods or services to the user. 1533

(B) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated as agent, attorney in fact, or otherwise. 1534  
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(C) "Carries" means engages in the transmission of an electronic communication. 1537  
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(D) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person. 1539  
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(E) "Content of an electronic communication" means information concerning the substance or meaning of the communication that meets all of the following conditions: 1543  
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(1) It has been sent or received by a user. 1546

(2) It is in electronic storage by a custodian providing an electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public. 1547  
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(3) It is not readily accessible to the public. 1551

(F) "Court" means the probate court for all matters in which the court has exclusive jurisdiction under section 2101.24 of the Revised Code. "Court" also includes the probate court or the general division of the court of common pleas for matters in which such courts have concurrent jurisdiction under section 2101.24 of the Revised Code. 1552  
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(G) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user. 1558  
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(H) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user. 1560  
1561

(I) "Digital asset" means an electronic record in which an individual has a right or interest. "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record. 1562  
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(J) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. 1566  
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(K) "Electronic communication" has the same meaning as in 18 U.S.C. 2510(12), as amended. 1569  
1570

(L) "Electronic-communication service" means a custodian that provides to a user the ability to send or receive an electronic communication. 1571  
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(M) "Fiduciary" means an original, additional, or successor agent, guardian, personal representative, or trustee. 1574  
1575

(N) (1) "Guardian" means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or the person and the estate of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes both of the following: 1576  
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(a) An agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent; 1584  
1585  
1586  
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(b) A conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of 1589  
1590

the Revised Code. 1591

(2) "Guardian" does not include a guardian under sections 1592  
5905.01 to 5905.19 of the Revised Code. 1593

(O) "Information" means data, text, images, videos, 1594  
sounds, codes, computer programs, software, databases, or the 1595  
like. 1596

(P) "Online tool" means an electronic service provided by 1597  
a custodian that allows the user, in an agreement distinct from 1598  
the terms-of-service agreement between the custodian and user, 1599  
to provide directions for disclosure or nondisclosure of digital 1600  
assets to a third person. 1601

(Q) "Person" means an individual, corporation, business 1602  
trust, estate, trust, partnership, limited liability company, 1603  
association, joint venture, government, governmental agency or 1604  
instrumentality, public corporation, or any other legal or 1605  
commercial entity. 1606

(R) "Personal representative" means an executor, 1607  
administrator, special administrator, or other person acting 1608  
under the authority of the probate court to perform 1609  
substantially the same function under the law of this state. 1610  
"Personal representative" also includes a commissioner in a 1611  
release of assets from administration under section 2113.03 of 1612  
the Revised Code and an applicant for summary release from 1613  
administration under section 2113.031 of the Revised Code. 1614

(S) "Power of attorney" means a writing or other record 1615  
that grants authority to an agent to act in the place of the 1616  
principal. 1617

(T) "Principal" means an individual who grants authority 1618  
to an agent in a power of attorney. 1619

(U) "Record" means information that is inscribed on a 1620  
tangible medium or that is stored in an electronic or other 1621  
medium and is retrievable in perceivable form. 1622

(V) "Remote-computing service" means a custodian that 1623  
provides to a user computer-processing services or the storage 1624  
of digital assets by means of an electronic communications 1625  
system, as defined in 18 U.S.C. 2510(14), as amended. 1626

(W) "Terms-of-service agreement" means an agreement that 1627  
controls the relationship between a user and a custodian. 1628

(X) "Trustee" means a fiduciary with legal title to 1629  
property pursuant to an agreement or declaration that creates a 1630  
beneficial interest in another. "Trustee" includes an original, 1631  
additional, and successor trustee and a cotrustee. 1632

(Y) "User" means a person that has an account with a 1633  
custodian. 1634

(Z) "Ward" means any person for whom a guardian is acting 1635  
or for whom the probate court is acting pursuant to section 1636  
2111.50 of the Revised Code. "Ward" includes a person for whom a 1637  
conservator has been appointed by the probate court in an order 1638  
of conservatorship issued pursuant to section 2111.021 of the 1639  
Revised Code. 1640

(AA) "Will" includes codicils to wills admitted to 1641  
probate, lost, spoliated, or destroyed wills, and instruments 1642  
admitted to probate under section 2107.081 of the Revised Code. 1643  
"Will" does not include inter vivos trusts or other instruments 1644  
that have not been admitted to probate. 1645

Sec. 2137.02. (A) This chapter applies to all of the 1646  
following: 1647

(1) An agent acting under a power of attorney executed 1648  
before, on, or after the effective date of this section; 1649

(2) A personal representative acting for a decedent who 1650  
died before, on, or after the effective date of this section; 1651

(3) A guardianship proceeding commenced before, on, or 1652  
after the effective date of this section; 1653

(4) A trustee acting under a trust created before, on, or 1654  
after the effective date of this section; 1655

(5) A custodian, if the user resides in this state or 1656  
resided in this state at the time of the user's death. 1657

(B) This chapter does not apply to a digital asset of an 1658  
employer used by an employee in the ordinary course of the 1659  
employer's business. 1660

**Sec. 2137.03.** (A) A user may use an online tool to direct 1661  
the custodian to disclose or not to disclose to a designated 1662  
recipient some or all of the user's digital assets, including 1663  
the content of electronic communications. If the online tool 1664  
allows the user to modify or delete a direction at all times, a 1665  
direction regarding disclosure using an online tool overrides a 1666  
contrary direction by the user in a will, trust, power of 1667  
attorney, or other record. 1668

(B) If a user has not used an online tool to give 1669  
direction under division (A) of this section, or if the 1670  
custodian has not provided an online tool, the user may allow or 1671  
prohibit in a will, trust, power of attorney, or other record, 1672  
disclosure to a fiduciary of some or all of the user's digital 1673  
assets, including the content of electronic communications sent 1674  
or received by the user. 1675

(C) A user's direction under division (A) or (B) of this section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service. 1676  
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1678  
1679

**Sec. 2137.04.** (A) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user. 1680  
1681  
1682

(B) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents. 1683  
1684  
1685  
1686

(C) A fiduciary's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 2137.03 of the Revised Code. 1687  
1688  
1689  
1690

**Sec. 2137.05.** (A) When disclosing digital assets of a user under this chapter, the custodian may, at its sole discretion, do any of the following: 1691  
1692  
1693

(1) Grant a fiduciary or designated recipient full access to the user's account; 1694  
1695

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; 1696  
1697  
1698

(3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account. 1699  
1700  
1701  
1702  
1703

(B) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter. 1704  
1705  
1706

(C) A custodian is not required to disclose under this chapter a digital asset deleted by a user. 1707  
1708

(D) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the users digital assets, the custodian is not required to disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose any of the following: 1709  
1710  
1711  
1712  
1713  
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1715

(1) A subset limited by date of the user's digital assets; 1716

(2) All of the user's digital assets to the fiduciary or designated recipient; 1717  
1718

(3) None of the user's digital assets; 1719

(4) All of the user's digital assets to the court for review in camera. 1720  
1721

**Sec. 2137.06.** If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian all of the following: 1722  
1723  
1724  
1725  
1726  
1727  
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(A) A written request for disclosure in physical or electronic form; 1729  
1730

(B) A copy of the death certificate of the user; 1731

(C) A copy of the letter of appointment of the personal representative, the entry appointing a commissioner under division (E) of section 2113.03 of the Revised Code, or the entry granting summary release from administration under division (E) of section 2113.031 of the Revised Code; 1732  
1733  
1734  
1735  
1736

(D) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; 1737  
1738  
1739  
1740

(E) If requested by the custodian, any of the following: 1741

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account; 1742  
1743  
1744

(2) Evidence linking the account to the user; 1745

(3) A finding by the court that one of the following applies: 1746  
1747

(a) The user had a specific account with the custodian, identifiable by the information specified in division (E)(1) of this section. 1748  
1749  
1750

(b) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. 2701 et seq., as amended, 47 U.S.C. 222, as amended, or other applicable law. 1751  
1752  
1753

(c) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications. 1754  
1755  
1756

(d) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate. 1757  
1758  
1759

Sec. 2137.07. Unless the user prohibited disclosure of 1760  
digital assets or the court directs otherwise, a custodian shall 1761  
disclose to the personal representative of the estate of a 1762  
deceased user a catalogue of electronic communications sent or 1763  
received by the user and digital assets, other than the content 1764  
of electronic communications, of the user, if the personal 1765  
representative gives the custodian all of the following: 1766

(A) A written request for disclosure in physical or 1767  
electronic form; 1768

(B) A copy of the death certificate of the user; 1769

(C) A copy of the letter of appointment of the personal 1770  
representative, the entry appointing a commissioner under 1771  
division (E) of section 2113.03 of the Revised Code, or the 1772  
entry granting summary release from administration under 1773  
division (E) of section 2113.031 of the Revised Code; 1774

(D) If requested by the custodian, any of the following: 1775

(1) A number, username, address, or other unique 1776  
subscriber or account identifier assigned by the custodian to 1777  
identify the user's account; 1778

(2) Evidence linking the account to the user; 1779

(3) An affidavit stating that disclosure of the user's 1780  
digital assets is reasonably necessary for administration of the 1781  
estate; 1782

(4) A finding by the court that either of the following 1783  
applies: 1784

(a) The user had a specific account with the custodian, 1785  
identifiable by the information specified in division (D)(1) of 1786  
this section. 1787

(b) Disclosure of the user's digital assets is reasonably 1788  
necessary for administration of the estate. 1789

**Sec. 2137.08.** To the extent a power of attorney expressly 1790  
grants an agent authority over the content of electronic 1791  
communications sent or received by the principal and unless 1792  
directed otherwise by the principal or the court, a custodian 1793  
shall disclose to the agent the content if the agent gives the 1794  
custodian all of the following: 1795

(A) A written request for disclosure in physical or 1796  
electronic form; 1797

(B) A copy of the power of attorney expressly granting the 1798  
agent authority over the content of electronic communications of 1799  
the principal; 1800

(C) A certification by the agent, under penalty of 1801  
perjury, that the power of attorney is in effect; 1802

(D) If requested by the custodian, either of the 1803  
following: 1804

(1) A number, username, address, or other unique 1805  
subscriber or account identifier assigned by the custodian to 1806  
identify the principal's account; 1807

(2) Evidence linking the account to the principal. 1808

**Sec. 2137.09.** Unless otherwise ordered by the court, 1809  
directed by the principal, or provided by a power of attorney, a 1810  
custodian shall disclose to an agent with specific authority 1811  
over digital assets or general authority to act on behalf of a 1812  
principal a catalogue of electronic communications sent or 1813  
received by the principal and digital assets, other than the 1814  
content of electronic communications, of the principal, if the 1815

agent gives the custodian all of the following: 1816

(A) A written request for disclosure in physical or 1817  
electronic form; 1818

(B) A copy of the power of attorney that gives the agent 1819  
specific authority over digital assets or general authority to 1820  
act on behalf of the principal; 1821

(C) A certification by the agent, under penalty of 1822  
perjury, that the power of attorney is in effect; 1823

(D) If requested by the custodian, either of the 1824  
following: 1825

(1) A number, username, address, or other unique 1826  
subscriber or account identifier assigned by the custodian to 1827  
identify the principal's account; 1828

(2) Evidence linking the account to the principal. 1829

**Sec. 2137.10.** Unless otherwise ordered by the court or 1830  
provided in a trust, a custodian shall disclose to a trustee 1831  
that is an original user of an account any digital asset of the 1832  
account held in trust, including a catalogue of electronic 1833  
communications of the trustee and the content of electronic 1834  
communications. 1835

**Sec. 2137.11.** Unless otherwise ordered by the court, 1836  
directed by the user, or provided in a trust, a custodian shall 1837  
disclose to a trustee that is not an original user of an account 1838  
the content of an electronic communication sent or received by 1839  
an original or successor user and carried, maintained, 1840  
processed, received, or stored by the custodian in the account 1841  
of the trust, if the trustee gives the custodian all of the 1842  
following: 1843

(A) A written request for disclosure in physical or 1844  
electronic form; 1845

(B) Either a copy of the trust instrument that includes 1846  
consent to disclosure of the content of electronic 1847  
communications to the trustee and a certification by the 1848  
trustee, under penalty of perjury, that the trust exists and the 1849  
trustee is a currently acting trustee of the trust or a 1850  
certification of the trust under section 5810.13 of the Revised 1851  
Code that includes a statement that the trust authorizes 1852  
disclosure of the content of electronic communications to the 1853  
trustee; 1854

