

As Passed by the House

134th General Assembly

Regular Session

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Sub. H. B. No. 286

Representative Seitz

Cosponsors: Representatives Abrams, Bird, Click, Cross, Fowler Arthur, Grendell, Gross, Jordan, McClain, Riedel, Schmidt, Stoltzfus, Swearingen, Hillyer, Cutrona, Kick, Carruthers, Holmes, Johnson, Jones, Merrin, Stevens, Stewart, Wiggam, Young, T.

A BILL

To amend sections 107.43, 119.12, 124.34, 956.11, 1
956.15, 2743.03, 3794.09, 3901.321, 3913.13, 2
3913.23, 5101.35, and 5164.38 and to enact 3
sections 303.57, 519.26, and 713.16 of the 4
Revised Code to generally change the venue in 5
which appeal from an agency order is proper to 6
the local court of common pleas, to provide that 7
a civil action to challenge a state 8
administrative order issued in a state of 9
emergency be brought in the Court of Claims, and 10
to revise the law governing claim preclusion in 11
zoning appeals. 12

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

Section 1. That sections 107.43, 119.12, 124.34, 956.11, 13
956.15, 2743.03, 3794.09, 3901.321, 3913.13, 3913.23, 5101.35, 14
and 5164.38 be amended and sections 303.57, 519.26, and 713.16 15
of the Revised Code be enacted to read as follows: 16

Sec. 107.43. (A) As used in this section:	17
"Administrative department" means a department listed under section 121.02 of the Revised Code.	18 19
"Administrative department head" means a department head listed under section 121.03 of the Revised Code.	20 21
"Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and staff operations within an administrative department or state agency, or within the office of an administrative department head or statewide elected officer.	22 23 24 25 26
"Rule" means, unless the context dictates otherwise, any rule, regulation, or standard adopted, promulgated, and enforced by a statewide elected officer, administrative department, administrative department head, or state agency under the authority of the laws governing such officer, department, department head, or state agency. "Rule" does not include an internal management rule.	27 28 29 30 31 32 33
"State agency" means any organized body, office, agency, commission, board, institution, or other entity established by the laws of the state for the exercise of any function of state government. "State agency" does not include a court.	34 35 36 37
"State of emergency" has the meaning defined in section 107.42 of the Revised Code.	38 39
"Statewide elected officer" means the governor, lieutenant governor, secretary of state, auditor of state, attorney general, and treasurer of state.	40 41 42
(B) Beginning the day the governor declares a state of emergency, the governor and the department of health promptly	43 44

shall report to the president of the senate and the speaker of 45
the house of representatives every action the governor or 46
department takes in response to the state of emergency, 47
including actions by the department or director of health under 48
sections 3701.13 and 3701.14 of the Revised Code. 49

(C) (1) If the governor declares a state of emergency, the 50
general assembly may do any of the following by adopting a 51
concurrent resolution: 52

(a) Rescind, in whole or in part, any order or rule issued 53
or adopted by an administrative department, administrative 54
department head, state agency, or statewide elected officer in 55
response to a state of emergency, including an order to 56
authorize an agency to adopt, amend, or rescind rules under 57
division (G) of section 119.03 of the Revised Code. This 58
division does not apply to an order issued to declare a state of 59
emergency. 60

(b) Invalidate, in whole or in part, an emergency rule 61
adopted or amended by an agency in response to the state of 62
emergency and pursuant to an emergency order the governor issues 63
under division (G) (1) of section 119.03 of the Revised Code; 64

(c) Authorize a rule rescinded by an agency under division 65
(G) (1) of section 119.03 of the Revised Code in response to the 66
state of emergency to be readopted, in whole or in part; 67

(d) Invalidate, in whole or in part, an emergency rule 68
adopted by an agency in response to the state of emergency 69
pursuant to division (B) (2) of section 111.15 of the Revised 70
Code. 71

(2) If the general assembly rescinds an order or rule, or 72
a portion thereof, the administrative department, administrative 73

department head, state agency, or statewide elected officer 74
shall not reissue that order or rule, the rescinded portion, a 75
substantially similar order, rule, or portion, or any 76
restriction contained in the rescinded order or rule or 77
rescinded portion, for a period of sixty calendar days following 78
the adoption of the concurrent resolution by the general 79
assembly, except as provided in division (C)(3) of this section. 80

(3) (a) Within sixty calendar days of the general assembly 81
rescinding an order or rule under division (C)(1) of this 82
section, the governor, on behalf of an administrative 83
department, an administrative department head, or a state 84
agency, may submit a request to the general assembly to 85
authorize an administrative department, an administrative 86
department head, or a state agency to reissue a rescinded order 87
or rule, rescinded portion thereof, a substantially similar 88
order, rule, or portion, or any restriction contained in the 89
rescinded order or rule or rescinded portion issued or adopted 90
by an administrative department, administrative department head, 91
or state agency. Upon review, the general assembly may adopt a 92
concurrent resolution authorizing the request, in whole or in 93
part. 94

(b) Within sixty calendar days of the general assembly 95
rescinding an order or rule under division (C)(1) of this 96
section, a statewide elected officer may submit a request to the 97
general assembly to reissue a rescinded order or rule, rescinded 98
portion thereof, a substantially similar order, rule, or 99
portion, or any restriction contained in the rescinded order or 100
rule or rescinded portion issued or adopted by the statewide 101
elected officer. Upon review, the general assembly may adopt a 102
concurrent resolution authorizing the request, in whole or in 103
part. 104

(D) (1) Notwithstanding any other provision of the Revised Code, a person who challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief may do so in ~~an appropriate court located in the county where the person's residence or business is located~~ the court of claims.

(2) If a person successfully challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, the administrative department, administrative department head, state agency, or statewide elected officer shall pay the person's reasonable attorney's fees and court costs.

(E) An order or rule issued or adopted in violation of this section is invalid and has no legal effect.

Sec. 119.12. (A) (1) Except as provided in division (A) (2) ~~or (3)~~ of this section, any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the ~~licensee party is~~ located or the county in which the ~~licensee party is~~ located or the county in which the ~~licensee party is~~ located is a resident.

(2) ~~An appeal from an order described in division (A) (1) of this section issued by any of the following agencies shall be~~

made to the court of common pleas of Franklin county:	135
(a) The liquor control commission;	136
(b) The Ohio casino control commission;	137
state medical board;	138
(c) The state chiropractic board;	139
(d) The board of nursing;	140
(e) The bureau of workers' compensation regarding	141
participation in the health partnership program created in	142
sections 4121.44 and 4121.441 of the Revised Code.	143
(3) If any party appealing from an order described in	144
division (A) (1) of this section is not a resident of and has no	145
place of business in this state, the party may appeal to the	146
court of common pleas of Franklin county.	147
(B) Any party adversely affected by any order of an agency	148
issued pursuant to any other adjudication may appeal to the	149
court of common pleas of Franklin county, except that appeals	150
from orders of the fire marshal issued under Chapter 3737. of	151
the Revised Code may be to the court of common pleas of the	152
county in which the building of the aggrieved person is located	153
and except that appeals under division (B) of section 124.34 of	154
the Revised Code from a decision of the state personnel board of	155
review or a municipal or civil service township civil service	156
commission shall be taken to the court of common pleas of the	157
county in which the appointing authority is located or, in the	158
case of an appeal by the department of rehabilitation and	159
correction, to the court of common pleas of Franklin county.	160
(C) This section does not apply to appeals from the	161
department of taxation.	162

~~(D)~~ (C) Any party desiring to appeal shall file a notice 163
of appeal with the agency setting forth the order appealed from 164
and stating that the agency's order is not supported by 165
reliable, probative, and substantial evidence and is not in 166
accordance with law. The notice of appeal may, but need not, set 167
forth the specific grounds of the party's appeal beyond the 168
statement that the agency's order is not supported by reliable, 169
probative, and substantial evidence and is not in accordance 170
with law. The notice of appeal shall also be filed by the 171
appellant with the court. In filing a notice of appeal with the 172
agency or court, the notice that is filed may be either the 173
original notice or a copy of the original notice. Unless 174
otherwise provided by law relating to a particular agency, 175
notices of appeal shall be filed within fifteen days after the 176
mailing of the notice of the agency's order as provided in this 177
section. For purposes of this paragraph, an order includes a 178
determination appealed pursuant to division (C) of section 179
119.092 of the Revised Code. The amendments made to this 180
paragraph by Sub. H.B. 215 of the 128th general assembly are 181
procedural, and this paragraph as amended by those amendments 182
shall be applied retrospectively to all appeals pursuant to this 183
paragraph filed before September 13, 2010, but not earlier than 184
May 7, 2009, which was the date the supreme court of Ohio 185
released its opinion and judgment in *Medcorp, Inc. v. Ohio* 186
Dep't. of Job and Family Servs. (2009), 121 Ohio St.3d 622. 187

