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135th General Assembly

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Sub. H. B. No. 76

Representatives Hall, White

Cosponsors: Representatives Johnson, Cross, Ferguson, Klopfenstein, Dean, Holmes, Seitz, John, Abrams, Brennan, Claggett, Creech, Dell'Aquila, Dobos, Forhan, Fowler Arthur, Gross, Hoops, Jones, Lorenz, Mathews, Miller, J., Mohamed, Oelslager, Pavliga, Peterson, Robb Blasdel, Thomas, C., Upchurch, Wiggam, Willis

A BILL

To amend sections 127.15, 173.03, 753.19, 1121.38, 1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 1571.08, 1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 1707.042, 1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 3111.23, 3301.05, 3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 3319.081, 3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 3321.21, 3704.03, 3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 3772.031, 3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 3781.11, 3781.25, 3781.29, 3781.342, 3904.08, 3905.72, 3951.03, 4121.19, 4123.512, 4123.52, 4125.03, 4141.09, 4141.47, 4167.10, 4301.17, 4301.30, 4303.24, 4503.04, 4507.081, 4508.021, 4509.101, 4510.03, 4510.41, 4701.04, 4735.13, 4735.14, 4751.23, 4755.01, 5107.161, 5120.14, 5123.081, 5123.169, 5165.193, 5165.86, 5166.303, 5168.08, 5168.22, 5168.23, 5516.10, 5525.01, 5703.37, 5709.83, 5736.041, and 5751.40; to enact sections 1509.031 and

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3745.019; and to repeal section 5123.195 of the 21
Revised Code to modify the law governing data 22
storage and notifications issued by state 23
agencies, and to amend the version of section 24
3951.03 of the Revised Code scheduled to take 25
effect on December 29, 2023, to continue the 26
changes on and after that date. 27

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

Section 1. That sections 127.15, 173.03, 753.19, 1121.38, 28
1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 1571.08, 29
1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 1707.042, 30
1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 3111.23, 3301.05, 31
3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 3319.081, 32
3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 3321.21, 3704.03, 33
3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 3772.031, 34
3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 3781.11, 35
3781.25, 3781.29, 3781.342, 3904.08, 3905.72, 3951.03, 4121.19, 36
4123.512, 4123.52, 4125.03, 4141.09, 4141.47, 4167.10, 4301.17, 37
4301.30, 4303.24, 4503.04, 4507.081, 4508.021, 4509.101, 38
4510.03, 4510.41, 4701.04, 4735.13, 4735.14, 4751.23, 4755.01, 39
5107.161, 5120.14, 5123.081, 5123.169, 5165.193, 5165.86, 40
5166.303, 5168.08, 5168.22, 5168.23, 5516.10, 5525.01, 5703.37, 41
5709.83, 5736.041, and 5751.40 be amended and sections 1509.031 42
and 3745.019 of the Revised Code be enacted to read as follows: 43

Sec. 127.15. The controlling board may authorize any state 44
agency for which an appropriation is made, in any act making 45
appropriations for capital improvements, to expend the moneys 46
appropriated otherwise than in accordance with the items set 47

forth, and for such purpose may authorize transfers among items 48
or create new items and authorize transfers thereto, provided 49
that prior to such transfers the agency seeking the same shall 50
notify by mail or electronic mail the elected representatives to 51
the general assembly from the counties affected by such 52
transfers, stating the time and place of the hearing on the 53
proposed transfers thereto. Such transfers among items shall not 54
alter in total the appropriation to any state agency except as 55
otherwise provided by the general assembly. The board may not 56
authorize the transfer of a capital appropriation item of any 57
state agency for use by such agency for operating expenses, 58
except as otherwise provided by the general assembly. 59

Sec. 173.03. (A) There is hereby created the Ohio advisory 60
council for the aging, which shall consist of twelve members to 61
be appointed by the governor with the advice and consent of the 62
senate. Two ex officio members of the council shall be members 63
of the house of representatives appointed by the speaker of the 64
house of representatives and shall be members of two different 65
political parties. Two ex officio members of the council shall 66
be members of the senate appointed by the president of the 67
senate and shall be members of two different political parties. 68
The medicaid director and directors of mental health and 69
addiction services, developmental disabilities, health, and job 70
and family services, or their designees, shall serve as ex 71
officio members of the council. The council shall carry out its 72
role as defined under the "Older Americans Act of 1965," 73
Stat. 219, 42 U.S.C. 3001, as amended. 74

At the first meeting of the council, and annually 75
thereafter, the members shall select one of their members to 76
serve as chairperson and one of their members to serve as vice- 77
chairperson. The council may form a quorum and take votes at 78

meetings conducted by interactive electronic medium if 79
provisions are made for public attendance through the 80
interactive electronic meeting. 81

(B) Members of the council shall be appointed for a term 82
of three years, except that for the first appointment members of 83
the Ohio commission on aging who were serving on the commission 84
immediately prior to July 26, 1984, shall become members of the 85
council for the remainder of their unexpired terms. Thereafter, 86
appointment to the council shall be for a three-year term by the 87
governor. Each member shall hold office from the date of 88
appointment until the end of the term for which the member was 89
appointed. Any member appointed to fill a vacancy occurring 90
prior to the expiration of the term for which the member's 91
predecessor was appointed shall hold office for the remainder of 92
the term. No member shall continue in office subsequent to the 93
expiration date of the member's term unless reappointed under 94
the provisions of this section, and no member shall serve more 95
than three consecutive terms on the council. 96

(C) Membership of the council shall represent all areas of 97
Ohio and shall be as follows: 98

(1) A majority of members of the council shall have 99
attained the age of fifty and have a knowledge of and continuing 100
interest in the affairs and welfare of the older citizens of 101
Ohio. The fields of business, labor, health, law, and human 102
services shall be represented in the membership. 103

(2) No more than seven members shall be of the same 104
political party. 105

(D) Any member of the council may be removed from office 106
by the governor for neglect of duty, misconduct, or malfeasance 107

in office after being informed in writing of the charges and 108
afforded an opportunity for a hearing. Two consecutive unexcused 109
absences from regularly scheduled meetings constitute neglect of 110
duty. 111

(E) The director of aging may reimburse a member for 112
actual and necessary traveling and other expenses incurred in 113
the discharge of official duties. But reimbursement shall be 114
made in the manner and at rates that do not exceed those 115
prescribed by the director of budget and management for any 116
officer, member, or employee of, or consultant to, any state 117
agency. 118

(F) Council members are not limited as to the number of 119
terms they may serve. 120

(G) (1) The department of aging may award grants to or 121
enter into contracts with a member of the advisory council or an 122
entity that the member represents if any of the following apply: 123

(a) The department determines that the member or the 124
entity the member represents is capable of providing the goods 125
or services specified under the terms of the grant or contract. 126

(b) The member has not taken part in any discussion or 127
vote of the council related to whether the council should 128
recommend that the department of aging award the grant to or 129
enter into the contract with the member of the advisory council 130
or the entity that the member represents. 131

(2) A member of the advisory council is not in violation 132
of Chapter 102. or section 2921.42 of the Revised Code with 133
regard to receiving a grant or entering into a contract under 134
this section if the conditions of division (G) (1) (a) and (b) of 135
this section have been met. 136

Sec. 753.19. (A) If a person who was convicted of or 137
pleaded guilty to an offense or was indicted or otherwise 138
charged with the commission of an offense escapes from a jail or 139
workhouse of a municipal corporation or otherwise escapes from 140
the custody of a municipal corporation, the chief of police or 141
other chief law enforcement officer of that municipal 142
corporation immediately after the escape shall report the 143
escape, by telephone and in writing, to all local law 144
enforcement agencies with jurisdiction over the place where the 145
person escaped from custody, to the state highway patrol, to the 146
department of rehabilitation and correction if the escaped 147
person is a prisoner under the custody of the department who is 148
in the jail or workhouse, to the prosecuting attorney of the 149
county, and to a newspaper of general circulation in the 150
municipal corporation in a newspaper of general circulation in 151
each county in which part of the municipal corporation is 152
located. —The written notice may be by ~~either~~ facsimile 153
transmission, electronic mail, or mail. A failure to comply with 154
this requirement is a violation of section 2921.22 of the 155
Revised Code. 156

(B) Upon the apprehension of the escaped person, the chief 157
law enforcement officer shall give notice of the apprehension of 158
the escaped person by telephone and in writing to the persons 159
notified under division (A) of this section. 160

Sec. 1121.38. (A) (1) An administrative hearing provided 161
for in section 1121.32, 1121.33, 1121.35, or 1121.41 of the 162
Revised Code shall be held in the county in which the principal 163
place of business of the bank or trust company or residence of 164
the regulated person is located, unless the bank, trust company, 165
or regulated person requesting the hearing consents to another 166
place. Within ninety days after the hearing, the superintendent 167

of financial institutions shall render a decision, which shall 168
include findings of fact upon which the decision is predicated, 169
and shall issue and serve on the bank, trust company, or 170
regulated person the decision and an order consistent with the 171
decision. Judicial review of the order is exclusively as 172
provided in division (B) of this section. Unless a notice of 173
appeal is filed in a court of common pleas within thirty days 174
after service of the superintendent's order as provided in 175
division (B) of this section, and until the record of the 176
administrative hearing has been filed, the superintendent may, 177
at anytime, upon the notice and in the manner the superintendent 178
considers proper, modify, terminate, or set aside the 179
superintendent's order. After filing the record, the 180
superintendent may modify, terminate, or set aside the 181
superintendent's order with permission of the court. 182

(a) A hearing provided for in section 1121.32, 1121.35, or 183
1121.41 of the Revised Code shall be confidential, unless the 184
superintendent determines that holding an open hearing would be 185
in the public interest. Within twenty days after service of the 186
notice of a hearing, a respondent may file a written request for 187
a public hearing with the superintendent. A respondent's failure 188
to file such a request constitutes a waiver of any objections to 189
a confidential hearing. 190

(b) A hearing provided for in section 1121.33 of the 191
Revised Code shall be an open hearing. Within twenty days after 192
service of the notice of a hearing, a respondent may file a 193
written request for a confidential hearing with the 194
superintendent. If such a request is received by the 195
superintendent, the hearing shall be confidential unless the 196
superintendent determines that holding an open hearing would be 197
in the public interest. 198

(2) In the course of, or in connection with, an 199
administrative hearing governed by this section, the 200
superintendent, or a person designated by the superintendent to 201
conduct the hearing, may administer oaths and affirmations, take 202
or cause depositions to be taken, and issue, revoke, quash, or 203
modify subpoenas and subpoenas duces tecum. At any 204
administrative hearing required by section 1121.32, 1121.33, 205
1121.35, or 1121.41 of the Revised Code, the record of which may 206
be the basis of an appeal to court, a stenographic record of the 207
testimony and other evidence submitted shall be taken at the 208
expense of the division of financial institutions. The record 209
shall include all of the testimony and other evidence, and any 210
rulings on the admissibility thereof, presented at the hearing. 211
The superintendent may adopt rules regarding these hearings. The 212
attendance of witnesses and the production of documents provided 213
for in this section may be required from any place within or 214
outside the state. A party to a hearing governed by this section 215
may apply to the court of common pleas of Franklin county, or 216
the court of common pleas of the county in which the hearing is 217
being conducted or the witness resides or carries on business, 218
for enforcement of a subpoena or subpoena duces tecum issued 219
pursuant to this section, and the courts have jurisdiction and 220
power to order and require compliance with the subpoena. 221
Witnesses subpoenaed under this section shall be paid the fees 222
and mileage provided for under section 119.094 of the Revised 223
Code. 224

As used in this division, "stenographic record" means a 225
record provided by stenographic means or by the use of audio 226
electronic recording devices, as the division of financial 227
institutions determines. 228

(B) (1) A bank, trust company, or regulated person against 229

whom the superintendent issues an order upon the record of a 230
hearing under the authority of section 1121.32, 1121.33, 231
1121.35, or 1121.41 of the Revised Code may obtain a review of 232
the order by filing a notice of appeal in the court of common 233
pleas in the county in which the principal place of business of 234
the bank, trust company, or regulated person, or residence of 235
the regulated person, is located, or in the court of common 236
pleas of Franklin county, within thirty days after the date of 237
service of the superintendent's order. The clerk of the court 238
shall promptly transmit a copy of the notice of appeal to the 239
superintendent. Within thirty days after receiving the notice of 240
appeal, the superintendent shall file a certified copy of the 241
record of the administrative hearing with the clerk of the 242
court. In the event of a private hearing, the record of the 243
administrative hearing shall be filed under seal with the clerk 244
of the court. Upon the filing of the notice of appeal, the court 245
has jurisdiction, which upon the filing of the record of the 246
administrative hearing is exclusive, to affirm, modify, 247
terminate, or set aside, in whole or in part, the 248
superintendent's order. 249

(2) The commencement of proceedings for judicial review 250
pursuant to division (B) of this section does not, unless 251
specifically ordered by the court, operate as a stay of any 252
order issued by the superintendent. If it appears to the court 253
an unusual hardship to the appellant bank, trust company, or 254
regulated person will result from the execution of the 255
superintendent's order pending determination of the appeal, and 256
the interests of depositors and the public will not be 257
threatened by a stay of the order, the court may grant a stay 258
and fix its terms. 259

(C) The superintendent may, in the sole discretion of the 260

superintendent, apply to the court of common pleas of the county 261
in which the principal place of business of the bank, trust 262
company, or regulated person, or residence of the regulated 263
person, is located, or the court of common pleas of Franklin 264
county, for the enforcement of an effective and outstanding 265
superintendent's order issued under section 1121.32, 1121.33, 266
1121.34, 1121.35, or 1121.41 of the Revised Code, and the court 267
has jurisdiction and power to order and require compliance with 268
the superintendent's order. In an action by the superintendent 269
pursuant to this division to enforce an order assessing a civil 270
penalty issued under section 1121.35 of the Revised Code, the 271
validity and appropriateness of the civil penalty is not subject 272
to review. 273

(D) No court has jurisdiction to affect, by injunction or 274
otherwise, the issuance or enforcement of an order issued under 275
section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the 276
Revised Code or to review, modify, suspend, terminate, or set 277
aside an order issued under section 1121.32, 1121.33, 1121.34, 278
1121.35, or 1121.41 of the Revised Code, except as provided in 279
this section, in division (G) of section 1121.32 of the Revised 280
Code for an order issued pursuant to division (C) (3) or (4) of 281
section 1121.32 of the Revised Code, or in division (A) (3) of 282
section 1121.34 of the Revised Code for an order issued pursuant 283
to division (A) (1) of section 1121.34 of the Revised Code. 284

(E) Nothing in this section or in any other section of the 285
Revised Code or rules implementing this or any other section of 286
the Revised Code shall prohibit or limit the superintendent from 287
doing any of the following: 288

(1) Issuing orders pursuant to section 1121.32, 1121.33, 289
1121.34, 1121.35, or 1121.41 of the Revised Code; 290

(2) Individually or contemporaneously taking any other 291
action provided by law or rule with respect to a bank, trust 292
company, or regulated person; 293

(3) Taking any action provided by law or rule with respect 294
to a bank, trust company, or regulated person, whether alone or 295
in conjunction with another regulatory agency or authority. 296

Sec. 1509.031. (A) Notwithstanding any other provision of 297
law to the contrary and other than a statement of production, 298
the chief of the division of oil and gas resources management 299
may require the electronic submission of any application, 300
report, test result, fee, or document that is required to be 301
submitted under this chapter. The chief shall require the 302
submission of statements of production to be made electronically 303
regardless of well type and the number of wells owned. 304

(B) For good cause, a person may request to be excluded 305
from any requirement to make an electronic submission under 306
division (A) of this section other than the requirement to 307
submit a statement of production electronically. The chief shall 308
establish the procedure and form by which a person may request 309
such exclusion. 310

Sec. 1509.06. (A) An application for a permit to drill a 311
new well, drill an existing well deeper, reopen a well, convert 312
a well to any use other than its original purpose, or plug back 313
a well to a different source of supply, including associated 314
production operations, shall be filed with the chief of the 315
division of oil and gas resources management upon such form as 316
the chief prescribes and shall contain each of the following 317
that is applicable: 318

(1) The name and address of the owner and, if a 319

corporation, the name and address of the statutory agent; 320

(2) The signature of the owner or the owner's authorized 321
agent. When an authorized agent signs an application, it shall 322
be accompanied by a certified copy of the appointment as such 323
agent. 324

(3) The names and addresses of all persons holding the 325
royalty interest in the tract upon which the well is located or 326
is to be drilled or within a proposed drilling unit; 327

(4) The location of the tract or drilling unit on which 328
the well is located or is to be drilled identified by section or 329
lot number, city, village, township, and county; 330

(5) Designation of the well by name and number; 331

(6) (a) The geological formation to be tested or used and 332
the proposed total depth of the well; 333

(b) If the well is for the injection of a liquid, identity 334
of the geological formation to be used as the injection zone and 335
the composition of the liquid to be injected. 336

(7) The type of drilling equipment to be used; 337

(8) (a) An identification, to the best of the owner's 338
knowledge, of each proposed source of ground water and surface 339
water that will be used in the production operations of the 340
well. The identification of each proposed source of water shall 341
indicate if the water will be withdrawn from the Lake Erie 342
watershed or the Ohio river watershed. In addition, the owner 343
shall provide, to the best of the owner's knowledge, the 344
proposed estimated rate and volume of the water withdrawal for 345
the production operations. If recycled water will be used in the 346
production operations, the owner shall provide the estimated 347

volume of recycled water to be used. The owner shall submit to 348
the chief an update of any of the information that is required 349
by division (A) (8) (a) of this section if any of that information 350
changes before the chief issues a permit for the application. 351

(b) Except as provided in division (A) (8) (c) of this 352
section, for an application for a permit to drill a new well 353
within an urbanized area, the results of sampling of water wells 354
within three hundred feet of the proposed well prior to 355
commencement of drilling. In addition, the owner shall include a 356
list that identifies the location of each water well where the 357
owner of the property on which the water well is located denied 358
the owner access to sample the water well. The sampling shall be 359
conducted in accordance with the guidelines established in "Best 360
Management Practices For Pre-drilling Water Sampling" in effect 361
at the time that the application is submitted. The division 362
shall furnish those guidelines upon request and shall make them 363
available on the division's web site. If the chief determines 364
that conditions at the proposed well site warrant a revision, 365
the chief may revise the distance established in this division 366
for purposes of pre-drilling water sampling. 367

(c) For an application for a permit to drill a new 368
horizontal well, the results of sampling of water wells within 369
one thousand five hundred feet of the proposed horizontal 370
wellhead prior to commencement of drilling. In addition, the 371
owner shall include a list that identifies the location of each 372
water well where the owner of the property on which the water 373
well is located denied the owner access to sample the water 374
well. The sampling shall be conducted in accordance with the 375
guidelines established in "Best Management Practices For Pre- 376
drilling Water Sampling" in effect at the time that the 377
application is submitted. The division shall furnish those 378

guidelines upon request and shall make them available on the 379
division's web site. If the chief determines that conditions at 380
the proposed well site warrant a revision, the chief may revise 381
the distance established in this division for purposes of pre- 382
drilling water sampling. 383

(9) For an application for a permit to drill a new well 384
within an urbanized area, a sworn statement that the applicant 385
has provided notice by regular mail of the application to the 386
owner of each parcel of real property that is located within 387
five hundred feet of the surface location of the well and to the 388
executive authority of the municipal corporation or the board of 389
township trustees of the township, as applicable, in which the 390
well is to be located. In addition, the notice shall contain a 391
statement that informs an owner of real property who is required 392
to receive the notice under division (A) (9) of this section that 393
within five days of receipt of the notice, the owner is required 394
to provide notice under section 1509.60 of the Revised Code to 395
each residence in an occupied dwelling that is located on the 396
owner's parcel of real property. The notice shall contain a 397
statement that an application has been filed with the division 398
of oil and gas resources management, identify the name of the 399
applicant and the proposed well location, include the name and 400
address of the division, and contain a statement that comments 401
regarding the application may be sent to the division. The 402
notice may be provided by hand delivery or regular mail. The 403
identity of the owners of parcels of real property shall be 404
determined using the tax records of the municipal corporation or 405
county in which a parcel of real property is located as of the 406
date of the notice. 407

(10) A plan for restoration of the land surface disturbed 408
by drilling operations. The plan shall provide for compliance 409

with the restoration requirements of division (A) of section 410
1509.072 of the Revised Code and any rules adopted by the chief 411
pertaining to that restoration. 412

(11) (a) A description by name or number of the county, 413
township, and municipal corporation roads, streets, and highways 414
that the applicant anticipates will be used for access to and 415
egress from the well site; 416

(b) For an application for a permit for a horizontal well, 417
a copy of an agreement concerning maintenance and safe use of 418
the roads, streets, and highways described in division (A) (11) 419
(a) of this section entered into on reasonable terms with the 420
public official that has the legal authority to enter into such 421
maintenance and use agreements for each county, township, and 422
municipal corporation, as applicable, in which any such road, 423
street, or highway is located or an affidavit on a form 424
prescribed by the chief attesting that the owner attempted in 425
good faith to enter into an agreement under division (A) (11) (b) 426
of this section with the applicable public official of each such 427
county, township, or municipal corporation, but that no 428
agreement was executed. 429

(12) Such other relevant information as the chief 430
prescribes by rule. 431

Each application shall be accompanied by a map, on a scale 432
not smaller than four hundred feet to the inch, prepared by an 433
Ohio registered surveyor, showing the location of the well and 434
containing such other data as may be prescribed by the chief. If 435
the well is or is to be located within the excavations and 436
workings of a mine, the map also shall include the location of 437
the mine, the name of the mine, and the name of the person 438
operating the mine. 439

(B) The chief shall cause a copy of the weekly circular 440
prepared by the division to be provided to the county engineer 441
of each county that contains active or proposed drilling 442
activity. The weekly circular shall contain, in the manner 443
prescribed by the chief, the names of all applicants for 444
permits, the location of each well or proposed well, the 445
information required by division (A) (11) of this section, and 446
any additional information the chief prescribes. In addition, 447
the chief promptly shall transfer an electronic copy ~~or~~ 448
~~facsimile~~, or if ~~those methods are~~ that method is not available 449
to a municipal corporation or township, a copy via regular mail, 450
of a drilling permit application to the clerk of the legislative 451
authority of the municipal corporation or to the clerk of the 452
township in which the well or proposed well is or is to be 453
located if the legislative authority of the municipal 454
corporation or the board of township trustees has asked to 455
receive copies of such applications and the appropriate clerk 456
has provided the chief an accurate, current electronic mailing 457
address ~~or facsimile number, as applicable.~~ 458

(C) (1) Except as provided in division (C) (2) of this 459
section, the chief shall not issue a permit for at least ten 460
days after the date of filing of the application for the permit 461
unless, upon reasonable cause shown, the chief waives that 462
period or a request for expedited review is filed under this 463
section. However, the chief shall issue a permit within twenty- 464
one days of the filing of the application unless the chief 465
denies the application by order. 466

(2) If the location of a well or proposed well will be or 467
is within an urbanized area, the chief shall not issue a permit 468
for at least eighteen days after the date of filing of the 469
application for the permit unless, upon reasonable cause shown, 470

the chief waives that period or the chief at the chief's 471
discretion grants a request for an expedited review. However, 472
the chief shall issue a permit for a well or proposed well 473
within an urbanized area within thirty days of the filing of the 474
application unless the chief denies the application by order. 475

(D) An applicant may file a request with the chief for 476
expedited review of a permit application if the well is not or 477
is not to be located in a gas storage reservoir or reservoir 478
protective area, as "reservoir protective area" is defined in 479
section 1571.01 of the Revised Code. If the well is or is to be 480
located in a coal bearing township, the application shall be 481
accompanied by the affidavit of the landowner prescribed in 482
section 1509.08 of the Revised Code. 483

In addition to a complete application for a permit that 484
meets the requirements of this section and the permit fee 485
prescribed by this section, a request for expedited review shall 486
be accompanied by a separate nonrefundable filing fee of two 487
hundred fifty dollars. Upon the filing of a request for 488
expedited review, the chief shall cause the county engineer of 489
the county in which the well is or is to be located to be 490
notified of the filing of the permit application and the request 491
for expedited review by telephone or other means that in the 492
judgment of the chief will provide timely notice of the 493
application and request. The chief shall issue a permit within 494
seven days of the filing of the request unless the chief denies 495
the application by order. Notwithstanding the provisions of this 496
section governing expedited review of permit applications, the 497
chief may refuse to accept requests for expedited review if, in 498
the chief's judgment, the acceptance of the requests would 499
prevent the issuance, within twenty-one days of their filing, of 500
permits for which applications are pending. 501

(E) A well shall be drilled and operated in accordance 502
with the plans, sworn statements, and other information 503
submitted in the approved application. 504

(F) The chief shall issue an order denying a permit if the 505
chief finds that there is a substantial risk that the operation 506
will result in violations of this chapter or rules adopted under 507
it that will present an imminent danger to public health or 508
safety or damage to the environment, provided that where the 509
chief finds that terms or conditions to the permit can 510
reasonably be expected to prevent such violations, the chief 511
shall issue the permit subject to those terms or conditions, 512
including, if applicable, terms and conditions regarding 513
subjects identified in rules adopted under section 1509.03 of 514
the Revised Code. The issuance of a permit shall not be 515
considered an order of the chief. 516

The chief shall post notice of each permit that has been 517
approved under this section on the division's web site not later 518
than two business days after the application for a permit has 519
been approved. 520

(G) Each application for a permit required by section 521
1509.05 of the Revised Code, except an application for a well 522
drilled or reopened for purposes of section 1509.22 of the 523
Revised Code, also shall be accompanied by a nonrefundable fee 524
as follows: 525

(1) Five hundred dollars for a permit to conduct 526
activities in a township with a population of fewer than ten 527
thousand; 528

(2) Seven hundred fifty dollars for a permit to conduct 529
activities in a township with a population of ten thousand or 530

more, but fewer than fifteen thousand;	531
(3) One thousand dollars for a permit to conduct activities in either of the following:	532 533
(a) A township with a population of fifteen thousand or more;	534 535
(b) A municipal corporation regardless of population.	536
(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars.	537 538
For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.	539 540
Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.	541 542 543
(H) (1) Prior to the commencement of well pad construction and prior to the issuance of a permit to drill a proposed horizontal well or a proposed well that is to be located in an urbanized area, the division shall conduct a site review to identify and evaluate any site-specific terms and conditions that may be attached to the permit. At the site review, a representative of the division shall consider fencing, screening, and landscaping requirements, if any, for similar structures in the community in which the well is proposed to be located. The terms and conditions that are attached to the permit shall include the establishment of fencing, screening, and landscaping requirements for the surface facilities of the proposed well, including a tank battery of the well.	544 545 546 547 548 549 550 551 552 553 554 555 556
(2) Prior to the issuance of a permit to drill a proposed well, the division shall conduct a review to identify and	557 558

evaluate any site-specific terms and conditions that may be 559
attached to the permit if the proposed well will be located in a 560
one-hundred-year floodplain or within the five-year time of 561
travel associated with a public drinking water supply. 562

(I) A permit shall be issued by the chief in accordance 563
with this chapter. A permit issued under this section for a well 564
that is or is to be located in an urbanized area shall be valid 565
for twelve months, and all other permits issued under this 566
section shall be valid for twenty-four months. 567