(C) If requested by the custodian, either of the 1855  
following: 1856

(1) A number, username, address, or other unique 1857  
subscriber or account identifier assigned by the custodian to 1858  
identify the trust's account; 1859

(2) Evidence linking the account to the trust. 1860

**Sec. 2137.12.** Unless otherwise ordered by the court, 1861  
directed by the user, or provided in a trust, a custodian shall 1862  
disclose to a trustee that is not an original user of an account 1863  
a catalogue of electronic communications sent or received by an 1864  
original or successor user and stored, carried, or maintained by 1865  
the custodian in an account of the trust and any digital assets, 1866  
other than the content of electronic communications, in which 1867  
the trust has a right or interest, if the trustee gives the 1868  
custodian all of the following: 1869

(A) A written request for disclosure in physical or 1870  
electronic form; 1871

(B) Either a copy of the trust instrument and a 1872

certification by the trustee, under penalty of perjury, that the 1873  
trust exists and the trustee is a currently acting trustee of 1874  
the trust or a certification of the trust under section 5810.13 1875  
of the Revised Code; 1876

(C) If requested by the custodian, either of the 1877  
following: 1878

(1) A number, username, address, or other unique 1879  
subscriber or account identifier assigned by the custodian to 1880  
identify the trust's account; 1881

(2) Evidence linking the account to the trust. 1882

**Sec. 2137.13.** (A) After an opportunity for a hearing, the 1883  
court may grant a guardian access to the digital assets of a 1884  
ward. 1885

(B) Unless otherwise ordered by the court or directed by 1886  
the user, a custodian shall disclose to a guardian the catalogue 1887  
of electronic communications sent or received by a ward and any 1888  
digital assets, other than the content of electronic 1889  
communications, in which the ward has a right or interest, if 1890  
the guardian gives the custodian all of the following: 1891

(1) A written request for disclosure in physical or 1892  
electronic form; 1893

(2) A copy of the court order that gives the guardian 1894  
authority over the digital assets of the ward; 1895

(3) If requested by the custodian, either of the 1896  
following: 1897

(a) A number, username, address, or other unique 1898  
subscriber or account identifier assigned by the custodian to 1899  
identify the account of the ward; 1900

<u>(b) Evidence linking the account to the ward.</u>	1901
<u>(C) A guardian of the ward may request a custodian of the digital assets of the ward to suspend or terminate an account of the ward for good cause. A request made under this section shall be accompanied by a copy of the court order giving the guardian authority over the ward.</u>	1902 1903 1904 1905 1906
<u>Sec. 2137.14. (A) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including all of the following:</u>	1907 1908 1909
<u>(1) The duty of care;</u>	1910
<u>(2) The duty of loyalty;</u>	1911
<u>(3) The duty of confidentiality.</u>	1912
<u>(B) All of the following apply to a fiduciary's or designated recipient's authority with respect to a digital asset of a user:</u>	1913 1914 1915
<u>(1) Except as otherwise provided in section 2137.03 of the Revised Code, it is subject to the applicable terms of service.</u>	1916 1917
<u>(2) It is subject to other applicable laws, including copyright law.</u>	1918 1919
<u>(3) In the case of a fiduciary, it is limited by the scope of the fiduciary's duties.</u>	1920 1921
<u>(4) It may not be used to impersonate the user.</u>	1922
<u>(C) A fiduciary with authority over the property of a decedent, ward, principal, or settlor has the right to access any digital asset in which the decedent, ward, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.</u>	1923 1924 1925 1926 1927

(D) A fiduciary acting within the scope of the fiduciary's 1928  
duties is an authorized user of the property of the decedent, 1929  
ward, principal, or settlor for the purpose of applicable 1930  
computer fraud and unauthorized computer access laws, including 1931  
section 2913.04 of the Revised Code. 1932

(E) Both of the following apply to a fiduciary with 1933  
authority over the tangible, personal property of a decedent, 1934  
ward, principal, or settlor: 1935

(1) The fiduciary has the right to access the property and 1936  
any digital asset stored in it. 1937

(2) The fiduciary is an authorized user for the purpose of 1938  
computer fraud and unauthorized computer access laws, including 1939  
section 2913.04 of the Revised Code. 1940

(F) A custodian may disclose information in an account to 1941  
a fiduciary of the user when the information is required to 1942  
terminate an account used to access digital assets licensed to 1943  
the user. 1944

(G) A fiduciary of a user may request a custodian to 1945  
terminate the user's account. A request for termination shall be 1946  
in writing, in either physical or electronic form, and 1947  
accompanied by all of the following: 1948

(1) If the user is deceased, a copy of the death 1949  
certificate of the user; 1950

(2) A copy of the instrument giving the fiduciary 1951  
authority over the account, as follows: 1952

(a) For a personal representative, a copy of the letter of 1953  
appointment of the personal representative, the entry appointing 1954  
a commissioner under division (E) of section 2113.03 of the 1955

Revised Code, or the entry granting summary release from 1956  
administration under division (E) of section 2113.031 of the 1957  
Revised Code; 1958

(b) For an agent, a copy of the power of attorney; 1959

(c) For a trustee, either a copy of the trust instrument 1960  
and a certification by the trustee, under penalty of perjury, 1961  
that the trust exists and the trustee is a currently acting 1962  
trustee of the trust or a certification of the trust under 1963  
section 5810.13 of the Revised Code; or 1964

(d) For a guardian, a copy of the court order giving the 1965  
guardian authority over the ward. 1966

(3) If requested by the custodian, any of the following: 1967

(a) A number, username, address, or other unique 1968  
subscriber or account identifier assigned by the custodian to 1969  
identify the user's account; 1970

(b) Evidence linking the account to the user; 1971

(c) A finding by the court that the user had a specific 1972  
account with the custodian, identifiable by the information 1973  
specified in division (G) (3) (a) of this section. 1974

**Sec. 2137.15.** (A) Not later than sixty days after receipt 1975  
of the information required under sections 2137.06 to 2137.13 of 1976  
the Revised Code, a custodian shall comply with a request under 1977  
this chapter from a fiduciary or designated recipient to 1978  
disclose digital assets or terminate an account. If the 1979  
custodian fails to comply, the fiduciary or designated recipient 1980  
may apply to the court for an order directing compliance. 1981

(B) An order under division (A) of this section directing 1982  
compliance shall contain a finding that compliance is not in 1983

violation of 18 U.S.C. 2702, as amended. 1984

(C) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter. 1985  
1986  
1987

(D) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request. 1988  
1989  
1990  
1991  
1992

(E) Nothing in this chapter limits a custodian's ability to obtain, or to require a guardian, agent, or designated recipient requesting disclosure or termination under this chapter to obtain, a court order that does all of the following: 1993  
1994  
1995  
1996

(1) Specifies that an account belongs to the ward or principal; 1997  
1998

(2) Specifies that there is sufficient consent from the ward or principal to support the requested disclosure; and 1999  
2000

(3) Contains a finding required by law other than this chapter. 2001  
2002

(F) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter. 2003  
2004  
2005

Sec. 2137.16. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. 2006  
2007  
2008  
2009

Sec. 2137.17. This chapter modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act," 2010  
2011

15 U.S.C. 7001 et seq., but does not modify, limit, or supersede 2012  
15 U.S.C. 7001(c) or authorize electronic delivery of any of the 2013  
notices described in 15 U.S.C. 7003(b). 2014

**Sec. 2137.18.** If any provision of this chapter or its 2015  
application to any person or circumstance is held invalid, the 2016  
invalidity does not affect other provisions or applications of 2017  
this chapter that can be given effect without the invalid 2018  
provision or application, and to this end the provisions of this 2019  
chapter are severable. 2020

**Sec. 2151.541.** (A) (1) The juvenile judge may determine 2021  
that, for the efficient operation of the juvenile court, 2022  
additional funds are required to computerize the court, to make 2023  
available computerized legal research services, or to do both. 2024  
Upon making a determination that additional funds are required 2025  
for either or both of those purposes, the judge shall do one of 2026  
the following: 2027

(a) If the judge is clerk of the court, charge one 2028  
additional fee not to exceed ~~three~~-six dollars on the filing of 2029  
each cause of action or appeal under division (A), (Q), or (U) 2030  
of section 2303.20 of the Revised Code; 2031

(b) If the clerk of the court of common pleas serves as 2032  
the clerk of the juvenile court pursuant to section 2151.12 of 2033  
the Revised Code, authorize and direct the clerk to charge one 2034  
additional fee not to exceed ~~three~~-six dollars on the filing of 2035  
each cause of action or appeal under division (A), (Q), or (U) 2036  
of section 2303.20 of the Revised Code. 2037

(2) All moneys collected under division (A) (1) of this 2038  
section shall be paid to the county treasurer. The treasurer 2039  
shall place the moneys from the fees in a separate fund to be 2040

disbursed either upon an order of the juvenile judge, subject to 2041  
an appropriation by the board of county commissioners, or upon 2042  
an order of the juvenile judge, subject to the court making an 2043  
annual report available to the public listing the use of all 2044  
such funds, in an amount no greater than the actual cost to the 2045  
court of procuring and maintaining computerization of the court, 2046  
computerized legal research services, or both. 2047

(3) If the court determines that the funds in the fund 2048  
described in division (A) (2) of this section are more than 2049  
sufficient to satisfy the purpose for which the additional fee 2050  
described in division (A) (1) of this section was imposed, the 2051  
court may declare a surplus in the fund and, subject to an 2052  
appropriation by the board of county commissioners, expend those 2053  
surplus funds, or upon an order of the court, subject to the 2054  
court making an annual report available to the public listing 2055  
the use of all such funds, expend those surplus funds, for other 2056  
appropriate technological expenses of the court. 2057

(B) (1) If the juvenile judge is the clerk of the juvenile 2058  
court, the judge may determine that, for the efficient operation 2059  
of the juvenile court, additional funds are required to make 2060  
technological advances in or to computerize the clerk's office 2061  
and, upon that determination, may charge an additional fee, not 2062  
to exceed ~~ten~~ twenty dollars, on the filing of each cause of 2063  
action or appeal, on the filing, docketing, and endorsing of 2064  
each certificate of judgment, or on the docketing and indexing 2065  
of each aid in execution or petition to vacate, revive, or 2066  
modify a judgment under divisions (A), (P), (Q), (T), and (U) of 2067  
section 2303.20 of the Revised Code. Subject to division (B) (2) 2068  
of this section, all moneys collected under this division shall 2069  
be paid to the county treasurer to be disbursed, upon an order 2070  
of the juvenile judge and subject to appropriation by the board 2071

of county commissioners, in an amount no greater than the actual 2072  
cost to the juvenile court of procuring and maintaining 2073  
technology and computer systems for the clerk's office. 2074

(2) If the juvenile judge makes the determination 2075  
described in division (B)(1) of this section, the board of 2076  
county commissioners may issue one or more general obligation 2077  
bonds for the purpose of procuring and maintaining the 2078  
technology and computer systems for the office of the clerk of 2079  
the juvenile court. In addition to the purposes stated in 2080  
division (B)(1) of this section for which the moneys collected 2081  
under that division may be expended, the moneys additionally may 2082  
be expended to pay debt charges on and financing costs related 2083  
to any general obligation bonds issued pursuant to this division 2084  
as they become due. General obligation bonds issued pursuant to 2085  
this division are Chapter 133. securities. 2086

**Sec. 2153.081.** (A)(1) The juvenile judges may determine 2087  
that, for the efficient operation of their court, additional 2088  
funds are required to computerize the court, to make available 2089  
computerized legal research services, or both. Upon making a 2090  
determination that additional funds are required for either or 2091  
both of those purposes, the judges shall authorize and direct 2092  
the clerk or a deputy clerk of the court to charge one 2093  
additional fee not to exceed ~~three~~ six dollars on the filing of 2094  
each cause of action or appeal under division (A), (Q), or (U) 2095  
of section 2303.20 of the Revised Code. 2096