~~(E)~~ (D) The filing of a notice of appeal shall not 188
automatically operate as a suspension of the order of an agency. 189
If it appears to the court that an unusual hardship to the 190
appellant will result from the execution of the agency's order 191
pending determination of the appeal, the court may grant a 192
suspension and fix its terms. If an appeal is taken from the 193

judgment of the court and the court has previously granted a 194
suspension of the agency's order as provided in this section, 195
the suspension of the agency's order shall not be vacated and 196
shall be given full force and effect until the matter is finally 197
adjudicated. No renewal of a license or permit shall be denied 198
by reason of the suspended order during the period of the appeal 199
from the decision of the court of common pleas. In the case of 200
an appeal from the Ohio casino control commission, the state 201
medical board, or the state chiropractic board, the court may 202
grant a suspension and fix its terms if it appears to the court 203
that an unusual hardship to the appellant will result from the 204
execution of the agency's order pending determination of the 205
appeal and the health, safety, and welfare of the public will 206
not be threatened by suspension of the order. This provision 207
shall not be construed to limit the factors the court may 208
consider in determining whether to suspend an order of any other 209
agency pending determination of an appeal. 210

~~(F)~~ (E) The final order of adjudication may apply to any 211
renewal of a license or permit which has been granted during the 212
period of the appeal. 213

~~(G)~~ (F) Notwithstanding any other provision of this 214
section, any order issued by a court of common pleas or a court 215
of appeals suspending the effect of an order of the liquor 216
control commission issued pursuant to Chapter 4301. or 4303. of 217
the Revised Code that suspends, revokes, or cancels a permit 218
issued under Chapter 4303. of the Revised Code or that allows 219
the payment of a forfeiture under section 4301.252 of the 220
Revised Code shall terminate not more than six months after the 221
date of the filing of the record of the liquor control 222
commission with the clerk of the court of common pleas and shall 223
not be extended. The court of common pleas, or the court of 224

appeals on appeal, shall render a judgment in that matter within 225
six months after the date of the filing of the record of the 226
liquor control commission with the clerk of the court of common 227
pleas. A court of appeals shall not issue an order suspending 228
the effect of an order of the liquor control commission that 229
extends beyond six months after the date on which the record of 230
the liquor control commission is filed with a court of common 231
pleas. 232

~~(H)~~ (G) Notwithstanding any other provision of this 233
section, any order issued by a court of common pleas or a court 234
of appeals suspending the effect of an order of the Ohio casino 235
control commission issued under Chapter 3772. of the Revised 236
Code that limits, conditions, restricts, suspends, revokes, 237
denies, not renews, fines, or otherwise penalizes an applicant, 238
licensee, or person excluded or ejected from a casino facility 239
in accordance with section 3772.031 of the Revised Code shall 240
terminate not more than six months after the date of the filing 241
of the record of the Ohio casino control commission with the 242
clerk of the court of common pleas and shall not be extended. 243
The court of common pleas, or the court of appeals on appeal, 244
shall render a judgment in that matter within six months after 245
the date of the filing of the record of the Ohio casino control 246
commission with the clerk of the court of common pleas. A court 247
of appeals shall not issue an order suspending the effect of an 248
order of the Ohio casino control commission that extends beyond 249
six months after the date on which the record of the Ohio casino 250
control commission is filed with the clerk of a court of common 251
pleas. 252

(H) Notwithstanding any other provision of this section, 253
any order issued by a court of common pleas suspending the 254
effect of an order of the state medical board or state 255

chiropractic board that limits, revokes, suspends, places on 256
probation, or refuses to register or reinstate a certificate 257
issued by the board or reprimands the holder of the certificate 258
shall terminate not more than fifteen months after the date of 259
the filing of a notice of appeal in the court of common pleas, 260
or upon the rendering of a final decision or order in the appeal 261
by the court of common pleas, whichever occurs first. 262

(I) Within thirty days after receipt of a notice of appeal 263
from an order in any case in which a hearing is required by 264
sections 119.01 to 119.13 of the Revised Code, the agency shall 265
prepare and certify to the court a complete record of the 266
proceedings in the case. Failure of the agency to comply within 267
the time allowed, upon motion, shall cause the court to enter a 268
finding in favor of the party adversely affected. Additional 269
time, however, may be granted by the court, not to exceed thirty 270
days, when it is shown that the agency has made substantial 271
effort to comply. The record shall be prepared and transcribed, 272
and the expense of it shall be taxed as a part of the costs on 273
the appeal. The appellant shall provide security for costs 274
satisfactory to the court of common pleas. Upon demand by any 275
interested party, the agency shall furnish at the cost of the 276
party requesting it a copy of the stenographic report of 277
testimony offered and evidence submitted at any hearing and a 278
copy of the complete record. 279

(J) Notwithstanding any other provision of this section, 280
any party desiring to appeal an order or decision of the state 281
personnel board of review shall, at the time of filing a notice 282
of appeal with the board, provide a security deposit in an 283
amount and manner prescribed in rules that the board shall adopt 284
in accordance with this chapter. In addition, the board is not 285
required to prepare or transcribe the record of any of its 286

proceedings unless the appellant has provided the deposit 287
described above. The failure of the board to prepare or 288
transcribe a record for an appellant who has not provided a 289
security deposit shall not cause a court to enter a finding 290
adverse to the board. 291

(K) Unless otherwise provided by law, in the hearing of 292
the appeal, the court is confined to the record as certified to 293
it by the agency. Unless otherwise provided by law, the court 294
may grant a request for the admission of additional evidence 295
when satisfied that the additional evidence is newly discovered 296
and could not with reasonable diligence have been ascertained 297
prior to the hearing before the agency. 298

(L) The court shall conduct a hearing on the appeal and 299
shall give preference to all proceedings under sections 119.01 300
to 119.13 of the Revised Code, over all other civil cases, 301
irrespective of the position of the proceedings on the calendar 302
of the court. An appeal from an order of the state medical board 303
issued pursuant to division (G) of either section 4730.25 or 304
4731.22 of the Revised Code, the state chiropractic board issued 305
pursuant to section 4734.37 of the Revised Code, the liquor 306
control commission issued pursuant to Chapter 4301. or 4303. of 307
the Revised Code, or the Ohio casino control commission issued 308
pursuant to Chapter 3772. of the Revised Code shall be set down 309
for hearing at the earliest possible time and takes precedence 310
over all other actions. The hearing in the court of common pleas 311
shall proceed as in the trial of a civil action, and the court 312
shall determine the rights of the parties in accordance with the 313
laws applicable to a civil action. At the hearing, counsel may 314
be heard on oral argument, briefs may be submitted, and evidence 315
may be introduced if the court has granted a request for the 316
presentation of additional evidence. 317

(M) The court may affirm the order of the agency 318
complained of in the appeal if it finds, upon consideration of 319
the entire record and any additional evidence the court has 320
admitted, that the order is supported by reliable, probative, 321
and substantial evidence and is in accordance with law. In the 322
absence of this finding, it may reverse, vacate, or modify the 323
order or make such other ruling as is supported by reliable, 324
probative, and substantial evidence and is in accordance with 325
law. The court shall award compensation for fees in accordance 326
with section 2335.39 of the Revised Code to a prevailing party, 327
other than an agency, in an appeal filed pursuant to this 328
section. 329

(N) The judgment of the court shall be final and 330
conclusive unless reversed, vacated, or modified on appeal. 331
These appeals may be taken either by the party or the agency, 332
shall proceed as in the case of appeals in civil actions, and 333
shall be pursuant to the Rules of Appellate Procedure and, to 334
the extent not in conflict with those rules, Chapter 2505. of 335
the Revised Code. An appeal by the agency shall be taken on 336
questions of law relating to the constitutionality, 337
construction, or interpretation of statutes and rules of the 338
agency, and, in the appeal, the court may also review and 339
determine the correctness of the judgment of the court of common 340
pleas that the order of the agency is not supported by any 341
reliable, probative, and substantial evidence in the entire 342
record. 343

The court shall certify its judgment to the agency or take 344
any other action necessary to give its judgment effect. 345

Sec. 124.34. (A) The tenure of every officer or employee 346
in the classified service of the state and the counties, civil 347

service townships, cities, city health districts, general health 348
districts, and city school districts of the state, holding a 349
position under this chapter, shall be during good behavior and 350
efficient service. No officer or employee shall be reduced in 351
pay or position, fined, suspended, or removed, or have the 352
officer's or employee's longevity reduced or eliminated, except 353
as provided in section 124.32 of the Revised Code, and for 354
incompetency, inefficiency, unsatisfactory performance, 355
dishonesty, drunkenness, immoral conduct, insubordination, 356
discourteous treatment of the public, neglect of duty, violation 357
of any policy or work rule of the officer's or employee's 358
appointing authority, violation of this chapter or the rules of 359
the director of administrative services or the commission, any 360
other failure of good behavior, any other acts of misfeasance, 361
malfeasance, or nonfeasance in office, or conviction of a felony 362
while employed in the civil service. The denial of a one-time 363
pay supplement or a bonus to an officer or employee is not a 364
reduction in pay for purposes of this section. 365