(J) An applicant or a permittee, as applicable, shall 568
submit to the chief an update of the information that is 569
required under division (A) (8) (a) of this section if any of that 570
information changes prior to commencement of production 571
operations. 572

(K) A permittee or a permittee's authorized representative 573
shall notify an inspector from the division at least twenty-four 574
hours, or another time period agreed to by the chief's 575
authorized representative, prior to the commencement of well pad 576
construction and of drilling, reopening, converting, well 577
stimulation, or plugback operations. 578

Sec. 1513.071. (A) Simultaneously with the filing of an 579
application for a permit or significant revision of an existing 580
permit under section 1513.07 of the Revised Code, the applicant 581
shall submit to the chief of the division of mineral resources 582
management a copy of the applicant's advertisement of the 583
ownership, precise location, and boundaries of the land to be 584
affected. At the time of submission, the advertisement shall be 585
placed by the applicant in a newspaper of general circulation in 586
the locality of the proposed coal mine at least once a week for 587
four consecutive weeks. The chief shall notify, in each county 588

or part of a county in which a proposed area to be permitted is 589
located, the board of county commissioners, the board of 590
township trustees, the legislative authorities of municipal 591
corporations, private water companies, regional councils of 592
governments, and the boards of directors of conservancy 593
districts informing them of the operator's intention to conduct 594
a coal mining operation on a particularly described tract of 595
land and indicating the permit application number and where a 596
copy of the proposed mining and reclamation plan may be 597
inspected. The chief shall also notify the planning commissions 598
with jurisdiction over all or part of the area to be permitted. 599
These agencies, authorities, or companies may submit written 600
comments on the application with respect to the effects of the 601
proposed operation on the environment that are within their area 602
of responsibility in quadruplicate to the chief within thirty 603
days after notification by the chief of receipt of the 604
application. The chief shall immediately transmit these comments 605
to the applicant and make them available to the public at the 606
same locations at which the mining application is available for 607
inspection. 608

(B) A person having an interest that is or may be 609
adversely affected or the officer or head of any federal, state, 610
or local governmental agency or authority may file written 611
objections to the proposed initial or revised application for a 612
coal mining and reclamation permit with the chief within thirty 613
days after the last publication of the notice required by 614
division (A) of this section. The objections shall immediately 615
be transmitted to the applicant by the chief and shall be made 616
available to the public. If written objections are filed and an 617
informal conference requested, the chief or the chief's 618
representative shall then hold an informal conference on the 619

application for a permit within a reasonable time in the county 620
where the largest area of the area to be permitted is located. 621
The date, time, and location of the informal conference shall be 622
advertised by the chief in a newspaper of general circulation in 623
the locality at least two weeks prior to the scheduled 624
conference date. The chief may arrange with the applicant, upon 625
request by any objecting party, access to the proposed mining 626
area for the purpose of gathering information relevant to the 627
proceeding. An electronic ~~or stenographic~~ record shall be made 628
of the conference proceeding unless waived by all parties. The 629
record shall be maintained and shall be accessible to the 630
parties until final release of the applicant's performance 631
security. If all parties requesting the informal conference 632
stipulate agreement prior to the requested informal conference 633
and withdraw their request, the informal conference need not be 634
held. 635

Sec. 1513.08. (A) After a coal mining and reclamation 636
permit application has been approved, the applicant shall file 637
with the chief of the division of mineral resources management, 638
on a form prescribed and furnished by the chief, the performance 639
security required under this section that shall be payable to 640
the state and conditioned on the faithful performance of all the 641
requirements of this chapter and rules adopted under it and the 642
terms and conditions of the permit. 643

(B) Using the information contained in the permit 644
application; the requirements contained in the approved permit 645
and reclamation plan; and, after considering the topography, 646
geology, hydrology, and revegetation potential of the area of 647
the approved permit, the probable difficulty of reclamation; the 648
chief shall determine the estimated cost of reclamation under 649
the initial term of the permit if the reclamation has to be 650

performed by the division of mineral resources management in the 651
event of forfeiture of the performance security by the 652
applicant. The chief shall send either written notice by 653
certified mail or electronic notice with acknowledgment of 654
receipt of the amount of the estimated cost of reclamation ~~by~~ 655
~~certified mail~~ to the applicant. The applicant shall send either 656
written notice or electronic notice with acknowledgment of 657
receipt to the chief indicating the method by which the 658
applicant will provide the performance security pursuant to 659
division (C) of this section. 660

(C) The applicant shall provide the performance security 661
in an amount using one of the following: 662

(1) If the applicant elects to provide performance 663
security without reliance on the reclamation forfeiture fund 664
created in section 1513.18 of the Revised Code, the amount of 665
the estimated cost of reclamation as determined by the chief 666
under division (B) of this section for the increments of land on 667
which the operator will conduct a coal mining and reclamation 668
operation under the initial term of the permit as indicated in 669
the application; 670

(2) If the applicant elects to provide performance 671
security together with reliance on the reclamation forfeiture 672
fund through payment of the additional tax on the severance of 673
coal that is levied under division (A) (8) of section 5749.02 of 674
the Revised Code, an amount of twenty-five hundred dollars per 675
acre of land on which the operator will conduct coal mining and 676
reclamation under the initial term of the permit as indicated in 677
the application. In order for an applicant to be eligible to 678
provide performance security in accordance with division (C) (2) 679
of this section, the applicant, an owner and controller of the 680

applicant, or an affiliate of the applicant shall have held a 681
permit issued under this chapter for any coal mining and 682
reclamation operation for a period of not less than five years. 683

If a permit is transferred, assigned, or sold, the 684
transferee is not eligible to provide performance security under 685
division (C) (2) of this section if the transferee has not held a 686
permit issued under this chapter for any coal mining and 687
reclamation operation for a period of not less than five years. 688
This restriction applies even if the status or name of the 689
permittee otherwise remains the same after the transfer, 690
assignment, or sale. 691

In the event of forfeiture of performance security that 692
was provided in accordance with division (C) (2) of this section, 693
the difference between the amount of that performance security 694
and the estimated cost of reclamation as determined by the chief 695
under division (B) of this section shall be obtained from money 696
in the reclamation forfeiture fund as needed to complete the 697
reclamation. 698

The performance security provided under division (C) of 699
this section for the entire area to be mined under one permit 700
issued under this chapter shall not be less than ten thousand 701
dollars. 702

The performance security shall cover areas of land 703
affected by mining within or immediately adjacent to the 704
permitted area, so long as the total number of acres does not 705
exceed the number of acres for which the performance security is 706
provided. However, the authority for the performance security to 707
cover areas of land immediately adjacent to the permitted area 708
does not authorize a permittee to mine areas outside an approved 709
permit area. As succeeding increments of coal mining and 710

reclamation operations are to be initiated and conducted within 711
the permit area, the permittee shall file with the chief 712
additional performance security to cover the increments in 713
accordance with this section. If a permittee intends to mine 714
areas outside the approved permit area, the permittee shall 715
provide additional performance security in accordance with this 716
section to cover the areas to be mined. 717

If an applicant or permittee is not eligible to provide 718
performance security in accordance with division (C)(2) of this 719
section, the applicant or permittee shall provide performance 720
security in accordance with division (C)(1) of this section in 721
the full amount of the estimated cost of reclamation as 722
determined by the chief for a permitted coal preparation plant 723
or coal refuse disposal area that is not located within a 724
permitted area of a mine. If an applicant for a permit for a 725
coal preparation plant or coal refuse disposal area or a 726
permittee of a permitted coal preparation plant or coal refuse 727
disposal area that is not located within a permitted area of a 728
mine has held a permit issued under this chapter for any coal 729
mining and reclamation operation for a period of five years or 730
more, the applicant or permittee may provide performance 731
security for the coal preparation plant or coal refuse disposal 732
area either in accordance with division (C)(1) of this section 733
in the full amount of the estimated cost of reclamation as 734
determined by the chief or in accordance with division (C)(2) of 735
this section in an amount of twenty-five hundred dollars per 736
acre of land with reliance on the reclamation forfeiture fund. 737
If a permittee has previously provided performance security 738
under division (C)(1) of this section for a coal preparation 739
plant or coal refuse disposal area that is not located within a 740
permitted area of a mine and elects to provide performance 741

security in accordance with division (C) (2) of this section, the 742
permittee shall submit written notice to the chief indicating 743
that the permittee elects to provide performance security in 744
accordance with division (C) (2) of this section. Upon receipt of 745
such a written notice, the chief shall release to the permittee 746
the amount of the performance security previously provided under 747
division (C) (1) of this section that exceeds the amount of 748
performance security that is required to be provided under 749
division (C) (2) of this section. 750

(D) A permittee's liability under the performance security 751
shall be limited to the obligations established under the 752
permit, which include completion of the reclamation plan in 753
order to make the land capable of supporting the postmining land 754
use that was approved in the permit. The period of liability 755
under the performance security shall be for the duration of the 756
coal mining and reclamation operation and for a period 757
coincident with the operator's responsibility for revegetation 758
requirements under section 1513.16 of the Revised Code. 759

(E) The amount of the estimated cost of reclamation 760
determined under division (B) of this section and the amount of 761
a permittee's performance security provided in accordance with 762
division (C) (1) of this section shall be adjusted by the chief 763
as the land that is affected by mining increases or decreases or 764
if the cost of reclamation increases or decreases. If the 765
performance security was provided in accordance with division 766
(C) (2) of this section and the chief has issued a cessation 767
order under division (D) (2) of section 1513.02 of the Revised 768
Code for failure to abate a violation of the contemporaneous 769
reclamation requirement under division (A) (15) of section 770
1513.16 of the Revised Code, the chief may require the permittee 771
to increase the amount of performance security from twenty-five 772

hundred dollars per acre of land to five thousand dollars per 773
acre of land. 774

The chief shall notify the permittee, each surety, and any 775
person who has a property interest in the performance security 776
and who has requested to be notified of any proposed adjustment 777
to the performance security. The permittee may request an 778
informal conference with the chief concerning the proposed 779
adjustment, and the chief shall provide such an informal 780
conference. 781

If the chief increases the amount of performance security 782
under this division, the permittee shall provide additional 783
performance security in an amount determined by the chief. If 784
the chief decreases the amount of performance security under 785
this division, the chief shall determine the amount of the 786
reduction of the performance security and send either written 787
notice or electronic notice with acknowledgment of receipt of 788
the amount of reduction to the permittee. The permittee may 789
reduce the amount of the performance security in the amount 790
determined by the chief. 791

(F) A permittee may request a reduction in the amount of 792
the performance security by submitting to the chief 793
documentation proving that the amount of the performance 794
security provided by the permittee exceeds the estimated cost of 795
reclamation if the reclamation would have to be performed by the 796
division in the event of forfeiture of the performance security. 797
The chief shall examine the documentation and determine whether 798
the permittee's performance security exceeds the estimated cost 799
of reclamation. If the chief determines that the performance 800
security exceeds that estimated cost, the chief shall determine 801
the amount of the reduction of the performance security and send 802

either written notice or electronic notice with acknowledgment 803
of receipt of the amount to the permittee. The permittee may 804
reduce the amount of the performance security in the amount 805
determined by the chief. Adjustments in the amount of 806
performance security under this division shall not be considered 807
release of performance security and are not subject to section 808
1513.16 of the Revised Code. 809

(G) If the performance security is a bond, it shall be 810
executed by the operator and a corporate surety licensed to do 811
business in this state. If the performance security is a cash 812
deposit or negotiable certificates of deposit of a bank or 813
savings and loan association, the bank or savings and loan 814
association shall be licensed and operating in this state. The 815
cash deposit or market value of the securities shall be equal to 816
or greater than the amount of the performance security required 817
under this section. The chief shall review any documents 818
pertaining to the performance security and approve or disapprove 819
the documents. The chief shall notify the applicant of the 820
chief's determination. 821

(H) If the performance security is a bond, the chief may 822
accept the bond of the applicant itself without separate surety 823
when the applicant demonstrates to the satisfaction of the chief 824
the existence of a suitable agent to receive service of process 825
and a history of financial solvency and continuous operation 826
sufficient for authorization to self-insure or bond the amount. 827

(I) Performance security provided under this section may 828
be held in trust, provided that the state is the primary 829
beneficiary of the trust and the custodian of the performance 830
security held in trust is a bank, trust company, or other 831
financial institution that is licensed and operating in this 832

state. The chief shall review the trust document and approve or 833
disapprove the document. The chief shall notify the applicant of 834
the chief's determination. 835

(J) If a surety, bank, savings and loan association, trust 836
company, or other financial institution that holds the 837
performance security required under this section becomes 838
insolvent, the permittee shall notify the chief of the 839
insolvency, and the chief shall order the permittee to submit a 840
plan for replacement performance security within thirty days 841
after receipt of notice from the chief. If the permittee 842
provided performance security in accordance with division (C) (1) 843
of this section, the permittee shall provide the replacement 844
performance security within ninety days after receipt of notice 845
from the chief. If the permittee provided performance security 846
in accordance with division (C) (2) of this section, the 847
permittee shall provide the replacement performance security 848
within one year after receipt of notice from the chief, and, for 849
a period of one year after the permittee's receipt of notice 850
from the chief or until the permittee provides the replacement 851
performance security, whichever occurs first, money in the 852
reclamation forfeiture fund shall be the permittee's replacement 853
performance security in an amount not to exceed the estimated 854
cost of reclamation as determined by the chief. 855

(K) If a permittee provided performance security in 856
accordance with division (C) (1) of this section, the permittee's 857
responsibility for repairing material damage and replacement of 858
water supply resulting from subsidence shall be satisfied by 859
either of the following: 860

(1) The purchase prior to mining of a noncancelable 861
premium-prepaid liability insurance policy in lieu of the 862

permittee's performance security for subsidence damage. The 863
insurance policy shall contain terms and conditions that 864
specifically provide coverage for repairing material damage and 865
replacement of water supply resulting from subsidence. 866

(2) The provision of additional performance security in 867
the amount of the estimated cost to the division of mineral 868
resources management to repair material damage and replace water 869
supplies resulting from subsidence until the repair or 870
replacement is completed. However, if such repair or replacement 871
is completed, or compensation for structures that have been 872
damaged by subsidence is provided, by the permittee within 873
ninety days of the occurrence of the subsidence, additional 874
performance security is not required. In addition, the chief may 875
extend the ninety-day period for a period not to exceed one year 876
if the chief determines that the permittee has demonstrated in 877
writing that subsidence is not complete and that probable 878
subsidence-related damage likely will occur and, as a result, 879
the completion of repairs of subsidence-related material damage 880
to lands or protected structures or the replacement of water 881
supply within ninety days of the occurrence of the subsidence 882
would be unreasonable. 883

(L) If the performance security provided in accordance 884
with this section exceeds the estimated cost of reclamation, the 885
chief may authorize the amount of the performance security that 886
exceeds the estimated cost of reclamation together with any 887
interest or other earnings on the performance security to be 888
paid to the permittee. 889

(M) A permittee that held a valid coal mining and 890
reclamation permit immediately prior to April 6, 2007, shall 891
provide, not later than a date established by the chief, 892

performance security in accordance with division (C) (1) or (2) 893
of this section, rather than in accordance with the law as it 894
existed prior to that date, by filing it with the chief on a 895
form that the chief prescribes and furnishes. Accordingly, for 896
purposes of this section, "applicant" is deemed to include such 897
a permittee. 898

(N) As used in this section: 899

(1) "Affiliate of the applicant" means an entity that has 900
a parent entity in common with the applicant. 901

(2) "Owner and controller of the applicant" means a person 902
that has any relationship with the applicant that gives the 903
person authority to determine directly or indirectly the manner 904
in which the applicant conducts coal mining operations. 905

Sec. 1513.16. (A) Any permit issued under this chapter to 906
conduct coal mining operations shall require that the operations 907
meet all applicable performance standards of this chapter and 908
such other requirements as the chief of the division of mineral 909
resources management shall adopt by rule. General performance 910
standards shall apply to all coal mining and reclamation 911
operations and shall require the operator at a minimum to do all 912
of the following: 913

(1) Conduct coal mining operations so as to maximize the 914
utilization and conservation of the solid fuel resource being 915
recovered so that re-affecting the land in the future through 916
coal mining can be minimized; 917

(2) Restore the land affected to a condition capable of 918
supporting the uses that it was capable of supporting prior to 919
any mining, or higher or better uses of which there is 920
reasonable likelihood, so long as the uses do not present any 921

actual or probable hazard to public health or safety or pose any 922
actual or probable threat of diminution or pollution of the 923
waters of the state, and the permit applicants' declared 924
proposed land uses following reclamation are not considered to 925
be impractical or unreasonable, to be inconsistent with 926
applicable land use policies and plans, to involve unreasonable 927
delay in implementation, or to violate federal, state, or local 928
law; 929

(3) Except as provided in division (B) of this section, 930
with respect to all coal mining operations, backfill, compact 931
where advisable to ensure stability or to prevent leaching of 932
toxic materials, and grade in order to restore the approximate 933
original contour of the land with all highwalls, spoil piles, 934
and depressions eliminated unless small depressions are needed 935
in order to retain moisture to assist revegetation or as 936
otherwise authorized pursuant to this chapter, provided that if 937
the operator demonstrates that due to volumetric expansion the 938
amount of overburden and the spoil and waste materials removed 939
in the course of the mining operation are more than sufficient 940
to restore the approximate original contour, the operator shall 941
backfill, grade, and compact the excess overburden and other 942
spoil and waste materials to attain the lowest grade, but not 943
more than the angle of repose, and to cover all acid-forming and 944
other toxic materials in order to achieve an ecologically sound 945
land use compatible with the surrounding region in accordance 946
with the approved mining plan. The overburden or spoil shall be 947
shaped and graded in such a way as to prevent slides, erosion, 948
and water pollution and shall be revegetated in accordance with 949
this chapter. 950

(4) Stabilize and protect all surface areas, including 951
spoil piles affected by the coal mining and reclamation 952

operation, to control erosion and attendant air and water 953
pollution effectively; 954

(5) Remove the topsoil from the land in a separate layer, 955
replace it on the backfill area, or, if not utilized 956
immediately, segregate it in a separate pile from the spoil, and 957
when the topsoil is not replaced on a backfill area within a 958
time short enough to avoid deterioration of the topsoil, 959
maintain a successful cover by quick-growing plants or other 960
means thereafter so that the topsoil is preserved from wind and 961
water erosion, remains free of any contamination by acid or 962
other toxic material, and is in a usable condition for 963
sustaining vegetation when restored during reclamation. If the 964
topsoil is of insufficient quantity or of poor quality for 965
sustaining vegetation or if other strata can be shown to be more 966
suitable for vegetation requirements, the operator shall remove, 967
segregate, and preserve in a like manner such other strata as 968
are best able to support vegetation. 969

(6) Restore the topsoil or the best available subsoil that 970
is best able to support vegetation; 971

(7) For all prime farmlands as identified in division (B) 972
(1) (p) of section 1513.07 of the Revised Code to be mined and 973
reclaimed, perform soil removal, storage, replacement, and 974
reconstruction in accordance with specifications established by 975
the secretary of the United States department of agriculture 976
under the "Surface Mining Control and Reclamation Act of 1977," 977
91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, 978
shall be required to do all of the following: 979

(a) Segregate the A horizon of the natural soil, except 980
where it can be shown that other available soil materials will 981
create a final soil having a greater productive capacity, and, 982

if not utilized immediately, stockpile this material separately 983
from the spoil and provide needed protection from wind and water 984
erosion or contamination by acid or other toxic material; 985

(b) Segregate the B horizon of the natural soil, or 986
underlying C horizons or other strata, or a combination of such 987
horizons or other strata that are shown to be both texturally 988
and chemically suitable for plant growth and that can be shown 989
to be equally or more favorable for plant growth than the B 990
horizon, in sufficient quantities to create in the regraded 991
final soil a root zone of comparable depth and quality to that 992
which existed in the natural soil, and, if not utilized 993
immediately, stockpile this material separately from the spoil 994
and provide needed protection from wind and water erosion or 995
contamination by acid or other toxic material; 996

(c) Replace and regrade the root zone material described 997
in division (A) (7) (b) of this section with proper compaction and 998
uniform depth over the regraded spoil material; 999

(d) Redistribute and grade in a uniform manner the surface 1000
soil horizon described in division (A) (7) (a) of this section. 1001

(8) Create, if authorized in the approved mining and 1002
reclamation plan and permit, permanent impoundments of water on 1003
mining sites as part of reclamation activities only when it is 1004
adequately demonstrated by the operator that all of the 1005
following conditions will be met: 1006

(a) The size of the impoundment is adequate for its 1007
intended purposes. 1008

(b) The impoundment dam construction will be so designed 1009
as to achieve necessary stability with an adequate margin of 1010
safety compatible with that of structures constructed under the 1011

"Watershed Protection and Flood Prevention Act," 68 Stat. 666 1012
(1954), 16 U.S.C. 1001, as amended. 1013

(c) The quality of impounded water will be suitable on a 1014
permanent basis for its intended use and discharges from the 1015
impoundment will not degrade the water quality below water 1016
quality standards established pursuant to applicable federal and 1017
state law in the receiving stream. 1018

(d) The level of water will be reasonably stable. 1019

(e) Final grading will provide adequate safety and access 1020
for proposed water users. 1021

(f) The water impoundments will not result in the 1022
diminution of the quality or quantity of water utilized by 1023
adjacent or surrounding landowners for agricultural, industrial, 1024
recreational, or domestic uses. 1025

(9) Conduct any augering operation associated with strip 1026
mining in a manner to maximize recoverability of mineral 1027
reserves remaining after the operation and reclamation are 1028
complete and seal all auger holes with an impervious and 1029
noncombustible material in order to prevent drainage, except 1030
where the chief determines that the resulting impoundment of 1031
water in such auger holes may create a hazard to the environment 1032
or the public health or safety. The chief may prohibit augering 1033
if necessary to maximize the utilization, recoverability, or 1034
conservation of the solid fuel resources or to protect against 1035
adverse water quality impacts. 1036

(10) Minimize the disturbances to the prevailing 1037
hydrologic balance at the mine site and in associated offsite 1038
areas and to the quality and quantity of water in surface and 1039
ground water systems both during and after coal mining 1040

operations and during reclamation by doing all of the following: 1041

(a) Avoiding acid or other toxic mine drainage by such 1042
measures as, but not limited to: 1043

(i) Preventing or removing water from contact with toxic 1044
producing deposits; 1045

(ii) Treating drainage to reduce toxic content that 1046
adversely affects downstream water upon being released to water 1047
courses in accordance with rules adopted by the chief in 1048
accordance with section 1513.02 of the Revised Code; 1049

(iii) Casing, sealing, or otherwise managing boreholes, 1050
shafts, and wells, and keeping acid or other toxic drainage from 1051
entering ground and surface waters. 1052

(b) (i) Conducting coal mining operations so as to prevent, 1053
to the extent possible using the best technology currently 1054
available, additional contributions of suspended solids to 1055
streamflow or runoff outside the permit area, but in no event 1056
shall contributions be in excess of requirements set by 1057
applicable state or federal laws; 1058

(ii) Constructing any siltation structures pursuant to 1059
division (A) (10) (b) (i) of this section prior to commencement of 1060
coal mining operations. The structures shall be certified by 1061
persons approved by the chief to be constructed as designed and 1062
as approved in the reclamation plan. 1063

(c) Cleaning out and removing temporary or large settling 1064
ponds or other siltation structures from drainways after 1065
disturbed areas are revegetated and stabilized, and depositing 1066
the silt and debris at a site and in a manner approved by the 1067
chief; 1068

(d) Restoring recharge capacity of the mined area to approximate premining conditions;	1069 1070
(e) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;	1071 1072
(f) Such other actions as the chief may prescribe.	1073
(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working areas or excavations, stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to this chapter;	1074 1075 1076 1077 1078 1079 1080 1081 1082
(12) Refrain from coal mining within five hundred feet of active and abandoned underground mines in order to prevent breakthroughs and to protect the health or safety of miners. The chief shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer than five hundred feet to an active underground mine if both of the following conditions are met:	1083 1084 1085 1086 1087 1088 1089
(a) The nature, timing, and sequencing of the approximate coincidence of specific strip mine activities with specific underground mine activities are approved by the chief.	1090 1091 1092
(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.	1093 1094 1095
(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the	1096 1097

standards and criteria developed pursuant to rules adopted by 1098
the chief, all existing and new coal mine waste piles consisting 1099
of mine wastes, tailings, coal processing wastes, or other 1100
liquid and solid wastes, and used either temporarily or 1101
permanently as dams or embankments; 1102

(14) Ensure that all debris, acid-forming materials, toxic 1103
materials, or materials constituting a fire hazard are treated 1104
or buried and compacted or otherwise disposed of in a manner 1105
designed to prevent contamination of ground or surface waters 1106
and that contingency plans are developed to prevent sustained 1107
combustion; 1108

(15) Ensure that all reclamation efforts proceed in an 1109
environmentally sound manner and as contemporaneously as 1110
practicable with the coal mining operations, except that where 1111
the applicant proposes to combine strip mining operations with 1112
underground mining operations to ensure maximum practical 1113
recovery of the mineral resources, the chief may grant a 1114
variance for specific areas within the reclamation plan from the 1115
requirement that reclamation efforts proceed as 1116
contemporaneously as practicable to permit underground mining 1117
operations prior to reclamation if: 1118

(a) The chief finds in writing that: 1119

(i) The applicant has presented, as part of the permit 1120
application, specific, feasible plans for the proposed 1121
underground mining operations. 1122

(ii) The proposed underground mining operations are 1123
necessary or desirable to ensure maximum practical recovery of 1124
the mineral resource and will avoid multiple disturbance of the 1125
surface. 1126

(iii) The applicant has satisfactorily demonstrated that 1127
the plan for the underground mining operations conforms to 1128
requirements for underground mining in this state and that 1129
permits necessary for the underground mining operations have 1130
been issued by the appropriate authority. 1131

(iv) The areas proposed for the variance have been shown 1132
by the applicant to be necessary for the implementing of the 1133
proposed underground mining operations. 1134

(v) No substantial adverse environmental damage, either 1135
on-site or off-site, will result from the delay in completion of 1136
reclamation as required by this chapter. 1137

(vi) Provisions for the off-site storage of spoil will 1138
comply with division (A) (21) of this section. 1139

(b) The chief has adopted specific rules to govern the 1140
granting of such variances in accordance with this division and 1141
has imposed such additional requirements as the chief considers 1142
necessary. 1143

(c) Variances granted under this division shall be 1144
reviewed by the chief not more than three years from the date of 1145
issuance of the permit. 1146

(d) Liability under the performance security filed by the 1147
applicant with the chief pursuant to section 1513.08 of the 1148
Revised Code shall be for the duration of the underground mining 1149
operations and until the requirements of this section and 1150
section 1513.08 of the Revised Code have been fully complied 1151
with. 1152

(16) Ensure that the construction, maintenance, and 1153
postmining conditions of access roads into and across the site 1154
of operations will control or prevent erosion and siltation, 1155

pollution of water, and damage to fish or wildlife or their 1156
habitat, or to public or private property; 1157

(17) Refrain from the construction of roads or other 1158
access ways up a stream bed or drainage channel or in such 1159
proximity to the channel as to seriously alter the normal flow 1160
of water; 1161