(2) All moneys collected under division (A)(1) of this 2097  
section shall be paid to the county treasurer. The treasurer 2098  
shall place the moneys from the fees in a separate fund to be 2099  
disbursed, upon an order of the juvenile judges, in an amount no 2100  
greater than the actual cost to the court of procuring and 2101

maintaining computer systems for the clerk's office, 2102  
computerized legal research services, or both. 2103

(3) If the court determines that the funds in the fund 2104  
described in division (A)(2) of this section are more than 2105  
sufficient to satisfy the purpose for which the additional fee 2106  
described in division (A)(1) of this section was imposed, the 2107  
court may declare a surplus in the fund and expend those surplus 2108  
funds for other appropriate technological expenses of the court. 2109

(B)(1) The juvenile judges may determine that, for the 2110  
efficient operation of their court, additional funds are 2111  
required to make technological advances in or to computerize the 2112  
office of the clerk of the juvenile court and, upon that 2113  
determination, may authorize and direct the clerk or a deputy 2114  
clerk of the court to charge an additional fee, not to exceed 2115  
~~ten~~ twenty dollars, on the filing of each cause of action or 2116  
appeal, on the filing, docketing, and endorsing of each 2117  
certificate of judgment, or on the docketing and indexing of 2118  
each aid in execution or petition to vacate, revive, or modify a 2119  
judgment under divisions (A), (P), (Q), (T), and (U) of section 2120  
2303.20 of the Revised Code. Subject to division (B)(2) of this 2121  
section, all moneys collected under this division shall be paid 2122  
to the county treasurer to be disbursed, upon an order of the 2123  
juvenile judges and subject to appropriation by the board of 2124  
county commissioners, in an amount no greater than the actual 2125  
cost to the juvenile court of procuring and maintaining 2126  
technology and computer systems for the clerk's office. 2127

(2) If the juvenile judges make the determination 2128  
described in division (B)(1) of this section, the board of 2129  
county commissioners may issue one or more general obligation 2130  
bonds for the purpose of procuring and maintaining the 2131

technology and computer systems for the office of the clerk of 2132  
the juvenile court. In addition to the purposes stated in 2133  
division (B)(1) of this section for which the moneys collected 2134  
under that division may be expended, the moneys additionally may 2135  
be expended to pay debt charges on and financing costs related 2136  
to any general obligation bonds issued pursuant to this division 2137  
as they become due. General obligation bonds issued pursuant to 2138  
this division are Chapter 133. securities. 2139

**Sec. 2301.031.** (A)(1) The domestic relations judges of a 2140  
domestic relations division created by section 2301.03 of the 2141  
Revised Code may determine that, for the efficient operation of 2142  
their division, additional funds are required to computerize the 2143  
division, to make available computerized legal research 2144  
services, or both. Upon making a determination that additional 2145  
funds are required for either or both of those purposes, the 2146  
judges shall do one of the following: 2147

(a) Authorize and direct the clerk or a deputy clerk of 2148  
the division to charge one additional fee not to exceed ~~three-~~ 2149  
six dollars on the filing of each cause of action or appeal 2150  
under division (A), (Q), or (U) of section 2303.20 of the 2151  
Revised Code; 2152

(b) If the clerk of the court of common pleas serves as 2153  
the clerk of the division, authorize and direct the clerk of the 2154  
court of common pleas to charge one additional fee not to exceed 2155  
~~three-~~six dollars on the filing of each cause of action or 2156  
appeal under division (A), (Q), or (U) of section 2303.20 of the 2157  
Revised Code. 2158

(2) All moneys collected under division (A)(1) of this 2159  
section shall be paid to the county treasurer. The treasurer 2160  
shall place the moneys from the fees in a separate fund to be 2161

disbursed either upon an order of the domestic relations judges, 2162  
subject to an appropriation by the board of county 2163  
commissioners, or upon an order of the domestic relations judge, 2164  
subject to the court making an annual report available to the 2165  
public listing the use of all such funds, in an amount no 2166  
greater than the actual cost to the division of procuring and 2167  
maintaining computerization of the court, computerized legal 2168  
research services, or both. 2169

(3) If the court determines that the funds in the fund 2170  
described in division (A) (2) of this section are more than 2171  
sufficient to satisfy the purpose for which the additional fee 2172  
described in division (A) (1) of this section was imposed, the 2173  
court may declare a surplus in the fund and, subject to an 2174  
appropriation by the board of county commissioners, expend those 2175  
surplus funds, or upon an order of the court, subject to the 2176  
court making an annual report available to the public listing 2177  
the use of all such funds, expend those surplus funds, for other 2178  
appropriate technological expenses of the court. 2179

(B) (1) If the clerk of the court of common pleas is not 2180  
serving as the clerk of a juvenile or domestic relations 2181  
division created by section 2301.03 of the Revised Code, the 2182  
juvenile or domestic relations judges may determine that, for 2183  
the efficient operation of their division, additional funds are 2184  
required to make technological advances in or to computerize the 2185  
office of the clerk of their division and, upon that 2186  
determination, may authorize and direct the clerk or a deputy 2187  
clerk of their division to charge an additional fee, not to 2188  
exceed ~~ten~~ twenty dollars, on the filing of each cause of action 2189  
or appeal, on the filing, docketing, and endorsing of each 2190  
certificate of judgment, or on the docketing and indexing of 2191  
each aid in execution or petition to vacate, revive, or modify a 2192

judgment under divisions (A), (P), (Q), (T), and (U) of section 2193  
2303.20 of the Revised Code. Subject to division (B)(2) of this 2194  
section, all moneys collected under this division shall be paid 2195  
to the county treasurer to be disbursed, upon an order of the 2196  
juvenile or domestic relations judges and subject to 2197  
appropriation by the board of county commissioners, in an amount 2198  
no greater than the actual cost to the juvenile or domestic 2199  
relations division of procuring and maintaining technology and 2200  
computer systems for the clerk's office. 2201

(2) If juvenile or domestic relations judges make the 2202  
determination described in division (B)(1) of this section, the 2203  
board of county commissioners may issue one or more general 2204  
obligation bonds for the purpose of procuring and maintaining 2205  
the technology and computer systems for the office of the clerk 2206  
of the juvenile or domestic relations division. In addition to 2207  
the purposes stated in division (B)(1) of this section for which 2208  
the moneys collected under that division may be expended, the 2209  
moneys additionally may be expended to pay debt charges on and 2210  
financing costs related to any general obligation bonds issued 2211  
pursuant to this division as they become due. General obligation 2212  
bonds issued pursuant to this division are Chapter 133. 2213  
securities. 2214

**Sec. 4505.10.** (A) In the event of the transfer of 2215  
ownership of a motor vehicle by operation of law, as upon 2216  
inheritance, devise, bequest, order in bankruptcy, insolvency, 2217  
replevin, or execution sale, a motor vehicle is sold to satisfy 2218  
storage or repair charges, or repossession is had upon default 2219  
in performance of the terms of a security agreement as provided 2220  
in Chapter 1309. of the Revised Code and the secured party has 2221  
notified the debtor as required by division (B) of section 2222  
1309.611 of the Revised Code, a clerk of a court of common 2223

pleas, upon the surrender of the prior certificate of title or 2224  
the manufacturer's or importer's certificate, or, when that is 2225  
not possible, upon presentation of satisfactory proof to the 2226  
clerk of ownership and rights of possession to the motor 2227  
vehicle, and upon payment of the fee prescribed in section 2228  
4505.09 of the Revised Code and presentation of an application 2229  
for certificate of title, may issue to the applicant a 2230  
certificate of title to the motor vehicle. Only an affidavit by 2231  
the person or agent of the person to whom possession of the 2232  
motor vehicle has passed, setting forth the facts entitling the 2233  
person to the possession and ownership, together with a copy of 2234  
the journal entry, court order, or instrument upon which the 2235  
claim of possession and ownership is founded, is satisfactory 2236  
proof of ownership and right of possession. If the applicant 2237  
cannot produce that proof of ownership, the applicant may apply 2238  
directly to the registrar of motor vehicles and submit the 2239  
evidence the applicant has, and the registrar, if the registrar 2240  
finds the evidence sufficient, then may authorize a clerk to 2241  
issue a certificate of title. If the registrar finds the 2242  
evidence insufficient, the applicant may petition the court of 2243  
common pleas for a court order ordering the clerk to issue a 2244  
certificate of title. The court shall grant or deny the petition 2245  
based on the sufficiency of the evidence presented to the court. 2246  
If, from the records in the office of the clerk involved, there 2247  
appears to be any lien on the motor vehicle, the certificate of 2248  
title shall contain a statement of the lien unless the 2249  
application is accompanied by proper evidence of its extinction. 2250

(B) A clerk shall transfer a decedent's interest in one or 2251  
~~two more~~ automobiles to the surviving spouse of the decedent, as 2252  
provided in section 2106.18 of the Revised Code, upon receipt of 2253  
the title or titles. An affidavit executed by the surviving 2254

spouse shall be submitted to the clerk with the title or titles. 2255  
The affidavit shall give the date of death of the decedent, 2256  
shall state that each automobile for which the decedent's 2257  
interest is to be so transferred is not disposed of by 2258  
testamentary disposition, and shall provide an approximate value 2259  
for each automobile selected to be transferred by the surviving 2260  
spouse. The affidavit shall also contain a description for each 2261  
automobile for which the decedent's interest is to be so 2262  
transferred. The transfer does not affect any liens upon any 2263  
automobile for which the decedent's interest is so transferred. 2264

(C) Upon the death of one of the persons who have 2265  
established joint ownership with right of survivorship under 2266  
section 2131.12 of the Revised Code in a motor vehicle, and upon 2267  
presentation to a clerk of the title and the certificate of 2268  
death of the decedent, the clerk shall transfer title to the 2269  
motor vehicle to the survivor. The transfer does not affect any 2270  
liens upon any motor vehicle so transferred. 2271

(D) Upon the death of the owner of a motor vehicle 2272  
designated in beneficiary form under section 2131.13 of the 2273  
Revised Code, upon application for a certificate of title by the 2274  
transfer-on-death beneficiary or beneficiaries designated 2275  
pursuant to that section, and upon presentation to the clerk of 2276  
the certificate of title and the certificate of death of the 2277  
decedent, the clerk shall transfer the motor vehicle and issue a 2278  
certificate of title to the transfer-on-death beneficiary or 2279  
beneficiaries. The transfer does not affect any liens upon the 2280  
motor vehicle so transferred. 2281

**Sec. 5801.10.** (A) As used in this section, "creditor" 2282  
means any of the following: 2283

(1) A person holding a debt or security for a debt entered 2284

into by a trustee on behalf of the trust;	2285
(2) A person holding a debt secured by one or more assets of the trust;	2286 2287
(3) A person having a claim against the trustee or the assets of the trust under section 5805.06 of the Revised Code;	2288 2289
(4) A person who has attached through legal process a beneficiary's interest in the trust.	2290 2291
(B) (1) Subject to division (B) (2) of this section, the parties to an agreement under this section shall be any two or more of the following, or their representatives under the representation provisions of Chapter 5803. of the Revised Code, except that only the settlor and any trustee are required to be parties to an amendment of any revocable trust:	2292 2293 2294 2295 2296 2297
(a) The settlor if living and if no adverse income or transfer tax results would arise from the settlor's participation;	2298 2299 2300
(b) The beneficiaries;	2301
(c) The currently serving trustees;	2302
(d) Creditors, if their interest is to be affected by the agreement.	2303 2304
(2) In addition to the parties to an agreement under division (B) (1) of this section, the parties shall include the attorney general if an agreement described in division (C) (7) of this section is being made and either of the following applies:	2305 2306 2307 2308
(a) An organization with one or more purposes that are described in division (A) of section 5804.05 of the Revised Code is a beneficiary.	2309 2310 2311