This section does not apply to any modifications or 366
reductions in pay or work week authorized by section 124.392, 367
124.393, or 124.394 of the Revised Code. 368

An appointing authority may require an employee who is 369
suspended to report to work to serve the suspension. An employee 370
serving a suspension in this manner shall continue to be 371
compensated at the employee's regular rate of pay for hours 372
worked. The disciplinary action shall be recorded in the 373
employee's personnel file in the same manner as other 374
disciplinary actions and has the same effect as a suspension 375
without pay for the purpose of recording disciplinary actions. 376

A finding by the appropriate ethics commission, based upon 377

a preponderance of the evidence, that the facts alleged in a 378
complaint under section 102.06 of the Revised Code constitute a 379
violation of Chapter 102., section 2921.42, or section 2921.43 380
of the Revised Code may constitute grounds for dismissal. 381
Failure to file a statement or falsely filing a statement 382
required by section 102.02 of the Revised Code may also 383
constitute grounds for dismissal. The tenure of an employee in 384
the career professional service of the department of 385
transportation is subject to section 5501.20 of the Revised 386
Code. 387

Conviction of a felony while employed in the civil service 388
is a separate basis for reducing in pay or position, suspending, 389
or removing an officer or employee, even if the officer or 390
employee has already been reduced in pay or position, suspended, 391
or removed for the same conduct that is the basis of the felony. 392
An officer or employee may not appeal to the state personnel 393
board of review or the commission any disciplinary action taken 394
by an appointing authority as a result of the officer's or 395
employee's conviction of a felony. If an officer or employee 396
removed under this section is reinstated as a result of an 397
appeal of the removal, any conviction of a felony that occurs 398
during the pendency of the appeal is a basis for further 399
disciplinary action under this section upon the officer's or 400
employee's reinstatement. 401

A person convicted of a felony while employed in the civil 402
service immediately forfeits the person's status as a classified 403
employee in any public employment on and after the date of the 404
conviction for the felony. If an officer or employee is removed 405
under this section as a result of being convicted of a felony or 406
is subsequently convicted of a felony that involves the same 407
conduct that was the basis for the removal, the officer or 408

employee is barred from receiving any compensation after the 409
removal notwithstanding any modification or disaffirmance of the 410
removal, unless the conviction for the felony is subsequently 411
reversed or annulled. 412

Any person removed for conviction of a felony is entitled 413
to a cash payment for any accrued but unused sick, personal, and 414
vacation leave as authorized by law. If subsequently reemployed 415
in the public sector, the person shall qualify for and accrue 416
these forms of leave in the manner specified by law for a newly 417
appointed employee and shall not be credited with prior public 418
service for the purpose of receiving these forms of leave. 419

As used in this division, "felony" means any of the 420
following: 421

(1) A felony that is an offense of violence as defined in 422
section 2901.01 of the Revised Code; 423

(2) A felony that is a felony drug abuse offense as 424
defined in section 2925.01 of the Revised Code; 425

(3) A felony under the laws of this or any other state or 426
the United States that is a crime of moral turpitude; 427

(4) A felony involving dishonesty, fraud, or theft; 428

(5) A felony that is a violation of section 2921.05, 429
2921.32, or 2921.42 of the Revised Code. 430

(B) In case of a reduction, a suspension of more than 431
forty work hours in the case of an employee exempt from the 432
payment of overtime compensation, a suspension of more than 433
twenty-four work hours in the case of an employee required to be 434
paid overtime compensation, a fine of more than forty hours' pay 435
in the case of an employee exempt from the payment of overtime 436

compensation, a fine of more than twenty-four hours' pay in the 437
case of an employee required to be paid overtime compensation, 438
or removal, except for the reduction or removal of a 439
probationary employee, the appointing authority shall serve the 440
employee with a copy of the order of reduction, fine, 441
suspension, or removal, which order shall state the reasons for 442
the action. 443

Within ten days following the date on which the order is 444
served or, in the case of an employee in the career professional 445
service of the department of transportation, within ten days 446
following the filing of a removal order, the employee, except as 447
otherwise provided in this section, may file an appeal of the 448
order in writing with the state personnel board of review or the 449
commission. For purposes of this section, the date on which an 450
order is served is the date of hand delivery of the order or the 451
date of delivery of the order by certified United States mail, 452
whichever occurs first. If an appeal is filed, the board or 453
commission shall forthwith notify the appointing authority and 454
shall hear, or appoint a trial board to hear, the appeal within 455
thirty days from and after its filing with the board or 456
commission. The board, commission, or trial board may affirm, 457
disaffirm, or modify the judgment of the appointing authority. 458
However, in an appeal of a removal order based upon a violation 459
of a last chance agreement, the board, commission, or trial 460
board may only determine if the employee violated the agreement 461
and thus affirm or disaffirm the judgment of the appointing 462
authority. 463

In cases of removal or reduction in pay for disciplinary 464
reasons, either the appointing authority or the officer or 465
employee may appeal from the decision of the state personnel 466
board of review or the commission, and any such appeal shall be 467

to the court of common pleas ~~of the county in which the~~ 468
~~appointing authority is located, or to the court of common pleas~~ 469
~~of Franklin county, as provided by section 119.12 of the Revised~~ 470
~~Code~~ in accordance with section 119.12 of the Revised Code. 471

(C) In the case of the suspension for any period of time, 472
or a fine, demotion, or removal, of a chief of police, a chief 473
of a fire department, or any member of the police or fire 474
department of a city or civil service township, who is in the 475
classified civil service, the appointing authority shall furnish 476
the chief or member with a copy of the order of suspension, 477
fine, demotion, or removal, which order shall state the reasons 478
for the action. The order shall be filed with the municipal or 479
civil service township civil service commission. Within ten days 480
following the filing of the order, the chief or member may file 481
an appeal, in writing, with the commission. If an appeal is 482
filed, the commission shall forthwith notify the appointing 483
authority and shall hear, or appoint a trial board to hear, the 484
appeal within thirty days from and after its filing with the 485
commission, and it may affirm, disaffirm, or modify the judgment 486
of the appointing authority. An appeal on questions of law and 487
fact may be had from the decision of the commission to the court 488
of common pleas in the county in which the city or civil service 489
township is situated. The appeal shall be taken within thirty 490
days from the finding of the commission. 491

(D) A violation of division (A) (7) of section 2907.03 of 492
the Revised Code is grounds for termination of employment of a 493
nonteaching employee under this section. 494

(E) The director shall adopt a rule in accordance with 495
Chapter 119. of the Revised Code to define the term 496
"unsatisfactory performance" as it is used in this section with 497

regard to employees in the service of the state. 498

(F) As used in this section, "last chance agreement" means 499
an agreement signed by both an appointing authority and an 500
officer or employee of the appointing authority that describes 501
the type of behavior or circumstances that, if it occurs, will 502
automatically lead to removal of the officer or employee without 503
the right of appeal to the state personnel board of review or 504
the appropriate commission. 505

Sec. 303.57. A final judgment on the merits issued by a 506
court of competent jurisdiction pursuant to its power of review 507
under Chapter 2506. of the Revised Code, on claims brought under 508
this chapter, does not preclude later claims for damages, 509
including claims brought under 42 U.S.C. 1983, even if the 510
common law doctrine of res judicata would otherwise bar the 511
claim. 512

The general assembly intends that this section be 513
construed to override the federal sixth circuit court of 514
appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 515
F.3d 353 (6th Cir. 2021). 516

Sec. 519.26. A final judgment on the merits issued by a 517
court of competent jurisdiction pursuant to its power of review 518
under Chapter 2506. of the Revised Code, on claims brought under 519
this chapter, does not preclude later claims for damages, 520
including claims brought under 42 U.S.C. 1983, even if the 521
common law doctrine of res judicata would otherwise bar the 522
claim. 523

The general assembly intends that this section be 524
construed to override the federal sixth circuit court of 525
appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 526

F.3d 353 (6th Cir. 2021). 527

Sec. 713.16. A final judgment on the merits issued by a 528
court of competent jurisdiction pursuant to its power of review 529
under Chapter 2506. of the Revised Code, on claims brought under 530
this chapter, does not preclude later claims for damages, 531
including claims brought under 42 U.S.C. 1983, even if the 532
common law doctrine of res judicata would otherwise bar the 533
claim. 534

The general assembly intends that this section be 535
construed to override the federal sixth circuit court of 536
appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 537
F.3d 353 (6th Cir. 2021). 538

Sec. 956.11. (A) The director of agriculture may enter 539
into contracts or agreements with an animal rescue for dogs, an 540
animal shelter for dogs, a boarding kennel, a veterinarian, a 541
board of county commissioners, or a humane society for the 542
purposes of this section. 543