(18) Establish, on the regraded areas and all other lands 1162
affected, a diverse, effective, and permanent vegetative cover 1163
of the same seasonal variety native to the area of land to be 1164
affected and capable of self-regeneration and plant succession 1165
at least equal in extent of cover to the natural vegetation of 1166
the area, except that introduced species may be used in the 1167
revegetation process where desirable and necessary to achieve 1168
the approved postmining land use plan; 1169

(19) (a) Assume the responsibility for successful 1170
revegetation, as required by division (A) (18) of this section, 1171
for a period of five full years after the last year of augmented 1172
seeding, fertilizing, irrigation, or other work in order to 1173
ensure compliance with that division, except that when the chief 1174
approves a long-term intensive agricultural postmining land use, 1175
the applicable five-year period of responsibility for 1176
revegetation shall commence at the date of initial planting for 1177
that long-term intensive agricultural postmining land use, and 1178
except that when the chief issues a written finding approving a 1179
long-term intensive agricultural postmining land use as part of 1180
the mining and reclamation plan, the chief may grant an 1181
exception to division (A) (18) of this section; 1182

(b) On lands eligible for remining, assume the 1183
responsibility for successful revegetation, as required by 1184
division (A) (18) of this section, for a period of two full years 1185

after the last year of augmented seeding, fertilizing, 1186
irrigation, or other work in order to ensure compliance with 1187
that division. 1188

(20) Protect off-site areas from slides or damage 1189
occurring during the coal mining and reclamation operations and 1190
not deposit spoil material or locate any part of the operations 1191
or waste accumulations outside the permit area; 1192

(21) Place all excess spoil material resulting from coal 1193
mining and reclamation operations in such a manner that all of 1194
the following apply: 1195

(a) Spoil is transported and placed in a controlled manner 1196
in position for concurrent compaction and in such a way as to 1197
ensure mass stability and to prevent mass movement. 1198

(b) The areas of disposal are within the permit areas for 1199
which performance security has been provided. All organic matter 1200
shall be removed immediately prior to spoil placement except in 1201
the zoned concept method. 1202

(c) Appropriate surface and internal drainage systems and 1203
diversion ditches are used so as to prevent spoil erosion and 1204
mass movement. 1205

(d) The disposal area does not contain springs, natural 1206
watercourses, or wet weather seeps unless lateral drains are 1207
constructed from the wet areas to the main underdrains in such a 1208
manner that filtration of the water into the spoil pile will be 1209
prevented unless the zoned concept method is used. 1210

(e) If placed on a slope, the spoil is placed upon the 1211
most moderate slope among those slopes upon which, in the 1212
judgment of the chief, the spoil could be placed in compliance 1213
with all the requirements of this chapter and is placed, where 1214

possible, upon, or above, a natural terrace, bench, or berm if 1215
that placement provides additional stability and prevents mass 1216
movement. 1217

(f) Where the toe of the spoil rests on a downslope, a 1218
rock toe buttress of sufficient size to prevent mass movement is 1219
constructed. 1220

(g) The final configuration is compatible with the natural 1221
drainage pattern and surroundings and suitable for intended 1222
uses. 1223

(h) Design of the spoil disposal area is certified by a 1224
qualified registered professional engineer in conformance with 1225
professional standards. 1226

(i) All other provisions of this chapter are met. 1227

(22) Meet such other criteria as are necessary to achieve 1228
reclamation in accordance with the purpose of this chapter, 1229
taking into consideration the physical, climatological, and 1230
other characteristics of the site; 1231

(23) To the extent possible, using the best technology 1232
currently available, minimize disturbances and adverse impacts 1233
of the operation on fish, wildlife, and related environmental 1234
values, and achieve enhancement of such resources where 1235
practicable; 1236

(24) Provide for an undisturbed natural barrier beginning 1237
at the elevation of the lowest coal seam to be mined and 1238
extending from the outslope for such distance as the chief shall 1239
determine to be retained in place as a barrier to slides and 1240
erosion; 1241

(25) Restore on the permit area streams and wetlands 1242

affected by mining operations unless the chief approves 1243
restoration off the permit area without a permit required by 1244
section 1513.07 or 1513.074 of the Revised Code, instead of 1245
restoration on the permit area, of a stream or wetland or a 1246
portion of a stream or wetland, provided that the chief first 1247
makes all of the following written determinations: 1248

(a) A hydrologic and engineering assessment of the 1249
affected lands, submitted by the operator, demonstrates that 1250
restoration on the permit area is not possible. 1251

(b) The proposed mitigation plan under which mitigation 1252
activities described in division (A) (25) (c) of this section will 1253
be conducted is limited to a stream or wetland, or a portion of 1254
a stream or wetland, for which restoration on the permit area is 1255
not possible. 1256

(c) Mitigation activities off the permit area, including 1257
mitigation banking and payment of in-lieu mitigation fees, will 1258
be performed pursuant to a permit issued under sections 401 and 1259
404 of the "Federal Water Pollution Control Act" as defined in 1260
section 6111.01 of the Revised Code or an isolated wetland 1261
permit issued under Chapter 6111. of the Revised Code or 1262
pursuant to a no-cost reclamation contract for the restoration 1263
of water resources affected by past mining activities pursuant 1264
to section 1513.37 of the Revised Code. 1265

(d) The proposed mitigation plan and mitigation activities 1266
comply with the standards established in this section. 1267

If the chief approves restoration off the permit area in 1268
accordance with this division, the operator shall complete all 1269
mitigation construction or other activities required by the 1270
mitigation plan. 1271

Performance security for reclamation activities on the 1272
permit area shall be released pursuant to division (F) of this 1273
section, except that the release of the remaining portion of 1274
performance security under division (F) (3) (c) of this section 1275
shall not be approved prior to the construction of required 1276
mitigation activities off the permit area. 1277

(B) (1) The chief may permit mining operations for the 1278
purposes set forth in division (B) (3) of this section. 1279

(2) When an applicant meets the requirements of divisions 1280
(B) (3) and (4) of this section, a permit without regard to the 1281
requirement to restore to approximate original contour known as 1282
mountain top removal set forth in divisions (A) (3) or (C) (2) and 1283
(3) of this section may be granted for the mining of coal where 1284
the mining operation will remove an entire coal seam or seams 1285
running through the upper fraction of a mountain, ridge, or 1286
hill, except as provided in division (B) (4) (a) of this section, 1287
by removing all of the overburden and creating a level plateau 1288
or a gently rolling contour with no highwalls remaining, and 1289
capable of supporting postmining uses in accordance with this 1290
division. 1291

(3) In cases where an industrial, commercial, 1292
agricultural, residential, or public facility use, including 1293
recreational facilities, is proposed for the postmining use of 1294
the affected land, the chief may grant a permit for a mining 1295
operation of the nature described in division (B) (2) of this 1296
section when all of the following apply: 1297

(a) After consultation with the appropriate land use 1298
planning agencies, if any, the proposed postmining land use is 1299
considered to constitute an equal or better economic or public 1300
use of the affected land, as compared with premining use. 1301

(b) The applicant presents specific plans for the proposed 1302
postmining land use and appropriate assurances that the use will 1303
be all of the following: 1304

(i) Compatible with adjacent land uses; 1305

(ii) Obtainable according to data regarding expected need 1306
and market; 1307

(iii) Assured of investment in necessary public 1308
facilities; 1309

(iv) Supported by commitments from public agencies where 1310
appropriate; 1311

(v) Practicable with respect to private financial 1312
capability for completion of the proposed use; 1313

(vi) Planned pursuant to a schedule attached to the 1314
reclamation plan so as to integrate the mining operation and 1315
reclamation with the postmining land use; 1316

(vii) Designed by a registered engineer in conformity with 1317
professional standards established to ensure the stability, 1318
drainage, and configuration necessary for the intended use of 1319
the site. 1320

(c) The proposed use is consistent with adjacent land uses 1321
and existing state and local land use plans and programs. 1322

(d) The chief provides the governing body of the unit of 1323
general-purpose local government in which the land is located, 1324
and any state or federal agency that the chief, in the chief's 1325
discretion, determines to have an interest in the proposed use, 1326
an opportunity of not more than sixty days to review and comment 1327
on the proposed use. 1328

(e) All other requirements of this chapter will be met.	1329
(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:	1330
	1331
(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.	1332
	1333
	1334
(b) The reclaimed area is stable.	1335
(c) The resulting plateau or rolling contour drains inward from the out slopes except at specified points.	1336
	1337
(d) No damage will be done to natural watercourses.	1338
(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A) (21) of this section.	1339
	1340
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	1343
(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.	1344
	1345
	1346
(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B) (1) to (4) of this section and may impose such additional requirements as the chief considers necessary.	1347
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	1350
(6) All permits granted under divisions (B) (1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.	1351
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	1356

(C) All of the following performance standards apply to 1357
steep-slope coal mining and are in addition to those general 1358
performance standards required by this section, except that this 1359
division does not apply to those situations in which an operator 1360
is mining on flat or gently rolling terrain on which an 1361
occasional steep slope is encountered through which the mining 1362
operation is to proceed, leaving a plain or predominantly flat 1363
area, or where an operator is in compliance with division (B) of 1364
this section: 1365

(1) The operator shall ensure that when performing coal 1366
mining on steep slopes, no debris, abandoned or disabled 1367
equipment, spoil material, or waste mineral matter is placed on 1368
the downslope below the bench or mining cut. Spoil material in 1369
excess of that required for the reconstruction of the 1370
approximate original contour under division (A) (3) or (C) (2) of 1371
this section shall be permanently stored pursuant to division 1372
(A) (21) of this section. 1373

(2) The operator shall complete backfilling with spoil 1374
material to cover completely the highwall and return the site to 1375
the approximate original contour, which material will maintain 1376
stability following mining and reclamation. 1377

(3) The operator shall not disturb land above the top of 1378
the highwall unless the chief finds that the disturbance will 1379
facilitate compliance with the environmental protection 1380
standards of this section, except that any such disturbance 1381
involving land above the highwall shall be limited to that 1382
amount of land necessary to facilitate compliance. 1383

(D) (1) The chief may permit variances for the purposes set 1384
forth in division (D) (3) of this section, provided that the 1385
watershed control of the area is improved and that complete 1386

backfilling with spoil material shall be required to cover 1387
completely the highwall, which material will maintain stability 1388
following mining and reclamation. 1389

(2) Where an applicant meets the requirements of divisions 1390
(D) (3) and (4) of this section, a variance from the requirement 1391
to restore to approximate original contour set forth in division 1392
(C) (2) of this section may be granted for the mining of coal 1393
when the owner of the surface knowingly requests in writing, as 1394
a part of the permit application, that such a variance be 1395
granted so as to render the land, after reclamation, suitable 1396
for an industrial, commercial, residential, or public use, 1397
including recreational facilities, in accordance with divisions 1398
(D) (3) and (4) of this section. 1399

(3) A variance pursuant to division (D) (2) of this section 1400
may be granted if: 1401

(a) After consultation with the appropriate land use 1402
planning agencies, if any, the potential use of the affected 1403
land is considered to constitute an equal or better economic or 1404
public use. 1405

(b) The postmining land condition is designed and 1406
certified by a registered professional engineer in conformity 1407
with professional standards established to ensure the stability, 1408
drainage, and configuration necessary for the intended use of 1409
the site. 1410

(c) After approval of the appropriate state environmental 1411
agencies, the watershed of the affected land is considered to be 1412
improved. 1413

(4) In granting a variance pursuant to division (D) of 1414
this section, the chief shall require that only such amount of 1415

spoil will be placed off the mine bench as is necessary to 1416
achieve the planned postmining land use, ensure stability of the 1417
spoil retained on the bench, and meet all other requirements of 1418
this chapter. All spoil placement off the mine bench shall 1419
comply with division (A) (21) of this section. 1420

(5) The chief shall adopt specific rules to govern the 1421
granting of variances under division (D) of this section and may 1422
impose such additional requirements as the chief considers 1423
necessary. 1424

(6) All variances granted under division (D) of this 1425
section shall be reviewed not more than three years from the 1426
date of issuance of the permit unless the permittee 1427
affirmatively demonstrates that the proposed development is 1428
proceeding in accordance with the terms of the reclamation plan. 1429

(E) The chief shall establish standards and criteria 1430
regulating the design, location, construction, operation, 1431
maintenance, enlargement, modification, removal, and abandonment 1432
of new and existing coal mine waste piles referred to in 1433
division (A) (13) of this section and division (A) (5) of section 1434
1513.35 of the Revised Code. The standards and criteria shall 1435
conform to the standards and criteria used by the chief of the 1436
United States army corps of engineers to ensure that flood 1437
control structures are safe and effectively perform their 1438
intended function. In addition to engineering and other 1439
technical specifications, the standards and criteria developed 1440
pursuant to this division shall include provisions for review 1441
and approval of plans and specifications prior to construction, 1442
enlargement, modification, removal, or abandonment; performance 1443
of periodic inspections during construction; issuance of 1444
certificates of approval upon completion of construction; 1445

performance of periodic safety inspections; and issuance of 1446
notices for required remedial or maintenance work. 1447

(F) (1) The permittee may file a request with the chief for 1448
release of a part of a performance security under division (F) 1449
(3) of this section. Within thirty days after any request for 1450
performance security release under this section has been filed 1451
with the chief, the operator shall submit a copy of an 1452
advertisement placed at least once a week for four successive 1453
weeks in a newspaper of general circulation in the locality of 1454
the coal mining operation. The advertisement shall be considered 1455
part of any performance security release application and shall 1456
contain a notification of the precise location of the land 1457
affected, the number of acres, the permit number and the date 1458
approved, the amount of the performance security filed and the 1459
portion sought to be released, the type and appropriate dates of 1460
reclamation work performed, and a description of the results 1461
achieved as they relate to the operator's approved reclamation 1462
plan and, if applicable, the operator's pollution abatement 1463
plan. In addition, as part of any performance security release 1464
application, the applicant shall submit copies of the letters 1465
sent to adjoining property owners, local governmental bodies, 1466
planning agencies, and sewage and water treatment authorities or 1467
water companies in the locality in which the coal mining and 1468
reclamation activities took place, notifying them of the 1469
applicant's intention to seek release from the performance 1470
security. 1471

(2) Upon receipt of a copy of the advertisement and 1472
request for release of a performance security under division (F) 1473
(3) (c) of this section, the chief, within thirty days, shall 1474
conduct an inspection and evaluation of the reclamation work 1475
involved. The evaluation shall consider, among other things, the 1476

degree of difficulty to complete any remaining reclamation, 1477
whether pollution of surface and subsurface water is occurring, 1478
the probability of continuation or future occurrence of the 1479
pollution, and the estimated cost of abating the pollution. The 1480
chief shall notify the permittee in writing of the decision to 1481
release or not to release all or part of the performance 1482
security within sixty days after the filing of the request if no 1483
public hearing is held pursuant to division (F) (6) of this 1484
section or, if there has been a public hearing held pursuant to 1485
division (F) (6) of this section, within thirty days thereafter. 1486

(3) The chief may release the performance security if the 1487
reclamation covered by the performance security or portion 1488
thereof has been accomplished as required by this chapter and 1489
rules adopted under it according to the following schedule: 1490

(a) When the operator completes the backfilling, 1491
regrading, and drainage control of an area for which performance 1492
security has been provided in accordance with the approved 1493
reclamation plan, and, if the area covered by the performance 1494
security is one for which an authorization was made under 1495
division (E) (7) of section 1513.07 of the Revised Code, the 1496
operator has complied with the approved pollution abatement plan 1497
and all additional requirements established by the chief in 1498
rules adopted under section 1513.02 of the Revised Code 1499
governing coal mining and reclamation operations on pollution 1500
abatement areas, the chief shall grant a release of fifty per 1501
cent of the performance security for the applicable permit area. 1502

(b) After resoiling and revegetation have been established 1503
on the regraded mined lands in accordance with the approved 1504
reclamation plan, the chief shall grant a release in an amount 1505
not exceeding thirty-five per cent of the original performance 1506

security for all or part of the affected area under the permit. 1507
When determining the amount of performance security to be 1508
released after successful revegetation has been established, the 1509
chief shall retain that amount of performance security for the 1510
revegetated area that would be sufficient for a third party to 1511
cover the cost of reestablishing revegetation for the period 1512
specified for operator responsibility in this section for 1513
reestablishing revegetation. No part of the performance security 1514
shall be released under this division so long as the lands to 1515
which the release would be applicable are contributing suspended 1516
solids to streamflow or runoff outside the permit area in excess 1517
of the requirements of this section or until soil productivity 1518
for prime farmlands has returned to equivalent levels of yield 1519
as nonmined land of the same soil type in the surrounding area 1520
under equivalent management practices as determined from the 1521
soil survey performed pursuant to section 1513.07 of the Revised 1522
Code. If the area covered by the performance security is one for 1523
which an authorization was made under division (E) (7) of section 1524
1513.07 of the Revised Code, no part of the performance security 1525
shall be released under this division until the operator has 1526
complied with the approved pollution abatement plan and all 1527
additional requirements established by the chief in rules 1528
adopted under section 1513.02 of the Revised Code governing coal 1529
mining and reclamation operations on pollution abatement areas. 1530
Where a silt dam is to be retained as a permanent impoundment 1531
pursuant to division (A) (10) of this section, the portion of 1532
performance security may be released under this division so long 1533
as provisions for sound future maintenance by the operator or 1534
the landowner have been made with the chief. 1535

(c) When the operator has completed successfully all coal 1536
mining and reclamation activities, including, if applicable, all 1537

additional requirements established in the pollution abatement 1538
plan approved under division (E) (7) of section 1513.07 of the 1539
Revised Code and all additional requirements established by the 1540
chief in rules adopted under section 1513.02 of the Revised Code 1541
governing coal mining and reclamation operations on pollution 1542
abatement areas, the chief shall release all or any of the 1543
remaining portion of the performance security for all or part of 1544
the affected area under a permit, but not before the expiration 1545
of the period specified for operator responsibility in this 1546
section, except that the chief may adopt rules for a variance to 1547
the operator period of responsibility considering vegetation 1548
success and probability of continued growth and consent of the 1549
landowner, provided that no performance security shall be fully 1550
released until all reclamation requirements of this chapter are 1551
fully met. 1552

(4) If the chief disapproves the application for release 1553
of the performance security or portion thereof, the chief shall 1554
notify the permittee, in writing, stating the reasons for 1555
disapproval and recommending corrective actions necessary to 1556
secure the release, and allowing the opportunity for a public 1557
adjudicatory hearing. 1558

(5) When any application for total or partial performance 1559
security release is filed with the chief under this section, the 1560
chief shall notify the municipal corporation in which the coal 1561
mining operation is located by certified mail at least thirty 1562
days prior to the release of all or a portion of the performance 1563
security. 1564

(6) A person with a valid legal interest that might be 1565
adversely affected by release of a performance security under 1566
this section or the responsible officer or head of any federal, 1567

state, or local government agency that has jurisdiction by law 1568
or special expertise with respect to any environmental, social, 1569
or economic impact involved in the operation or is authorized to 1570
develop and enforce environmental standards with respect to such 1571
operations may file written objections to the proposed release 1572
from the performance security with the chief within thirty days 1573
after the last publication of the notice required by division 1574
(F) (1) of this section. If written objections are filed and an 1575
informal conference is requested, the chief shall inform all 1576
interested parties of the time and place of the conference. The 1577
date, time, and location of the informal conference shall be 1578
advertised by the chief in a newspaper of general circulation in 1579
the locality of the coal mining operation proposed for 1580
performance security release for at least once a week for two 1581
consecutive weeks. The informal conference shall be held in the 1582
locality of the coal mining operation proposed for performance 1583
security release or in Franklin county, at the option of the 1584
objector, within thirty days after the request for the 1585
conference. An electronic ~~or stenographic~~ record shall be made 1586
of the conference proceeding unless waived by all parties. The 1587
record shall be maintained and shall be accessible to the 1588
parties until final release of the performance security at 1589
issue. In the event all parties requesting the informal 1590
conference stipulate agreement prior to the requested informal 1591
conference and withdraw their request, the informal conference 1592
need not be held. 1593

(7) If an informal conference has been held pursuant to 1594
division (F) (6) of this section, the chief shall issue and 1595
furnish the applicant and persons who participated in the 1596
conference with the written decision regarding the release 1597
within sixty days after the conference. Within thirty days after 1598

notification of the final decision of the chief regarding the 1599
performance security release, the applicant or any person with 1600
an interest that is or may be adversely affected by the decision 1601
may appeal the decision to the reclamation commission pursuant 1602
to section 1513.13 of the Revised Code. 1603

(8) (a) If the chief determines that a permittee is 1604
responsible for mine drainage that requires water treatment 1605
after reclamation is completed under the terms of the permit or 1606
that a permittee must provide an alternative water supply after 1607
reclamation is completed under the terms of the permit, the 1608
permittee shall provide alternative financial security in an 1609
amount determined by the chief prior to the release of the 1610
remaining portion of performance security under division (F) (3) 1611
(c) of this section. The alternative financial security shall be 1612
in an amount that is equal to or greater than the present value 1613
of the estimated cost over time to develop and implement mine 1614
drainage plans and provide water treatment or in an amount that 1615
is necessary to provide and maintain an alternative water 1616
supply, as applicable. The alternative financial security shall 1617
include a contract, trust, or other agreement or mechanism that 1618
is enforceable under law to provide long-term water treatment or 1619
a long-term alternative water supply, or both. The contract, 1620
trust, or other agreement or mechanism included with the 1621
alternative financial security may provide for the funding of 1622
the alternative financial security incrementally over a period 1623
of time, not to exceed five years, with reliance on guarantees 1624
or other collateral provided by the permittee and approved by 1625
the chief for the balance of the alternative financial security 1626
required until the alternative financial security has been fully 1627
funded by the permittee. 1628

(b) The chief shall adopt rules in accordance with Chapter 1629

119. of the Revised Code that are necessary for the 1630
administration of division (F) (8) (a) of this section. 1631

(c) If the chief determines that a permittee must provide 1632
alternative financial security under division (F) (8) (a) of this 1633
section and the performance security for the permit was provided 1634
under division (C) (2) of section 1513.08 of the Revised Code, 1635
the permittee may fund the alternative financial security 1636
incrementally over a period of time, not to exceed five years, 1637
with reliance on the reclamation forfeiture fund created in 1638
section 1513.18 of the Revised Code for the balance of the 1639
alternative financial security required until the alternative 1640
financial security has been fully funded by the permittee. The 1641
permittee semiannually shall pay to the division of mineral 1642
resources management a fee that is equal to seven and one-half 1643
per cent of the average balance of the alternative financial 1644
security that is being provided by reliance on the reclamation 1645
forfeiture fund over the previous six months. All money received 1646
from the fee shall be credited to the reclamation forfeiture 1647
fund. 1648

(9) Final release of the performance security in 1649
accordance with division (F) (3) (c) of this section terminates 1650
the jurisdiction of the chief under this chapter over the 1651
reclaimed site of a surface coal mining and reclamation 1652
operation or applicable portion of an operation. However, the 1653
chief shall reassert jurisdiction over such a site if the 1654
release was based on fraud, collusion, or misrepresentation of a 1655
material fact and the chief, in writing, demonstrates evidence 1656
of the fraud, collusion, or misrepresentation. Any person with 1657
an interest that is or may be adversely affected by the chief's 1658
determination may appeal the determination to the reclamation 1659
commission in accordance with section 1513.13 of the Revised 1660

Code. 1661

(G) The chief shall adopt rules governing the criteria for 1662
forfeiture of performance security, the method of determining 1663
the forfeited amount, and the procedures to be followed in the 1664
event of forfeiture. Cash received as the result of such 1665
forfeiture is the property of the state. 1666

Sec. 1565.12. When a loss of life is occasioned by 1667
accident in any mine, the operator thereof shall forthwith give 1668
notice thereof to the chief of the division of mineral resources 1669
management, and to the deputy mine inspector in charge of the 1670
district. Such notice shall be given by telephone or 1671
~~telegraph~~electronic format. The operator of such mine shall, 1672
within twenty-four hours after such accident causing loss of 1673
life, send a written report of the accident to the chief. Such 1674
written report shall specify the character and cause of the 1675
accident, the names of the persons killed, and the nature of the 1676
injuries that caused death. In the case of injury thereafter 1677
resulting in death, the operator shall send a written notice 1678
thereof to the chief, and to the deputy mine inspector of such 1679
district, at such time as such death comes to the operator's 1680
knowledge. 1681

No operator of a mine shall refuse or neglect to comply 1682
with this section. 1683

Sec. 1571.05. (A) Whenever any part of a gas storage 1684
reservoir or any part of its protective area underlies any part 1685
of a coal mine, or is, or within nine months is expected or 1686
intended to be, within two thousand linear feet of the boundary 1687
of a coal mine that is operating in a coal seam any part of 1688
which extends over any part of the storage reservoir or its 1689
protective area, the operator of the reservoir, if the reservoir 1690

operator or some other reservoir operator has not theretofore 1691
done so, shall: 1692

(1) Use every known method that is reasonable under the 1693
circumstance for discovering and locating all wells drilled 1694
within the area of the reservoir or its protective area that 1695
underlie any part of the coal mine or its protective area; 1696

(2) Plug or recondition all known wells drilled within the 1697
area of the reservoir or its protective area that underlie any 1698
part of the coal mine. 1699

(B) Whenever an operator of a gas storage reservoir is 1700
notified by the operator of a coal mine, as provided in division 1701
(B) of section 1571.03 of the Revised Code, that the coal mine 1702
operator believes that part of the boundary of the mine is 1703
within two thousand linear feet of a well that is drilled 1704
through the horizon of the coal mine and into or through the 1705
storage stratum or strata of the reservoir within the boundary 1706
of the reservoir or within its protective area, the reservoir 1707
operator shall plug or recondition the well as in this section 1708
prescribed, unless it is agreed in a conference or is ordered by 1709
the chief of the division of oil and gas resources management 1710
after a hearing, as provided in section 1571.10 of the Revised 1711
Code, that the well referred to in the notice is not such a well 1712
as is described in division (B) of section 1571.03 of the 1713
Revised Code. 1714

Whenever an operator of a gas storage reservoir is 1715
notified by the operator of a coal mine as provided in division 1716
(C) or (D) of section 1571.03 of the Revised Code, that part of 1717
the boundary of the mine is, or within nine months is intended 1718
or expected to be, within two thousand linear feet of a well 1719
that is drilled through the horizon of the mine and into or 1720

through the storage stratum or strata of the reservoir within 1721
the boundary of the reservoir or within its protective area, the 1722
reservoir operator shall plug or recondition the well as in this 1723
section prescribed. 1724

Whenever the operator of a coal mine considers that the 1725
use of a well such as in this section described, if used for 1726
injecting gas into, or storing gas in, or removing gas from, a 1727
gas storage reservoir, would be hazardous to the safety of 1728
persons or property on or in the vicinity of the premises of the 1729
coal mine or the reservoir or well, the coal mine operator may 1730
file with the division objections to the use of the well for 1731
such purposes, and a request that a conference be held as 1732
provided in section 1571.10 of the Revised Code, to discuss and 1733
endeavor to resolve by mutual agreement whether or not the well 1734
shall or shall not be used for such purposes, and whether or not 1735
the well shall be reconditioned, inactivated, or plugged. The 1736
request shall set forth the mine operator's reasons for such 1737
objections. If no approved agreement is reached in the 1738
conference, the gas storage well inspector shall within ten days 1739
after the termination of the conference, file with the chief a 1740
request that the chief hear and determine the matters considered 1741
at the conference as provided in section 1571.10 of the Revised 1742
Code. Upon conclusion of the hearing, the chief shall find and 1743
determine whether or not the safety of persons or of the 1744
property on or in the vicinity of the premises of the coal mine, 1745
or the reservoir, or the well requires that the well be 1746
reconditioned, inactivated, or plugged, and shall make an order 1747
consistent with that determination, provided that the chief 1748
shall not order a well plugged unless the chief first finds that 1749
there is underground leakage of gas therefrom. 1750