(b) The trust is a charitable trust.	2312
(C) The persons specified in division (B) of this section	2313
may by written instrument enter into an agreement with respect	2314
to any matter concerning the construction of, administration of,	2315
or distributions under the terms of the trust, the investment of	2316
income or principal held by the trustee, or other matters. The	2317
agreement may not effect a termination of the trust before the	2318
date specified for the trust's termination in the terms of the	2319
trust, change the interests of the beneficiaries in the trust	2320
except as necessary to effect a modification described in	2321
division (C) (5), (6), or (7) of this section, or include terms	2322
and conditions that could not be properly approved by the court	2323
under Chapters 5801. to 5811. of the Revised Code or other	2324
applicable law. The invalidity of any provision of the agreement	2325
does not affect the validity of other provisions of the	2326
agreement. Matters that may be resolved by a private settlement	2327
agreement include, but are not limited to, all of the following:	2328
(1) Determining classes of creditors, beneficiaries,	2329
heirs, next of kin, or other persons;	2330
(2) Resolving disputes arising out of the administration	2331
or distribution under the terms of the trust, including disputes	2332
over the construction of the language of the trust instrument or	2333
construction of the language of other writings that affect the	2334
terms of the trust;	2335
(3) Granting to the trustee necessary or desirable powers	2336
not granted in the terms of the trust or otherwise provided by	2337
law, to the extent that those powers either are not inconsistent	2338
with the express provisions or purposes of the terms of the	2339
trust or, if inconsistent with the express provisions or	2340
purposes of the terms of the trust, are necessary for the due	2341

administration of the terms of the trust;	2342
(4) Modifying the terms of the trust, if the modification	2343
is not inconsistent with any material purpose of the trust;	2344
(5) Modifying the terms of the trust in the manner	2345
required to qualify the gift under the terms of the trust for	2346
the charitable estate or gift tax deduction permitted by federal	2347
law, including the addition of mandatory governing instrument	2348
requirements for a charitable remainder trust as required by the	2349
Internal Revenue Code and regulations promulgated under it in	2350
any case in which the parties interested in the trust have	2351
submitted written agreements to the proposed changes or written	2352
disclaimer of interest;	2353
(6) Modifying the terms of the trust in the manner	2354
required to qualify any gift under the terms of the trust for	2355
the estate tax marital deduction available to noncitizen	2356
spouses, including the addition of mandatory governing	2357
instrument requirements for a qualified domestic trust under	2358
section 2056A of the Internal Revenue Code and regulations	2359
promulgated under it in any case in which the parties interested	2360
in the trust have submitted written agreements to the proposed	2361
changes or written disclaimer of interest;	2362
(7) Construing or modifying the terms of a trust that	2363
refer to the federal estate tax, federal generation-skipping	2364
transfer tax, or Ohio estate tax, or that contain a division of	2365
property based on the imposition or amount of one or more of	2366
those taxes, to give effect to the intent of the settlor;	2367
(8) Resolving any other matter that arises under Chapters	2368
5801. to 5811. of the Revised Code.	2369
(D) No agreement shall be entered into under this section	2370

affecting the rights of a creditor without the creditor's 2371  
consent or affecting the collection rights of federal, state, or 2372  
local taxing authorities. 2373

(E) Any agreement entered into under this section that 2374  
complies with the requirements of division (C) of this section 2375  
shall be final and binding on the parties to the agreement or 2376  
persons represented by the parties to the agreement whether by 2377  
reason of Chapter 5803. of the Revised Code or otherwise, and 2378  
their heirs, successors, and assigns, but shall have no effect 2379  
on any trustee, settlor, beneficiary, or creditor who is not a 2380  
party to the agreement or is not represented by a party to the 2381  
agreement. 2382

(F) Notwithstanding anything in this section, in division 2383  
(D) of section 5803.03 of the Revised Code, or in any other rule 2384  
of law to the contrary, a trustee serving under the terms of the 2385  
trust shall only represent its own individual or corporate 2386  
interests in negotiating or entering into an agreement subject 2387  
to this section. No trustee serving under the terms of the trust 2388  
shall be considered to represent any settlor, beneficiary, or 2389  
the interests of any settlor or beneficiary in negotiating or 2390  
entering into an agreement subject to this section. 2391

(G) Any party to a private settlement agreement entered 2392  
into under this section may request the court to approve the 2393  
agreement, to determine whether the representation as provided 2394  
in Chapter 5803. of the Revised Code was adequate, and to 2395  
determine whether the agreement contains terms and conditions 2396  
the court could have properly approved. 2397

(H) If an agreement entered into under this section 2398  
contains a provision requiring binding arbitration of any 2399  
disputes arising under the agreement, the provision is 2400

enforceable.	2401
(I) Nothing in this section affects any of the following:	2402
(1) The right of a beneficiary to disclaim under section 5815.36 of the Revised Code;	2403 2404
(2) The termination or modification of a trust under section 5804.10, 5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 5804.16 of the Revised Code;	2405 2406 2407
(3) The ability of a trustee to divide or consolidate a trust under section 5804.17 of the Revised Code;	2408 2409
(4) The power of the trustee to make distributions pursuant to section 5808.18 of the Revised Code.	2410 2411
(J) Nothing in this section restricts or limits the jurisdiction of any court to dispose of matters not covered by agreements under this section or to supervise the acts of trustees appointed by that court.	2412 2413 2414 2415
(K) This section shall be liberally construed to favor the validity and enforceability of agreements entered into under it.	2416 2417
(L) A trustee serving under the trust instrument is not liable to any third person arising from any loss due to that trustee's actions or inactions taken or omitted in good faith reliance on the terms of an agreement entered into under this section.	2418 2419 2420 2421 2422
(M) Subject to divisions (B) (2) and (C) (7) of this section, this section does not apply to any of the following:	2423 2424
(1) A charitable trust that has one or more charitable organizations as qualified beneficiaries;	2425 2426
(2) A charitable trust the terms of which authorize or	2427

direct the trustee to distribute trust income or principal to 2428  
one or more charitable organizations to be selected by the 2429  
trustee, or for one or more charitable purposes described in 2430  
division (A) of section 5804.05 of the Revised Code, if any of 2431  
the following apply: 2432

(a) The distributions may be made on the date that an 2433  
agreement under this section would be entered into. 2434

(b) The distributions could be made on the date that an 2435  
agreement under this section would be entered into if the 2436  
interests of the current beneficiaries of the trust terminated 2437  
on that date, but the termination of those interests would not 2438  
cause the trust to terminate. 2439

(c) The distributions could be made on the date that an 2440  
agreement under this section would be entered into if the trust 2441  
terminated on that date. 2442

(3) An agreement pursuant to section 109.232 of the 2443  
Revised Code. 2444

(N) This section does not prohibit some or all of the 2445  
persons who could enter into an agreement under this section 2446  
from entering into agreements that are not described in this 2447  
section and are governed by other law, including the common law. 2448  
Nothing in this section limits or negates any consents, 2449  
releases, or ratifications, whether under section 5810.09 of the 2450  
Revised Code or otherwise, relating to any agreement described 2451  
in this section or governed by other law. 2452

Sec. 5802.04. An action brought under Chapters 5801. to 2453  
5811. of the Revised Code is a civil action subject to the Rules 2454  
of Civil Procedure, and unless it involves a testamentary or 2455  
other trust that already is subject to court supervision, is 2456

commenced by filing a complaint. 2457

**Sec. 5803.02.** To the extent there is no conflict of 2458  
interest between the holder of a general testamentary power of 2459  
appointment and the persons represented with respect to the 2460  
particular question or dispute, the holder may represent and 2461  
bind persons whose interests, as permissible appointees, takers 2462  
in default, or otherwise, are subject to the power. To the 2463  
extent there is no conflict of interest between the holder of a 2464  
limited testamentary power of appointment or a presently 2465  
exercisable limited power of appointment and the persons 2466  
represented with respect to the particular question or dispute, 2467  
the holder may also represent and bind persons whose interests 2468  
as possible appointees are subject to the power. The rights of 2469  
the holder of a presently exercisable general power of 2470  
appointment are governed by section 5806.03 of the Revised Code. 2471

**Sec. 5804.02.** (A) A trust is created only if all of the 2472  
following apply: 2473

(1) The Subject to division (F) of this section, the 2474  
settlor of the trust, other than the settlor of a trust created 2475  
by a court order, has capacity to create a trust. 2476

(2) The Subject to division (F) of this section, the 2477  
settlor of the trust, other than the settlor of a trust created 2478  
by a court order, indicates an intention to create the trust. 2479

(3) The trust has a definite beneficiary or is one of the 2480  
following: 2481

(a) A charitable trust; 2482

(b) A trust for the care of an animal, as provided in 2483  
section 5804.08 of the Revised Code; 2484

(c) A trust for a noncharitable purpose, as provided in	2485
section 5804.09 of the Revised Code.	2486
(4) The trustee has duties to perform.	2487
(5) The same person is not the sole trustee and sole	2488
beneficiary.	2489
(B) A beneficiary is definite if the beneficiary can be	2490
ascertained now or in the future, subject to any applicable rule	2491
against perpetuities.	2492
(C) A power in a trustee or other person to select a	2493
beneficiary from an indefinite class is valid. If the power is	2494
not exercised within a reasonable time, the power fails, and the	2495
property subject to the power passes to the persons who would	2496
have taken the property had the power not been conferred.	2497
(D) A trust is valid regardless of the existence, size, or	2498
character of the corpus of the trust. This division applies to	2499
any trust instrument that was executed prior to, or is executed	2500
on or after, January 1, 2007.	2501
(E) A trust is not invalid because a person, including,	2502
but not limited to, the creator of the trust, is or may become	2503
the sole trustee and the sole holder of the present beneficial	2504
enjoyment of the corpus of the trust, provided that one or more	2505
other persons hold a vested, contingent, or expectant interest	2506
relative to the enjoyment of the corpus of the trust upon the	2507
cessation of the present beneficial enjoyment. A merger of the	2508
legal and equitable titles to the corpus of a trust described in	2509
this division does not occur in its creator, and,	2510
notwithstanding any contrary provision of Chapter 2107. of the	2511
Revised Code, the trust is not a testamentary trust that is	2512
required to comply with that chapter in order for its corpus to	2513

be legally distributed to other beneficiaries in accordance with 2514  
the provisions of the trust upon the cessation of the present 2515  
beneficial enjoyment. This division applies to any trust that 2516  
satisfies the provisions of this division, whether the trust was 2517  
executed prior to, on, or after October 10, 1991. 2518

(F) An agent under a power of attorney may create a trust 2519  
for the principal, whether or not the principal has capacity to 2520  
create the trust and indicates an intention to create the trust, 2521  
but only as provided in sections 1337.21 to 1337.64 of the 2522  
Revised Code, including sections 1337.42 and 1337.58 of the 2523  
Revised Code and their limitations on creation of trusts and on 2524  
gifts of property of the principal and the duty of the agent to 2525  
attempt to preserve the principal's estate plan. 2526

**Sec. 5808.16.** Without limiting the authority conferred by 2527  
section 5808.15 of the Revised Code, a trustee may do all of the 2528  
following: 2529

(A) Collect trust property and accept or reject additions 2530  
to the trust property from a settlor or any other person; 2531

(B) Acquire or sell property, for cash or on credit, at 2532  
public or private sale; 2533

(C) Exchange, partition, or otherwise change the character 2534  
of trust property; 2535

(D) Deposit trust money in an account in a regulated 2536  
financial-service institution; 2537

(E) Borrow money, with or without security, and mortgage 2538  
or pledge trust property for a period within or extending beyond 2539  
the duration of the trust; 2540

(F) With respect to an interest in a proprietorship, 2541

partnership, limited liability company, business trust, 2542  
corporation, or other form of business or enterprise, continue 2543  
the business or other enterprise and take any action that may be 2544  
taken by shareholders, members, or property owners, including 2545  
merging, dissolving, or otherwise changing the form of business 2546  
organization or contributing additional capital; 2547

(G) With respect to stocks or other securities, exercise 2548  
the rights of an absolute owner, including the right to do any 2549  
of the following: 2550

(1) Vote, or give proxies to vote, with or without power 2551  
of substitution, or enter into or continue a voting trust 2552  
agreement; 2553

(2) Hold a security in the name of a nominee or in other 2554  
form without disclosure of the trust so that title may pass by 2555  
delivery; 2556

(3) Pay calls, assessments, and other sums chargeable or 2557  
accruing against the securities and sell or exercise stock 2558  
subscription or conversion rights; 2559

(4) Deposit the securities with a depository or other 2560  
regulated financial-service institution. 2561

(H) With respect to an interest in real property, 2562  
construct, or make ordinary or extraordinary repairs to, 2563  
alterations to, or improvements in, buildings or other 2564  
structures, demolish improvements, raze existing or erect new 2565  
party walls or buildings, subdivide or develop land, dedicate 2566  
land to public use or grant public or private easements, and 2567  
make or vacate plats and adjust boundaries; 2568