(B) (1) If the director or the director's authorized 544
representative determines that a dog is being kept by a high 545
volume breeder or dog broker in a manner that materially 546
violates this chapter or rules adopted under it, the director 547
may impound the dog and order it to be seized by an animal 548
rescue for dogs, an animal shelter for dogs, a boarding kennel, 549
a veterinarian, a board of county commissioners, or a humane 550
society with which the director has entered into a contract or 551
agreement under division (A) of this section. Upon receiving the 552
order from the director, the animal rescue for dogs, animal 553
shelter for dogs, boarding kennel, veterinarian, board of county 554
commissioners, or humane society shall seize the dog and keep, 555
house, and maintain it. 556

(2) The director or the director's authorized 557
representative shall give written notice of the impoundment by 558
posting a notice on the door of the premises from which the dog 559
was taken or by otherwise posting the notice in a conspicuous 560
place at the premises from which the dog was taken. The notice 561
shall provide a date for an adjudication hearing, which shall 562
take place not later than five business days after the dog is 563
taken and at which the director shall determine if the dog 564
should be permanently relinquished to the custody of the 565
director. 566

(C) The owner or operator of the applicable high volume 567
breeder or the person acting as or performing the functions of a 568
dog broker may appeal the determination made at the adjudication 569
hearing in accordance with section 119.12 of the Revised Code, ~~7-~~ 570
~~except that the appeal may be made only to the environmental-~~ 571
~~division of the Franklin county municipal court.~~ 572

(D) If, after the final disposition of an adjudication 573
hearing and any appeals from that adjudication hearing, it is 574
determined that a dog shall be permanently relinquished to the 575
custody of the director, the dog may be adopted directly from 576
the animal rescue for dogs, animal shelter for dogs, boarding 577
kennel, veterinarian, county dog pound, or humane society where 578
it is being kept, housed, and maintained, provided that the dog 579
has been spayed or neutered unless there are medical reasons 580
against spaying or neutering as determined by a veterinarian. 581
The animal rescue for dogs, animal shelter for dogs, boarding 582
kennel, veterinarian, county dog pound, or humane society may 583
charge a reasonable adoption fee. The fee shall be at least 584
sufficient to cover the costs of spaying or neutering the dog 585
unless it is medically contraindicated. Impounded dogs shall be 586
returned to persons acquitted of any alleged violations. 587

Sec. 956.15. (A) The director of agriculture shall deny an 588
application for a license that is submitted under section 956.04 589
or 956.05 of the Revised Code for either of the following 590
reasons: 591

(1) The applicant for the license has violated any 592
provision of this chapter or a rule adopted under it if the 593
violation materially threatens the health or welfare of a dog. 594

(2) The applicant has been convicted of or pleaded guilty 595
to a disqualifying offense as determined in accordance with 596
section 9.79 of the Revised Code. 597

(B) The director may suspend or revoke a license issued 598
under this chapter for violation of any provision of this 599
chapter or a rule adopted or order issued under it if the 600
violation materially threatens the health and welfare of a dog. 601

(C) An application or a license shall not be denied, 602
suspended, or revoked under this section without a written order 603
of the director stating the findings on which the denial, 604
suspension, or revocation is based. A copy of the order shall be 605
sent to the applicant or license holder by certified mail or may 606
be provided to the applicant or license holder by personal 607
service. In addition, the person to whom a denial, suspension, 608
or revocation applies may request an adjudication hearing under 609
Chapter 119. of the Revised Code. The director shall comply with 610
such a request. The determination of the director at an 611
adjudication hearing may be appealed in accordance with section 612
119.12 of the Revised Code, ~~except that the determination may be~~ 613
~~appealed only to the environmental division of the Franklin-~~ 614
~~county municipal court.~~ 615

Sec. 2743.03. (A) (1) There is hereby created a court of 616

claims. ~~Except as provided under section 107.43 of the Revised~~ 617
~~Code, the~~ The court of claims is a court of record and has 618
exclusive, original jurisdiction of all civil actions against 619
the state permitted by the waiver of immunity contained in 620
section 2743.02 of the Revised Code and exclusive jurisdiction 621
of the causes of action of all parties in civil actions that are 622
removed to the court of claims. The court shall have full equity 623
powers in all actions within its jurisdiction and may entertain 624
and determine all counterclaims, cross-claims, and third-party 625
claims. 626

(2) If the claimant in a civil action as described in 627
division (A)(1) of this section also files a claim for a 628
declaratory judgment, injunctive relief, or other equitable 629
relief against the state that arises out of the same 630
circumstances that gave rise to the civil action described in 631
division (A)(1) of this section, the court of claims has 632
exclusive, original jurisdiction to hear and determine that 633
claim in that civil action. This division does not affect, and 634
shall not be construed as affecting, the original jurisdiction 635
of another court of this state to hear and determine a civil 636
action in which the sole relief that the claimant seeks against 637
the state is a declaratory judgment, injunctive relief, or other 638
equitable relief. 639

(3) In addition to its exclusive, original jurisdiction as 640
conferred by divisions (A)(1) and (2) of this section, the court 641
of claims has exclusive, original jurisdiction as follows: 642

(a) As described in division (F) of section 2743.02, 643
division (B) of section 3335.03, and division (C) of section 644
5903.02 of the Revised Code; 645

(b) Under section 2743.75 of the Revised Code to hear 646

complaints alleging a denial of access to public records in 647
violation of division (B) of section 149.43 of the Revised Code, 648
regardless of whether the public office or person responsible 649
for public records is an office or employee of the state or of a 650
political subdivision. 651

(B) The court of claims shall sit in Franklin county, its 652
hearings shall be public, and it shall consist of incumbent 653
justices or judges of the supreme court, courts of appeals, or 654
courts of common pleas, or retired justices or judges eligible 655
for active duty pursuant to division (C) of Section 6 of Article 656
IV, Ohio Constitution, sitting by temporary assignment of the 657
chief justice of the supreme court. The chief justice may direct 658
the court to sit in any county for cases on removal upon a 659
showing of substantial hardship and whenever justice dictates. 660

(C) (1) A civil action against the state shall be heard and 661
determined by a single judge. Upon application by the claimant 662
or the state, the chief justice of the supreme court may assign 663
a panel of three judges to hear and determine a civil action 664
presenting novel or complex issues of law or fact. Concurrence 665
of two members of the panel is necessary for any judgment or 666
order. 667

(2) Whenever the chief justice of the supreme court 668
believes an equitable resolution of a case will be expedited, 669
the chief justice may appoint magistrates in accordance with 670
Civil Rule 53 to hear the case. 671

(3) When any dispute under division (B) of section 153.12 672
of the Revised Code is brought to the court of claims, upon 673
request of either party to the dispute, the chief justice of the 674
supreme court shall appoint a single referee or a panel of three 675
referees. The referees need not be attorneys, but shall be 676

persons knowledgeable about construction contract law, a member 677
of the construction industry panel of the American arbitration 678
association, or an individual or individuals deemed qualified by 679
the chief justice to serve. No person shall serve as a referee 680
if that person has been employed by an affected state agency or 681
a contractor or subcontractor involved in the dispute at any 682
time in the preceding five years. Proceedings governing referees 683
shall be in accordance with Civil Rule 53, except as modified by 684
this division. The referee or panel of referees shall submit its 685
report, which shall include a recommendation and finding of 686
fact, to the judge assigned to the case by the chief justice, 687
within thirty days of the conclusion of the hearings. Referees 688
appointed pursuant to this division shall be compensated on a 689
per diem basis at the same rate as is paid to judges of the 690
court and also shall be paid their expenses. If a single referee 691
is appointed or a panel of three referees is appointed, then, 692
with respect to one referee of the panel, the compensation and 693
expenses of the referee shall not be taxed as part of the costs 694
in the case but shall be included in the budget of the court. If 695
a panel of three referees is appointed, the compensation and 696
expenses of the two remaining referees shall be taxed as costs 697
of the case. 698

All costs of a case shall be apportioned among the 699
parties. The court may not require that any party deposit with 700
the court cash, bonds, or other security in excess of two 701
hundred dollars to guarantee payment of costs without the prior 702
approval in each case of the chief justice. 703

(4) An appeal from a decision of the attorney general 704
pursuant to sections 2743.51 to 2743.72 of the Revised Code 705
shall be heard and determined by the court of claims. 706

(D) The Rules of Civil Procedure shall govern practice and procedure in all actions in the court of claims, except insofar as inconsistent with this chapter. The supreme court may promulgate rules governing practice and procedure in actions in the court as provided in Section 5 of Article IV, Ohio Constitution.

(E) (1) A party who files a counterclaim against the state or makes the state a third-party defendant in an action commenced in any court, other than the court of claims, shall file a petition for removal in the court of claims. The petition shall state the basis for removal, be accompanied by a copy of all process, pleadings, and other papers served upon the petitioner, and shall be signed in accordance with Civil Rule 11. A petition for removal based on a counterclaim shall be filed within twenty-eight days after service of the counterclaim of the petitioner. A petition for removal based on third-party practice shall be filed within twenty-eight days after the filing of the third-party complaint of the petitioner.