The plugging or reconditioning of each well described in a 1751

notice from a coal mine operator to a reservoir operator as 1752
provided in division (B) of section 1571.03 of the Revised Code, 1753
which must be plugged or reconditioned, shall be completed 1754
within such time as the gas storage well inspector may fix in 1755
the case of each such well. The plugging or reconditioning of 1756
each well described in a notice from a coal mine operator to a 1757
reservoir operator as provided in division (C) of section 1758
1571.03 of the Revised Code, which must be plugged or 1759
reconditioned, shall be completed by the time the well, by 1760
reason of the extension of the boundary of the coal mine, is 1761
within two thousand linear feet of any part of the boundary of 1762
the mine. The plugging or reconditioning of each well described 1763
in a notice from a coal mine operator to a reservoir operator, 1764
as provided in division (D) of section 1571.03 of the Revised 1765
Code, which must be plugged or reconditioned, shall be completed 1766
by the time the well, by reason of the opening of the new mine, 1767
is within two thousand linear feet of any part of the boundary 1768
of the new mine. A reservoir operator who is required to 1769
complete the plugging or reconditioning of a well within a 1770
period of time fixed as in this division prescribed, may prior 1771
to the end of that period of time, notify the division and the 1772
mine operator from whom the reservoir operator received a notice 1773
as provided in division (B), (C), or (D) of section 1571.03 of 1774
the Revised Code, in writing by ~~registered-certified mail or~~ 1775
electronic format, that the completion of the plugging or 1776
reconditioning of the well referred to in the notice will be 1777
delayed beyond the end of the period of time fixed therefor as 1778
in this section provided, and that the reservoir operator 1779
requests that a conference be held for the purpose of 1780
endeavoring to reach an agreement establishing a date subsequent 1781
to the end of that period of time, on or before which the 1782
reservoir operator may complete the plugging or reconditioning 1783

without incurring any penalties for failure to do so as provided 1784
in this chapter. If such a reservoir operator sends to such a 1785
mine operator and to the division a notice and request for a 1786
conference as in this division provided, the reservoir operator 1787
shall not incur any penalties for failure to complete the 1788
plugging or reconditioning of the well within the period of time 1789
fixed as in this division prescribed, unless the reservoir 1790
operator fails to complete the plugging or reconditioning of the 1791
well within the period of time fixed by an approved agreement 1792
reached in the conference, or fixed by an order by the chief 1793
upon a hearing held in the matter in the event of failure to 1794
reach an approved agreement in the conference. 1795

Whenever, in compliance with this division, a well is to 1796
be plugged by a reservoir operator, the operator shall give to 1797
the division notice thereof, as many days in advance as will be 1798
necessary for the gas storage well inspector or a deputy mine 1799
inspector to be present at the plugging. The notification shall 1800
be made on blanks furnished by the division and shall show the 1801
following information: 1802

(1) Name and address of the applicant; 1803

(2) The location of the well identified by section or lot 1804
number, city or village, and township and county; 1805

(3) The well name and number of each well to be plugged. 1806

(C) The operator shall give written notice at the same 1807
time to the owner of the land upon which the well is located, 1808
the owners or agents of the adjoining land, and adjoining well 1809
owners or agents of the operator's intention to abandon the 1810
well, and of the time when the operator will be prepared to 1811
commence plugging and filling the same. In addition to giving 1812

such notices, the reservoir operator shall also at the same time 1813
send a copy of the notice by ~~registered-certified mail~~ or 1814
electronic format to the coal mine operator, if any, who sent to 1815
the reservoir operator the notice as provided in division (B), 1816
(C), or (D) of section 1571.03 of the Revised Code, in order 1817
that the coal mine operator or the coal mine operator's 1818
designated representative may attend and observe the manner in 1819
which the plugging of the well is done. 1820

If the reservoir operator plugs the well without the gas 1821
storage well inspector or a deputy mine inspector being present 1822
to supervise the plugging, the reservoir operator shall send to 1823
the division and to the coal mine operator a copy of the report 1824
of the plugging of the well, including in the report: 1825

(1) The date of abandonment; 1826

(2) The name of the owner or operator of the well at the 1827
time of abandonment and the well owner's or operator's post 1828
office address; 1829

(3) The location of the well as to township and county and 1830
the name of the owner of the surface upon which the well is 1831
drilled, with the address thereof; 1832

(4) The date of the permit to drill; 1833

(5) The date when drilled; 1834

(6) Whether the well has been mapped; 1835

(7) The depth of the well; 1836

(8) The depth of the top of the sand to which the well was 1837
drilled; 1838

(9) The depth of each seam of coal drilled through; 1839

(10) A detailed report as to how the well was plugged, 1840
giving in particular the manner in which the coal and various 1841
sands were plugged, and the date of the plugging of the well, 1842
including therein the names of those who witnessed the plugging 1843
of the well. 1844

The report shall be signed by the operator or the 1845
operator's agent who plugged the well and verified by the oath 1846
of the party so signing. For the purposes of this section, a 1847
deputy mine inspector may take acknowledgements and administer 1848
oaths to the parties signing the report. 1849

Whenever, in compliance with this division, a well is to 1850
be reconditioned by a reservoir operator, the operator shall 1851
give to the division notice thereof as many days before the 1852
reconditioning is begun as will be necessary for the gas storage 1853
well inspector, or a deputy mine inspector, to be present at the 1854
reconditioning. No well shall be reconditioned if an inspector 1855
of the division is not present unless permission to do so has 1856
been granted by the chief. The reservoir operator, at the time 1857
of giving notice to the division as in this section required, 1858
also shall send a copy of the notice by ~~registered~~ certified 1859
mail or electronic format to the coal mine operator, if any, who 1860
sent to the reservoir operator the notice as provided in 1861
division (B), (C), or (D) of section 1571.03 of the Revised 1862
Code, in order that the coal mine operator or the coal mine 1863
operator's designated representative may attend and observe the 1864
manner in which the reconditioning of the well is done. 1865

If the reservoir operator reconditions the well when the 1866
gas storage well inspector or a deputy mine inspector is not 1867
present to supervise the reconditioning, the reservoir operator 1868
shall make written report to the division describing the manner 1869

in which the reconditioning was done, and shall send to the coal 1870
mine operator a copy of the report by ~~registered~~ certified mail 1871
or electronic format. 1872

(D) Wells that are required by this section to be plugged 1873
shall be plugged in the manner specified in sections 1509.13 to 1874
1509.17 of the Revised Code, and the operator shall give the 1875
notifications and reports required by divisions (B) and (C) of 1876
this section. No such well shall be plugged or abandoned without 1877
the written approval of the division, and no such well shall be 1878
mudded, plugged, or abandoned without the gas storage well 1879
inspector or a deputy mine inspector present unless written 1880
permission has been granted by the chief or the gas storage well 1881
inspector. For purposes of this section, the chief of the 1882
division of mineral resources management has the authority given 1883
the chief of the division of oil and gas resources management in 1884
sections 1509.15 and 1509.17 of the Revised Code. If such a well 1885
has been plugged prior to the time plugging thereof is required 1886
by this section, and, on the basis of the data, information, and 1887
other evidence available it is determined that the plugging was 1888
done in the manner required by this section, or was done in 1889
accordance with statutes prescribing the manner of plugging 1890
wells in effect at the time the plugging was done, and that 1891
there is no evidence of leakage of gas from the well either at 1892
or below the surface, and that the plugging is sufficiently 1893
effective to prevent the leakage of gas from the well, the 1894
obligations imposed upon the reservoir operator by this section 1895
as to plugging the well shall be considered fully satisfied. The 1896
operator of a coal mine any part of the boundary of which is, or 1897
within nine months is expected or intended to be, within two 1898
thousand linear feet of the well may at any time raise a 1899
question as to whether the plugging of the well is sufficiently 1900

effective to prevent the leakage of gas therefrom, and the issue 1901
so made shall be determined by a conference or hearing as 1902
provided in section 1571.10 of the Revised Code. 1903

(E) Wells that are to be reconditioned as required by this 1904
section shall be, or shall be made to be: 1905

(1) Cased in accordance with the statutes of this state in 1906
effect at the time the wells were drilled, with the casing 1907
being, or made to be, sufficiently effective in that there is no 1908
evidence of any leakage of gas therefrom; 1909

(2) Equipped with a producing string and well head 1910
composed of new pipe, or pipe as good as new, and fittings 1911
designed to operate with safety and to contain the stored gas at 1912
maximum pressures contemplated. 1913

When a well that is to be reconditioned as required by 1914
this section has been reconditioned for use in the operation of 1915
the reservoir prior to the time prescribed in this section, and 1916
on the basis of the data, information, and other evidence 1917
available it is determined that at the time the well was so 1918
reconditioned the requirements prescribed in this division were 1919
met, and that there is no evidence of underground leakage of gas 1920
from the well, and that the reconditioning is sufficiently 1921
effective to prevent underground leakage from the well, the 1922
obligations imposed upon the reservoir operator by this section 1923
as to reconditioning the well shall be considered fully 1924
satisfied. Any operator of a coal mine any part of the boundary 1925
of which is, or within nine months is expected or intended to 1926
be, within two thousand linear feet of the well may at any time 1927
raise a question as to whether the reconditioning of the well is 1928
sufficiently effective to prevent underground leakage of gas 1929
therefrom, and the issue so made shall be determined by a 1930

conference or hearing as provided in section 1571.10 of the Revised Code.

If the gas storage well inspector at any time finds that a well that is drilled through the horizon of a coal mine and into or through the storage stratum or strata of a reservoir within the boundary of the reservoir or within its protective area is located within the boundary of the coal mine or within two thousand linear feet of the mine boundary, and was drilled prior to the time the statutes of this state required that wells be cased, and that the well fails to meet the casing and equipping requirements prescribed in this division, the gas storage well inspector shall promptly notify the operator of the reservoir thereof in writing, and the reservoir operator upon receipt of the notice shall promptly recondition the well in the manner prescribed in this division for reconditioning wells, unless, in a conference or hearing as provided in section 1571.10 of the Revised Code, a different course of action is agreed upon or ordered.

(F) (1) When a well within the boundary of a gas storage reservoir or within the reservoir's protective area penetrates the storage stratum or strata of the reservoir, but does not penetrate the coal seam within the boundary of a coal mine, the gas storage well inspector may, upon application of the operator of the storage reservoir, exempt the well from the requirements of this section. Either party affected by the action of the gas storage well inspector may request a conference and hearing with respect to the exemption.

(2) When a well located within the boundary of a storage reservoir or a reservoir's protective area is a producing well in a stratum above or below the storage stratum, the obligations

imposed by this section shall not begin until the well ceases to
be a producing well.

(G) When retreat mining reaches a point in a coal mine
when the operator of the mine expects that within ninety days
retreat work will be at the location of a pillar surrounding an
active storage reservoir well, the operator of the mine shall
promptly send by ~~registered-certified mail~~ or electronic format
notice to that effect to the operator of the reservoir.
Thereupon the operators may by agreement determine whether it is
necessary or advisable to temporarily inactivate the well. If
inactivated, the well shall not be reactivated until a
reasonable period of time has elapsed, such period of time to be
determined by agreement by the operators. In the event that the
parties cannot agree upon either of the foregoing matters, the
question shall be submitted to the gas storage well inspector
for a conference in accordance with section 1571.10 of the
Revised Code.

(H) (1) The provisions of this section that require the
plugging or reconditioning of wells shall not apply to such
wells as are used to inject gas into, store gas in, or remove
gas from a gas storage reservoir when the sole purpose of the
injection, storage, or removal is testing. The operator of a gas
storage reservoir who injects gas into, stores gas in, or
removes gas from a reservoir for the sole purpose of testing
shall be subject to all other provisions of this chapter that
are applicable to operators of reservoirs.

(2) If the injection of gas into, or storage of gas in, a
gas storage reservoir any part of which, or of the protective
area of which, is within the boundary of a coal mine is begun
after September 9, 1957, and if the injection or storage of gas

is for the sole purpose of testing, the operator of the 1991
reservoir shall send by ~~registered~~certified mail or electronic 1992
format to the operator of the coal mine, the division of oil and 1993
gas resources management, and the division of mineral resources 1994
management at least sixty days' notice of the date upon which 1995
the testing will be begun. 1996

If at any time within the period of time during which 1997
testing of a reservoir is in progress, any part of the reservoir 1998
or of its protective area comes within any part of the boundary 1999
of a coal mine, the operator of the reservoir shall promptly 2000
send notice to that effect by ~~registered~~certified mail or 2001
electronic format to the operator of the mine, the division of 2002
oil and gas resources management, and the division of mineral 2003
resources management. 2004

(3) Any coal mine operator who receives a notice as 2005
provided for in division (H) (2) of this section may within 2006
thirty days of the receipt thereof file with the division 2007
objections to the testing. The gas storage well inspector also 2008
may, within the time within which a coal mine operator may file 2009
an objection, place in the files of the division objections to 2010
the testing. The reservoir operator shall comply throughout the 2011
period of the testing operations with all conditions and 2012
requirements agreed upon and approved in the conference on such 2013
objections conducted as provided in section 1571.10 of the 2014
Revised Code, or in an order made by the chief following a 2015
hearing in the matter as provided in section 1571.10 of the 2016
Revised Code. If in complying with the agreement or order either 2017
the reservoir operator or the coal mine operator encounters or 2018
discovers conditions that were not known to exist at the time of 2019
the conference or hearing and that materially affect the 2020
agreement or order, or the ability of the reservoir operator to 2021

comply therewith, either operator may apply for a rehearing or 2022
modification of the order. 2023

(I) In addition to complying with all other provisions of 2024
this chapter and any lawful orders issued thereunder, the 2025
operator of each gas storage reservoir shall keep all wells 2026
drilled into or through the storage stratum or strata within the 2027
boundary of the operator's reservoir or within the reservoir's 2028
protective area in such condition, and operate the same in such 2029
manner, as to prevent the escape of gas therefrom into any coal 2030
mine, and shall operate and maintain the storage reservoir and 2031
its facilities in such manner and at such pressures as will 2032
prevent gas from escaping from the reservoir or its facilities 2033
into any coal mine. 2034

Sec. 1571.08. (A) Whenever in this chapter, the method or 2035
material to be used in discharging any obligations imposed by 2036
this chapter is specified, an alternative method or material may 2037
be used if approved by the gas storage well inspector or the 2038
chief of the division of oil and gas resources management. A 2039
person desiring to use such alternative method or material shall 2040
file with the division of oil and gas resources management an 2041
application for permission to do so. Such application shall 2042
describe such alternative method or material in reasonable 2043
detail. The gas storage well inspector shall promptly send by 2044
~~registered~~ certified mail or electronic format notice of the 2045
filing of such application to any coal mine operator or 2046
reservoir operator whose mine or reservoir may be directly 2047
affected thereby. Any such coal mine operator or reservoir 2048
operator may within ten days following receipt of such notice, 2049
file with the division objections to such application. The gas 2050
storage well inspector may also file with the division an 2051
objection to such application at any time during which coal mine 2052

operators or reservoir operators are permitted to file 2053
objections. If no objections are filed within the ten-day period 2054
of time, the gas storage well inspector shall thereupon issue a 2055
permit approving the use of such alternative method or material. 2056
If any such objections are filed by any coal mine operator or 2057
reservoir operator, or by the gas storage well inspector, the 2058
question as to whether or not the use of such alternative method 2059
or material, or a modification thereof is approved, shall be 2060
determined by a conference or hearing as provided in section 2061
1571.10 of the Revised Code. 2062

(B) Whenever in this chapter, provision is made for the 2063
filing of objections with the division, such objections shall be 2064
in writing and shall state as definitely as is reasonably 2065
possible the reasons for such objections. Upon the filing of any 2066
such objection the gas storage well inspector shall promptly fix 2067
the time and place for holding a conference for the purpose of 2068
discussing and endeavoring to resolve by mutual agreement the 2069
issue raised by such objection. The gas storage well inspector 2070
shall send written notice thereof by ~~registered~~ certified mail 2071
or electronic format to each person having a direct interest 2072
therein. Thereupon the issue made by such objection shall be 2073
determined by a conference or hearing in accordance with the 2074
procedures for conferences and hearings as provided in section 2075
1571.10 of the Revised Code. 2076

Sec. 1571.10. (A) The gas storage well inspector or any 2077
person having a direct interest in the administration of this 2078
chapter may at any time file with the division of oil and gas 2079
resources management a written request that a conference be held 2080
for the purpose of discussing and endeavoring to resolve by 2081
mutual agreement any question or issue relating to the 2082
administration of this chapter, or to compliance with its 2083

provisions, or to any violation thereof. Such request shall 2084
describe the matter concerning which the conference is 2085
requested. Thereupon the gas storage well inspector shall 2086
promptly fix the time and place for the holding of such 2087
conference and shall send written notice thereof to each person 2088
having a direct interest therein. At such conference the gas 2089
storage well inspector or a representative of the division 2090
designated by the gas storage well inspector shall be in 2091
attendance, and shall preside at the conference, and the gas 2092
storage well inspector or designated representative may make 2093
such recommendations as the gas storage well inspector or 2094
designated representative deems proper. Any agreement reached at 2095
such conference shall be consistent with the requirements of 2096
this chapter and, if approved by the gas storage well inspector, 2097
it shall be reduced to writing and shall be effective. Any such 2098
agreement approved by the gas storage well inspector shall be 2099
kept on file in the division and a copy thereof shall be 2100
furnished to each of the persons having a direct interest 2101
therein. The conference shall be deemed terminated as of the 2102
date an approved agreement is reached or when any person having 2103
a direct interest therein refuses to confer thereafter. Such a 2104
conference shall be held in all cases prior to the holding of a 2105
hearing as provided in this section. 2106

(B) Within ten days after the termination of a conference 2107
at which no approved agreement is reached, any person who 2108
participated in such conference and who has a direct interest in 2109
the subject matter thereof, or the gas storage well inspector, 2110
may file with the chief of the division of oil and gas resources 2111
management a request that the chief hear and determine the 2112
matter or matters, or any part thereof considered at the 2113
conference. Thereupon the chief shall promptly fix the time and 2114

place for the holding of such hearing and shall send written 2115
notice thereof to each person having a direct interest therein. 2116
The form of the request for such hearing and the conduct of the 2117
hearing shall be in accordance with rules that the chief adopts 2118
under section 1571.11 of the Revised Code. Consistent with the 2119
requirement for reasonable notice each such hearing shall be 2120
held promptly after the filing of the request therefor. Any 2121
person having a direct interest in the matter to be heard shall 2122
be entitled to appear and be heard in person or by attorney. The 2123
division may present at such hearing any evidence that is 2124
material to the matter being heard and that has come to the 2125
division's attention in any investigation or inspection made 2126
pursuant to this chapter. 2127

(C) For the purpose of conducting such a hearing the chief 2128
may require the attendance of witnesses and the production of 2129
books, records, and papers, and the chief may, and at the 2130
request of any person having a direct interest in the matter 2131
being heard, the chief shall, issue subpoenas for witnesses or 2132
subpoenas duces tecum to compel the production of any books, 2133
records, or papers, directed to the sheriffs of the counties 2134
where such witnesses are found, which subpoenas shall be served 2135
and returned in the same manner as subpoenas in criminal cases 2136
are served and returned. The fees of sheriffs shall be the same 2137
as those allowed by the court of common pleas in criminal cases. 2138
Witnesses shall be paid the fees and mileage provided for under 2139
section 119.094 of the Revised Code. Such fee and mileage 2140
expenses shall be paid in advance by the persons at whose 2141
request they are incurred, and the remainder of such expenses 2142
shall be paid out of funds appropriated for the expenses of the 2143
division. 2144

In case of disobedience or neglect of any subpoena served 2145

on any person, or the refusal of any witness to testify to any 2146
matter regarding which the witness may be lawfully interrogated, 2147
the court of common pleas of the county in which such 2148
disobedience, neglect, or refusal occurs, or any judge thereof, 2149
on application of the chief, shall compel obedience by 2150
attachment proceedings for contempt as in the case of 2151
disobedience of the requirements of a subpoena issued from such 2152
court or a refusal to testify therein. Witnesses at such 2153
hearings shall testify under oath, and the chief may administer 2154
oaths or affirmations to persons who so testify. 2155

(D) With the consent of the chief, the testimony of any 2156
witness may be taken by deposition at the instance of a party to 2157
any hearing before the chief at any time after hearing has been 2158
formally commenced. The chief may, of the chief's own motion, 2159
order testimony to be taken by deposition at any stage in any 2160
hearing, proceeding, or investigation pending before the chief. 2161
Such deposition shall be taken in the manner prescribed by the 2162
laws of this state for taking depositions in civil cases in 2163
courts of record. 2164

(E) After the conclusion of a hearing the chief shall make 2165
a determination and finding of facts. Every adjudication, 2166
determination, or finding by the chief shall be made by written 2167
order and shall contain a written finding by the chief of the 2168
facts upon which the adjudication, determination, or finding is 2169
based. Notice of the making of such order shall be given to the 2170
persons whose rights, duties, or privileges are affected 2171
thereby, by sending a certified copy thereof by ~~registered~~ 2172
certified mail or electronic format to each of such persons. 2173

Adjudications, determinations, findings, and orders made 2174
by the chief shall not be governed by, or be subject to, Chapter 2175

119. of the Revised Code. 2176

Sec. 1571.14. Any person claiming to be aggrieved or 2177
adversely affected by an order of the chief of the division of 2178
oil and gas resources management made as provided in section 2179
1571.10 or 1571.16 of the Revised Code may appeal to the 2180
director of natural resources for an order vacating or modifying 2181
such order. Upon receipt of the appeal, the director shall 2182
appoint an individual who has knowledge of the laws and rules 2183
regarding the underground storage of gas and who shall act as a 2184
hearing officer in accordance with Chapter 119. of the Revised 2185
Code in hearing the appeal. 2186

The person appealing to the director shall be known as 2187
appellant and the chief shall be known as appellee. The 2188
appellant and the appellee shall be deemed parties to the 2189
appeal. 2190

The appeal shall be in writing and shall set forth the 2191
order complained of and the grounds upon which the appeal is 2192
based. The appeal shall be filed with the director within thirty 2193
days after the date upon which appellant received notice by 2194
~~registered~~ certified mail or electronic format of the making of 2195
the order complained of, as required by section 1571.10 of the 2196
Revised Code. Notice of the filing of such appeal shall be 2197
delivered by appellant to the chief within three days after the 2198
appeal is filed with the director. 2199

Within seven days after receipt of the notice of appeal 2200
the chief shall prepare and certify to the director at the 2201
expense of appellant a complete transcript of the proceedings 2202
out of which the appeal arises, including a transcript of the 2203
testimony submitted to the chief. 2204

Upon the filing of the appeal the director shall fix the 2205
time and place at which the hearing on the appeal will be held, 2206
and shall give appellant and the chief at least ten days' 2207
written notice thereof by mail. The director may postpone or 2208
continue any hearing upon the director's own motion or upon 2209
application of appellant or of the chief. 2210

The filing of an appeal provided for in this section does 2211
not automatically suspend or stay execution of the order 2212
appealed from, but upon application by the appellant the 2213
director may suspend or stay such execution pending 2214
determination of the appeal upon such terms as the director 2215
deems proper. 2216

The hearing officer appointed by the director shall hear 2217
the appeal de novo, and either party to the appeal may submit 2218
such evidence as the hearing officer deems admissible. 2219

For the purpose of conducting a hearing on an appeal, the 2220
hearing officer may require the attendance of witnesses and the 2221
production of books, records, and papers, and may, and at the 2222
request of any party shall, issue subpoenas for witnesses or 2223
subpoenas duces tecum to compel the production of any books, 2224
records, or papers, directed to the sheriffs of the counties 2225
where such witnesses are found, which subpoenas shall be served 2226
and returned in the same manner as subpoenas in criminal cases 2227
are served and returned. The fees of sheriffs shall be the same 2228
as those allowed by the court of common pleas in criminal cases. 2229
Witnesses shall be paid the fees and mileage provided for under 2230
section 119.094 of the Revised Code. Such fee and mileage 2231
expenses incurred at the request of appellant shall be paid in 2232
advance by appellant, and the remainder of such expenses shall 2233
be paid out of funds appropriated for the expenses of the 2234

division of oil and gas resources management. 2235

In case of disobedience or neglect of any subpoena served 2236
on any person, or the refusal of any witness to testify to any 2237
matter regarding which the witness may be lawfully interrogated, 2238
the court of common pleas of the county in which such 2239
disobedience, neglect, or refusal occurs, or any judge thereof, 2240
on application of the director, shall compel obedience by 2241
attachment proceedings for contempt as in the case of 2242
disobedience of the requirements of a subpoena issued from such 2243
court or a refusal to testify therein. Witnesses at such 2244
hearings shall testify under oath, and the hearing officer may 2245
administer oaths or affirmations to persons who so testify. 2246

At the request of any party to the appeal, a record of the 2247
testimony and other evidence submitted shall be taken by an 2248
official court reporter at the expense of the party making the 2249
request for the record. The record shall include all of the 2250
testimony and other evidence and the rulings on the 2251
admissibility thereof presented at the hearing. The hearing 2252
officer shall pass upon the admissibility of evidence, but any 2253
party may at the time object to the admission of any evidence 2254
and except to the ruling of the hearing officer thereon, and if 2255
the hearing officer refuses to admit evidence, the party 2256
offering same may make a proffer thereof, and such proffer shall 2257
be made a part of the record of such hearing. 2258

If upon completion of the hearing the hearing officer 2259
finds that the order appealed from was lawful and reasonable, 2260
the hearing officer shall make a written order affirming the 2261
order appealed from. If the hearing officer finds that such 2262
order was unreasonable or unlawful, the hearing officer shall 2263
make a written order vacating the order appealed from and making 2264

the order that it finds the chief should have made. Every order 2265
made by the hearing officer shall contain a written finding by 2266
the hearing officer of the facts upon which the order is based. 2267
Notice of the making of such order shall be given forthwith to 2268
each party to the appeal by mailing a certified copy thereof to 2269
each such party by ~~registered~~ certified mail or electronic 2270
format. 2271

Sec. 1571.15. Any party adversely affected by an order of 2272
the hearing officer under section 1571.14 of the Revised Code 2273
may appeal to the court of common pleas of any county in which 2274
the well, or part of the gas storage reservoir, or part of the 2275
coal mine, involved in the order of the hearing officer which is 2276
being appealed, is located. Any party desiring to so appeal 2277
shall file with the director of natural resources a notice of 2278
appeal designating the order appealed from and stating whether 2279
the appeal is taken on questions of law or questions of law and 2280
fact. A copy of such notice shall also be filed by appellant 2281
with the court and shall be mailed or otherwise delivered to 2282
appellee. The notice shall be filed and mailed or otherwise 2283
delivered within thirty days after the date upon which appellant 2284
received notice from the hearing officer by ~~registered~~ certified 2285
mail or electronic format of the making of the order appealed 2286
from. No appeal bond shall be required to make either an appeal 2287
on questions of law or an appeal on questions of law and fact 2288
effective. 2289