(I) Enter into a lease for any purpose as lessor or 2569  
lessee, including a lease or other arrangement for exploration 2570

and removal of natural resources, with or without the option to	2571
purchase or renew, for a period within or extending beyond the	2572
duration of the trust;	2573
(J) Grant an option involving a sale, lease, or other	2574
disposition of trust property or acquire an option for the	2575
acquisition of property, including an option exercisable beyond	2576
the duration of the trust, and exercise an option so acquired;	2577
(K) Insure the property of the trust against damage or	2578
loss and insure the trustee, the trustee's agents, and	2579
beneficiaries against liability arising from the administration	2580
of the trust;	2581
(L) Abandon or decline to administer property of no value	2582
or of insufficient value to justify its collection or continued	2583
administration;	2584
(M) With respect to possible liability for violation of	2585
environmental law, do any of the following:	2586
(1) Inspect or investigate property the trustee holds or	2587
has been asked to hold, or property owned or operated by an	2588
organization in which the trustee holds or has been asked to	2589
hold an interest, for the purpose of determining the application	2590
of environmental law with respect to the property;	2591
(2) Take action to prevent, abate, or otherwise remedy any	2592
actual or potential violation of any environmental law affecting	2593
property held directly or indirectly by the trustee, whether	2594
taken before or after the assertion of a claim or the initiation	2595
of governmental enforcement;	2596
(3) Decline to accept property into trust or disclaim any	2597
power with respect to property that is or may be burdened with	2598
liability for violation of environmental law;	2599

(4) Compromise claims against the trust that may be asserted for an alleged violation of environmental law;	2600 2601
(5) Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.	2602 2603
(N) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;	2604 2605 2606
(O) Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;	2607 2608 2609
(P) Exercise elections with respect to federal, state, and local taxes;	2610 2611
(Q) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance policy payable to the trustee, exercise rights under any employee benefit or retirement plan, annuity, or life insurance policy payable to the trustee, including the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;	2612 2613 2614 2615 2616 2617 2618
(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;	2619 2620 2621 2622
(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	2623 2624 2625 2626 2627 2628

others to a third party; 2629

(T) Appoint a trustee to act in another jurisdiction with 2630  
respect to trust property located in the other jurisdiction, 2631  
confer upon the appointed trustee all of the powers and duties 2632  
of the appointing trustee, require that the appointed trustee 2633  
furnish security, and remove any trustee so appointed; 2634

(U) Pay an amount distributable to a beneficiary who is 2635  
under a legal disability or who the trustee reasonably believes 2636  
is incapacitated, by paying it directly to the beneficiary or 2637  
applying it for the beneficiary's benefit, or by doing any of 2638  
the following: 2639

(1) Paying it to the beneficiary's guardian of the estate, 2640  
or, if the beneficiary does not have a guardian of the estate, 2641  
the beneficiary's guardian of the person; 2642

(2) Paying it to the beneficiary's custodian under 2643  
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code and, for 2644  
that purpose, creating a custodianship; 2645

(3) If the trustee does not know of a guardian of the 2646  
person or estate, or custodian, paying it to an adult relative 2647  
or other person having legal or physical care or custody of the 2648  
beneficiary, to be expended on the beneficiary's behalf; 2649

(4) Managing it as a separate fund on the beneficiary's 2650  
behalf, subject to the beneficiary's continuing right to 2651  
withdraw the distribution. 2652

(V) On distribution of trust property or the division or 2653  
termination of a trust, make distributions in divided or 2654  
undivided interests, allocate particular assets in proportionate 2655  
or disproportionate shares, value the trust property for those 2656  
purposes, and adjust for resulting differences in valuation; 2657

(W) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(X) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(Y) Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;

(Z) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it;

(AA) Employ agents, attorneys, accountants, investment advisors, and other professionals.

**Sec. 5812.32.** (A) As used in this section, ~~"payment"~~;

(1) "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. "Payment" includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, ~~including~~. For purposes of divisions (D), (E), (F), and (G) of this section, "payment" also includes any payment made from any separate fund regardless of the reason for the payment.

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

(B) To the extent that a payment is characterized as

interest ~~or~~, a dividend, or a payment made in lieu of interest 2686  
or a dividend, a trustee shall allocate ~~it~~ the payment to 2687  
income. The trustee shall allocate to principal the balance of 2688  
the payment and any other payment received in the same 2689  
accounting period that is not characterized as interest, a 2690  
dividend, or an equivalent payment. 2691

(C) If no part of a payment is characterized as interest, 2692  
a dividend, or an equivalent payment, and all or part of the 2693  
payment is required to be made, a trustee shall allocate to 2694  
income ten per cent of the part that is required to be made 2695  
during the accounting period and the balance to principal. If no 2696  
part of a payment is required to be made or the payment received 2697  
is the entire amount to which the trustee is entitled, the 2698  
trustee shall allocate the entire payment to principal. For 2699  
purposes of this division, a payment is not "required to be 2700  
made" to the extent that it is made because the trustee 2701  
exercises a right of withdrawal. 2702

~~(D) If, to obtain an estate tax marital deduction for a~~ 2703  
~~trust, a trustee must allocate more of a payment to income than~~ 2704  
~~is provided for by this section, the trustee shall allocate to~~ 2705  
~~income the additional amount necessary to obtain the marital~~ 2706  
~~deduction. Except as otherwise provided in division (E) of this~~ 2707  
~~section, divisions (F) and (G) of this section apply, and~~ 2708  
~~divisions (B) and (C) of this section do not apply, in~~ 2709  
~~determining the allocation of a payment made from a separate~~ 2710  
~~fund to either of the following:~~ 2711

(1) A trust for which an election to qualify for a marital 2712  
deduction under section 2056(b)(7) of the Internal Revenue Code 2713  
of 1986, 26 U.S.C. 2056(b)(7), as amended, has been made; 2714

(2) A trust that qualifies for the marital deduction under 2715

section 2056(b) (5) of the Internal Revenue Code of 1986, 26 2716  
U.S.C. 2056(b) (5), as amended. 2717

(E) Divisions (D), (F), and (G) of this section do not 2718  
apply if and to the extent that the series of payments would, 2719  
without the application of division (D) of this section, qualify 2720  
for the marital deduction under section 2056(b) (7) (C) of the 2721  
Internal Revenue Code of 1986, 26 U.S.C. 2056(b) (7) (C), as 2722  
amended. 2723

(F) A trustee shall determine the internal income of each 2724  
separate fund for the accounting period as if the separate fund 2725  
were a trust subject to sections 5812.01 to 5812.52 of the 2726  
Revised Code. Upon request of the surviving spouse, the trustee 2727  
shall demand that the person administering the separate fund 2728  
distribute the internal income to the trust. The trustee shall 2729  
allocate a payment from the separate fund to income to the 2730  
extent of the internal income of the separate fund and 2731  
distribute that amount to the surviving spouse. The trustee 2732  
shall allocate the balance of the payment to principal. Upon 2733  
request of the surviving spouse, the trustee shall allocate 2734  
principal to income to the extent the internal income of the 2735  
separate fund exceeds payments made from the separate fund to 2736  
the trust during the accounting period. 2737

(G) If a trustee cannot determine the internal income of a 2738  
separate fund but can determine the value of the separate fund, 2739  
the internal income of the separate fund is deemed to equal four 2740  
per cent of the fund's value according to the most recent 2741  
statement of value preceding the beginning of the accounting 2742  
period. If the trustee can determine neither the internal income 2743  
of the separate fund nor the value of the fund, the internal 2744  
income of the fund is deemed to equal the product of the 2745

interest rate and the present value of the expected future 2746  
payments, as determined under section 7520 of the Internal 2747  
Revenue Code of 1986, 26 U.S.C. 7520, as amended, for the month 2748  
preceding the accounting period for which the computation is 2749  
made. 2750

(H) This section does not apply to ~~payments~~ a payment to 2751  
which section 5812.33 of the Revised Code applies. 2752

(I)(1) This section applies to a trust described in 2753  
division (D) of this section on and after any of the following 2754  
dates: 2755

(a) If the trust has not received a payment from a 2756  
separate fund on the effective date of the amendment of this 2757  
section, the date of the decedent's death; 2758

(b) If the trust receives the first payment from any and 2759  
all separate funds payable to the trust in the calendar year 2760  
beginning January 1 of the year in which the amendment of this 2761  
section takes effect, the date of the decedent's death; 2762

(c) If the trust is not described in division (I)(1)(a) or 2763  
(b) of this section, January 1 of the year in which the 2764  
amendment of this section takes effect. 2765

(2) For purposes of division (I)(1) of this section, 2766  
"decedent" means the individual by reason of whose death the 2767  
trust may receive a payment from the separate fund. 2768

**Sec. 5812.46.** (A) A tax required to be paid by a trustee 2769  
based on receipts allocated to income shall be paid from income. 2770

(B) A tax required to be paid by a trustee based on 2771  
receipts allocated to principal shall be paid from principal, 2772  
even if the tax is called an income tax by the taxing authority. 2773

(C) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately as follows:

(1) From income, to the extent that receipts from the entity are allocated only to income;

(2) From principal, ~~as follows:~~

~~(a) To~~ to the extent that receipts from the entity are allocated only to principal; ~~and~~

~~(b) To~~ (3) Proportionately from principal and income, to the extent that receipts from the entity are allocated to both income and principal;

(4) From principal, to the extent that the trust's share of the entity's taxable income tax exceeds the total receipts described in divisions (C) (1) and (2) (a) of this section from the entity.

~~(D) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax. After applying divisions (A) to (C) of this section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.~~

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

(B) In applying and construing the "uniform principal and income act ~~(1997)~~," 7 consideration shall be given to the need to

promote uniformity of the law with respect to its subject matter 2802  
among states that enact the "uniform principal and income 2803  
act(1997)."- 2804

**Sec. 5814.01.** As used in sections 5814.01 to ~~5814.09~~ 2805  
5814.10 of the Revised Code, unless the context otherwise 2806  
requires: 2807

(A) "Benefit plan" means any plan of an employer for the 2808  
benefit of any employee, any plan for the benefit of any 2809  
partner, or any plan for the benefit of a proprietor, and 2810  
includes, but is not limited to, any pension, retirement, death 2811  
benefit, deferred compensation, employment agency, stock bonus, 2812  
option, or profit-sharing contract, plan, system, account, or 2813  
trust. 2814

(B) "Broker" means a person that is lawfully engaged in 2815  
the business of effecting transactions in securities for the 2816  
account of others. A "broker" includes a financial institution 2817  
that effects such transactions and a person who is lawfully 2818  
engaged in buying and selling securities for the person's own 2819  
account, through a broker or otherwise, as a part of a regular 2820  
business. 2821

(C) "Court" means the probate court. 2822

(D) "The custodial property" includes: 2823

(1) All securities, money, life or endowment insurance 2824  
policies, annuity contracts, benefit plans, real estate, 2825  
tangible and intangible personal property, proceeds of a life or 2826  
endowment insurance policy, an annuity contract, or a benefit 2827  
plan, and other types of property under the supervision of the 2828  
same custodian for the same minor as a consequence of a transfer 2829  
or transfers made to the minor, a gift or gifts made to the 2830

minor, or a purchase made by the custodian for the minor, in a 2831  
manner prescribed in sections 5814.01 to ~~5814.09~~ 5814.10 of the 2832  
Revised Code; 2833

(2) The income from the custodial property; 2834

(3) The proceeds, immediate and remote, from the sale, 2835  
exchange, conversion, investment, reinvestment, or other 2836  
disposition of the securities, money, life or endowment 2837  
insurance policies, annuity contracts, benefit plans, real 2838  
estate, tangible and intangible personal property, proceeds of a 2839  
life or endowment insurance policy, an annuity contract, or a 2840  
benefit plan, other types of property, and income. 2841

(E) "Custodian" or "successor custodian" means a person so 2842  
designated in a manner prescribed in sections 5814.01 to ~~5814.09~~ 2843  
5814.10 of the Revised Code. 2844

(F) "Financial institution" means any bank, as defined in 2845  
section 1101.01, any building and loan association, as defined 2846  
in section 1151.01, any credit union as defined in section 2847  
1733.01 of the Revised Code, and any federal credit union, as 2848  
defined in the "Federal Credit Union Act," 73 Stat. 628 (1959), 2849  
12 U.S.C.A. 1752, as amended. 2850