(2) Within seven days after filing a petition for removal, the petitioner shall give written notice to the parties, and shall file a copy of the petition with the clerk of the court in which the action was brought originally. The filing effects the removal of the action to the court of claims, and the clerk of the court where the action was brought shall forward all papers in the case to the court of claims. The court of claims shall adjudicate all civil actions removed. The court may remand a civil action to the court in which it originated upon a finding that the removal petition does not justify removal, or upon a finding that the state is no longer a party.

(3) Bonds, undertakings, or security and injunctions,

attachments, sequestrations, or other orders issued prior to 737
removal remain in effect until dissolved or modified by the 738
court of claims. 739

Sec. 3794.09. Enforcement; Penalties. 740

(A) Upon the receipt of a first report that a proprietor 741
of a public place or place of employment or an individual has 742
violated any provision of this chapter, the department of health 743
or its designee shall investigate the report and, if it 744
concludes that there was a violation, issue a warning letter to 745
the proprietor or individual. 746

(B) Upon a report of a second or subsequent violation of 747
any provision of this chapter by a proprietor of a public place 748
or place of employment or an individual, the department of 749
health or its designee shall investigate the report. If the 750
director of health or director's designee concludes, based on 751
all of the information before ~~him or her~~ the director or the 752
director's designee, that there was a violation, ~~he or she~~ the 753
director or the director's designee shall impose a civil fine 754
upon the proprietor or individual in accordance with the 755
schedule of fines required to be promulgated under section 756
3794.07 of ~~this chapter~~ the Revised Code. 757

(C) Any proprietor or individual against whom a finding of 758
a violation is made under this chapter may appeal the finding ~~to~~ 759
~~the Franklin County Court of Common Pleas. Such appeal shall be~~ 760
~~governed by the provisions of~~ in accordance with section 119.12 761
of the Revised Code. 762

(D) The director of health may institute an action in the 763
court of common pleas seeking an order in equity against a 764
proprietor or individual that has repeatedly violated the 765

provisions of this chapter or fails to comply with its 766
provisions. 767

Sec. 3901.321. (A) For the purposes of this section: 768

(1) "Acquiring party" means any person by whom or on whose 769
behalf a merger or other acquisition of control is to be 770
effected. 771

(2) "Domestic insurer" includes any person controlling a 772
domestic insurer unless the person, as determined by the 773
superintendent of insurance, is either directly or through its 774
affiliates primarily engaged in business other than the business 775
of insurance. 776

(3) "Person" does not include any securities broker 777
holding, in the usual and customary broker's function, less than 778
twenty per cent of the voting securities of an insurance company 779
or of any person that controls an insurance company. 780

(B) (1) Subject to compliance with division (B) (2) of this 781
section, no person other than the issuer shall do any of the 782
following if, as a result, the person would, directly or 783
indirectly, including by means of conversion or the exercise of 784
any right to acquire, be in control of a domestic insurer: 785

(a) Make a tender offer for any voting security of a 786
domestic insurer; 787

(b) Make a request or invitation for tenders of any voting 788
security of a domestic insurer; 789

(c) Enter into any agreement to exchange securities of a 790
domestic insurer; 791

(d) Seek to acquire or acquire, in the open market or 792
otherwise, any voting security of a domestic insurer; 793

(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.	794 795
(2) (a) No person shall engage in any transaction described in division (B) (1) of this section, unless all of the following conditions are met:	796 797 798
(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;	799 800 801
(ii) The person has sent the statement to the domestic insurer;	802 803
(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.	804 805 806
(b) The requirements of division (B) (2) (a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.	807 808 809 810 811
(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the insurer. The superintendent may require the person seeking to divest the controlling interest to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the superintendent, in the superintendent's discretion, determines that the confidential treatment will interfere with enforcement	812 813 814 815 816 817 818 819 820 821 822

of this section. If the statement required by division (B) (2) of 823
this section is otherwise filed with the superintendent in 824
relation to all parties that acquire a controlling interest as a 825
result of the divestiture, this division shall not apply. 826

(C) The statement required by division (B) (2) of this 827
section shall be made under oath or affirmation, and shall 828
contain all of the following information: 829

(1) The name and address of each acquiring party; 830

(2) If the acquiring party is an individual, the 831
individual's principal occupation and all offices and positions 832
held during the past five years, and any conviction of crimes 833
other than minor traffic violations during the past ten years; 834

(3) If the acquiring party is not an individual, a report 835
of the nature of its business operations during the past five 836
years or for such lesser period as the acquiring party and any 837
of its predecessors shall have been in existence; an informative 838
description of the business intended to be done by the acquiring 839
party and the acquiring party's subsidiaries; and a list of all 840
individuals who are or who have been selected to become 841
directors or executive officers of the acquiring party, who 842
perform or will perform functions appropriate to such positions. 843
The list shall include for each individual the information 844
required by division (C) (2) of this section. 845

(4) The source, nature, and amount of the consideration 846
used or to be used in effecting the merger or other acquisition 847
of control, a description of any transaction in which funds were 848
or are to be obtained for any such purpose, including any pledge 849
of the domestic insurer's stock, or the stock of any of its 850
subsidiaries or controlling affiliates, and the identity of 851

persons furnishing such consideration; 852

(5) Fully audited financial information as to the earnings 853
and financial condition of each acquiring party for its 854
preceding five fiscal years, or for such lesser period as the 855
acquiring party and any of its predecessors shall have been in 856
existence, and similar unaudited information as of a date not 857
earlier than ninety days prior to the filing of the statement; 858

(6) Any plans or proposals which each acquiring party may 859
have to liquidate such domestic insurer, to sell its assets or 860
merge or consolidate it with any person, or to make any other 861
material change in its business or corporate structure or 862
management; 863

(7) The number of shares of any security of such issuer or 864
such controlling person that each acquiring party proposes to 865
acquire, and the terms of the offer, request, invitation, 866
agreement, or acquisition, and a statement as to the method by 867
which the fairness of the proposal was determined; 868

(8) The amount of each class of any security of such 869
issuer or such controlling person which is beneficially owned or 870
concerning which there is a right to acquire beneficial 871
ownership by each acquiring party; 872

(9) A full description of any contracts, arrangements, or 873
understandings with respect to any security of such issuer or 874
such controlling person in which any acquiring party is 875
involved, including but not limited to transfer of any of the 876
securities, joint ventures, loan or option arrangements, puts or 877
calls, guarantees of loans, guarantees against loss or 878
guarantees of profits, division of losses or profits, or the 879
giving or withholding of proxies. The description shall identify 880

the persons with whom such contracts, arrangements, or 881
understandings have been made. 882

(10) A description of the purchase of any security of such 883
issuer or such controlling person during the year preceding the 884
filing of the statement, by any acquiring party, including the 885
dates of purchase, names of the purchasers, and consideration 886
paid or agreed to be paid therefor; 887

(11) A description of any recommendations to purchase any 888
security of such issuer or such controlling person made during 889
the year preceding the filing of the statement, by any acquiring 890
party, or by anyone based upon interviews or at the suggestion 891
of the acquiring party; 892

(12) Copies of all tender offers for, requests, or 893
invitations for tenders of, exchange offers for, and agreements 894
to acquire or exchange any securities of such issuer or such 895
controlling person, and, if distributed, of additional 896
solicitation material relating thereto; 897

(13) The terms of any agreement, contract, or 898
understanding made with or proposed to be made with any broker 899
or dealer as to solicitation of securities of such issuer or 900
such controlling person for tender, and the amount of any fees, 901
commissions, or other compensation to be paid to brokers or 902
dealers with regard thereto; 903

(14) With respect to proposed affiliations between 904
depository institutions or any affiliate thereof, within the 905
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 906
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 907
insurer, the proposed effective date of the acquisition or 908
change of control; 909

(15) An agreement by the person required to file the 910
statement required by division (B) of this section that the 911
person will provide the annual registration required by division 912
(K) of section 3901.33 of the Revised Code for so long as the 913
person has control of the domestic insurer; 914

(16) An acknowledgment by the person required to file the 915
statement required by division (B) of this section that the 916
person and all subsidiaries within the person's control in the 917
insurance holding company system will provide information to the 918
superintendent upon request as necessary to evaluate enterprise 919
risk to the insurer; 920

(17) Such additional information as the superintendent may 921
by rule prescribe as necessary or appropriate for the protection 922
of policyholders of the domestic insurer or in the public 923
interest. 924

(D) (1) If the person required to file the statement 925
required by division (B) (2) of this section is a partnership, 926
limited partnership, syndicate, or other group, the 927
superintendent may require that the information required by 928
division (C) of this section be furnished with respect to each 929
partner of such partnership or limited partnership, each member 930
of such syndicate or group, and each person that controls such 931
partner or member. If any such partner, member, or person is a 932
corporation, or the person required to file the statement is a 933
corporation, the superintendent may require that the information 934
required by division (C) of this section be furnished with 935
respect to the corporation, each officer and director of the 936
corporation, and each person that is directly or indirectly the 937
beneficial owner of more than ten per cent of the outstanding 938
voting securities of the corporation. 939