The filing of a notice of appeal shall not automatically 2290
operate as a suspension of the order of the hearing officer. If 2291
it appears to the court that an unjust hardship to the appellant 2292
will result from the execution of the hearing officer's order 2293
pending determination of the appeal, the court may grant a 2294
suspension of such order and fix its terms. 2295

Within fifteen days after receipt of the notice of appeal 2296
the hearing officer shall prepare and file in the court the 2297
complete record of proceedings out of which the appeal arises, 2298
including a transcript of the testimony and other evidence which 2299
has been submitted before ~~him~~ the hearing officer. The expense 2300
of preparing and transcribing such record shall be taxed as a 2301
part of the costs of the appeal. Appellant shall provide 2302
security for costs satisfactory to the court. Upon demand by a 2303
party the director shall furnish at the cost of the party 2304
requesting the same a copy of such record. In the event such 2305
complete record is not filed in the court within the time 2306
provided for in this section either party may apply to the court 2307
to have the case docketed, and the court shall order such record 2308
filed. 2309

Appeals taken on questions of law shall be heard upon 2310
assignments of error filed in the cause or set out in the briefs 2311
of the appellant before the hearing. Errors not argued by brief 2312
may be disregarded, but the court may consider and decide errors 2313
which are not assigned or argued. Failure to file such briefs 2314
and assignments of error within the time prescribed by the 2315
court's rules shall be a cause for dismissal of such appeal. 2316

In appeals taken on questions of law and fact, the hearing 2317
in the court shall be a hearing de novo of the appeal heard by 2318
the hearing officer in which the order appealed from was made. 2319
In such hearings any party may offer as evidence any part of the 2320
record of the proceedings out of which the appeal arises, 2321
certified to the court as provided for in this section, and any 2322
other evidence which the court deems admissible. 2323

If the court finds that the order of the hearing officer 2324
appealed from was lawful and reasonable, it shall affirm such 2325

order. If the court finds that such order was unreasonable or 2326
unlawful, it shall vacate such order and make the order which it 2327
finds the hearing officer should have made. The judgment of the 2328
court is final unless reversed, vacated, or modified on appeal 2329
as in civil actions. 2330

Sec. 1571.16. (A) The gas storage well inspector or any 2331
person having a direct interest in the subject matter of this 2332
chapter may file with the division of oil and gas resources 2333
management a complaint in writing stating that a person is 2334
violating, or is about to violate, a provision or provisions of 2335
this chapter, or has done, or is about to do, an act, matter, or 2336
thing therein prohibited or declared to be unlawful, or has 2337
failed, omitted, neglected, or refused, or is about to fail, 2338
omit, neglect, or refuse, to perform a duty enjoined upon the 2339
person by this chapter. Upon the filing of such a complaint, the 2340
chief of the division of oil and gas resources management shall 2341
promptly fix the time for the holding of a hearing on such 2342
complaint and shall send by ~~registered-certified mail or~~ 2343
electronic format to the person so complained of, a copy of such 2344
complaint together with at least five days' notice of the time 2345
and place at which such hearing will be held. Such notice of 2346
such hearing shall also be given to all persons having a direct 2347
interest in the matters complained of in such complaint. Such 2348
hearing shall be conducted in the same manner, and the chief and 2349
persons having a direct interest in the matter being heard, 2350
shall have the same powers, rights, and duties as provided in 2351
divisions (B), (C), (D), and (E) of section 1571.10 of the 2352
Revised Code, in connection with hearings by the chief, provided 2353
that if after conclusion of the hearing the chief finds that the 2354
charges against the person complained of, as stated in such 2355
complaint, have not been sustained by a preponderance of 2356

evidence, the chief shall make an order dismissing the 2357
complaint, and if the chief finds that the charges have been so 2358
sustained, the chief shall by appropriate order require 2359
compliance with those provisions. 2360

(B) Whenever the chief is of the opinion that any person 2361
is violating, or is about to violate, any provision of this 2362
chapter, or has done, or is about to do, any act, matter, or 2363
thing therein prohibited or declared to be unlawful, or has 2364
failed, omitted, neglected, or refused, or is about to fail, 2365
omit, neglect, or refuse, to perform any duty enjoined upon the 2366
person by this chapter, or has failed, omitted, neglected, or 2367
refused, or is about to fail, omit, neglect, or refuse, to obey 2368
any lawful requirement or order made by the chief, or any final 2369
judgment, order, or decree made by any court pursuant to this 2370
chapter, then and in every such case, the chief may institute in 2371
a court of competent jurisdiction of the county or counties 2372
wherein the operation is situated, an action to enjoin or 2373
restrain such violations or to enforce obedience with law or the 2374
orders of the chief. No injunction bond shall be required to be 2375
filed in any such proceeding. Such persons or corporations as 2376
the court may deem necessary or proper to be joined as parties 2377
in order to make its judgment, order, or writ effective may be 2378
joined as parties. An appeal may be taken as in other civil 2379
actions. 2380

(C) In addition to the other remedies as provided in 2381
divisions (A) and (B) of this section, any reservoir operator or 2382
coal mine operator affected by this chapter may proceed by 2383
injunction or other appropriate remedy to restrain violations or 2384
threatened violations of this chapter or of orders of the chief, 2385
or of the hearing officer appointed under section 1571.14 of the 2386
Revised Code, or the judgments, orders, or decrees of any court 2387

or to enforce obedience therewith. 2388

(D) Each remedy prescribed in divisions (A), (B), and (C) 2389
of this section is deemed concurrent or contemporaneous with 2390
each other remedy prescribed therein, and the existence or 2391
exercise of any one such remedy shall not prevent the exercise 2392
of any other such remedy. 2393

(E) The provisions of this chapter providing for 2394
conferences, hearings by the chief, appeals to the hearing 2395
officer from orders of the chief, and appeals to the court of 2396
common pleas from orders of the hearing officer, and the 2397
remedies prescribed in divisions (A), (B), (C), and (D) of this 2398
section, do not constitute the exclusive procedure that a 2399
person, who deems the person's rights to be unlawfully affected 2400
by any official action taken thereunder, must pursue in order to 2401
protect and preserve such rights, nor does this chapter 2402
constitute a procedure that such a person must pursue before the 2403
person may lawfully proceed by other actions, legal or 2404
equitable, to protect and preserve such rights. 2405

Sec. 1707.02. (A) "Exempt," as used in this section, means 2406
exempt from sections 1707.08 to 1707.11 and 1707.39 of the 2407
Revised Code. 2408

(B) (1) Except as provided in division (B) (2) of this 2409
section, the following securities are exempt, if the issuer or 2410
guarantor has the power of taxation or assessment for the 2411
purpose of paying the obligation represented by the security, or 2412
is in specific terms empowered by the laws of the state of 2413
issuance to issue securities payable as to principal or 2414
interest, or as to both, out of revenues collected or 2415
administered by such issuer: 2416

(a) Any security issued or guaranteed by the United States;	2417 2418
(b) Any security issued or guaranteed by, and recognized, at the time of sale, as its valid obligation by, any foreign government with which the United States is, at the time of sale, maintaining diplomatic relations;	2419 2420 2421 2422
(c) Any security issued or guaranteed, and recognized as its valid obligation, by any political subdivision or any governmental or other public body, corporation, or agency in or of the United States, any state, territory, or possession of the United States, or any foreign government with which the United States is, at the time of sale, maintaining diplomatic relations.	2423 2424 2425 2426 2427 2428 2429
(2) If a security described in division (B)(1) of this section is not payable out of the proceeds of a general tax, the security is exempt only if, at the time of its first sale in this state, there is no default in the payment of any of the interest or principal of the security, and there are no adjudications or pending suits adversely affecting its validity.	2430 2431 2432 2433 2434 2435
(C) Any security issued or guaranteed by a state or nationally chartered bank, savings and loan association, savings bank, or credit union, or a governmental corporation or agency created by or under the laws of the United States or of Canada is exempt, if it is under the supervision of or subject to regulation by the government or state under whose laws it was organized.	2436 2437 2438 2439 2440 2441 2442
(D) Any interim certificate is exempt, if the securities to be delivered therefor are themselves exempt, are the subject matter of an exempt transaction, have been registered by	2443 2444 2445

description or registered by qualification, or are the subject 2446
matter of a transaction which has been registered by 2447
description. 2448

(E) (1) A security is exempt if it meets any of the 2449
following requirements: 2450

(a) The security is listed, or authorized for listing, on 2451
the New York stock exchange, the American stock exchange, or the 2452
national market system of the NASDAQ stock market, or any 2453
successor to such entities. 2454

(b) The security is listed, or authorized for listing, on 2455
a national securities exchange or system, or on a tier or 2456
segment of such exchange or system, designated by the securities 2457
and exchange commission in rule 146(b) promulgated under section 2458
18(b) (1) of the Securities Act of 1933. 2459

(c) The security is listed, or authorized for listing, on 2460
a national securities exchange or system, or on a tier or 2461
segment of such exchange or system, that has listing standards 2462
that the division of securities, on its own initiative or on the 2463
basis of an application, determines by rule are substantially 2464
similar to the listing standards applicable to securities 2465
described in division (E) (1) (a) of this section. 2466

(d) The security is a security of the same issuer that is 2467
equal in seniority or that is a senior security to a security 2468
described in division (E) (1) (a), (b), or (c) of this section. 2469

(2) Application for approval of a stock exchange or system 2470
not approved in this section may be made by any organized stock 2471
exchange or system, or by any dealer who is a member of such 2472
exchange, in such manner and upon such forms as are prescribed 2473
by the division, accompanied by payment of an approval fee of 2474

two hundred dollars, and the division shall make such 2475
investigation and may hold such hearings as it deems necessary 2476
to determine the propriety of giving approval. The cost of such 2477
investigation shall be borne by the applicant. The division may 2478
enter an order of approval, and if it does so, it shall notify 2479
the applicant of such approval. 2480

(3) The division may revoke the approval of an exchange or 2481
system enumerated in division (E) (1) of this section, provided 2482
that the exchange or system is not listed in section 18(b) (1) of 2483
the Securities Act of 1933 or any rule promulgated thereunder. 2484
The division may effect a revocation after due notice, 2485
investigation, a hearing, and a finding that the practices or 2486
requirements of such exchange or system have been so changed or 2487
modified, or are, in their actual operation, such that the 2488
contemplated protection is no longer afforded. The principles of 2489
res adjudicata ordinarily applicable in civil matters shall not 2490
be applicable to this matter, which is hereby declared to be 2491
administrative rather than judicial. Notice of the hearing may 2492
be given by ~~certified~~ electronic mail at least ten days before 2493
such hearing. 2494

(4) The division may suspend the exemption of any security 2495
described in division (E) (1) of this section, provided that the 2496
security is listed or authorized for listing on an exchange or 2497
system that is not listed in section 18(b) (1) of the Securities 2498
Act of 1933 or any rule promulgated thereunder. The division may 2499
effect a suspension by giving notice, by ~~certified~~ electronic 2500
mail, to that effect to the exchange or system upon which such 2501
security is listed or designated and to the issuer of such 2502
security. After notice and hearing, the division may revoke such 2503
exemption if it appears to it that sales of such security have 2504
been fraudulent or that future sales of it would be fraudulent. 2505

The division shall set such hearing not later than ten days from 2506
the date of the order of suspension, but may for good cause 2507
continue such hearing upon application of the exchange or system 2508
upon which such security is listed or designated or upon 2509
application of the issuer of such security. 2510

(F) Any security, issued or guaranteed as to principal, 2511
interest, or dividend or distribution by a corporation owning or 2512
operating any public utility, is exempt, if such corporation is, 2513
as to its rates and charges or as to the issuance and 2514
guaranteeing of securities, under the supervision of or 2515
regulated by a public commission, board, or officer of the 2516
United States, or of Canada, or of any state, province, or 2517
municipal corporation in either of such countries. Equipment- 2518
trust securities based on chattel mortgages, leases, or 2519
agreements for conditional sale, of cars, locomotives, motor 2520
trucks, or other rolling stock or of motor vehicles mortgaged, 2521
leased, or sold to, or finished for the use of, a public 2522
utility, are exempt; and so are equipment securities where the 2523
ownership or title of such equipment is pledged or retained, in 2524
accordance with the laws of the United States or of any state, 2525
or of Canada or any province thereof, to secure the payment of 2526
such securities. 2527

(G) Commercial paper and promissory notes are exempt when 2528
they are not offered directly or indirectly for sale to the 2529
public. 2530

(H) Any security issued or guaranteed by an insurance 2531
company, except as provided in section 1707.32 of the Revised 2532
Code, is exempt if such company is under the supervision of, and 2533
the issuance or guaranty of such security is regulated by, a 2534
state. 2535

(I) Any security, except notes, bonds, debentures, or 2536
other evidences of indebtedness or of promises or agreements to 2537
pay money, which is issued by a person, corporation, or 2538
association organized not for profit, including persons, 2539
corporations, and associations organized exclusively for 2540
conducting county fairs, or for religious, educational, social, 2541
recreational, athletic, benevolent, fraternal, charitable, or 2542
reformatory purposes, and agricultural cooperatives as defined 2543
in section 1729.01 of the Revised Code, is exempt, if no part of 2544
the net earnings of such issuer inures to the benefit of any 2545
shareholder or member of such issuer or of any individual, and 2546
if the total commission, remuneration, expense, or discount in 2547
connection with the sale of such securities does not exceed two 2548
per cent of the total sale price thereof plus five hundred 2549
dollars. 2550

(J) (1) Any securities outstanding for a period of not less 2551
than five years, on which there has occurred no default in 2552
payment of principal, interest, or dividend or distribution for 2553
the five years immediately preceding the sale, are exempt. 2554

(2) For the purpose of division (J) of this section, the 2555
dividend, distribution, or interest rate on securities in which 2556
no such rate is specified shall be at the rate of at least four 2557
per cent annually on the aggregate of the price at which such 2558
securities are to be sold. 2559

(K) All bonds issued under authority of Chapter 165. or 2560
761., or section 4582.06 or 4582.31 of the Revised Code are 2561
exempt. 2562

Sec. 1707.04. (A) The division of securities may consider 2563
and conduct hearings upon any plan of reorganization, 2564
recapitalization, or refinancing of a corporation organized 2565

under the laws of this state, or having its principal place of 2566
business within this state, when such plan is proposed by such 2567
corporation or by any of its shareholders or creditors and 2568
contains a proposal to issue securities in exchange for one or 2569
more bona fide outstanding securities, claims, or property 2570
interests, or partly in such exchange or partly for cash. The 2571
division may also approve the terms of such issuance and 2572
exchange and the fairness of such terms, after a hearing upon 2573
such fairness at which all persons to whom it is proposed to 2574
issue securities in such exchange have the right to appear, if 2575
application for such a hearing is made by such corporation, by 2576
the holders of a majority in amount of its debts, or by the 2577
holders of a majority in amount of any outstanding class of 2578
securities issued by it. Notice in person or by electronic or 2579
regular mail of the time and place of such hearing shall be 2580
given to all persons to whom it is proposed to issue such 2581
securities, and evidence satisfactory to the division that such 2582
notice has been given shall be filed with the division. 2583
Securities issued in accordance with a plan so approved by the 2584
division are exempt from sections 1707.01 to 1707.50 of the 2585
Revised Code, relating to registration or qualification of 2586
securities or the registration of transactions therein. 2587

(B) "Reorganization," "recapitalization," and 2588
"refinancing," as used in this section, include the following: 2589

(1) A readjustment by modification of the terms of 2590
securities by agreement; 2591

(2) A readjustment by the exchange of securities by the 2592
issuer for others of its securities; 2593

(3) The exchange of securities by the issuer for 2594
securities of another issuer; 2595

(4) The acquisition of assets of a person, directly or 2596
indirectly, partly or wholly in consideration for securities 2597
distributed or to be distributed as part of the same 2598
transaction, directly or indirectly, to holders of securities 2599
issued by such person or secured by assets of such person; 2600

(5) A merger or consolidation. 2601

(C) Upon filing an application with the division under 2602
this section, the applicant shall pay to the division a filing 2603
fee of one hundred dollars and shall deposit with the division 2604
such sum, not in excess of one thousand dollars, as the division 2605
requires for the purpose of defraying the costs of the hearing 2606
provided for in this section and of any investigation which the 2607
division may make in connection herewith. 2608

Sec. 1707.042. (A) No person who makes or opposes a 2609
control bid to offerees in this state shall knowingly do any of 2610
the following: 2611

(1) Make any untrue statement of a material fact or omit 2612
to state a material fact necessary in order to make the 2613
statements made, in light of the circumstances under which they 2614
were made, not misleading; 2615

(2) Engage in any act, practice, or course of business 2616
which operates or would operate as a fraud or deceit upon any 2617
such offeree; 2618

(3) Engage in any manipulative act or practice. 2619

(B) Any person who makes or opposes a control bid to 2620
offerees in this state, or who realizes any profit which inures 2621
to and is recoverable by a corporation, formed in this state, 2622
pursuant to section 1707.043 of the Revised Code, is 2623
conclusively presumed to have designated the secretary of state 2624

as its agent for the service of process in any action or 2625
proceeding under this chapter. Upon receipt of any such process, 2626
together with an affidavit showing the last known address of the 2627
person who made or opposed the control bid or who realized such 2628
profit, the secretary of state shall forthwith give notice ~~by~~ 2629
~~telegraph of the fact of the service of process and forward a~~ 2630
~~copy of such process to such address by certified mail, return~~ 2631
~~receipt requested.~~ This section does not affect any right to 2632
serve process in any other manner permitted by law. 2633

(C) Any person who makes or opposes a control bid is 2634
subject to the liabilities and penalties applicable to a seller, 2635
and an offeree is entitled to the remedies applicable to a 2636
purchaser, as set forth in sections 1707.41 to 1707.50 of the 2637
Revised Code. 2638

(D) In case any provision or application of any provision 2639
of this section is for any reason held to be illegal or invalid, 2640
such illegality or invalidity shall not affect any legal and 2641
valid provision or application of this section. 2642

Sec. 1707.091. (A) Any security for which a registration 2643
statement has been filed pursuant to Section 6 of the Securities 2644
Act of 1933 or for which a notification form and offering 2645
circular has been filed pursuant to regulation A of the general 2646
rules and regulations of the securities and exchange commission, 2647
17 C.F.R. sections 230.251 to 230.256 and 230.258 to 230.263, as 2648
amended before or after the effective date of this section, in 2649
connection with the same offering may be registered by 2650
coordination. 2651

(B) A registration statement filed by or on behalf of the 2652
issuer under this section with the division of securities shall 2653
contain the following information and be accompanied by the 2654

following items in addition to the consent to service of process 2655
required by section 1707.11 of the Revised Code: 2656

(1) One copy of the latest form of prospectus or offering 2657
circular and notification filed with the securities and exchange 2658
commission; 2659

(2) If the division of securities by rule or otherwise 2660
requires, a copy of the articles of incorporation and code of 2661
regulations or bylaws, or their substantial equivalents, as 2662
currently in effect, a copy of any agreements with or among 2663
underwriters, a copy of any indenture or other instrument 2664
governing the issuance of the security to be registered, and a 2665
specimen or copy of the security; 2666

(3) If the division of securities requests, any other 2667
information, or copies of any other documents, filed with the 2668
securities and exchange commission; 2669

(4) An undertaking by the issuer to forward to the 2670
division, promptly and in any event not later than the first 2671
business day after the day they are forwarded to or thereafter 2672
are filed with the securities and exchange commission, whichever 2673
occurs first, all amendments to the federal prospectus, offering 2674
circular, notification form, or other documents filed with the 2675
securities and exchange commission, other than an amendment that 2676
merely delays the effective date; 2677

(5) A filing fee of one hundred dollars. 2678

(C) A registration statement filed under this section 2679
becomes effective either at the moment the federal registration 2680
statement becomes effective or at the time the offering may 2681
otherwise be commenced in accordance with the rules, 2682
regulations, or orders of the securities and exchange 2683

commission, if all of the following conditions are satisfied:	2684
(1) No stop order is in effect, no proceeding is pending	2685
under section 1707.13 of the Revised Code, and no cease and	2686
desist order has been issued pursuant to section 1707.23 of the	2687
Revised Code;	2688
(2) The registration statement has been on file with the	2689
division for at least fifteen days or for such shorter period as	2690
the division by rule or otherwise permits; provided, that if the	2691
registration statement is not filed with the division within	2692
five days of the initial filing with the securities and exchange	2693
commission, the registration statement must be on file with the	2694
division for thirty days or for such shorter period as the	2695
division by rule or otherwise permits.	2696
(3) A statement of the maximum and minimum proposed	2697
offering prices and the maximum underwriting discounts and	2698
commissions has been on file with the division for two full	2699
business days or for such shorter period as the division by rule	2700
or otherwise permits and the offering is made within those	2701
limitations;	2702
(4) The division has received a registration fee of one-	2703
tenth of one per cent of the aggregate price at which the	2704
securities are to be sold to the public in this state, which	2705
fee, however, shall in no case be less than one hundred or more	2706
than one thousand dollars.	2707
(D) The issuer shall promptly notify the division by	2708
telephone or telegram of the date and time when the federal	2709
registration statement became effective, or when the offering	2710
may otherwise be commenced in accordance with the rules,	2711
regulations, or orders of the securities and exchange	2712

commission, and of the contents of the price amendment, if any, 2713
and shall promptly file the price amendment. 2714

"Price amendment" for the purpose of this division, means 2715
the final federal registration statement amendment that includes 2716
a statement of the offering price, underwriting and selling 2717
discounts or commissions, amount of proceeds, conversion rates, 2718
call prices, and other matters dependent upon the offering 2719
price. 2720

If the division fails to receive the required notice and 2721
required copies of the price amendment, the division may enter a 2722
provisional stop order retroactively denying effectiveness to 2723
the registration statement or suspending its effectiveness until 2724
there is compliance with this division, provided the division 2725
promptly notifies the issuer or its representative by telephone 2726
~~or telegram~~, and promptly confirms by letter ~~or telegram~~ when it 2727
notifies by telephone, of the entry of the order. If the issuer 2728
or its representative proves compliance with the requirements of 2729
this division as to notice and price amendment filing, the stop 2730
order is void as of the time of its entry. The division may by 2731
rule or otherwise waive either or both of the conditions 2732
specified in divisions (C) (2) and (3) of this section. If the 2733
federal registration statement becomes effective, or if the 2734
offering may otherwise be commenced in accordance with the 2735
rules, regulations, or orders of the securities and exchange 2736
commission, before all of the conditions specified in divisions 2737
(C) and (D) of this section are satisfied and they are not 2738
waived by the division the registration statement becomes 2739
effective as soon as all of the conditions are satisfied. 2740

If the issuer advises the division of the date when the 2741
federal registration statement is expected to become effective, 2742

or when the offering may otherwise be commenced in accordance 2743
with the rules, regulations, or orders of the securities and 2744
exchange commission, the division shall promptly advise the 2745
issuer or its representative by telephone ~~or telegram~~, at the 2746
issuer's expense, whether all of the conditions have been 2747
satisfied or whether the division then contemplates the 2748
institution of a proceeding under section 1707.13 or 1707.23 of 2749
the Revised Code, but such advice does not preclude the 2750
institution of such a proceeding at any time. 2751

Sec. 1707.11. (A) Each person that is not organized under 2752
the laws of this state, that is not licensed under section 2753
1703.03 of the Revised Code, or that does not have its principal 2754
place of business in this state, shall submit to the division of 2755
securities an irrevocable consent to service of process, as 2756
described in division (B) of this section, in connection with 2757
any of the following: 2758

(1) Filings to claim any of the exemptions enumerated in 2759
division (Q), (W), or (Y) of section 1707.03 of the Revised 2760
Code; 2761

(2) Applications for registration by description, 2762
qualification, or coordination; 2763

(3) Notice filings pursuant to section 1707.092 of the 2764
Revised Code. 2765

(B) The irrevocable written consent shall be executed and 2766
acknowledged by an individual duly authorized to give the 2767
consent and shall do all of the following: 2768

(1) Designate the secretary of state as agent for service 2769
of process or pleadings; 2770

(2) State that actions growing out of the sale of such 2771

securities, the giving of investment advice, or fraud committed 2772
by a person on whose behalf the consent is submitted may be 2773
commenced against the person, in the proper court of any county 2774
in this state in which a cause of action may arise or in which 2775
the plaintiff in the action may reside, by serving on the 2776
secretary of state any proper process or pleading authorized by 2777
the laws of this state; 2778

(3) Stipulate that service of process or pleading on the 2779
secretary of state shall be taken in all courts to be as valid 2780
and binding as if service had been made upon the person on whose 2781
behalf the consent is submitted. 2782

(C) Notwithstanding any application, form, or other 2783
material filed with or submitted to the division that purports 2784
to appoint as agent for service of process a person other than 2785
the secretary of state, the application, form, or other material 2786
shall be considered to appoint the secretary of state as agent 2787
for service of process. 2788

(D) Service of any process or pleadings may be made on the 2789
secretary of state ~~by duplicate copies, of which one shall be~~ 2790
~~filed~~ in the office of the secretary of state, and ~~the other~~ 2791
~~immediately~~ forwarded by the secretary of state ~~by certified~~ 2792
~~mail~~ to the principal place of business of the person on whose 2793
behalf the consent is submitted or to the last known address as 2794
shown on the filing made with the division. However, failure to 2795
~~mail~~ send such copy does not invalidate the service. 2796

(E) Notwithstanding any provision of this chapter, or of 2797
any rule adopted by the division of securities under this 2798
chapter, that requires the submission of a consent to service of 2799
process, the division may provide by rule for the electronic 2800
filing or submission of a consent to service of process. 2801

Sec. 1707.43. (A) Subject to divisions (B) and (C) of this 2802
section, every sale or contract for sale made in violation of 2803
Chapter 1707. of the Revised Code, is voidable at the election 2804
of the purchaser. The person making such sale or contract for 2805
sale, and every person that has participated in or aided the 2806
seller in any way in making such sale or contract for sale, are 2807
jointly and severally liable to the purchaser, in an action at 2808
law in any court of competent jurisdiction, upon tender to the 2809
seller ~~in person or in open court~~ of the securities sold or of 2810
the contract made, for the full amount paid by the purchaser and 2811
for all taxable court costs, unless the court determines that 2812
the violation did not materially affect the protection 2813
contemplated by the violated provision. 2814

(B) No action for the recovery of the purchase price as 2815
provided for in this section, and no other action for any 2816
recovery based upon or arising out of a sale or contract for 2817
sale made in violation of Chapter 1707. of the Revised Code, 2818
shall be brought more than two years after the plaintiff knew, 2819
or had reason to know, of the facts by reason of which the 2820
actions of the person or director were unlawful, or more than 2821
five years from the date of such sale or contract for sale, 2822
whichever is the shorter period. 2823

(C) No purchaser is entitled to the benefit of this 2824
section who has failed to accept, within thirty days from the 2825
date of such offer, an offer in writing made after two weeks 2826
from the date of the sale or contract of sale, by the seller or 2827
by any person that has participated in or aided the seller in 2828
any way in making the sale or contract of sale, to take back the 2829
security in question and to refund the full amount paid by the 2830
purchaser. 2831

Sec. 1733.16. Unless otherwise provided in the articles, 2832
regulations, or bylaws, and subject to the exceptions applicable 2833
during an emergency, as that term is defined in section 1733.01 2834
of the Revised Code: 2835

(A) Meetings of the directors may be called by the 2836
chairperson, vice-chairperson, president, or any vice-president 2837
of the board or any two directors. 2838

(B) Regularly scheduled meetings of the directors shall be 2839
held in the manner prescribed by the credit union's code of 2840
regulations, but not less frequently than quarterly. 2841

(C) Meetings of the directors may be held within or 2842
without the state. Unless the articles or regulations prohibit 2843
participation by directors at a meeting by means of 2844
communication equipment, meetings of the directors may be held 2845
through any communication equipment if all the persons 2846
participating can hear each other, and participation in the 2847
meeting pursuant to this division constitutes presence at the 2848
meeting. 2849

(D) Notice of the place, if any, and time of each meeting 2850
of the directors shall be given to each director either by 2851
personal delivery or by mail, ~~telegram, cablegram,~~ overnight 2852
delivery service, or any other means of communication authorized 2853
by the ~~director~~ board of directors at least two days before the 2854
meeting, unless otherwise specified in the regulations or 2855
bylaws. The notice described in this division need not specify 2856
the purpose of the meeting. 2857

(E) Notice of adjournment of a meeting need not be given, 2858
if the time and place to which it is adjourned are fixed and 2859
announced at the meeting. 2860

Sec. 2941.401. When a person has entered upon a term of imprisonment in a correctional institution of this state, and when during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, ~~he~~ the prisoner shall be brought to trial within one hundred eighty days after ~~he~~ the prisoner causes to be delivered to the prosecuting attorney and the appropriate court in which the matter is pending, written notice of the place of ~~his~~ the prisoner's imprisonment and a request for a final disposition to be made of the matter, except that for good cause shown in open court, with the prisoner or ~~his~~ the prisoner's counsel present, the court may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden or superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time served and remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the adult parole authority relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden or superintendent having custody of ~~him~~ the prisoner, who shall promptly forward it with the certificate to the appropriate prosecuting attorney and court by registered or certified mail, return receipt requested. If the appropriate prosecuting attorney and agency having custody of the prisoner have previously agreed, then the written notice, request, and certificate may be sent by electronic mail or facsimile, in lieu of registered mail or certified mail.