(G) "Guardian of the minor" includes the general guardian, 2851  
guardian, tutor, or curator of the property, estate, or person 2852  
of a minor. 2853

(H) "Issuer" means a person who places or authorizes the 2854  
placing of the person's name on a security, other than as a 2855  
transfer agent, to evidence that it represents a share, 2856  
participation, or other interest in the person's property or in 2857  
an enterprise, or to evidence the person's duty or undertaking 2858  
to perform an obligation that is evidenced by the security, or 2859

who becomes responsible for or in place of any such person. 2860

(I) "Legal representative" of a person means the executor, 2861  
administrator, general guardian, guardian, committee, 2862  
conservator, tutor, or curator of the person's property or 2863  
estate. 2864

(J) "Member of the minor's family" means a parent, 2865  
stepparent, spouse, grandparent, brother, sister, uncle, or aunt 2866  
of the minor, whether of the whole or half blood, or by 2867  
adoption. 2868

(K) ~~"Minor"~~ (1) Except as provided in division (K) (2) of 2869  
this section, "minor" means a person an individual who has not 2870  
attained the age of twenty-one years. 2871

(2) When used with reference to the beneficiary for whose 2872  
benefit custodial property is held or is to be held, "minor" 2873  
means an individual who has not attained the age at which the 2874  
custodian is required under section 5814.09 of the Revised Code 2875  
to transfer the custodial property to the beneficiary. 2876

(L) "Security" includes any note, stock, treasury stock, 2877  
common trust fund, bond, debenture, evidence of indebtedness, 2878  
certificate of interest or participation in an oil, gas, or 2879  
mining title or lease or in payments out of production under an 2880  
oil, gas, or mining title or lease, collateral trust 2881  
certificate, transferable share, voting trust certificate, or, 2882  
in general, any interest or instrument commonly known as a 2883  
security, or any certificate of interest or participation in, 2884  
any temporary or interim certificate, receipt or certificate of 2885  
deposit for, or any warrant or right to subscribe to or 2886  
purchase, any of the foregoing. A "security" does not include a 2887  
security of which the donor or transferor is the issuer. A 2888

security is in "registered form" when it specifies a person who 2889  
is entitled to it or to the rights that it evidences and its 2890  
transfer may be registered upon books maintained for that 2891  
purpose by or on behalf of the issuer. 2892

(M) "Transfer" means a disposition, other than a gift, by 2893  
a person who is eighteen years of age or older that creates 2894  
custodial property under sections 5814.01 to ~~5814.09~~ 5814.10 of 2895  
the Revised Code. 2896

(N) "Transfer agent" means a person who acts as 2897  
authenticating trustee, transfer agent, registrar, or other 2898  
agent for an issuer in the registration of transfers of its 2899  
securities, in the issue of new securities, or in the 2900  
cancellation of surrendered securities. 2901

(O) "Transferor" means a person who is eighteen years of 2902  
age or older, who makes a transfer. 2903

(P) "Trust company" means a financial institution that is 2904  
authorized to exercise trust powers. 2905

(Q) "Administrator" includes an "administrator with the 2906  
will annexed." 2907

**Sec. 5814.02.** (A) A person who is eighteen years of age or 2908  
older may, during the person's lifetime, make a gift or transfer 2909  
of a security, money, a life or endowment insurance policy, an 2910  
annuity contract, a benefit plan, real estate, tangible or 2911  
intangible personal property, or any other property to, may 2912  
designate as beneficiary of a life or endowment insurance 2913  
policy, an annuity contract, or a benefit plan, or make a 2914  
transfer by the irrevocable exercise of a power of appointment 2915  
in favor of, a person who is a minor on the date of the gift or 2916  
transfer: 2917

(1) If the subject of the gift or transfer is a security 2918  
in registered form, by registering it in the name of the donor 2919  
or transferor, another person who is eighteen years of age or 2920  
older, or a trust company, followed, in substance, by the words: 2921  
"as custodian for ..... (name of minor) under the 2922  
Ohio Transfers to Minors Act;" 2923

(2) If the subject of the gift or transfer is a security 2924  
not in registered form, by delivering it to the donor or 2925  
transferor, another person who is eighteen years of age or 2926  
older, or a trust company, accompanied by a statement of a gift 2927  
or transfer in the following form, in substance, signed by the 2928  
donor or transferor and the person or trust company designated 2929  
as custodian: 2930

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2931

I, ..... (name of donor or transferor), 2932  
hereby deliver to (name of custodian) as custodian 2933  
for ..... (name of minor) under the Ohio Transfers 2934  
to Minors Act, the following security (ies): (insert an 2935  
appropriate description of the security or securities delivered, 2936  
sufficient to identify it or them). 2937

..... 2938

(signature of donor or transferor) 2939

..... (name of custodian) hereby acknowledges 2940  
receipt of the above described security (ies) as custodian for 2941  
the above minor under the Ohio Transfers to Minors Act. 2942

Dated: ..... 2943

(signature of custodian)" 2944

(3) If the subject of the gift or transfer is money, by 2945  
paying or delivering it to a broker, or a financial institution 2946

for credit to an account in the name of the donor or transferor, 2947  
another person who is eighteen years of age or older, or a trust 2948  
company, followed, in substance, by the words: "as custodian for 2949  
..... (name of minor) under the Ohio Transfers to 2950  
Minors Act." 2951

(4) If the subject of the gift or transfer is a life or 2952  
endowment insurance policy, an annuity contract, or a benefit 2953  
plan, by assigning the policy, contract, or plan to the donor or 2954  
transferor, another person who is eighteen years of age or 2955  
older, or a trust company, followed, in substance by the words: 2956  
"as custodian for ..... (name of minor) under the 2957  
Ohio Transfers to Minors Act." 2958

(5) If the subject of the gift or transfer is an interest 2959  
in real estate, by executing and delivering in the appropriate 2960  
manner a deed, assignment, or similar instrument in the name of 2961  
the donor or transferor, another person who is eighteen years of 2962  
age or older, or a trust company, followed, in substance, by the 2963  
words: "as custodian for ..... (name of minor) under 2964  
the Ohio Transfers to Minors Act." 2965

(6) If the subject of the gift or transfer is tangible 2966  
personal property, by delivering it to the donor or transferor, 2967  
another person who is eighteen years of age or older, or a trust 2968  
company, accompanied by a statement of a gift or transfer in the 2969  
following form, in substance, signed by the donor or transferor 2970  
and the person or trust company designated as custodian: 2971

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2972

I, ..... (name of donor or transferor), hereby 2973  
deliver to ..... (name of custodian) as custodian 2974  
for ..... (name of minor) under the Ohio Transfers 2975

to Minors Act, the following property: (insert an appropriate description of the property delivered, sufficient to identify it). 2976  
2977  
2978

..... 2979

(signature of donor or transferor) 2980

..... (name of custodian) hereby 2981

acknowledges receipt of the above described property as 2982

custodian for the above minor under the Ohio Transfers to Minors 2983

Act. 2984

Dated: ..... 2985

(signature of custodian)" 2986

(7) If the subject of the gift or transfer is tangible 2987

personal property, title to which is evidenced by a certificate 2988

of title issued by a department or agency of a state or of the 2989

United States, by issuing title to the donor or transferor, 2990

another person who is eighteen years of age or older, or a trust 2991

company, accompanied by a statement of a gift or transfer in the 2992

following form, in substance: "as custodian 2993

for ..... (name of minor) under the Ohio 2994

Transfers to Minors Act;" or by delivering the title to another 2995

person who is eighteen years of age or older or a trust company, 2996

endorsed to that person followed in substance by the following 2997

words: "as custodian for..... (name of minor) 2998

under the Ohio Transfers to Minors Act." 2999

(8) If the subject of the gift or transfer is the 3000

designation of a minor as beneficiary of a life or endowment 3001

insurance policy, an annuity contract, or a benefit plan, by 3002

designating as beneficiary of the policy, contract, or plan the 3003

donor or transferor, another person who is eighteen years of age 3004

or older, or a trust company, followed, in substance, by the 3005

words: "as custodian for ..... (name of minor) 3006  
under the Ohio Transfers to Minors Act." 3007

(9) If the subject of the gift or transfer is an 3008  
irrevocable exercise of a power of appointment in favor of a 3009  
minor or is an interest in any property that is not described in 3010  
divisions (A) (1) to (8) of this section, by causing the 3011  
ownership of the property to be transferred by any written 3012  
document in the name of the donor or transferor, another person 3013  
who is eighteen years of age or older, or a trust company, 3014  
followed, in substance, by the words: "as custodian 3015  
for ..... (name of minor) under the Ohio Transfers 3016  
to Minors Act." 3017

(B) Trustees, inter vivos or testamentary, executors, and 3018  
administrators having authority to distribute or pay any trust 3019  
or estate property to or for the benefit of a minor, or having 3020  
authority to distribute or pay any trust or estate property to 3021  
any other person for the benefit of a minor may, if authorized 3022  
by a will or trust instrument, distribute or pay trust or estate 3023  
property of any type mentioned in division (A) of this section 3024  
in the manner and form provided in that division, and may name 3025  
the custodian or successor custodian of the property if the will 3026  
or trust instrument does not name an eligible custodian, or if 3027  
the will or trust does not name an eligible successor custodian 3028  
and the naming of a successor custodian is necessary. A person 3029  
who is eighteen years of age or older, in the person's will or 3030  
trust instrument, may provide that the fiduciary shall make any 3031  
payment or distribution as provided in this division and may 3032  
name the custodian and a successor custodian of the trust or 3033  
estate property. As to any distribution or payment so made, the 3034  
testator of a will, under the provisions of which a testamentary 3035  
trust or estate is being administered, or the settlor of an 3036

inter vivos trust shall be deemed the donor or transferor. 3037

(C) Any gift, transfer, payment, or distribution that is 3038  
made in a manner prescribed in division (A), (B), or (E) of this 3039  
section may be made to only one minor and only one person may be 3040  
the custodian. All gifts, transfers, payments, and distributions 3041  
made by a person in a manner prescribed in sections 5814.01 to 3042  
~~5814.09~~ 5814.10 of the Revised Code to the same custodian for 3043  
the benefit of the same minor result in a single custodianship. 3044

(D) A donor or transferor who makes a gift or transfer to 3045  
a minor in a manner prescribed in division (A) of this section 3046  
and a trustee, executor, or administrator acting under division 3047  
(B) or (E) of this section shall promptly do all things within 3048  
the donor's, transferor's, trustee's, executor's, or 3049  
administrator's power to put the subject of the gift or transfer 3050  
in the possession and control of the custodian, but neither the 3051  
donor's, transferor's, trustee's, executor's, or administrator's 3052  
failure to comply with this division, nor the designation by the 3053  
donor, transferor, trustee, executor, or administrator of an 3054  
ineligible custodian, nor the renunciation by the person or 3055  
trust company designated as custodian, affects the consummation 3056  
of the gift or transfer. 3057

(E) If there is no will, or if a will, trust, or other 3058  
governing instrument does not contain an authorization to make a 3059  
transfer as described in this division, a trustee, executor, or 3060  
administrator may make a transfer in a manner prescribed in 3061  
division (A) of this section to self, another person who is 3062  
eighteen years of age or older, or a trust company, as 3063  
custodian, if all of the following apply: 3064

(1) Irrespective of the value of the property, the 3065  
trustee, executor, or administrator considers the transfer to be 3066

in the best interest of the minor; 3067

(2) Irrespective of the value of the property, the 3068  
transfer is not prohibited by or inconsistent with the 3069  
applicable will, trust agreement, or other governing instrument; 3070

(3) If the value of the property exceeds ~~ten~~twenty-five 3071  
thousand dollars, the transfer is authorized by the appropriate 3072  
court. 3073

(F) Except with respect to real property, a donor or 3074  
transferor who makes a gift or transfer to a minor in a manner 3075  
prescribed in division (A) of this section and a trustee, 3076  
executor, or administrator acting under division (B) or (E) of 3077  
this section may also designate one or more successor 3078  
custodians, in substance, by adding to such designation the 3079  
following words or words of similar import for the successor or 3080  
successors designated: "In the event of the death or inability 3081  
or unwillingness to serve of ..... (name of 3082  
custodian), or any successor custodian designated 3083  
hereby, ..... (name of first successor custodian), 3084  
followed by ..... (name of second successor 3085  
custodian), in the order named, shall serve as successor 3086  
custodian." 3087