(2) If any material change occurs in the facts set forth 940
in the statement required by division (B) (2) of this section, an 941
amendment setting forth such change, together with copies of all 942
documents and other material relevant to the change, shall be 943
filed with the superintendent by the person subject to division 944
(B) (2) of this section and sent to the domestic insurer within 945
two business days after such person learns of the occurrence of 946
the material change. 947

(E) If any offer, request, invitation, agreement, or 948
acquisition described in division (B) (1) of this section is 949
proposed to be made by means of a registration statement under 950
the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or 951
in circumstances requiring the disclosure of similar information 952
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 953
U.S.C.A. 78a, or under a state law requiring similar 954
registration or disclosure, the person required to file the 955
statement required by division (B) (2) of this section may use 956
such documents in furnishing the information required by that 957
statement. 958

(F) (1) The superintendent shall approve any merger or 959
other acquisition of control described in division (B) (1) of 960
this section unless, after a public hearing, the superintendent 961
finds that any of the following apply: 962

(a) After the change of control, the domestic insurer 963
would not be able to satisfy the requirements for the issuance 964
of a license to write the line or lines of insurance for which 965
it is presently licensed; 966

(b) The effect of the merger or other acquisition of 967
control would be substantially to lessen competition in 968
insurance in this state or tend to create a monopoly; 969

(c) The financial condition of any acquiring party is such 970
as might jeopardize the financial stability of the domestic 971
insurer, or prejudice the interests of its policyholders; 972

(d) The plans or proposals that the acquiring party has to 973
liquidate the domestic insurer, sell its assets, or consolidate 974
or merge it with any person, or to make any other material 975
change in its business or corporate structure or management, are 976
unfair and unreasonable to policyholders of the domestic insurer 977
and not in the public interest; 978

(e) The competence, experience, and integrity of those 979
persons that would control the operation of the domestic insurer 980
are such that it would not be in the interest of policyholders 981
of the domestic insurer and of the public to permit the merger 982
or other acquisition of control; 983

(f) The acquisition is likely to be hazardous or 984
prejudicial to the insurance-buying public. 985

(2) (a) Chapter 119. of the Revised Code, except for 986
section 119.09 of the Revised Code, applies to any hearing held 987
under division (F) (1) of this section, including the notice of 988
the hearing, the conduct of the hearing, the orders issued 989
pursuant to it, the review of the orders, and all other matters 990
relating to the holding of the hearing, but only to the extent 991
that Chapter 119. of the Revised Code is not inconsistent or in 992
conflict with this section. 993

(b) The notice of a hearing required under this division 994
shall be transmitted by personal service, certified mail, e- 995
mail, or any other method designed to ensure and confirm receipt 996
of the notice, to the persons and addresses designated to 997
receive notices and correspondence in the information statement 998

filed under division (B) (2) of this section. Confirmation of 999
receipt of the notice, including electronic "Read Receipt" 1000
confirmation, shall constitute evidence of compliance with the 1001
requirement of this section. The notice of hearing shall include 1002
the reasons for the proposed action and a statement informing 1003
the acquiring party that the party is entitled to a hearing. The 1004
notice also shall inform the acquiring party that at the hearing 1005
the acquiring party may appear in person, by attorney, or by 1006
such other representative as is permitted to practice before the 1007
superintendent, or that the acquiring party may present its 1008
position, arguments, or contentions in writing, and that at the 1009
hearing the acquiring party may present evidence and examine 1010
witnesses appearing for and against the acquiring party. A copy 1011
of the notice also shall be transmitted to attorneys or other 1012
representatives of record representing the acquiring party. 1013

(c) The hearing shall be held at the offices of the 1014
superintendent within ten calendar days, but not earlier than 1015
seven calendar days, of the date of transmission of the notice 1016
of hearing by any means, unless it is postponed or continued; 1017
but in no event shall the hearing be held unless notice is 1018
received at least three days prior to the hearing. The 1019
superintendent may postpone or continue the hearing upon receipt 1020
of a written request by an acquiring party, or upon the 1021
superintendent's motion, provided, however, a hearing in 1022
connection with a proposed change of control involving a 1023
depository institution or any affiliate thereof, within the 1024
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 1025
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 1026
insurer, may be postponed or continued only upon the request of 1027
an acquiring party, or upon the superintendent's motion when the 1028
acquiring party agrees in writing to extend the sixty-day period 1029

provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 1030
by a number of days equal to the number of days of such 1031
postponement or continuance. 1032

(d) For the purpose of conducting any hearing held under 1033
this section, the superintendent may require the attendance of 1034
such witnesses and the production of such books, records, and 1035
papers as the superintendent desires, and may take the 1036
depositions of witnesses residing within or without the state in 1037
the same manner as is prescribed by law for the taking of 1038
depositions in civil actions in the court of common pleas, and 1039
for that purpose the superintendent may, and upon the request of 1040
an acquiring party shall, issue a subpoena for any witnesses or 1041
a subpoena duces tecum to compel the production of any books, 1042
records, or papers, directed to the sheriff of the county where 1043
such witness resides or is found, which shall be served and 1044
returned in the same manner as a subpoena in a criminal case is 1045
served and returned. The fees of the sheriff shall be the same 1046
as that allowed in the court of common pleas in criminal cases. 1047
Witnesses shall be paid the fees and mileage provided for under 1048
section 119.094 of the Revised Code. Fees and mileage shall be 1049
paid from the fund in the state treasury for the use of the 1050
superintendent in the same manner as other expenses of the 1051
superintendent are paid. In any case of disobedience or neglect 1052
of any subpoena served on any person or the refusal of any 1053
witness to testify in any matter regarding which the witness may 1054
lawfully be interrogated, the court of common pleas of any 1055
county where such disobedience, neglect, or refusal occurs or 1056
any judge thereof, on application by the superintendent, shall 1057
compel obedience by attachment proceedings for contempt, as in 1058
the case of disobedience of the requirements of a subpoena 1059
issued from the court or a refusal to testify therein. 1060

In any hearing held under this section, a record of the 1061
testimony, as provided by stenographic means or by use of audio 1062
electronic recording devices, as determined by the 1063
superintendent, and other evidence submitted shall be taken at 1064
the expense of the superintendent. The record shall include all 1065
of the testimony and other evidence, and rulings on the 1066
admissibility thereof, presented at the hearing. 1067

The superintendent shall pass upon the admissibility of 1068
evidence, but a party to the proceedings may at that time object 1069
to the rulings of the superintendent, and if the superintendent 1070
refuses to admit evidence, the party offering the evidence shall 1071
proffer the evidence. The proffer shall be made a part of the 1072
record of the hearing. 1073

In any hearing held under this section, the superintendent 1074
may call any person to testify under oath as upon cross- 1075
examination. The superintendent, or any one delegated by the 1076
superintendent to conduct a hearing, may administer oaths or 1077
affirmations. 1078

In any hearing under this section, the superintendent may 1079
appoint a hearing officer to conduct the hearing; the hearing 1080
officer has the same powers and authority in conducting the 1081
hearing as is granted to the superintendent. The hearing officer 1082
shall have been admitted to the practice of law in the state and 1083
be possessed of any additional qualifications as the 1084
superintendent requires. The hearing officer shall submit to the 1085
superintendent a written report setting forth the hearing 1086
officer's finding of fact and conclusions of law and a 1087
recommendation of the action to be taken by the superintendent. 1088
A copy of the written report and recommendation shall, within 1089
seven days of the date of filing thereof, be served upon the 1090

acquiring party or the acquiring party's attorney or other 1091
representative of record, by personal service, certified mail, 1092
electronic mail, or any other method designed to ensure and 1093
confirm receipt of the report. The acquiring party may, within 1094
three days of receipt of the copy of the written report and 1095
recommendation, file with the superintendent written objections 1096
to the report and recommendation, which objections the 1097
superintendent shall consider before approving, modifying, or 1098
disapproving the recommendation. The superintendent may grant 1099
extensions of time to the acquiring party within which to file 1100
such objections. No recommendation of the hearing officer shall 1101
be approved, modified, or disapproved by the superintendent 1102
until after three days following the service of the report and 1103
recommendation as provided in this section. The superintendent 1104
may order additional testimony to be taken or permit the 1105
introduction of further documentary evidence. The superintendent 1106
may approve, modify, or disapprove the recommendation of the 1107
hearing officer, and the order of the superintendent based on 1108
the report, recommendation, transcript of testimony, and 1109
evidence, or the objections of the acquiring party, and 1110
additional testimony and evidence shall have the same effect as 1111
if the hearing had been conducted by the superintendent. No such 1112
recommendation is final until confirmed and approved by the 1113
superintendent as indicated by the order entered in the record 1114
of proceedings, and if the superintendent modifies or 1115
disapproves the recommendations of the hearing officer, the 1116
reasons for the modification or disapproval shall be included in 1117
the record of proceedings. 1118