The warden or superintendent having custody of the

prisoner shall promptly inform ~~him~~ the prisoner in writing of 2892
the source and contents of any untried indictment, information, 2893
or complaint against ~~him~~ the prisoner, concerning which the 2894
warden or superintendent has knowledge, and of ~~his~~ the 2895
prisoner's right to make a request for final disposition 2896
thereof. 2897

Escape from custody by the prisoner, subsequent to ~~his~~ the 2898
prisoner's execution of the request for final disposition, voids 2899
the request. 2900

If the action is not brought to trial within the time 2901
provided, subject to continuance allowed pursuant to this 2902
section, no court any longer has jurisdiction thereof, the 2903
indictment, information, or complaint is void, and the court 2904
shall enter an order dismissing the action with prejudice. 2905

This section does not apply to any person adjudged to be 2906
mentally ill or who is under sentence of life imprisonment or 2907
death, or to any prisoner under sentence of death. 2908

Sec. 3111.23. The natural mother, the man acknowledging he 2909
is the natural father, or the other custodian or guardian of a 2910
child, a child support enforcement agency pursuant to section 2911
3111.22 of the Revised Code, a local registrar of vital 2912
statistics pursuant to section 3705.091 of the Revised Code, or 2913
a hospital staff person pursuant to section 3727.17 of the 2914
Revised Code, ~~in person or~~ by mail, may file an acknowledgment 2915
of paternity with the office of child support in the department 2916
of job and family services, acknowledging that the child is the 2917
child of the man who signed the acknowledgment. The 2918
acknowledgment of paternity shall be made on the affidavit 2919
prepared pursuant to section 3111.31 of the Revised Code, shall 2920
be signed by the natural mother and the man acknowledging that 2921

he is the natural father, and each signature shall be notarized. 2922
The mother and man may sign and have the signature notarized 2923
outside of each other's presence. An acknowledgment shall be 2924
sent to the office no later than ten days after it has been 2925
signed and notarized. If a person knows a man is presumed under 2926
section 3111.03 of the Revised Code to be the father of the 2927
child described in this section and that the presumed father is 2928
not the man who signed an acknowledgment with respect to the 2929
child, the person shall not notarize or file the acknowledgment 2930
pursuant to this section. 2931

Sec. 3301.05. A majority of the voting members of the 2932
state board of education shall constitute a quorum for the 2933
transaction of business. Official actions of the state board, 2934
including the making and adoption of motions and resolutions, 2935
shall be transacted only at public meetings open to the public. 2936
The superintendent of public instruction, or a designated 2937
subordinate ~~designated by him~~, shall record all official actions 2938
taken at each meeting of the board ~~in a book provided for that~~ 2939
~~purpose~~, which shall be a public record. The record of the 2940
proceedings of each meeting of the board shall be read at its 2941
next succeeding meeting and corrected and approved, which 2942
approval shall be noted in the proceedings. The president shall 2943
sign the record and the superintendent of public instruction or 2944
his a designated subordinate attest it. The president's 2945
signature of the record and the attestation of the 2946
superintendent or designated subordinate may be made 2947
electronically. 2948

Sec. 3302.04. As used in divisions (A), (C), and (D) of 2949
this section, for the 2014-2015 school year, and for each school 2950
year thereafter, when a provision refers to a school district or 2951
school building in a state of academic emergency, it shall mean 2952

a district or building rated "F"; when a provision refers to a 2953
school district or school building under an academic watch, it 2954
shall mean a district or building rated "D"; and when a 2955
provision refers to a school district or school building in need 2956
of continuous improvement, it shall mean a district or building 2957
rated "C" as those letter grade ratings for overall performance 2958
are assigned under division (C) (3) of section 3302.03 of the 2959
Revised Code, as it exists on or after March 22, 2013. 2960

(A) The department of education shall establish a system 2961
of intensive, ongoing support for the improvement of school 2962
districts and school buildings. In accordance with the model of 2963
differentiated accountability described in section 3302.041 of 2964
the Revised Code, the system shall give priority to the 2965
following: 2966

(1) For any school year prior to the 2012-2013 school 2967
year, districts and buildings that have been declared to be 2968
under an academic watch or in a state of academic emergency 2969
under section 3302.03 of the Revised Code; 2970

(2) For the 2012-2013 school year, and for each school 2971
year thereafter, districts and buildings in the manner 2972
prescribed by any agreement currently in force between the 2973
department and the United States department of education. The 2974
department shall endeavor to include schools and buildings that 2975
receive grades or performance ratings under section 3302.03 of 2976
the Revised Code that the department considers to be low 2977
performing. 2978

The system shall include services provided to districts 2979
and buildings through regional service providers, such as 2980
educational service centers. The system may include the 2981
appointment of an improvement coordinator for any of the lowest 2982

performing districts, as determined by the department, to 2983
coordinate the district's academic improvement efforts and to 2984
build support among the community for those efforts. 2985

(B) This division does not apply to any school district 2986
after June 30, 2008. 2987

When a school district has been notified by the department 2988
pursuant to section 3302.03 of the Revised Code that the 2989
district or a building within the district has failed to make 2990
adequate yearly progress for two consecutive school years, the 2991
district shall develop a three-year continuous improvement plan 2992
for the district or building containing each of the following: 2993

(1) An analysis of the reasons for the failure of the 2994
district or building to meet any of the applicable performance 2995
indicators established under section 3302.02 of the Revised Code 2996
that it did not meet and an analysis of the reasons for its 2997
failure to make adequate yearly progress; 2998

(2) Specific strategies that the district or building will 2999
use to address the problems in academic achievement identified 3000
in division (B) (1) of this section; 3001

(3) Identification of the resources that the district will 3002
allocate toward improving the academic achievement of the 3003
district or building; 3004

(4) A description of any progress that the district or 3005
building made in the preceding year toward improving its 3006
academic achievement; 3007

(5) An analysis of how the district is utilizing the 3008
professional development standards adopted by the state board 3009
pursuant to section 3319.61 of the Revised Code; 3010

(6) Strategies that the district or building will use to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

No three-year continuous improvement plan shall be developed or adopted pursuant to this division unless at least one public hearing is held within the affected school district or building concerning the final draft of the plan. Notice of the hearing shall be given two weeks prior to the hearing by publication in one newspaper of general circulation within the territory of the affected school district or building. Copies of the plan shall be made available to the public.

(C) (1) For any school year prior to the school year that begins on July 1, 2012, when a school district or building has been notified by the department pursuant to section 3302.03 of the Revised Code that the district or building is under an academic watch or in a state of academic emergency, the district or building shall be subject to any rules establishing intervention in academic watch or emergency school districts or buildings.

(2) For the 2012-2013 school year, and for each school year thereafter, a district or building that meets the conditions for intervention prescribed by the agreement described in division (A) (2) of this section shall be subject to any rules establishing such intervention.

(D) (1) For any school year prior to the 2012-2013 school year, within one hundred twenty days after any school district or building is declared to be in a state of academic emergency under section 3302.03 of the Revised Code, the department may initiate a site evaluation of the building or school district.

(2) For the 2012-2013 school year, and for each school year thereafter, the department may initiate a site evaluation of a building or school district that meets the conditions for a site evaluation prescribed by the agreement described in division (A) (2) of this section.

~~(3) Division (D) (3) of this section does not apply to any school district after June 30, 2008.~~

~~If any school district that is declared to be in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code or encompasses a building that is declared to be in a state of academic emergency or in a state of academic watch fails to demonstrate to the department satisfactory improvement of the district or applicable buildings or fails to submit to the department any information required under rules established by the state board of education, prior to approving a three year continuous improvement plan under rules established by the state board of education, the department shall conduct a site evaluation of the school district or applicable buildings to determine whether the school district is in compliance with minimum standards established by law or rule.~~

~~(4) Division (D) (4) of this section does not apply to any school district after June 30, 2008. Site evaluations conducted under divisions (D) (1), (2), and (3) of this section shall include, but not be limited to, the following:~~

~~(a) Determining whether teachers are assigned to subject areas for which they are licensed or certified;~~

~~(b) Determining pupil-teacher ratios;~~

~~(c) Examination of compliance with minimum instruction~~

~~time requirements for each school day and for each school year;~~ 3069

~~(d) Determining whether materials and equipment necessary to implement the curriculum approved by the school district board are available;~~ 3070
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~~(e) Examination of whether the teacher and principal evaluation systems comply with sections 3311.80, 3311.84, 3319.02, and 3319.111 of the Revised Code;~~ 3073
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~~(f) Examination of the adequacy of efforts to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.~~ 3076
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(E) This division applies only to school districts that operate a school building that fails to make adequate yearly progress for two or more consecutive school years. It does not apply to any such district after June 30, 2008, except as provided in division (D) (2) of section 3313.97 of the Revised Code. 3079
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(1) For any school building that fails to make adequate yearly progress for two consecutive school years, the district shall do all of the following: 3085
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(a) Provide written notification of the academic issues that resulted in the building's failure to make adequate yearly progress to the parent or guardian of each student enrolled in the building. The notification shall also describe the actions being taken by the district or building to improve the academic performance of the building and any progress achieved toward that goal in the immediately preceding school year. 3088
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(b) If the building receives funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with 3095
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section 3313.97 of the Revised Code, offer all students enrolled 3098
in the building the opportunity to enroll in an alternative 3099
building within the district that is not in school improvement 3100
status as defined by the "No Child Left Behind Act of 2001." 3101
Notwithstanding Chapter 3327. of the Revised Code, the district 3102
shall spend an amount equal to twenty per cent of the funds it 3103
receives under Title I, Part A of the "Elementary and Secondary 3104
Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide 3105
transportation for students who enroll in alternative buildings 3106
under this division, unless the district can satisfy all demand 3107
for transportation with a lesser amount. If an amount equal to 3108
twenty per cent of the funds the district receives under Title 3109
I, Part A of the "Elementary and Secondary Education Act of 3110
1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all 3111
demand for transportation, the district shall grant priority 3112
over all other students to the lowest achieving students among 3113
the subgroup described in division (B) (3) of section 3302.01 of 3114
the Revised Code in providing transportation. Any district that 3115
does not receive funds under Title I, Part A of the "Elementary 3116
and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, 3117
shall not be required to provide transportation to any student 3118
who enrolls in an alternative building under this division. 3119

(2) For any school building that fails to make adequate 3120
yearly progress for three consecutive school years, the district 3121
shall do both of the following: 3122

(a) If the building receives funds under Title I, Part A 3123
of the "Elementary and Secondary Education Act of 1965," 20 3124
U.S.C. 6311 to 6339, from the district, in accordance with 3125
section 3313.97 of the Revised Code, provide all students 3126
enrolled in the building the opportunity to enroll in an 3127
alternative building within the district that is not in school 3128

improvement status as defined by the "No Child Left Behind Act 3129
of 2001." Notwithstanding Chapter 3327. of the Revised Code, the 3130
district shall provide transportation for students who enroll in 3131
alternative buildings under this division to the extent required 3132
under division (E) (2) of this section. 3133

(b) If the building receives funds under Title I, Part A 3134
of the "Elementary and Secondary Education Act of 1965," 20 3135
U.S.C. 6311 to 6339, from the district, offer supplemental 3136
educational services to students who are enrolled in the 3137
building and who are in the subgroup described in division (B) 3138
(3) of section 3302.01 of the Revised Code. 3139

The district shall spend a combined total of an amount 3140
equal to twenty per cent of the funds it receives under Title I, 3141
Part A of the "Elementary and Secondary Education Act of 1965," 3142
20 U.S.C. 6311 to 6339, to provide transportation for students 3143
who enroll in alternative buildings under division (E) (1) (b) or 3144
(E) (2) (a) of this section and to pay the costs of the 3145
supplemental educational services provided to students under 3146
division (E) (2) (b) of this section, unless the district can 3147
satisfy all demand for transportation and pay the costs of 3148
supplemental educational services for those students who request 3149
them with a lesser amount. In allocating funds between the 3150
requirements of divisions (E) (1) (b) and (E) (2) (a) and (b) of 3151
this section, the district shall spend at least an amount equal 3152
to five per cent of the funds it receives under Title I, Part A 3153
of the "Elementary and Secondary Education Act of 1965," 20 3154
U.S.C. 6311 to 6339, to provide transportation for students who 3155
enroll in alternative buildings under division (E) (1) (b) or (E) 3156
(2) (a) of this section, unless the district can satisfy all 3157
demand for transportation with a lesser amount, and at least an 3158
amount equal to five per cent of the funds it receives under 3159

Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the supplemental educational services provided to students under division (E) (2) (b) of this section, unless the district can pay the costs of such services for all students requesting them with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation under divisions (E) (1) (b) and (E) (2) (a) of this section and to pay the costs of all of the supplemental educational services provided to students under division (E) (2) (b) of this section, the district shall grant priority over all other students in providing transportation and in paying the costs of supplemental educational services to the lowest achieving students among the subgroup described in division (B) (3) of section 3302.01 of the Revised Code.

Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under division (E) (2) (a) of this section or to pay the costs of supplemental educational services provided to any student under division (E) (2) (b) of this section.

No student who enrolls in an alternative building under division (E) (2) (a) of this section shall be eligible for supplemental educational services under division (E) (2) (b) of this section.

(3) For any school building that fails to make adequate yearly progress for four consecutive school years, the district

shall continue to comply with division (E) (2) of this section 3190
and shall implement at least one of the following options with 3191
respect to the building: 3192

(a) Institute a new curriculum that is consistent with the 3193
statewide academic standards adopted pursuant to division (A) of 3194
section 3301.079 of the Revised Code; 3195

(b) Decrease the degree of authority the building has to 3196
manage its internal operations; 3197

(c) Appoint an outside expert to make recommendations for 3198
improving the academic performance of the building. The district 3199
may request the department to establish a state intervention 3200
team for this purpose pursuant to division (G) of this section. 3201

(d) Extend the length of the school day or year; 3202

(e) Replace the building principal or other key personnel; 3203

(f) Reorganize the administrative structure of the 3204
building. 3205

(4) For any school building that fails to make adequate 3206
yearly progress for five consecutive school years, the district 3207
shall continue to comply with division (E) (2) of this section 3208
and shall develop a plan during the next succeeding school year 3209
to improve the academic performance of the building, which shall 3210
include at least one of the following options: 3211

(a) Reopen the school as a community school under Chapter 3212
3314. of the Revised Code; 3213

(b) Replace personnel; 3214

(c) Contract with a nonprofit or for-profit entity to 3215
operate the building; 3216

(d) Turn operation of the building over to the department;	3217
(e) Other significant restructuring of the building's governance.	3218 3219
(5) For any school building that fails to make adequate yearly progress for six consecutive school years, the district shall continue to comply with division (E) (2) of this section and shall implement the plan developed pursuant to division (E) (4) of this section.	3220 3221 3222 3223 3224
(6) A district shall continue to comply with division (E) (1) (b) or (E) (2) of this section, whichever was most recently applicable, with respect to any building formerly subject to one of those divisions until the building makes adequate yearly progress for two consecutive school years.	3225 3226 3227 3228 3229
(F) This division applies only to school districts that have been identified for improvement by the department pursuant to the "No Child Left Behind Act of 2001." It does not apply to any such district after June 30, 2008.	3230 3231 3232 3233
(1) If a school district has been identified for improvement for one school year, the district shall provide a written description of the continuous improvement plan developed by the district pursuant to division (B) of this section to the parent or guardian of each student enrolled in the district. If the district does not have a continuous improvement plan, the district shall develop such a plan in accordance with division (B) of this section and provide a written description of the plan to the parent or guardian of each student enrolled in the district.	3234 3235 3236 3237 3238 3239 3240 3241 3242 3243
(2) If a school district has been identified for improvement for two consecutive school years, the district shall	3244 3245

continue to implement the continuous improvement plan developed 3246
by the district pursuant to division (B) or (F) (1) of this 3247
section. 3248

(3) If a school district has been identified for 3249
improvement for three consecutive school years, the department 3250
shall take at least one of the following corrective actions with 3251
respect to the district: 3252

(a) Withhold a portion of the funds the district is 3253
entitled to receive under Title I, Part A of the "Elementary and 3254
Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339; 3255

(b) Direct the district to replace key district personnel; 3256

(c) Institute a new curriculum that is consistent with the 3257
statewide academic standards adopted pursuant to division (A) of 3258
section 3301.079 of the Revised Code; 3259

(d) Establish alternative forms of governance for 3260
individual school buildings within the district; 3261

(e) Appoint a trustee to manage the district in place of 3262
the district superintendent and board of education. 3263

The department shall conduct individual audits of a 3264
sampling of districts subject to this division to determine 3265
compliance with the corrective actions taken by the department. 3266

(4) If a school district has been identified for 3267
improvement for four consecutive school years, the department 3268
shall continue to monitor implementation of the corrective 3269
action taken under division (F) (3) of this section with respect 3270
to the district. 3271

(5) If a school district has been identified for 3272
improvement for five consecutive school years, the department 3273

shall take at least one of the corrective actions identified in 3274
division (F) (3) of this section with respect to the district, 3275
provided that the corrective action the department takes is 3276
different from the corrective action previously taken under 3277
division (F) (3) of this section with respect to the district. 3278

(G) The department may establish a state intervention team 3279
to evaluate all aspects of a school district or building, 3280
including management, curriculum, instructional methods, 3281
resource allocation, and scheduling. Any such intervention team 3282
shall be appointed by the department and shall include teachers 3283
and administrators recognized as outstanding in their fields. 3284
The intervention team shall make recommendations regarding 3285
methods for improving the performance of the district or 3286
building. 3287

The department shall not approve a district's request for 3288
an intervention team under division (E) (3) of this section if 3289
the department cannot adequately fund the work of the team, 3290
unless the district agrees to pay for the expenses of the team. 3291

(H) The department shall conduct individual audits of a 3292
sampling of community schools established under Chapter 3314. of 3293
the Revised Code to determine compliance with this section. 3294

(I) A school district in which the pilot project 3295
scholarship program is operating under sections 3313.974 to 3296
3313.979 of the Revised Code shall report the use of funding for 3297
tutorial assistance grants under that program in the district's 3298
three-year continuous improvement plan under this section in a 3299
manner approved by the department. 3300

(J) The state board shall adopt rules for implementing 3301
this section. 3302

Sec. 3310.521. (A) As a condition of receiving payments 3303
for a scholarship, each eligible applicant shall attest to 3304
receipt of the profile prescribed by division (B) of this 3305
section. Such attestation shall be made and submitted to the 3306
department of education in the form and manner as required by 3307
the department. 3308

(B) The alternative public provider or registered private 3309
provider that enrolls a qualified special education child shall 3310
submit in writing to the eligible applicant to whom a 3311
scholarship is awarded on behalf of that child a profile of the 3312
provider's special education program, in a form as prescribed by 3313
the department, that shall contain the following: 3314

(1) Methods of instruction that will be utilized by the 3315
provider to provide services to the qualified special education 3316
child; 3317

(2) Qualifications of teachers, instructors, and other 3318
persons who will be engaged by the provider to provide services 3319
to the qualified special education child. 3320

The form required under division (B) of this section may 3321
be submitted electronically. 3322

Sec. 3313.41. (A) Except as provided in divisions (C), 3323
(D), and (F) of this section and in sections 3313.412 and 3324
3313.413 of the Revised Code, when a board of education decides 3325
to dispose of real or personal property that it owns in its 3326
corporate capacity and that exceeds in value ten thousand 3327
dollars, it shall sell the property at public auction, after 3328
giving at least thirty days' notice of the auction by 3329
publication in a newspaper of general circulation in the school 3330
district, by publication as provided in section 7.16 of the 3331

Revised Code, or by posting notices in five of the most public 3332
places in the school district in which the property, if it is 3333
real property, is situated, or, if it is personal property, in 3334
the school district of the board of education that owns the 3335
property. The board may offer real property for sale as an 3336
entire tract or in parcels. 3337

(B) When the board of education has offered real or 3338
personal property for sale at public auction at least once 3339
pursuant to division (A) of this section, and the property has 3340
not been sold, the board may sell it at a private sale. 3341
Regardless of how it was offered at public auction, at a private 3342
sale, the board shall, as it considers best, sell real property 3343
as an entire tract or in parcels, and personal property in a 3344
single lot or in several lots. 3345

(C) If a board of education decides to dispose of real or 3346
personal property that it owns in its corporate capacity and 3347
that exceeds in value ten thousand dollars, it may sell the 3348
property to the adjutant general; to any subdivision or taxing 3349
authority as respectively defined in section 5705.01 of the 3350
Revised Code, township park district, board of park 3351
commissioners established under Chapter 755. of the Revised 3352
Code, or park district established under Chapter 1545. of the 3353
Revised Code; to a wholly or partially tax-supported university, 3354
university branch, or college; to a nonprofit institution of 3355
higher education that has a certificate of authorization under 3356
Chapter 1713. of the Revised Code; to the governing authority of 3357
a chartered nonpublic school; or to the board of trustees of a 3358
school district library, upon such terms as are agreed upon. The 3359
sale of real or personal property to the board of trustees of a 3360
school district library is limited, in the case of real 3361
property, to a school district library within whose boundaries 3362

the real property is situated, or, in the case of personal 3363
property, to a school district library whose boundaries lie in 3364
whole or in part within the school district of the selling board 3365
of education. 3366

(D) When a board of education decides to trade as a part 3367
or an entire consideration, an item of personal property on the 3368
purchase price of an item of similar personal property, it may 3369
trade the same upon such terms as are agreed upon by the parties 3370
to the trade. 3371

(E) The president and the treasurer of the board of 3372
education shall execute and deliver deeds or other necessary 3373
instruments of conveyance to complete any sale or trade under 3374
this section. 3375

(F) When a board of education has identified a parcel of 3376
real property that it determines is needed for school purposes, 3377
the board may, upon a majority vote of the members of the board, 3378
acquire that property by exchanging real property that the board 3379
owns in its corporate capacity for the identified real property 3380
or by using real property that the board owns in its corporate 3381
capacity as part or an entire consideration for the purchase 3382
price of the identified real property. Any exchange or 3383
acquisition made pursuant to this division shall be made by a 3384
conveyance executed by the president and the treasurer of the 3385
board. 3386

(G) When a school district board of education has property 3387
that the board, by resolution, finds is not needed for school 3388
district use, is obsolete, or is unfit for the use for which it 3389
was acquired, the board may donate that property in accordance 3390
with this division if the fair market value of the property is, 3391
in the opinion of the board, two thousand five hundred dollars 3392

or less. 3393

The property may be donated to an eligible nonprofit 3394
organization that is located in this state and is exempt from 3395
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 3396
Before donating any property under this division, the board 3397
shall adopt a resolution expressing its intent to make unneeded, 3398
obsolete, or unfit-for-use school district property available to 3399
these organizations. The resolution shall include guidelines and 3400
procedures the board considers to be necessary to implement the 3401
donation program and shall indicate whether the school district 3402
will conduct the donation program or the board will contract 3403
with a representative to conduct it. If a representative is 3404
known when the resolution is adopted, the resolution shall 3405
provide contact information such as the representative's name, 3406
address, and telephone number. 3407

The resolution shall include within its procedures a 3408
requirement that any nonprofit organization desiring to obtain 3409
donated property under this division shall submit a written 3410
notice to the board or its representative. The written notice 3411
shall include evidence that the organization is a nonprofit 3412
organization that is located in this state and is exempt from 3413
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); 3414
a description of the organization's primary purpose; a 3415
description of the type or types of property the organization 3416
needs; and the name, address, and telephone number of a person 3417
designated by the organization's governing board to receive 3418
donated property and to serve as its agent. The written notice 3419
may be submitted electronically to the board or its 3420
representative. 3421

After adoption of the resolution, the board shall ~~publish,~~ 3422

~~in a newspaper of general circulation in the school district or~~ 3423
~~as provided in section 7.16 of the Revised Code, notice of its~~ 3424
~~intent to donate unneeded, obsolete, or unfit for use school~~ 3425
~~district property to eligible nonprofit organizations. The~~ 3426
~~notice shall include a summary of the information provided in~~ 3427
~~the resolution and shall be published twice. The second notice~~ 3428
~~shall be published not less than ten nor more than twenty days~~ 3429
~~after the previous notice. A similar notice also shall be posted~~ 3430
continually post in the board's office notice of its intent to 3431
donate school district property that is unneeded, obsolete, or 3432
unfit for use to eligible nonprofit organizations. If the school 3433
district maintains a web site on the internet, the notice shall 3434
be posted continually at that web site. 3435

The board or its representatives shall maintain a list of 3436
all nonprofit organizations that notify the board or its 3437
representative of their desire to obtain donated property under 3438
this division and that the board or its representative 3439
determines to be eligible, in accordance with the requirements 3440
set forth in this section and in the donation program's 3441
guidelines and procedures, to receive donated property. 3442