**Sec. 5814.03.** (A) A gift or transfer made in a manner 3088  
prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the Revised 3089  
Code, is irrevocable and conveys to the minor indefeasibly 3090  
vested legal title to the security, money, life or endowment 3091  
insurance policy, annuity contract, benefit plan, real estate, 3092  
tangible or intangible personal property, or other property 3093  
given or, subject to the right of the owner of the policy, 3094  
contract, or benefit plan to change the beneficiary if the 3095  
custodian is not the owner, to the proceeds of a life or 3096

endowment insurance policy, an annuity contract, or a benefit 3097  
plan given, but no guardian of the minor has any right, power, 3098  
duty, or authority with respect to the custodial property except 3099  
as provided in sections 5814.01 to ~~5814.09~~5814.10 of the 3100  
Revised Code. 3101

(B) By making a gift or transfer in a manner prescribed in 3102  
sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, the 3103  
donor or transferor incorporates in the gift or transfer all the 3104  
provisions of these sections and grants to the custodian, and to 3105  
any issuer, transfer agent, financial institution, broker, or 3106  
third person dealing with a person or trust company designated 3107  
as custodian, the respective powers, rights, and immunities 3108  
provided in these sections. 3109

**Sec. 5814.04.** (A) The custodian shall collect, hold, 3110  
manage, invest, and reinvest the custodial property. 3111

(B) The custodian shall pay over to the minor for 3112  
expenditure by the minor, or expend for the use or benefit of 3113  
the minor, as much of or all the custodial property as the 3114  
custodian considers advisable for the use and benefit of the 3115  
minor in the manner, at the time or times, and to the extent 3116  
that the custodian in the custodian's discretion considers 3117  
suitable and proper, with or without court order, with or 3118  
without regard to the duty or ability of the custodian or of any 3119  
other person to support the minor or the minor's ability to do 3120  
so, and with or without regard to any other income or property 3121  
of the minor that may be applicable or available for any 3122  
purpose. Any payment or expenditure that is made under this 3123  
division is in addition to, is not a substitute for, and does 3124  
not affect the obligation of any person to support the minor for 3125  
whom the payment or expenditure is made. 3126

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

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

(2) If the donor or transferor, in the written instrument that makes or provides for the gift or transfer, directs the custodian to deliver or pay over the custodial property to the minor on the minor's attaining any age between eighteen and twenty-one, the custodian shall deliver or pay over the custodial property to the minor on the minor's attaining that age, or, if the minor dies before attaining that age, the custodian shall, upon the minor's death, deliver or pay the custodial property over to the estate of the minor.

(E) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent person of discretion and intelligence dealing with the property of another, except that the custodian may, in the discretion of the custodian and without liability to the minor or the estate of the minor, retain any custodial property received in a manner prescribed in

sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. If a 3157  
custodian has special skills or is named custodian on the basis 3158  
of representations of special skills or expertise, the custodian 3159  
is under a duty to use those skills or that expertise. 3160

(F) The custodian may sell, exchange, convert, or 3161  
otherwise dispose of custodial property in the manner, at the 3162  
time or times, for the price or prices, and upon the terms the 3163  
custodian considers advisable. The custodian may vote in person 3164  
or by general or limited proxy a security that is custodial 3165  
property. The custodian may consent, directly or through a 3166  
committee or other agent, to the reorganization, consolidation, 3167  
merger, dissolution, or liquidation of an issuer of a security 3168  
that is custodial property, and to the sale, lease, pledge, or 3169  
mortgage of any property by or to such an issuer, and to any 3170  
other action by such an issuer. The custodian may purchase any 3171  
life or endowment insurance policy or annuity contract on the 3172  
life of the minor or any member of the family of the minor and 3173  
pay, from funds in the custodian's custody, any premiums on any 3174  
life or endowment insurance policy or annuity contract held by 3175  
the custodian as custodial property. The custodian may execute 3176  
and deliver any and all instruments in writing that the 3177  
custodian considers advisable to carry out any of the 3178  
custodian's powers as custodian. 3179

(G) The custodian shall register each security that is 3180  
custodial property and in registered form in the name of the 3181  
custodian, followed, in substance, by the words: "as custodian 3182  
for ..... (name of minor) under the Ohio Transfers to 3183  
Minors Act," or shall maintain each security that is custodial 3184  
property and in registered form in an account with a broker or 3185  
in a financial institution in the name of the custodian, 3186  
followed, in substance, by the words: "as custodian 3187

for ..... (name of minor) under the Ohio Transfers to 3188  
Minors Act." A security held in account with a broker or in a 3189  
financial institution in the name of the custodian may be held 3190  
in the name of the broker or financial institution. A security 3191  
that is custodial property and in registered form and that is 3192  
held by a broker or in a financial institution in which the 3193  
broker or financial institution does not have a lien for 3194  
indebtedness due to it from a custodial account may not be 3195  
pledged, lent, hypothecated, or disposed of except upon the 3196  
specific instructions of the custodian. The custodian shall hold 3197  
all money that is custodial property in an account with a broker 3198  
or in a financial institution in the name of the custodian, 3199  
followed, in substance, by the words: "as custodian 3200  
for ..... (name of minor) under the Ohio Transfers to 3201  
Minors Act." The custodian shall hold all life or endowment 3202  
insurance policies, annuity contracts, or benefit plans that are 3203  
custodial property in the name of the custodian, followed, in 3204  
substance, by the words "as custodian for ..... (name 3205  
of minor) under the Ohio Transfers to Minors Act." The custodian 3206  
shall take title to all real estate that is custodial property 3207  
in the name of the custodian, followed, in substance, by the 3208  
words: "as custodian for ..... (name of minor) under the 3209  
Ohio Transfers to Minors Act." In the event one or more 3210  
successor custodians have been designated by the donor, 3211  
transferor, trustee, executor, or administrator pursuant to 3212  
division (F) of section 5814.02 of the Revised Code or by the 3213  
custodian pursuant to division (E) of section 5814.07 of the 3214  
Revised Code, each registration, account, policy, contract, 3215  
plan, or title in the name of the custodian set forth in this 3216  
division shall include such designation of successor custodian 3217  
or custodians. The custodian shall keep all other custodial 3218  
property separate and distinct from the custodian's own property 3219

in a manner to identify it clearly as custodial property. 3220

(H) The custodian shall keep records of all transactions 3221  
with respect to the custodial property and make the records 3222  
available for inspection at reasonable intervals by a parent or 3223  
legal representative of the minor or by the minor, if the minor 3224  
has attained the age of fourteen years. 3225

(I) A custodian has, with respect to the custodial 3226  
property, in addition to the rights and powers provided in 3227  
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, all the 3228  
rights and powers that a guardian has with respect to property 3229  
not held as custodial property. 3230

(J) The custodian may invest in or pay premiums on any 3231  
life or endowment insurance policy or annuity contract on either 3232  
of the following: 3233

(1) The life of the minor, if the minor or the estate of 3234  
the minor is the sole beneficiary under the policy or contract; 3235

(2) The life of any person in whom the minor has an 3236  
insurable interest, if the minor, the minor's estate, or the 3237  
custodian in the custodian's capacity as custodian is the sole 3238  
beneficiary. 3239

(K) All of the rights, powers, and authority of the 3240  
custodian over custodial property, including all of the 3241  
incidents of ownership in any life or endowment insurance 3242  
policy, annuity contract, or benefit plan, are held only in the 3243  
capacity of the custodian as custodian. 3244

**Sec. 5814.05.** (A) A custodian is entitled to reimbursement 3245  
from the custodial property for reasonable expenses incurred in 3246  
the performance of the custodian's duties. 3247

(B) A custodian may act without compensation for the	3248
custodian's services.	3249
(C) Unless the custodian is a donor or transferor, the	3250
custodian may receive from custodial property reasonable	3251
compensation for the custodian's services determined by one of	3252
the following standards in the order stated:	3253
(1) A direction by the donor or transferor when the gift	3254
or transfer is made;	3255
(2) A statute of this state applicable to custodians;	3256
(3) The statute of this state applicable to guardians;	3257
(4) An order of the court.	3258
(D) Except as otherwise provided in sections 5814.01 to	3259
<del>5814.09</del> <u>5814.10</u> of the Revised Code, a custodian shall not be	3260
required to give a bond for the performance of the custodian's	3261
duties.	3262
(E) A custodian not compensated for the custodian's	3263
services is not liable for losses to the custodial property	3264
unless they result from the custodian's bad faith, intentional	3265
wrongdoing, or gross negligence or from the custodian's failure	3266
to maintain the standard of prudence in investing the custodial	3267
property provided in sections 5814.01 to <del>5814.09</del> <u>5814.10</u> of the	3268
Revised Code.	3269
<b>Sec. 5814.06.</b> An issuer, transfer agent, financial	3270
institution, broker, life insurance company, or other person	3271
acting on the instructions of or otherwise dealing with any	3272
person purporting to act as a donor or transferor or dealing	3273
with any person or trust company purporting to act as a	3274
custodian is not required to do any of the following:	3275

(A) Determine either of the following:	3276
(1) Whether the person or trust company designated by the purported donor or transferor, or the person or trust company purporting to act as a custodian, has been duly designated;	3277 3278 3279
(2) Whether any purchase, sale, or transfer to or by, or any other act of, any person or trust company purporting to act as a custodian is in accordance with or authorized by sections 5814.01 to <del>5814.09</del> <u>5814.10</u> of the Revised Code.	3280 3281 3282 3283
(B) Inquire into the validity or propriety under sections 5814.01 to <del>5814.09</del> <u>5814.10</u> of the Revised Code of any instrument or instructions executed or given by a person purporting to act as a donor or transferor or by a person or trust company purporting to act as a custodian;	3284 3285 3286 3287 3288
(C) See to the application by any person or trust company purporting to act as a custodian of any money or other property paid or delivered to the person or trust company.	3289 3290 3291
<b>Sec. 5814.07.</b> (A) Any person who is eighteen years of age or older or a trust company is eligible to become a successor custodian. A successor custodian has all the rights, powers, duties, and immunities of a custodian designated in a manner prescribed by sections 5814.01 to <del>5814.09</del> <u>5814.10</u> of the Revised Code.	3292 3293 3294 3295 3296 3297
(B) A custodian may resign and designate the custodian's successor by doing all of the following:	3298 3299
(1) Executing an instrument of resignation that designates the successor custodian;	3300 3301
(2) Causing each security that is custodial property and in registered form to be registered in the name of the successor	3302 3303

custodian followed, in substance, by the words: "as custodian 3304  
for ..... (name of minor) under the Ohio 3305  
Transfers to Minors Act;" 3306

(3) Executing in the appropriate manner a deed, 3307  
assignment, or similar instrument for all interest in real 3308  
estate that is custodial property in the name of the successor 3309  
custodian, followed, in substance, by the words: "as custodian 3310  
for ..... (name of minor) under the Ohio 3311  
Transfers to Minors Act;" 3312

(4) Delivering to the successor custodian the instrument 3313  
of resignation, each security registered in the name of the 3314  
successor custodian, each deed, assignment, or similar 3315  
instrument for all interest in real estate that is in the name 3316  
of the successor custodian, and all other custodial property, 3317  
together with any additional instruments that are required for 3318  
the transfer of the custodial property. 3319

(C) A custodian may petition the court for permission to 3320  
resign and for the designation of a successor custodian. 3321

(D) A custodian may designate by the custodian's will a 3322  
successor custodian, which designation is effective at the 3323  
custodian's death. Upon the custodian's death, the custodian's 3324  
legal representative shall do each of the following: 3325

(1) Cause each security that is custodial property and in 3326  
registered form to be registered in the name of the successor 3327  
custodian, followed, in substance, by the words: "as custodian 3328  
for ..... (name of minor) under the Ohio 3329  
Transfers to Minors Act;" 3330

(2) Execute in the appropriate manner a deed, assignment, 3331  
or similar instrument for all interest in real estate that is 3332

custodial property in the name of the successor custodian, 3333  
followed, in substance, by the words: "as custodian 3334  
for ..... (name of minor) under the Ohio 3335  
Transfers to Minors Act;" 3336