After the order is entered, the superintendent shall 1119
transmit in the manner and by any of the methods set forth in 1120
division (F) (2) (b) of this section a certified copy of the order 1121

and a statement of the time and method by which an appeal may be 1122
perfected. A copy of the order shall be mailed to the attorneys 1123
or other representatives of record representing the acquiring 1124
party. 1125

(e) An order of disapproval issued by the superintendent 1126
may be appealed to the court of common pleas ~~of Franklin county~~ 1127
in accordance with section 119.12 of the Revised Code by filing 1128
a notice of appeal with the superintendent and a copy of the 1129
notice of appeal with the court, within fifteen calendar days 1130
after the transmittal of the copy of the order of disapproval. 1131
The notice of appeal shall set forth the order appealed from and 1132
the grounds for appeal, in accordance with section 119.12 of the 1133
Revised Code. 1134

(3) The superintendent may retain at the acquiring party's 1135
expense any attorneys, actuaries, accountants, and other experts 1136
not otherwise a part of the superintendent's staff as may be 1137
reasonably necessary to assist the superintendent in reviewing 1138
the proposed acquisition of control. 1139

(G) This section does not apply to either of the 1140
following: 1141

(1) Any transaction that is subject to section 3921.14, or 1142
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 1143
3953.19 of the Revised Code; 1144

(2) Any offer, request, invitation, agreement, or 1145
acquisition that the superintendent by order exempts from this 1146
section on either of the following bases: 1147

(a) It has not been made or entered into for the purpose 1148
and does not have the effect of changing or influencing the 1149
control of a domestic insurer; 1150

(b) It is not otherwise comprehended within the purposes 1151
of this section. 1152

(H) Nothing in this section or in any other section of 1153
Title XXXIX of the Revised Code shall be construed to impair the 1154
authority of the attorney general to investigate or prosecute 1155
actions under any state or federal antitrust law with respect to 1156
any merger or other acquisition involving domestic insurers. 1157

(I) In connection with a proposed change of control 1158
involving a depository institution or any affiliate thereof, 1159
within the meaning of Title I, section 104(c) of the "Gramm- 1160
Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), 1161
and a domestic insurer, not later than sixty days after the date 1162
of the notification of the proposed change in control submitted 1163
pursuant to division (B) (2) of this section, the superintendent 1164
shall make any determination that the person acquiring control 1165
of the insurer shall maintain or restore the capital of the 1166
insurer to the level required by the laws and regulations of 1167
this state. 1168

Sec. 3913.13. Any policyholder adversely affected by an 1169
order of the superintendent of insurance pursuant to division 1170
(F) of section 3913.11 of the Revised Code, may appeal to the 1171
court of common pleas ~~of Franklin county~~ pursuant to section 1172
119.12 of the Revised Code. 1173

Sec. 3913.23. Any policyholder adversely affected by an 1174
order of the superintendent of insurance pursuant to division 1175
(F) of section 3913.21 of the Revised Code, may appeal to the 1176
court of common pleas ~~of Franklin county~~ pursuant to section 1177
119.12 of the Revised Code. 1178

Sec. 5101.35. (A) As used in this section: 1179

(1) (a) "Agency" means the following entities that	1180
administer a family services program:	1181
(i) The department of job and family services;	1182
(ii) A county department of job and family services;	1183
(iii) A public children services agency;	1184
(iv) A private or government entity administering, in	1185
whole or in part, a family services program for or on behalf of	1186
the department of job and family services or a county department	1187
of job and family services or public children services agency.	1188
(b) If the department of medicaid contracts with the	1189
department of job and family services to hear appeals authorized	1190
by section 5160.31 of the Revised Code regarding medical	1191
assistance programs, "agency" includes the department of	1192
medicaid.	1193
(2) "Appellant" means an applicant, participant, former	1194
participant, recipient, or former recipient of a family services	1195
program who is entitled by federal or state law to a hearing	1196
regarding a decision or order of the agency that administers the	1197
program.	1198
(3) (a) "Family services program" means all of the	1199
following:	1200
(i) A Title IV-A program as defined in section 5101.80 of	1201
the Revised Code;	1202
(ii) Programs that provide assistance under Chapter 5104.	1203
of the Revised Code;	1204
(iii) Programs that provide assistance under section	1205
5101.141, 5101.461, 5101.54, 5119.41, 5153.163, or 5153.165 of	1206

the Revised Code; 1207

(iv) Title XX social services provided under section 1208
5101.46 of the Revised Code, other than such services provided 1209
by the department of mental health and addiction services, the 1210
department of developmental disabilities, a board of alcohol, 1211
drug addiction, and mental health services, or a county board of 1212
developmental disabilities. 1213

(b) If the department of medicaid contracts with the 1214
department of job and family services to hear appeals authorized 1215
by section 5160.31 of the Revised Code regarding medical 1216
assistance programs, "family services program" includes medical 1217
assistance programs. 1218

(4) "Medical assistance program" has the same meaning as 1219
in section 5160.01 of the Revised Code. 1220

(B) Except as provided by divisions (G) and (H) of this 1221
section, an appellant who appeals under federal or state law a 1222
decision or order of an agency administering a family services 1223
program shall, at the appellant's request, be granted a state 1224
hearing by the department of job and family services. This state 1225
hearing shall be conducted in accordance with rules adopted 1226
under this section. The state hearing shall be recorded, but 1227
neither the recording nor a transcript of the recording shall be 1228
part of the official record of the proceeding. Except as 1229
provided in section 5160.31 of the Revised Code, a state hearing 1230
decision is binding upon the agency and department, unless it is 1231
reversed or modified on appeal to the director of job and family 1232
services or a court of common pleas. 1233

(C) Except as provided by division (G) of this section, an 1234
appellant who disagrees with a state hearing decision may make 1235

an administrative appeal to the director of job and family 1236
services in accordance with rules adopted under this section. 1237
This administrative appeal does not require a hearing, but the 1238
director or the director's designee shall review the state 1239
hearing decision and previous administrative action and may 1240
affirm, modify, remand, or reverse the state hearing decision. 1241
An administrative appeal decision is the final decision of the 1242
department and, except as provided in section 5160.31 of the 1243
Revised Code, is binding upon the department and agency, unless 1244
it is reversed or modified on appeal to the court of common 1245
pleas. 1246

(D) An agency shall comply with a decision issued pursuant 1247
to division (B) or (C) of this section within the time limits 1248
established by rules adopted under this section. If a county 1249
department of job and family services or a public children 1250
services agency fails to comply within these time limits, the 1251
department may take action pursuant to section 5101.24 of the 1252
Revised Code. If another agency, other than the department of 1253
medicaid, fails to comply within the time limits, the department 1254
may force compliance by withholding funds due the agency or 1255
imposing another sanction established by rules adopted under 1256
this section. 1257

(E) An appellant who disagrees with an administrative 1258
appeal decision of the director of job and family services or 1259
the director's designee issued under division (C) of this 1260
section may appeal from the decision to the court of common 1261
pleas pursuant to section 119.12 of the Revised Code. The appeal 1262
shall be governed by section 119.12 of the Revised Code except 1263
that: 1264

(1) ~~The person may appeal to the court of common pleas of~~ 1265

~~the county in which the person resides, or to the court of- 1266
common pleas of Franklin county if the person does not reside in- 1267
this state. 1268~~

~~(2)~~The person may apply to the court for designation as 1269
an indigent and, if the court grants this application, the 1270
appellant shall not be required to furnish the costs of the 1271
appeal. 1272

~~(3)~~(2) The appellant shall mail the notice of appeal to 1273
the department of job and family services and file notice of 1274
appeal with the court within thirty days after the department 1275
mails the administrative appeal decision to the appellant. For 1276
good cause shown, the court may extend the time for mailing and 1277
filing notice of appeal, but such time shall not exceed six 1278
months from the date the department mails the administrative 1279
appeal decision. Filing notice of appeal with the court shall be 1280
the only act necessary to vest jurisdiction in the court. 1281

~~(4)~~(3) The department shall be required to file a 1282
transcript of the testimony of the state hearing with the court 1283
only if the court orders the department to file the transcript. 1284
The court shall make such an order only if it finds that the 1285
department and the appellant are unable to stipulate to the 1286
facts of the case and that the transcript is essential to a 1287
determination of the appeal. The department shall file the 1288
transcript not later than thirty days after the day such an 1289
order is issued. 1290

(F) The department of job and family services shall adopt 1291
rules in accordance with Chapter 119. of the Revised Code to 1292
implement this section, including rules governing the following: 1293