The board or its representative also shall maintain a list 3443
of all school district property the board finds to be unneeded, 3444
obsolete, or unfit for use and to be available for donation 3445
under this division. The list shall be posted continually in a 3446
conspicuous location in the board's office, and, if the school 3447
district maintains a web site on the internet, the list shall be 3448
posted continually at that web site. An item of property on the 3449
list shall be donated to the eligible nonprofit organization 3450
that first declares to the board or its representative its 3451
desire to obtain the item unless the board previously has 3452
established, by resolution, a list of eligible nonprofit 3453

organizations that shall be given priority with respect to the 3454
item's donation. Priority may be given on the basis that the 3455
purposes of a nonprofit organization have a direct relationship 3456
to specific school district purposes of programs provided or 3457
administered by the board. A resolution giving priority to 3458
certain nonprofit organizations with respect to the donation of 3459
an item of property shall specify the reasons why the 3460
organizations are given that priority. 3461

Members of the board shall consult with the Ohio ethics 3462
commission, and comply with Chapters 102. and 2921. of the 3463
Revised Code, with respect to any donation under this division 3464
to a nonprofit organization of which a board member, any member 3465
of a board member's family, or any business associate of a board 3466
member is a trustee, officer, board member, or employee. 3467

Sec. 3313.818. (A) (1) The department of education shall 3468
establish a program under which public schools that meet the 3469
conditions prescribed in this section shall offer breakfast to 3470
all students either before or during the school day. Each of the 3471
following shall apply: 3472

(a) In the ~~first~~ 2020-2021 school year ~~after the effective~~
~~date of this section~~, the program shall apply to any public 3473
school in which seventy per cent or more of the students 3474
enrolled in the school during the previous school year were 3475
eligible under federal requirements for free or reduced-price 3476
breakfasts or lunches. 3477
3478

(b) In the ~~second~~ 2021-2022 school year ~~after the~~
~~effective date of this section~~, the program shall apply to any 3479
public school in which sixty per cent or more of the students 3480
enrolled in the school during the previous school year were 3481
eligible under federal requirements for free or reduced-price 3482
3483

breakfasts or lunches. 3484

(c) In the ~~third~~ 2022-2023 school year ~~after the enactment~~
~~date of this section~~ and every school year thereafter, the 3485
program shall apply to any public school in which fifty per cent 3486
or more of the students enrolled in the school during the 3487
previous school year were eligible under federal requirements 3488
for free or reduced-price breakfasts or lunches. 3489
3490

(2) The district superintendent or building principal, in 3491
consultation with the building staff, shall determine the model 3492
for serving breakfast under the program. Each breakfast served 3493
under the program shall comply with federal meal patterns and 3494
nutritional standards and with section 3313.814 of the Revised 3495
Code. A school district board of education may make a charge in 3496
accordance with federal requirements for each meal to cover all 3497
or part of the costs incurred in operating the program. 3498

(B) The department shall publish a list of public schools 3499
that meet the conditions of division (A) of this section. The 3500
department shall offer technical assistance to school districts 3501
and schools regarding the implementation of a school breakfast 3502
program that complies with this section and the submission of 3503
claims for reimbursement under the federal school breakfast 3504
program. 3505

(C) (1) The department shall monitor each school 3506
participating in the program and ensure that each participating 3507
school complies with the requirements of this section. 3508

(2) If the board of education of a school district 3509
determines that, for financial reasons, a school under the 3510
board's control cannot comply with the requirements of this 3511
section or the board already has a successful breakfast program 3512

or partnership in place, the district board may choose not to 3513
comply with those requirements. 3514

(D) Not later than the thirty-first day of December of 3515
each school year, the department shall provide statistical 3516
reports on its web site that specify the number and percentage 3517
of students participating in school breakfast programs 3518
disaggregated by school district and individual schools, 3519
including community schools, established under Chapter 3314. of 3520
the Revised Code, and STEM schools, established under Chapter 3521
3326. of the Revised Code. 3522

(E) Not later than the thirty-first day of December of 3523
each school year, the department shall prepare a report on the 3524
implementation and effectiveness of the program established 3525
under this section and submit the report to the general 3526
assembly, in accordance with section 101.68 of the Revised Code, 3527
and to the governor. The report may be submitted electronically. 3528
The report shall include: 3529

(1) The number of students and participation rates in the 3530
free and reduced-price breakfast programs under this section for 3531
each school building; 3532

(2) The type of breakfast model used by each school 3533
building participating in the breakfast program; 3534

(3) The number of students and participation rates in free 3535
or reduced-price lunch for each school building. 3536

Sec. 3314.21. (A) As used in this section: 3537

(1) "Harmful to juveniles" has the same meaning as in 3538
section 2907.01 of the Revised Code. 3539

(2) "Obscene" has the same meaning as in division (F) of 3540

section 2907.01 of the Revised Code as that division has been 3541
construed by the supreme court of this state. 3542

(3) "Teacher of record" means a teacher who is responsible 3543
for the overall academic development and achievement of a 3544
student and not merely the student's instruction in any single 3545
subject. 3546

(B) (1) It is the intent of the general assembly that 3547
teachers employed by internet- or computer-based community 3548
schools conduct visits with their students ~~in person~~ throughout 3549
the school year. 3550

(2) Each internet- or computer-based community school 3551
shall retain an affiliation with at least one full-time teacher 3552
of record licensed in accordance with division (A) (10) of 3553
section 3314.03 of the Revised Code. 3554

(3) Each student enrolled in an internet- or computer- 3555
based community school shall be assigned to at least one teacher 3556
of record. No teacher of record shall be primarily responsible 3557
for the academic development and achievement of more than one 3558
hundred twenty-five students enrolled in the internet- or 3559
computer-based community school that has retained that teacher. 3560

(C) For any internet- or computer-based community school, 3561
the contract between the sponsor and the governing authority of 3562
the school described in section 3314.03 of the Revised Code 3563
shall specify each of the following: 3564

(1) A requirement that the school use a filtering device 3565
or install filtering software that protects against internet 3566
access to materials that are obscene or harmful to juveniles on 3567
each computer provided to students for instructional use. The 3568
school shall provide such device or software at no cost to any 3569

student who works primarily from the student's residence on a 3570
computer obtained from a source other than the school. 3571

(2) A plan for fulfilling the intent of the general 3572
assembly specified in division (B)(1) of this section. The plan 3573
shall indicate the number of times teachers will visit each 3574
student throughout the school year and the manner in which those 3575
visits will be conducted. The visits may be conducted 3576
electronically. 3577

(3) That the school will set up a central base of 3578
operation and the sponsor will maintain a representative within 3579
fifty miles of that base of operation to provide monitoring and 3580
assistance. 3581

(D)(1) Annually, each internet- or computer-based 3582
community school shall prepare and submit to the department of 3583
education, in a time and manner prescribed by the department, a 3584
report that contains information about all of the following: 3585

(a) Classroom size; 3586

(b) The ratio of teachers to students per classroom; 3587

(c) The number of student-teacher meetings conducted in 3588
person or by video conference; 3589

(d) Any other information determined necessary by the 3590
department. 3591

(2) The department annually shall prepare and submit to 3592
the state board of education a report that contains the 3593
information received under division (D)(1) of this section. 3594

Sec. 3319.081. Except as otherwise provided in division 3595
(G) of this section, in all school districts wherein the 3596
provisions of Chapter 124. of the Revised Code do not apply, the 3597

following employment contract system shall control for employees 3598
whose contracts of employment are not otherwise provided by law: 3599

(A) Newly hired regular nonteaching school employees, 3600
including regular hourly rate and per diem employees, shall 3601
enter into written contracts for their employment which shall be 3602
for a period of not more than one year. If such employees are 3603
rehired, their three subsequent contracts shall be for a period 3604
of two years each. 3605

(B) After the termination of the third two-year contract 3606
provided in division (A) of this section, if the contract of a 3607
nonteaching employee is renewed, the employee shall be continued 3608
in employment, and the salary provided in the contract may be 3609
increased but not reduced unless such reduction is a part of a 3610
uniform plan affecting the nonteaching employees of the entire 3611
district. 3612

(C) The contracts as provided for in this section may be 3613
terminated by a majority vote of the board of education. Except 3614
as provided in sections 3319.0810 and 3319.172 of the Revised 3615
Code, the contracts may be terminated only for violation of 3616
written rules and regulations as set forth by the board of 3617
education or for incompetency, inefficiency, dishonesty, 3618
drunkenness, immoral conduct, insubordination, discourteous 3619
treatment of the public, neglect of duty, or any other acts of 3620
misfeasance, malfeasance, or nonfeasance. In addition to the 3621
right of the board of education to terminate the contract of an 3622
employee, the board may suspend an employee for a definite 3623
period of time or demote the employee for the reasons set forth 3624
in this division. The action of the board of education 3625
terminating the contract of an employee or suspending or 3626
demoting the employee shall be served upon the employee by 3627

certified mail, regular mail with a certificate of mailing, or 3628
other form of delivery with proof of delivery, including 3629
electronic delivery with electronic proof of delivery. Within 3630
ten days following the receipt of such notice by the employee, 3631
the employee may file an appeal, in writing, with the court of 3632
common pleas of the county in which such school board is 3633
situated. After hearing the appeal the common pleas court may 3634
affirm, disaffirm, or modify the action of the school board. 3635

A violation of division (A) (7) of section 2907.03 of the 3636
Revised Code is grounds for termination of employment of a 3637
nonteaching employee under this division. 3638

(D) All employees who have been employed by a school 3639
district where the provisions of Chapter 124. of the Revised 3640
Code do not apply, for a period of at least three years on 3641
November 24, 1967, shall hold continuing contracts of employment 3642
pursuant to this section. 3643

(E) Any nonteaching school employee may terminate the 3644
nonteaching school employee's contract of employment thirty days 3645
subsequent to the filing of a written notice of such termination 3646
with the treasurer of the board. 3647

(F) A person hired exclusively for the purpose of 3648
replacing a nonteaching school employee while such employee is 3649
on leave of absence granted under section 3319.13 of the Revised 3650
Code is not a regular nonteaching school employee under this 3651
section. 3652

(G) All nonteaching employees employed pursuant to this 3653
section and Chapter 124. of the Revised Code shall be paid for 3654
all time lost when the schools in which they are employed are 3655
closed owing to an epidemic or other public calamity. Nothing in 3656

this division shall be construed as requiring payment in excess 3657
of an employee's regular wage rate or salary for any time worked 3658
while the school in which the employee is employed is officially 3659
closed for the reasons set forth in this division. 3660

Sec. 3319.11. (A) As used in this section: 3661

(1) "Evaluation procedures" means the procedures required 3662
by the policy adopted pursuant to division (A) of section 3663
3319.111 of the Revised Code. 3664

(2) "Limited contract" means a limited contract, as 3665
described in section 3319.08 of the Revised Code, that a school 3666
district board of education or governing board of an educational 3667
service center enters into with a teacher who is not eligible 3668
for continuing service status. 3669

(3) "Extended limited contract" means a limited contract, 3670
as described in section 3319.08 of the Revised Code, that a 3671
board of education or governing board enters into with a teacher 3672
who is eligible for continuing service status. 3673

(B) Teachers eligible for continuing service status in any 3674
city, exempted village, local, or joint vocational school 3675
district or educational service center shall be those teachers 3676
qualified as described in division (D) of section 3319.08 of the 3677
Revised Code, who within the last five years have taught for at 3678
least three years in the district or center, and those teachers 3679
who, having attained continuing contract status elsewhere, have 3680
served two years in the district or center, but the board, upon 3681
the recommendation of the superintendent, may at the time of 3682
employment or at any time within such two-year period, declare 3683
any of the latter teachers eligible. 3684

(1) Upon the recommendation of the superintendent that a 3685

teacher eligible for continuing service status be reemployed, a 3686
continuing contract shall be entered into between the board and 3687
the teacher unless the board by a three-fourths vote of its full 3688
membership rejects the recommendation of the superintendent. If 3689
the board rejects by a three-fourths vote of its full membership 3690
the recommendation of the superintendent that a teacher eligible 3691
for continuing service status be reemployed and the 3692
superintendent makes no recommendation to the board pursuant to 3693
division (C) of this section, the board may declare its 3694
intention not to reemploy the teacher by giving the teacher 3695
written notice on or before the first day of June of its 3696
intention not to reemploy the teacher. If evaluation procedures 3697
have not been complied with pursuant to section 3319.111 of the 3698
Revised Code or the board does not give the teacher written 3699
notice on or before the first day of June of its intention not 3700
to reemploy the teacher, the teacher is deemed reemployed under 3701
an extended limited contract for a term not to exceed one year 3702
at the same salary plus any increment provided by the salary 3703
schedule. The teacher is presumed to have accepted employment 3704
under the extended limited contract for a term not to exceed one 3705
year unless such teacher notifies the board in writing to the 3706
contrary on or before the fifteenth day of June, and an extended 3707
limited contract for a term not to exceed one year shall be 3708
executed accordingly. Upon any subsequent reemployment of the 3709
teacher only a continuing contract may be entered into. 3710

(2) If the superintendent recommends that a teacher 3711
eligible for continuing service status not be reemployed, the 3712
board may declare its intention not to reemploy the teacher by 3713
giving the teacher written notice on or before the first day of 3714
June of its intention not to reemploy the teacher. If evaluation 3715
procedures have not been complied with pursuant to section 3716

3319.111 of the Revised Code or the board does not give the 3717
teacher written notice on or before the first day of June of its 3718
intention not to reemploy the teacher, the teacher is deemed 3719
reemployed under an extended limited contract for a term not to 3720
exceed one year at the same salary plus any increment provided 3721
by the salary schedule. The teacher is presumed to have accepted 3722
employment under the extended limited contract for a term not to 3723
exceed one year unless such teacher notifies the board in 3724
writing to the contrary on or before the fifteenth day of June, 3725
and an extended limited contract for a term not to exceed one 3726
year shall be executed accordingly. Upon any subsequent 3727
reemployment of a teacher only a continuing contract may be 3728
entered into. 3729

(3) Any teacher receiving written notice of the intention 3730
of a board not to reemploy such teacher pursuant to this 3731
division is entitled to the hearing provisions of division (G) 3732
of this section. 3733

(C) (1) If a board rejects the recommendation of the 3734
superintendent for reemployment of a teacher pursuant to 3735
division (B) (1) of this section, the superintendent may 3736
recommend reemployment of the teacher, if continuing service 3737
status has not previously been attained elsewhere, under an 3738
extended limited contract for a term not to exceed two years, 3739
provided that written notice of the superintendent's intention 3740
to make such recommendation has been given to the teacher with 3741
reasons directed at the professional improvement of the teacher 3742
on or before the first day of June. Upon subsequent reemployment 3743
of the teacher only a continuing contract may be entered into. 3744

(2) If a board of education takes affirmative action on a 3745
superintendent's recommendation, made pursuant to division (C) 3746

(1) of this section, of an extended limited contract for a term 3747
not to exceed two years but the board does not give the teacher 3748
written notice of its affirmative action on the superintendent's 3749
recommendation of an extended limited contract on or before the 3750
first day of June, the teacher is deemed reemployed under a 3751
continuing contract at the same salary plus any increment 3752
provided by the salary schedule. The teacher is presumed to have 3753
accepted employment under such continuing contract unless such 3754
teacher notifies the board in writing to the contrary on or 3755
before the fifteenth day of June, and a continuing contract 3756
shall be executed accordingly. 3757

(3) A board shall not reject a superintendent's 3758
recommendation, made pursuant to division (C)(1) of this 3759
section, of an extended limited contract for a term not to 3760
exceed two years except by a three-fourths vote of its full 3761
membership. If a board rejects by a three-fourths vote of its 3762
full membership the recommendation of the superintendent of an 3763
extended limited contract for a term not to exceed two years, 3764
the board may declare its intention not to reemploy the teacher 3765
by giving the teacher written notice on or before the first day 3766
of June of its intention not to reemploy the teacher. If 3767
evaluation procedures have not been complied with pursuant to 3768
section 3319.111 of the Revised Code or if the board does not 3769
give the teacher written notice on or before the first day of 3770
June of its intention not to reemploy the teacher, the teacher 3771
is deemed reemployed under an extended limited contract for a 3772
term not to exceed one year at the same salary plus any 3773
increment provided by the salary schedule. The teacher is 3774
presumed to have accepted employment under the extended limited 3775
contract for a term not to exceed one year unless such teacher 3776
notifies the board in writing to the contrary on or before the 3777

fifteenth day of June, and an extended limited contract for a 3778
term not to exceed one year shall be executed accordingly. Upon 3779
any subsequent reemployment of the teacher only a continuing 3780
contract may be entered into. 3781

Any teacher receiving written notice of the intention of a 3782
board not to reemploy such teacher pursuant to this division is 3783
entitled to the hearing provisions of division (G) of this 3784
section. 3785

(D) A teacher eligible for continuing contract status 3786
employed under an extended limited contract pursuant to division 3787
(B) or (C) of this section, is, at the expiration of such 3788
extended limited contract, deemed reemployed under a continuing 3789
contract at the same salary plus any increment granted by the 3790
salary schedule, unless evaluation procedures have been complied 3791
with pursuant to section 3319.111 of the Revised Code and the 3792
employing board, acting on the superintendent's recommendation 3793
that the teacher not be reemployed, gives the teacher written 3794
notice on or before the first day of June of its intention not 3795
to reemploy such teacher. A teacher who does not have evaluation 3796
procedures applied in compliance with section 3319.111 of the 3797
Revised Code or who does not receive notice on or before the 3798
first day of June of the intention of the board not to reemploy 3799
such teacher is presumed to have accepted employment under a 3800
continuing contract unless such teacher notifies the board in 3801
writing to the contrary on or before the fifteenth day of June, 3802
and a continuing contract shall be executed accordingly. 3803

Any teacher receiving a written notice of the intention of 3804
a board not to reemploy such teacher pursuant to this division 3805
is entitled to the hearing provisions of division (G) of this 3806
section. 3807

(E) The board shall enter into a limited contract with 3808
each teacher employed by the board who is not eligible to be 3809
considered for a continuing contract. 3810

Any teacher employed under a limited contract, and not 3811
eligible to be considered for a continuing contract, is, at the 3812
expiration of such limited contract, considered reemployed under 3813
the provisions of this division at the same salary plus any 3814
increment provided by the salary schedule unless evaluation 3815
procedures have been complied with pursuant to section 3319.111 3816
of the Revised Code and the employing board, acting upon the 3817
superintendent's written recommendation that the teacher not be 3818
reemployed, gives such teacher written notice of its intention 3819
not to reemploy such teacher on or before the first day of June. 3820
A teacher who does not have evaluation procedures applied in 3821
compliance with section 3319.111 of the Revised Code or who does 3822
not receive notice of the intention of the board not to reemploy 3823
such teacher on or before the first day of June is presumed to 3824
have accepted such employment unless such teacher notifies the 3825
board in writing to the contrary on or before the fifteenth day 3826
of June, and a written contract for the succeeding school year 3827
shall be executed accordingly. 3828

Any teacher receiving a written notice of the intention of 3829
a board not to reemploy such teacher pursuant to this division 3830
is entitled to the hearing provisions of division (G) of this 3831
section. 3832

(F) The failure of a superintendent to make a 3833
recommendation to the board under any of the conditions set 3834
forth in divisions (B) to (E) of this section, or the failure of 3835
the board to give such teacher a written notice pursuant to 3836
divisions (C) to (E) of this section shall not prejudice or 3837

prevent a teacher from being deemed reemployed under either a 3838
limited or continuing contract as the case may be under the 3839
provisions of this section. A failure of the parties to execute 3840
a written contract shall not void any automatic reemployment 3841
provisions of this section. 3842

(G) (1) Any teacher receiving written notice of the 3843
intention of a board of education not to reemploy such teacher 3844
pursuant to division (B), (C) (3), (D), or (E) of this section 3845
may, within ten days of the date of receipt of the notice, file 3846
with the treasurer of the board a written demand for a written 3847
statement describing the circumstances that led to the board's 3848
intention not to reemploy the teacher. 3849

(2) The treasurer of a board, on behalf of the board, 3850
shall, within ten days of the date of receipt of a written 3851
demand for a written statement pursuant to division (G) (1) of 3852
this section, provide to the teacher a written statement 3853
describing the circumstances that led to the board's intention 3854
not to reemploy the teacher. 3855

(3) Any teacher receiving a written statement describing 3856
the circumstances that led to the board's intention not to 3857
reemploy the teacher pursuant to division (G) (2) of this section 3858
may, within five days of the date of receipt of the statement, 3859
file with the treasurer of the board a written demand for a 3860
hearing before the board pursuant to divisions (G) (4) to (6) of 3861
this section. 3862

(4) The treasurer of a board, on behalf of the board, 3863
shall, within ten days of the date of receipt of a written 3864
demand for a hearing pursuant to division (G) (3) of this 3865
section, provide to the teacher a written notice setting forth 3866
the time, date, and place of the hearing. The board shall 3867

schedule and conclude the hearing within forty days of the date 3868
on which the treasurer of the board receives a written demand 3869
for a hearing pursuant to division (G) (3) of this section. 3870

(5) Any hearing conducted pursuant to this division shall 3871
be conducted by a majority of the members of the board. The 3872
hearing shall be held in executive session of the board unless 3873
the board and the teacher agree to hold the hearing in public. 3874
The superintendent, assistant superintendent, the teacher, and 3875
any person designated by either party to take a record of the 3876
hearing may be present at the hearing. The board may be 3877
represented by counsel and the teacher may be represented by 3878
counsel or a designee. A record of the hearing may be taken by 3879
either party at the expense of the party taking the record. 3880

(6) Within ten days of the conclusion of a hearing 3881
conducted pursuant to this division, the board shall issue to 3882
the teacher a written decision containing an order affirming the 3883
intention of the board not to reemploy the teacher reported in 3884
the notice given to the teacher pursuant to division (B), (C) 3885
(3), (D), or (E) of this section or an order vacating the 3886
intention not to reemploy and expunging any record of the 3887
intention, notice of the intention, and the hearing conducted 3888
pursuant to this division. 3889

(7) A teacher may appeal an order affirming the intention 3890
of the board not to reemploy the teacher to the court of common 3891
pleas of the county in which the largest portion of the 3892
territory of the school district or service center is located, 3893
within thirty days of the date on which the teacher receives the 3894
written decision, on the grounds that the board has not complied 3895
with this section or section 3319.111 of the Revised Code. 3896

Notwithstanding section 2506.04 of the Revised Code, the 3897

court in an appeal under this division is limited to the 3898
determination of procedural errors and to ordering the 3899
correction of procedural errors and shall have no jurisdiction 3900
to order a board to reemploy a teacher, except that the court 3901
may order a board to reemploy a teacher in compliance with the 3902
requirements of division (B), (C) (3), (D), or (E) of this 3903
section when the court determines that evaluation procedures 3904
have not been complied with pursuant to section 3319.111 of the 3905
Revised Code or the board has not given the teacher written 3906
notice on or before the first day of June of its intention not 3907
to reemploy the teacher pursuant to division (B), (C) (3), (D), 3908
or (E) of this section. Otherwise, the determination whether to 3909
reemploy or not reemploy a teacher is solely a board's 3910
determination and not a proper subject of judicial review and, 3911
except as provided in this division, no decision of a board 3912
whether to reemploy or not reemploy a teacher shall be 3913
invalidated by the court on any basis, including that the 3914
decision was not warranted by the results of any evaluation or 3915
was not warranted by any statement given pursuant to division 3916
(G) (2) of this section. 3917

No appeal of an order of a board may be made except as 3918
specified in this division. 3919

(H) (1) In giving a teacher any notice required by division 3920
(B), (C), (D), or (E) of this section, the board or the 3921
superintendent shall do either of the following: 3922

(a) Deliver the notice by personal service upon the 3923
teacher; 3924

(b) Deliver the notice by certified mail, return receipt 3925
requested, regular mail with a certificate of mailing, or other 3926
form of delivery with proof of delivery, addressed to the 3927

teacher at the teacher's place of employment and deliver a copy 3928
of the notice by certified mail, return receipt requested, 3929
regular mail with a certificate of mailing, or other form of 3930
delivery with proof of delivery, addressed to the teacher at the 3931
teacher's place of residence. Delivery of the notice required 3932
under division (H) (1) (b) of this section may be satisfied by 3933
electronic delivery with electronic proof of delivery. 3934

(2) In giving a board any notice required by division (B), 3935
(C), (D), or (E) of this section, the teacher shall do either of 3936
the following: 3937

(a) Deliver the notice by personal delivery to the office 3938
of the superintendent during regular business hours; 3939

(b) Deliver the notice by certified mail, return receipt 3940
requested, regular mail with a certificate of mailing, or other 3941
form of delivery with proof of delivery, addressed to the office 3942
of the superintendent and deliver a copy of the notice by 3943
certified mail, return receipt requested, regular mail with a 3944
certificate of mailing, or other form of delivery with proof of 3945
delivery, addressed to the president of the board at the 3946
president's place of residence. Delivery of the notice required 3947
under division (H) (2) (b) of this section may be satisfied by 3948
electronic delivery with electronic proof of delivery. 3949

(3) When any notice and copy of the notice are mailed 3950
pursuant to division (H) (1) (b) or (2) (b) of this section, the 3951
notice or copy of the notice with the earlier date of receipt 3952
shall constitute the notice for the purposes of division (B), 3953
(C), (D), or (E) of this section. 3954

(I) The provisions of this section shall not apply to any 3955
supplemental written contracts entered into pursuant to section 3956

3319.08 of the Revised Code. 3957

(J) Notwithstanding any provision to the contrary in 3958
Chapter 4117. of the Revised Code, the dates set forth in this 3959
section as "on or before the first day of June" or "on or before 3960
the fifteenth day of June" prevail over any conflicting 3961
provisions of a collective bargaining agreement entered into on 3962
or after ~~the effective date of this amendment~~ March 22, 2013. 3963

Sec. 3319.16. The contract of any teacher employed by the 3964
board of education of any city, exempted village, local, county, 3965
or joint vocational school district may not be terminated except 3966
for good and just cause. Notwithstanding any provision to the 3967
contrary in Chapter 4117. of the Revised Code, the provisions of 3968
this section relating to the grounds for termination of the 3969
contract of a teacher prevail over any conflicting provisions of 3970
a collective bargaining agreement entered into after ~~the~~ 3971
~~effective date of this amendment~~ October 16, 2009. 3972

Before terminating any contract, the employing board shall 3973
furnish the teacher a written notice signed by its treasurer of 3974
its intention to consider the termination of the teacher's 3975
contract with full specification of the grounds for such 3976
consideration. The board shall not proceed with formal action to 3977
terminate the contract until after the tenth day after receipt 3978
of the notice by the teacher. Within ten days after receipt of 3979
the notice from the treasurer of the board, the teacher may file 3980
with the treasurer a written demand for a hearing before the 3981
board or before a referee, and the board shall set a time for 3982
the hearing which shall be within thirty days from the date of 3983
receipt of the written demand, and the treasurer shall give the 3984
teacher at least twenty days' notice in writing of the time and 3985
place of the hearing. If a referee is demanded by either the 3986

teacher or board, the treasurer also shall give twenty days' 3987
notice to the superintendent of public instruction. No hearing 3988
shall be held during the summer vacation without the teacher's 3989
consent. The hearing shall be private unless the teacher 3990
requests a public hearing. The hearing shall be conducted by a 3991
referee appointed pursuant to section 3319.161 of the Revised 3992
Code, if demanded; otherwise, it shall be conducted by a 3993
majority of the members of the board and shall be confined to 3994
the grounds given for the termination. The board shall provide 3995
for a complete ~~steno-graphic~~ record of the proceedings, a copy of 3996
the record to be furnished to the teacher. The board may suspend 3997
a teacher pending final action to terminate the teacher's 3998
contract if, in its judgment, the character of the charges 3999
warrants such action. 4000