(3) Deliver to the successor custodian each security 3337  
registered in the name of the successor custodian, each deed, 3338  
assignment, or similar instrument for all interest in real 3339  
estate that is in the name of the successor custodian, and all 3340  
other custodial property, together with any additional 3341  
instruments that are required for the transfer of the custodial 3342  
property. 3343

(E) A custodian may designate one or more successor 3344  
custodians by transferring the property of any type specified in 3345  
division (A) of section 5814.02 of the Revised Code, other than 3346  
real estate, in the manner and form provided in that division, 3347  
to self as custodian, followed by the designation of the 3348  
successor custodian or custodians in the manner and form 3349  
provided in division (F) of section 5814.02 of the Revised Code. 3350  
A custodian may designate one or more successor custodians of 3351  
real property by designating the successor custodian or 3352  
custodians in the manner and form provided in sections 5302.22 3353  
to 5302.23 of the Revised Code. A designation of a successor 3354  
custodian or custodians by the custodian shall replace any 3355  
previous designation of successor custodians by the donor, 3356  
transferor, or previous custodian. 3357

(F) If no eligible successor custodian is designated by 3358  
the donor ~~or~~, transferor, trustee, executor, or administrator 3359  
pursuant to division (F) of section 5814.02 of the Revised Code 3360  
or in the donor's or transferor's will or trust, or by the 3361  
custodian in the custodian's will, ~~or if the custodian dies~~ 3362

intestate pursuant to division (D) of this section or by 3363  
transfer pursuant to division (E) of this section, the legal 3364  
representative of a custodian who is deceased or is adjudged to 3365  
be an incompetent by a court, ~~the legal representative of the~~ 3366  
~~custodian~~ may designate a successor custodian. If the court in 3367  
which the estate or guardianship proceedings relative to the 3368  
custodian are pending approves the designation, the designation 3369  
shall be regarded as having been effective as of the date of the 3370  
death of the custodian or as of the date the custodian was 3371  
adjudged to be an incompetent. Upon the approval of the court, 3372  
the legal representative of the custodian shall cause the 3373  
custodial property to be transferred or registered in the name 3374  
of the successor custodian as provided in divisions (D) (1) to 3375  
(3) of this section. 3376

~~(F)~~ (G) If a person or entity designated as successor 3377  
custodian is not eligible, or renounces or dies before the minor 3378  
attains the age of twenty-one years or before the minor attains 3379  
the age at which the custodian is required under section 5814.09 3380  
of the Revised Code to deliver the custodial property to the 3381  
minor, or if the custodian dies without designating a successor 3382  
custodian and division ~~(E)~~ (F) of this section does not apply 3383  
because the custodian does not have a legal representative, the 3384  
guardian of the minor shall be the successor custodian. If the 3385  
minor does not have a guardian, a donor or transferor, the legal 3386  
representative of the donor or transferor, the legal 3387  
representative of the custodian, a member of the minor's family 3388  
who is eighteen years of age or older, or the minor, if the 3389  
minor has attained the age of fourteen years, may petition the 3390  
court for the designation of a successor custodian. 3391

~~(G)~~ (H) A donor or transferor, the legal representative of 3392  
a donor or transferor, a member of the minor's family who is 3393

eighteen years of age or older, a guardian of the minor, or the  
minor, if the minor has attained the age of fourteen years, may  
petition the court that, for cause shown in the petition, the  
custodian be removed and a successor custodian be designated or,  
in the alternative, that the custodian be required to give bond  
for the performance of the custodian's duties.

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

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

(B) The court, in a proceeding under sections 5814.01 to  
~~5814.09~~ 5814.10 of the Revised Code, or otherwise, may require  
or permit the custodian or the custodian's legal representative  
to account and, if the custodian is removed, shall so require  
and order delivery of all custodial property to the successor  
custodian and the execution of all instruments required for the  
transfer of the custodial property.

**Sec. 5814.09.** (A) Subject to the requirements and  
limitations of this section, the time for delivery to the minor  
of custodial property transferred under or pursuant to division

(A) of section 5814.02 of the Revised Code may be delayed until 3424  
a specified time after the minor attains the age of twenty-one 3425  
years, which time shall be specified in the written instrument 3426  
that makes or provides for the gift or transfer pursuant to 3427  
divisions (A) (1) to (9) of section 5814.02 of the Revised Code. 3428

(B) To specify a delayed time for delivery to the minor of 3429  
the custodial property, the words "as custodian 3430  
for ..... (name of minor) until age ..... 3431  
(age of delivery of property to minor) under the Ohio Transfers 3432  
to Minors Act," shall be substituted in substance for the words 3433  
"as custodian for ..... (name of minor) under the 3434  
Ohio Transfers to Minors Act." 3435

(C) The time for delivery to the minor of custodial 3436  
property transferred under a will, trust instrument, or 3437  
irrevocable exercise of a testamentary power of appointment may 3438  
be delayed under this section only if the governing will, trust, 3439  
or exercise of the power of appointment provides in substance 3440  
that the custodianship is to continue until the time the minor 3441  
attains a specified age, which time shall not be later than the 3442  
date the minor attains the age of twenty-five years. 3443

(D) If the custodial property is transferred by inter 3444  
vivos gift and the time for delivery of the custodial property 3445  
to the minor is delayed beyond the time the minor attains the 3446  
age of twenty-one years, the custodian, nevertheless, shall 3447  
deliver the custodial property to the minor if requested in 3448  
writing by the minor within sixty days of the minor attaining 3449  
the age of twenty-one years, unless the donor or transferor, in 3450  
the written instrument of gift or transfer pursuant to divisions 3451  
(A) (1) to (9) of section 5814.02 of the Revised Code, provides 3452  
that the custodial property may not be delivered to the minor 3453

prior to attaining the specified age of delivery, which time 3454  
shall not be later than the date the minor attains the age of 3455  
twenty-five years. 3456

(E) If the time for delivery to the minor of custodial 3457  
property is delayed until a specified time after the minor 3458  
attains the age of twenty-one years and the minor dies prior to 3459  
attaining that age, the custodian shall, upon the minor's death, 3460  
deliver the custodial property to the estate of the minor. 3461

(F) A custodian may not commingle the assets of custodial 3462  
property that have different delivery dates. 3463

**Sec. ~~5814.09~~ 5814.10.** (A) Sections 5814.01 to ~~5814.09~~ 3464  
~~5814.10~~ of the Revised Code shall be construed to effectuate 3465  
their general purpose to make uniform the law of those states 3466  
that enact similar provisions. 3467

(B) Sections 5814.01 to ~~5814.09~~5814.10 of the Revised 3468  
Code shall not be construed as providing an exclusive method for 3469  
making gifts or transfers to minors. 3470

(C) Nothing in sections 5814.01 to ~~5814.09~~5814.10 of the 3471  
Revised Code~~7~~ shall affect gifts made under former sections 3472  
1339.19 to 1339.28 of the Revised Code, nor the powers, duties, 3473  
and immunities conferred by gifts in such manner upon custodians 3474  
and persons dealing with custodians. Sections 5814.01 to ~~5814.09~~ 3475  
5814.10 of the Revised Code henceforth apply, however, to all 3476  
gifts made in a manner and form prescribed in former sections 3477  
1339.19 to 1339.28 of the Revised Code, except insofar as the 3478  
application impairs constitutionally vested rights. Sections 3479  
5814.01 to ~~5814.09~~5814.10 of the Revised Code shall be 3480  
construed as a continuation of the provisions of former sections 3481  
1339.19 to 1339.28 of the Revised Code, according to the 3482

language employed, and not as a new enactment. 3483

(D) Nothing in sections 5814.01 to ~~5814.09~~ 5814.10 of the 3484  
Revised Code, as of May 7, 1986, shall affect gifts made under 3485  
those sections as they existed prior to May 7, 1986, or the 3486  
powers, duties, and immunities conferred by the gifts in any 3487  
manner upon custodians and persons dealing with custodians. 3488  
Sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, as of 3489  
May 7, 1986, hereafter apply to all gifts made in a manner and 3490  
form prescribed in those sections as they existed prior to May 3491  
7, 1986, except to the extent that the application of those 3492  
sections, as of May 7, 1986, would impair constitutionally 3493  
vested rights. 3494

**Sec. 5815.23.** (A) Except as provided in division (B) of 3495  
this section, an instrument that creates an inter vivos or 3496  
testamentary trust shall not require or permit the accumulation 3497  
for more than one year of any income of property that satisfies 3498  
both of the following: 3499

(1) The property is granted to a surviving spouse of the 3500  
testator or other settlor. 3501

(2) The property qualifies for the federal estate tax 3502  
marital deduction allowed by subtitle B, Chapter 11 of the 3503  
"Internal Revenue Code of 1986," 26 U.S.C. 2056, as amended, the 3504  
estate tax marital deduction allowed by division (A) of section 3505  
5731.15 of the Revised Code, or the qualified terminable 3506  
interest property deduction allowed by division (B) of section 3507  
5731.15 of the Revised Code. 3508

(B) (1) Division (A) of this section does not apply if an 3509  
instrument that creates an inter vivos or testamentary trust 3510  
expressly states the intention of the testator or other settlor 3511

that obtaining a marital deduction or a qualified terminable 3512  
interest property deduction as described in division (A) (2) of 3513  
this section is less important than requiring or permitting the 3514  
accumulation of income of property in accordance with a 3515  
provision in the instrument that requires or permits the 3516  
accumulation for more than one year of any income of property. 3517

(2) Division (A) of this section does not apply to any 3518  
beneficiary of an inter vivos or testamentary trust other than 3519  
the surviving spouse of the testator or other settlor or to any 3520  
inter vivos or testamentary trust of which the surviving spouse 3521  
of the testator or other settlor is a beneficiary if an interest 3522  
in property does not qualify for a marital deduction or a 3523  
qualified terminable interest property deduction as described in 3524  
division (A) (2) of this section. 3525

~~(C) (1) The trustee of a trust that qualifies for an estate 3526  
tax marital deduction for federal or Ohio estate tax purposes— 3527  
and that is the beneficiary of an individual retirement account— 3528  
has a fiduciary duty, in regard to the income distribution— 3529  
provision of the trust, to withdraw and distribute the income of 3530  
the individual retirement account, at least annually, to the 3531  
surviving spouse of the testator or other settlor. 3532~~

~~(2) A trustee's fiduciary duty as described in division 3533  
(C) (1) of this section is satisfied if the terms of the trust 3534  
instrument expressly provide the surviving spouse a right to 3535  
withdraw all of the assets from the trust or a right to compel 3536  
the trustee to withdraw and distribute the income of the 3537  
individual retirement account to the surviving spouse. 3538~~

~~(D) Divisions (A) and (B) and (C) (1) of this section are 3539  
intended to codify existing fiduciary and trust law principles 3540  
relating to the interpretation of a testator's or other 3541~~

settlor's intent with respect to the income provisions of a 3542  
trust. Divisions (A) and (B) ~~and (C)~~ of this section apply to 3543  
trust instruments executed prior to and existing on October 1, 3544  
1996, or executed thereafter. The trustee of a trust described 3545  
in division (A) or (B) of this section, in a written trust 3546  
amendment, may elect to not apply divisions (A) and (B) of this 3547  
section to the trust. Any election of that nature, when made, is 3548  
irrevocable. 3549

**Section 2.** That existing sections 1337.60, 1901.261, 3550  
1907.261, 2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 3551  
2105.31, 2105.32, 2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 3552  
2105.39, 2106.13, 2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 3553  
2113.86, 2151.541, 2153.081, 2301.031, 4505.10, 5801.10, 3554  
5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 5812.51, 5814.01, 3555  
5814.02, 5814.03, 5814.04, 5814.05, 5814.06, 5814.07, 5814.08, 3556  
5814.09, and 5815.23 and section 2105.38 of the Revised Code are 3557  
hereby repealed. 3558

**Section 3.** Section 2101.16 of the Revised Code is 3559  
presented in this act as a composite of the section as amended 3560  
by both Sub. S.B. 23 and Am. Sub. S.B. 43 of the 130th General 3561  
Assembly. The General Assembly, applying the principle stated in 3562  
division (B) of section 1.52 of the Revised Code that amendments 3563  
are to be harmonized if reasonably capable of simultaneous 3564  
operation, finds that the composite is the resulting version of 3565  
the section in effect prior to the effective date of the section 3566  
as presented in this act. 3567