(1) State hearings under division (B) of this section. The 1294

rules shall include provisions regarding notice of eligibility 1295
termination and the opportunity of an appellant appealing a 1296
decision or order of a county department of job and family 1297
services to request a county conference with the county 1298
department before the state hearing is held. 1299

(2) Administrative appeals under division (C) of this 1300
section; 1301

(3) Time limits for complying with a decision issued under 1302
division (B) or (C) of this section; 1303

(4) Sanctions that may be applied against an agency under 1304
division (D) of this section. 1305

(G) The department of job and family services may adopt 1306
rules in accordance with Chapter 119. of the Revised Code 1307
establishing an appeals process for an appellant who appeals a 1308
decision or order regarding a Title IV-A program identified 1309
under division (A)(4)(c), (d), (e), (f), or (g) of section 1310
5101.80 of the Revised Code that is different from the appeals 1311
process established by this section. The different appeals 1312
process may include having a state agency that administers the 1313
Title IV-A program pursuant to an interagency agreement entered 1314
into under section 5101.801 of the Revised Code administer the 1315
appeals process. 1316

(H) If an appellant receiving medicaid through a health 1317
insuring corporation that holds a certificate of authority under 1318
Chapter 1751. of the Revised Code is appealing a denial of 1319
medicaid services based on lack of medical necessity or other 1320
clinical issues regarding coverage by the health insuring 1321
corporation, the person hearing the appeal may order an 1322
independent medical review if that person determines that a 1323

review is necessary. The review shall be performed by a health 1324
care professional with appropriate clinical expertise in 1325
treating the recipient's condition or disease. The department 1326
shall pay the costs associated with the review. 1327

A review ordered under this division shall be part of the 1328
record of the hearing and shall be given appropriate evidentiary 1329
consideration by the person hearing the appeal. 1330

(I) The requirements of Chapter 119. of the Revised Code 1331
apply to a state hearing or administrative appeal under this 1332
section only to the extent, if any, specifically provided by 1333
rules adopted under this section. 1334

Sec. 5164.38. (A) As used in this section: 1335

(1) "Party" has the same meaning as in division (G) of 1336
section 119.01 of the Revised Code. 1337

(2) "Revalidate" means to approve a medicaid provider's 1338
continued enrollment as a medicaid provider in accordance with 1339
the revalidation process established in rules authorized by 1340
section 5164.32 of the Revised Code. 1341

(B) This section does not apply to either of the 1342
following: 1343

(1) Any action taken or decision made by the department of 1344
medicaid with respect to entering into or refusing to enter into 1345
a contract with a managed care organization pursuant to section 1346
5167.10 of the Revised Code; 1347

(2) Any action taken by the department under division (D) 1348
(2) of section 5124.60, division (D) (1) or (2) of section 1349
5124.61, or sections 5165.60 to 5165.89 of the Revised Code. 1350

(C) Except as provided in division (E) of this section and 1351

section 5164.58 of the Revised Code, the department shall do any 1352
of the following by issuing an order pursuant to an adjudication 1353
conducted in accordance with Chapter 119. of the Revised Code: 1354

(1) Refuse to enter into a provider agreement with a 1355
medicaid provider; 1356

(2) Refuse to revalidate a medicaid provider's provider 1357
agreement; 1358

(3) Suspend or terminate a medicaid provider's provider 1359
agreement; 1360

(4) Take any action based upon a final fiscal audit of a 1361
medicaid provider. 1362

(D) Any party who is adversely affected by the issuance of 1363
an adjudication order under division (C) of this section may 1364
appeal to the court of common pleas ~~of Franklin county~~ in 1365
accordance with section 119.12 of the Revised Code. 1366

(E) The department is not required to comply with division 1367
(C) (1), (2), or (3) of this section whenever any of the 1368
following occur: 1369

(1) The terms of a provider agreement require the medicaid 1370
provider to hold a license, permit, or certificate or maintain a 1371
certification issued by an official, board, commission, 1372
department, division, bureau, or other agency of state or 1373
federal government other than the department of medicaid, and 1374
the license, permit, certificate, or certification has been 1375
denied, revoked, not renewed, suspended, or otherwise limited. 1376

(2) The terms of a provider agreement require the medicaid 1377
provider to hold a license, permit, or certificate or maintain 1378
certification issued by an official, board, commission, 1379

department, division, bureau, or other agency of state or 1380
federal government other than the department of medicaid, and 1381
the provider has not obtained the license, permit, certificate, 1382
or certification. 1383

(3) The medicaid provider's application for a provider 1384
agreement is denied, or the provider's provider agreement is 1385
terminated or not revalidated, because of or pursuant to any of 1386
the following: 1387

(a) The termination, refusal to renew, or denial of a 1388
license, permit, certificate, or certification by an official, 1389
board, commission, department, division, bureau, or other agency 1390
of this state other than the department of medicaid, 1391
notwithstanding the fact that the provider may hold a license, 1392
permit, certificate, or certification from an official, board, 1393
commission, department, division, bureau, or other agency of 1394
another state; 1395

(b) Division (D) or (E) of section 5164.35 of the Revised 1396
Code; 1397

(c) The provider's termination, suspension, or exclusion 1398
from the medicare program or from another state's medicaid 1399
program and, in either case, the termination, suspension, or 1400
exclusion is binding on the provider's participation in the 1401
medicaid program in this state; 1402

(d) The provider's pleading guilty to or being convicted 1403
of a criminal activity materially related to either the medicare 1404
or medicaid program; 1405

(e) The provider or its owner, officer, authorized agent, 1406
associate, manager, or employee having been convicted of one of 1407
the offenses that caused the provider's provider agreement to be 1408

suspended pursuant to section 5164.36 of the Revised Code; 1409

(f) The provider's failure to provide the department the 1410
national provider identifier assigned the provider by the 1411
national provider system pursuant to 45 C.F.R. 162.408. 1412

(4) The medicaid provider's application for a provider 1413
agreement is denied, or the provider's provider agreement is 1414
terminated or suspended, as a result of action by the United 1415
States department of health and human services and that action 1416
is binding on the provider's medicaid participation. 1417

(5) The medicaid provider's provider agreement and 1418
medicaid payments to the provider are suspended under section 1419
5164.36 or 5164.37 of the Revised Code. 1420

(6) The medicaid provider's application for a provider 1421
agreement is denied because the provider's application was not 1422
complete; 1423

(7) The medicaid provider's provider agreement is 1424
converted under section 5164.32 of the Revised Code from a 1425
provider agreement that is not time-limited to a provider 1426
agreement that is time-limited. 1427

(8) Unless the medicaid provider is a nursing facility or 1428
ICF/IID, the provider's provider agreement is not revalidated 1429
pursuant to division (B)(1) of section 5164.32 of the Revised 1430
Code. 1431

(9) The medicaid provider's provider agreement is 1432
suspended, terminated, or not revalidated because of either of 1433
the following: 1434

(a) Any reason authorized or required by one or more of 1435
the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 1436

455.450; 1437

(b) The provider has not billed or otherwise submitted a 1438
medicaid claim for two years or longer. 1439

(F) In the case of a medicaid provider described in 1440
division (E) (3) (f), (6), (7), or (9) (b) of this section, the 1441
department may take its action by sending a notice explaining 1442
the action to the provider. The notice shall be sent to the 1443
medicaid provider's address on record with the department. The 1444
notice may be sent by regular mail. 1445

(G) The department may withhold payments for medicaid 1446
services rendered by a medicaid provider during the pendency of 1447
proceedings initiated under division (C) (1), (2), or (3) of this 1448
section. If the proceedings are initiated under division (C) (4) 1449
of this section, the department may withhold payments only to 1450
the extent that they equal amounts determined in a final fiscal 1451
audit as being due the state. This division does not apply if 1452
the department fails to comply with section 119.07 of the 1453
Revised Code, requests a continuance of the hearing, or does not 1454
issue a decision within thirty days after the hearing is 1455
completed. This division does not apply to nursing facilities 1456
and ICFs/IID. 1457

Section 2. That existing sections 107.43, 119.12, 124.34, 1458
956.11, 956.15, 2743.03, 3794.09, 3901.321, 3913.13, 3913.23, 1459
5101.35, and 5164.38 of the Revised Code are hereby repealed. 1460

Section 3. Section 956.15 of the Revised Code as presented 1461
in this act takes effect on the later of October 9, 2021, or the 1462
effective date of this section. (October 9, 2021 is the 1463
effective date of an earlier amendment to that section by H.B. 1464
263 of the 133rd General Assembly.) 1465

Section 4. Section 119.12 of the Revised Code is presented 1466
in this act as a composite of the section as amended by both 1467
H.B. 52 and H.B. 64 of the 131st General Assembly. The General 1468
Assembly, applying the principle stated in division (B) of 1469
section 1.52 of the Revised Code that amendments are to be 1470
harmonized if reasonably capable of simultaneous operation, 1471
finds that the composite is the resulting version of the section 1472
in effect prior to the effective date of the section as 1473
presented in this act. 1474