Both parties may be present at such hearing, be 4001
represented by counsel, require witnesses to be under oath, 4002
cross-examine witnesses, take a record of the proceedings, and 4003
require the presence of witnesses in their behalf upon subpoena 4004
to be issued by the treasurer of the board. In case of the 4005
failure of any person to comply with a subpoena, a judge of the 4006
court of common pleas of the county in which the person resides, 4007
upon application of any interested party, shall compel 4008
attendance of the person by attachment proceedings as for 4009
contempt. Any member of the board or the referee may administer 4010
oaths to witnesses. After a hearing by a referee, the referee 4011
shall file a report within ten days after the termination of the 4012
hearing. After consideration of the referee's report, the board, 4013
by a majority vote, may accept or reject the referee's 4014
recommendation on the termination of the teacher's contract. 4015
After a hearing by the board, the board, by majority vote, may 4016
enter its determination upon its minutes. Any order of 4017

termination of a contract shall state the grounds for 4018
termination. If the decision, after hearing, is against 4019
termination of the contract, the charges and the record of the 4020
hearing shall be physically expunged from the minutes, and, if 4021
the teacher has suffered any loss of salary by reason of being 4022
suspended, the teacher shall be paid the teacher's full salary 4023
for the period of such suspension. 4024

Any teacher affected by an order of termination of 4025
contract may appeal to the court of common pleas of the county 4026
in which the school is located within thirty days after receipt 4027
of notice of the entry of such order. The appeal shall be an 4028
original action in the court and shall be commenced by the 4029
filing of a complaint against the board, in which complaint the 4030
facts shall be alleged upon which the teacher relies for a 4031
reversal or modification of such order of termination of 4032
contract. Upon service or waiver of summons in that appeal, the 4033
board immediately shall transmit to the clerk of the court for 4034
filing a transcript of the original papers filed with the board, 4035
a certified copy of the minutes of the board into which the 4036
termination finding was entered, and a certified transcript of 4037
all evidence adduced at the hearing or hearings before the board 4038
or a certified transcript of all evidence adduced at the hearing 4039
or hearings before the referee, whereupon the cause shall be at 4040
issue without further pleading and shall be advanced and heard 4041
without delay. The court shall examine the transcript and record 4042
of the hearing and shall hold such additional hearings as it 4043
considers advisable, at which it may consider other evidence in 4044
addition to the transcript and record. 4045

Upon final hearing, the court shall grant or deny the 4046
relief prayed for in the complaint as may be proper in 4047
accordance with the evidence adduced in the hearing. Such an 4048

action is a special proceeding, and either the teacher or the 4049
board may appeal from the decision of the court of common pleas 4050
pursuant to the Rules of Appellate Procedure and, to the extent 4051
not in conflict with those rules, Chapter 2505. of the Revised 4052
Code. 4053

In any court action, the board may utilize the services of 4054
the prosecuting attorney, village solicitor, city director of 4055
law, or other chief legal officer of a municipal corporation as 4056
authorized by section 3313.35 of the Revised Code, or may employ 4057
other legal counsel. 4058

A violation of division (A) (7) of section 2907.03 of the 4059
Revised Code is grounds for termination of a teacher contract 4060
under this section. 4061

Sec. 3319.291. (A) The state board of education shall 4062
require each of the following persons, at the times prescribed 4063
by division (A) of this section, to undergo a criminal records 4064
check, unless the person has undergone a records check under 4065
this section or a former version of this section less than five 4066
years prior to that time. 4067

(1) Any person initially applying for any certificate, 4068
license, or permit described in this chapter or in division (B) 4069
of section 3301.071 or in section 3301.074 of the Revised Code 4070
at the time that application is made; 4071

(2) Any person applying for renewal of any certificate, 4072
license, or permit described in division (A) (1) of this section 4073
at the time that application is made; 4074

(3) Any person who is teaching under a professional 4075
teaching certificate issued under former section 3319.222 of the 4076
Revised Code upon a date prescribed by the state board; 4077

(4) Any person who is teaching under a permanent teaching certificate issued under former section 3319.22 as it existed prior to October 29, 1996, or under former section 3319.222 of the Revised Code upon a date prescribed by the state board and every five years thereafter.

(B) (1) Except as otherwise provided in division (B) (2) of this section, the state board shall require each person subject to a criminal records check under this section to submit two complete sets of fingerprints and written permission that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation pursuant to division (F) of section 109.57 of the Revised Code and that authorizes that bureau to forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on the person.

(2) If both of the following conditions apply to a person subject to a criminal records check under this section, the state board shall require the person to submit one complete set of fingerprints and written permission that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation so that bureau may forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on the person:

(a) Under this section or any former version of this section, the state board or the superintendent of public instruction previously requested the superintendent of the bureau of criminal identification and investigation to determine whether the bureau has any information, gathered pursuant to

division (A) of section 109.57 of the Revised Code, on the 4108
person. 4109

(b) The person presents proof that the person has been a 4110
resident of this state for the five-year period immediately 4111
prior to the date upon which the person becomes subject to a 4112
criminal records check under this section. 4113

(C) Except as provided in division (D) of this section, 4114
prior to issuing or renewing any certificate, license, or permit 4115
for a person described in division (A) (1) or (2) of this section 4116
who is subject to a criminal records check and in the case of a 4117
person described in division (A) (3) or (4) of this section who 4118
is subject to a criminal records check, the state board or the 4119
superintendent of public instruction shall do one of the 4120
following: 4121

(1) If the person is required to submit fingerprints and 4122
written permission under division (B) (1) of this section, 4123
request the superintendent of the bureau of criminal 4124
identification and investigation to determine whether the bureau 4125
has any information, gathered pursuant to division (A) of 4126
section 109.57 of the Revised Code, pertaining to the person and 4127
to obtain any criminal records that the federal bureau of 4128
investigation has on the person. 4129

(2) If the person is required to submit fingerprints and 4130
written permission under division (B) (2) of this section, 4131
request the superintendent of the bureau of criminal 4132
identification and investigation to obtain any criminal records 4133
that the federal bureau of investigation has on the person. 4134

(D) The state board or the superintendent of public 4135
instruction may choose not to request any information about a 4136

person required by division (C) of this section if the person 4137
provides proof that a criminal records check that satisfies the 4138
requirements of that division was conducted on the person as a 4139
condition of employment pursuant to section 3319.39 of the 4140
Revised Code within the immediately preceding year. The state 4141
board or the superintendent of public instruction may accept a 4142
certified copy of records that were issued by the bureau of 4143
criminal identification and investigation and that are presented 4144
by the person in lieu of requesting that information under 4145
division (C) of this section if the records were issued by the 4146
bureau within the immediately preceding year. 4147

(E) (1) If a person described in division (A) (3) or (4) of 4148
this section who is subject to a criminal records check fails to 4149
submit fingerprints and written permission by the date specified 4150
in the applicable division, and the state board or the 4151
superintendent of public instruction does not apply division (D) 4152
of this section to the person, or if a person who is subject to 4153
division (G) of this section fails to submit fingerprints and 4154
written permission by the date prescribed under that division, 4155
the superintendent shall prepare a written notice to be sent to 4156
the person by mail or electronically stating that if the person 4157
does not submit the fingerprints and written permission within 4158
fifteen days after the date the notice was mailed or sent 4159
electronically, the person's application will be rejected or the 4160
person's professional or permanent teaching certificate or 4161
license will be inactivated. The superintendent shall send the 4162
notification by regular mail to the person's last known 4163
residence address or last known place of employment, as 4164
indicated in the department of education's records, or both. If 4165
the notice is sent electronically, the notification shall be 4166
sent via electronic mail to the person's last known electronic 4167

mail address.

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If the person fails to submit the fingerprints and written permission within fifteen days after the date the notice was mailed, the superintendent of public instruction, on behalf of the state board, shall issue a written order rejecting the application or inactivating the person's professional or permanent teaching certificate or license. The rejection or inactivation shall remain in effect until the person submits the fingerprints and written permission. The superintendent shall send the order by regular mail or electronic mail to the person's last known residence address, last known electronic mail address, or last known place of employment, as indicated in the department's records, ~~or both~~. The order shall state the reason for the rejection or inactivation and shall explain that the rejection or inactivation remains in effect until the person submits the fingerprints and written permission.

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The rejection or inactivation of a professional or permanent teaching certificate or license under division (E)(1) of this section does not constitute a suspension or revocation of the certificate or license by the state board under section 3319.31 of the Revised Code and the state board and the superintendent of public instruction need not provide the person with an opportunity for a hearing with respect to the rejection or inactivation.

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(2) If a person whose professional or permanent teaching certificate or license has been rejected or inactivated under division (E)(1) of this section submits fingerprints and written permission as required by division (B) or (G) of this section, the superintendent of public instruction, on behalf of the state board, shall issue a written order issuing or reactivating the

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certificate or license. The superintendent shall send the order 4198
to the person by regular mail or electronic mail. 4199

(F) Notwithstanding divisions (A) to (C) of this section, 4200
if a person holds more than one certificate, license, or permit 4201
described in division (A)(1) of this section, the following 4202
shall apply: 4203

(1) If the certificates, licenses, or permits are of 4204
different durations, the person shall be subject to divisions 4205
(A) to (C) of this section only when applying for renewal of the 4206
certificate, license, or permit that is of the longest duration. 4207
Prior to renewing any certificate, license, or permit with a 4208
shorter duration, the state board or the superintendent of 4209
public instruction shall determine whether the department of 4210
education has received any information about the person pursuant 4211
to section 109.5721 of the Revised Code, but the person shall 4212
not be subject to divisions (A) to (C) of this section as long 4213
as the person's certificate, license, or permit with the longest 4214
duration is valid. 4215

(2) If the certificates, licenses, or permits are of the 4216
same duration but do not expire in the same year, the person 4217
shall designate one of the certificates, licenses, or permits as 4218
the person's primary certificate, license, or permit and shall 4219
notify the department of that designation. The person shall be 4220
subject to divisions (A) to (C) of this section only when 4221
applying for renewal of the person's primary certificate, 4222
license, or permit. Prior to renewing any certificate, license, 4223
or permit that is not the person's primary certificate, license, 4224
or permit, the state board or the superintendent of public 4225
instruction shall determine whether the department has received 4226
any information about the person pursuant to section 109.5721 of 4227

the Revised Code, but the person shall not be subject to 4228
divisions (A) to (C) of this section as long as the person's 4229
primary certificate, license, or permit is valid. 4230

(3) If the certificates, licenses, or permits are of the 4231
same duration and expire in the same year and the person applies 4232
for renewal of the certificates, licenses, or permits at the 4233
same time, the state board or the superintendent of public 4234
instruction shall request only one criminal records check of the 4235
person under division (C) of this section. 4236

(G) If the department is unable to enroll a person who has 4237
submitted an application for licensure, or to whom the state 4238
board has issued a license, in the retained applicant 4239
fingerprint database established under section 109.5721 of the 4240
Revised Code because the person has not satisfied the 4241
requirements for enrollment, the department shall require the 4242
person to satisfy the requirements for enrollment, including 4243
requiring the person to submit, by a date prescribed by the 4244
department, one complete set of fingerprints and written 4245
permission that authorizes the superintendent of public 4246
instruction to forward the fingerprints to the bureau of 4247
criminal identification and investigation for the purpose of 4248
enrolling the person in the database. If the person fails to 4249
comply by the prescribed date, the department shall reject the 4250
application or shall take action to inactivate the person's 4251
license in accordance with division (E) of this section. 4252

Sec. 3319.311. (A) (1) The state board of education, or the 4253
superintendent of public instruction on behalf of the board, may 4254
investigate any information received about a person that 4255
reasonably appears to be a basis for action under section 4256
3319.31 of the Revised Code, including information received 4257

pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 4258
3328.19, 5126.253, or 5153.176 of the Revised Code. Except as 4259
provided in division (A) (2) of this section, the board shall 4260
contract with the office of the Ohio attorney general to conduct 4261
any investigation of that nature. The board shall pay for the 4262
costs of the contract only from moneys in the state board of 4263
education licensure fund established under section 3319.51 of 4264
the Revised Code. Except as provided in division (A) (2) of this 4265
section, all information received pursuant to section 3314.40, 4266
3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of 4267
the Revised Code, and all information obtained during an 4268
investigation is confidential and is not a public record under 4269
section 149.43 of the Revised Code. If an investigation is 4270
conducted under this division regarding information received 4271
about a person and no action is taken against the person under 4272
this section or section 3319.31 of the Revised Code within two 4273
years of the completion of the investigation, all records of the 4274
investigation shall be expunged. 4275

(2) In the case of a person about whom the board has 4276
learned of a plea of guilty to, finding of guilt by a jury or 4277
court of, or a conviction of an offense listed in division (C) 4278
of section 3319.31 of the Revised Code, or substantially 4279
comparable conduct occurring in a jurisdiction outside this 4280
state, the board or the superintendent of public instruction 4281
need not conduct any further investigation and shall take the 4282
action required by division (C) or (F) of that section. Except 4283
as provided in division (G) of this section, all information 4284
obtained by the board or the superintendent of public 4285
instruction pertaining to the action is a public record under 4286
section 149.43 of the Revised Code. 4287

(B) The superintendent of public instruction shall review 4288

the results of each investigation of a person conducted under 4289
division (A) (1) of this section and shall determine, on behalf 4290
of the state board, whether the results warrant initiating 4291
action under division (B) of section 3319.31 of the Revised 4292
Code. The superintendent shall advise the board of such 4293
determination at a meeting of the board. Within fourteen days of 4294
the next meeting of the board, any member of the board may ask 4295
that the question of initiating action under section 3319.31 of 4296
the Revised Code be placed on the board's agenda for that next 4297
meeting. Prior to initiating that action against any person, the 4298
person's name and any other personally identifiable information 4299
shall remain confidential. 4300

(C) The board shall take no action against a person under 4301
division (B) of section 3319.31 of the Revised Code without 4302
providing the person with written notice of the charges and with 4303
an opportunity for a hearing in accordance with Chapter 119. of 4304
the Revised Code. 4305

(D) For purposes of an investigation under division (A) (1) 4306
of this section or a hearing under division (C) of this section 4307
or under division (E) (2) of section 3319.31 of the Revised Code, 4308
the board, or the superintendent on behalf of the board, may 4309
administer oaths, order the taking of depositions, issue 4310
subpoenas, and compel the attendance of witnesses and the 4311
production of books, accounts, papers, records, documents, and 4312
testimony. The issuance of subpoenas under this division may be 4313
by certified mail, regular mail with a certificate of mailing, 4314
or other form of delivery with proof of delivery, including 4315
electronic delivery with electronic proof of delivery, or 4316
personal delivery to the person. 4317

(E) The superintendent, on behalf of the board, may enter 4318

into a consent agreement with a person against whom action is 4319
being taken under division (B) of section 3319.31 of the Revised 4320
Code. The board may adopt rules governing the superintendent's 4321
action under this division. 4322

(F) No surrender of a license shall be effective until the 4323
board takes action to accept the surrender unless the surrender 4324
is pursuant to a consent agreement entered into under division 4325
(E) of this section. 4326

(G) The name of any person who is not required to report 4327
information under section 3314.40, 3319.313, 3326.24, 3328.19, 4328
5126.253, or 5153.176 of the Revised Code, but who in good faith 4329
provides information to the state board or superintendent of 4330
public instruction about alleged misconduct committed by a 4331
person who holds a license or has applied for issuance or 4332
renewal of a license, shall be confidential and shall not be 4333
released. Any such person shall be immune from any civil 4334
liability that otherwise might be incurred or imposed for 4335
injury, death, or loss to person or property as a result of the 4336
provision of that information. 4337

(H) (1) No person shall knowingly make a false report to 4338
the superintendent of public instruction or the state board of 4339
education alleging misconduct by an employee of a public or 4340
chartered nonpublic school or an employee of the operator of a 4341
community school established under Chapter 3314. or a college- 4342
preparatory boarding school established under Chapter 3328. of 4343
the Revised Code. 4344

(2) (a) In any civil action brought against a person in 4345
which it is alleged and proved that the person violated division 4346
(H) (1) of this section, the court shall award the prevailing 4347
party reasonable attorney's fees and costs that the prevailing 4348

party incurred in the civil action or as a result of the false 4349
report that was the basis of the violation. 4350

(b) If a person is convicted of or pleads guilty to a 4351
violation of division (H) (1) of this section, if the subject of 4352
the false report that was the basis of the violation was charged 4353
with any violation of a law or ordinance as a result of the 4354
false report, and if the subject of the false report is found 4355
not to be guilty of the charges brought against the subject as a 4356
result of the false report or those charges are dismissed, the 4357
court that sentences the person for the violation of division 4358
(H) (1) of this section, as part of the sentence, shall order the 4359
person to pay restitution to the subject of the false report, in 4360
an amount equal to reasonable attorney's fees and costs that the 4361
subject of the false report incurred as a result of or in 4362
relation to the charges. 4363

Sec. 3321.13. (A) Whenever any child of compulsory school 4364
age withdraws from school the teacher of that child shall 4365
ascertain the reason for withdrawal. The fact of the withdrawal 4366
and the reason for it shall be immediately transmitted by the 4367
teacher to the superintendent of the city, local, or exempted 4368
village school district. If the child who has withdrawn from 4369
school has done so because of change of residence, the next 4370
residence shall be ascertained and shall be included in the 4371
notice thus transmitted. The superintendent shall thereupon 4372
forward a card showing the essential facts regarding the child 4373
and stating the place of the child's new residence to the 4374
superintendent of schools of the district to which the child has 4375
moved. 4376

The superintendent of public instruction may prescribe the 4377
forms to be used in the operation of this division. 4378

(B) (1) Upon receipt of information that a child of 4379
compulsory school age has withdrawn from school for a reason 4380
other than because of change of residence and is not enrolled in 4381
and attending in accordance with school policy an approved 4382
program to obtain a diploma or its equivalent, the 4383
superintendent shall notify the registrar of motor vehicles and 4384
the juvenile judge of the county in which the district is 4385
located of the withdrawal and failure to enroll in and attend an 4386
approved program to obtain a diploma or its equivalent. A 4387
notification to the registrar required by this division shall be 4388
given in the manner the registrar by rule requires and a 4389
notification to the juvenile judge required by this division 4390
shall be given in writing. Each notification shall be given 4391
within two weeks after the withdrawal and failure to enroll in 4392
and attend an approved program or its equivalent. 4393

(2) The board of education of a school district may adopt 4394
a resolution providing that the provisions of division (B) (2) of 4395
this section apply within the district. The provisions of 4396
division (B) (2) of this section do not apply within any school 4397
district, and no superintendent of a school district shall send 4398
a notification of the type described in division (B) (2) of this 4399
section to the registrar of motor vehicles or the juvenile judge 4400
of the county in which the district is located, unless the board 4401
of education of the district has adopted such a resolution. If 4402
the board of education of a school district adopts a resolution 4403
providing that the provisions of division (B) (2) of this section 4404
apply within the district, and if the superintendent of schools 4405
of that district receives information that, during any semester 4406
or term, a child of compulsory school age has been absent 4407
without legitimate excuse from the school the child is supposed 4408
to attend for more than sixty consecutive hours in a single 4409

month or for at least ninety hours in a school year, the 4410
superintendent shall notify the child and the child's parent, 4411
guardian, or custodian, in writing, that the information has 4412
been provided to the superintendent, that as a result of that 4413
information the child's temporary instruction permit or driver's 4414
license will be suspended or the opportunity to obtain such a 4415
permit or license will be denied, and that the child and the 4416
child's parent, guardian, or custodian ~~may appear in person~~ 4417
participate in a hearing at a scheduled date, time, and place 4418
~~before~~ conducted by the superintendent or a designee to 4419
challenge the information provided to the superintendent. The 4420
hearing may be conducted by electronic means if requested by the 4421
child's parent, guardian, or custodian. 4422

The notification to the child and the child's parent, 4423
guardian, or custodian required by division (B) (2) of this 4424
section shall set forth the information received by the 4425
superintendent and shall inform the child and the child's 4426
parent, guardian, or custodian of the scheduled date, time, and 4427
~~place participation method of the appearance that they may have~~ 4428
hearing before the superintendent or a designee. The date 4429
scheduled for the ~~appearance~~ hearing shall be no earlier than 4430
three and no later than five days after the notification is 4431
given, provided that an extension may be granted upon request of 4432
the child or the child's parent, guardian, or custodian. If an 4433
extension is granted, the superintendent shall schedule a new 4434
date, time, and ~~place method~~ for the appearance hearing and 4435
shall inform the child and the child's parent, guardian, or 4436
custodian of the new date, time, and ~~place method~~. 4437

If the child and the child's parent, guardian, or 4438
custodian do not appear before the superintendent or a designee 4439
on the scheduled date and ~~at for~~ for the scheduled ~~time and place~~ 4440

hearing, or if the child and the child's parent, guardian, or 4441
custodian appear before the superintendent or a designee on the 4442
scheduled date and at the scheduled time ~~and place~~ but the 4443
superintendent or a designee determines that the information the 4444
superintendent received indicating that, during the semester or 4445
term, the child had been absent without legitimate excuse from 4446
the school the child was supposed to attend for more than sixty 4447
consecutive hours or for at least ninety total hours, the 4448
superintendent shall notify the registrar of motor vehicles and 4449
the juvenile judge of the county in which the district is 4450
located that the child has been absent for that period of time 4451
and that the child does not have any legitimate excuse for the 4452
habitual absence. A notification to the registrar required by 4453
this division shall be given in the manner the registrar by rule 4454
requires and a notification to the juvenile judge required by 4455
this division shall be given in writing. Each notification shall 4456
be given within two weeks after the receipt of the information 4457
of the habitual absence from school without legitimate excuse, 4458
or, if the child and the child's parent, guardian, or custodian 4459
appear before the superintendent or a designee to challenge the 4460
information, within two weeks after the ~~appearance~~ hearing. 4461

For purposes of division (B) (2) of this section, a 4462
legitimate excuse for absence from school includes, but is not 4463
limited to, the fact that the child in question has enrolled in 4464
another school or school district in this or another state, the 4465
fact that the child in question was excused from attendance for 4466
any of the reasons specified in section 3321.04 of the Revised 4467
Code, or the fact that the child in question has received an age 4468
and schooling certificate in accordance with section 3331.01 of 4469
the Revised Code. 4470

(3) Whenever a pupil is suspended or expelled from school 4471

pursuant to section 3313.66 of the Revised Code and the reason 4472
for the suspension or expulsion is the use or possession of 4473
alcohol, a drug of abuse, or alcohol and a drug of abuse, the 4474
superintendent of schools of that district may notify the 4475
registrar and the juvenile judge of the county in which the 4476
district is located of such suspension or expulsion. Any such 4477
notification of suspension or expulsion shall be given to the 4478
registrar, in the manner the registrar by rule requires and 4479
shall be given to the juvenile judge in writing. The 4480
notifications shall be given within two weeks after the 4481
suspension or expulsion. 4482

(4) Whenever a pupil is suspended, expelled, removed, or 4483
permanently excluded from a school for misconduct included in a 4484
policy that the board of education of a city, exempted village, 4485
or local school district has adopted under division (A) of 4486
section 3313.661 of the Revised Code, and the misconduct 4487
involves a firearm or a knife or other weapon as defined in that 4488
policy, the superintendent of schools of that district shall 4489
notify the registrar and the juvenile judge of the county in 4490
which the district is located of the suspension, expulsion, 4491
removal, or permanent exclusion. The notification shall be given 4492
to the registrar in the manner the registrar, by rule, requires 4493
and shall be given to the juvenile judge in writing. The 4494
notifications shall be given within two weeks after the 4495
suspension, expulsion, removal, or permanent exclusion. 4496

(C) A notification of withdrawal, habitual absence without 4497
legitimate excuse, suspension, or expulsion given to the 4498
registrar or a juvenile judge under division (B) (1), (2), (3), 4499
or (4) of this section shall contain the name, address, date of 4500
birth, school, and school district of the child. If the 4501
superintendent finds, after giving a notification of withdrawal, 4502

habitual absence without legitimate excuse, suspension, or 4503
expulsion to the registrar and the juvenile judge under division 4504
(B) (1), (2), (3), or (4) of this section, that the notification 4505
was given in error, the superintendent immediately shall notify 4506
the registrar and the juvenile judge of that fact. 4507

Sec. 3321.21. A notice under section 3321.19 or 3321.20 of 4508
the Revised Code, sent by registered mail, regular mail with a 4509
certificate of mailing, or other form of delivery with proof of 4510
delivery, including electronic delivery and electronic proof of 4511
delivery, is a legal notice. 4512

Sec. 3704.03. The director of environmental protection may 4513
do any of the following: 4514

(A) Develop programs for the prevention, control, and 4515
abatement of air pollution; 4516

(B) Advise, consult, contract, and cooperate with any 4517
governmental or private agency in the furtherance of the 4518
purposes of this chapter; 4519

(C) Encourage, participate in, or conduct studies, 4520
investigations, and research relating to air pollution, collect 4521
and disseminate information, and conduct education and training 4522
programs relating to the causes, prevention, control, and 4523
abatement of air pollution; 4524

(D) Adopt, modify, and rescind rules prescribing ambient 4525
air quality standards for the state as a whole or for various 4526
areas of the state that are consistent with and no more 4527
stringent than the national ambient air quality standards in 4528
effect under the federal Clean Air Act; 4529

(E) Adopt, modify, suspend, and rescind rules for the 4530
prevention, control, and abatement of air pollution, including 4531

rules prescribing for the state as a whole or for various areas 4532
of the state emission standards for air contaminants, and other 4533
necessary rules for the purpose of achieving and maintaining 4534
compliance with ambient air quality standards in all areas 4535
within the state as expeditiously as practicable, but not later 4536
than any deadlines applicable under the federal Clean Air Act; 4537
rules for the prevention or control of the emission of hazardous 4538
or toxic air contaminants; rules prescribing fugitive dust 4539
limitations and standards that are related, on an areawide 4540
basis, to attainment and maintenance of ambient air quality 4541
standards; rules prescribing shade, density, or opacity 4542
limitations and standards for emissions, provided that with 4543
regard to air contaminant sources for which there are 4544
particulate matter emission standards in addition to a shade, 4545
density, or opacity rule, upon demonstration by such a source of 4546
compliance with those other standards, the shade, density, or 4547
opacity rule shall provide for establishment of a shade, 4548
density, or opacity limitation for that source that does not 4549
require the source to reduce emissions below the level specified 4550
by those other standards; rules for the prevention or control of 4551
odors and air pollution nuisances; rules that prevent 4552
significant deterioration of air quality to the extent required 4553
by the federal Clean Air Act; rules for the protection of 4554
visibility as required by the federal Clean Air Act; and rules 4555
prescribing open burning limitations and standards. In adopting, 4556
modifying, suspending, or rescinding any such rules, the 4557
director, to the extent consistent with the federal Clean Air 4558
Act, shall hear and give consideration to evidence relating to 4559
all of the following: 4560

(1) Conditions calculated to result from compliance with 4561
the rules, the overall cost within this state of compliance with 4562

the rules, and their relation to benefits to the people of the 4563
state to be derived from that compliance; 4564

(2) The quantity and characteristics of air contaminants, 4565
the frequency and duration of their presence in the ambient air, 4566
and the dispersion and dilution of those contaminants; 4567

(3) Topography, prevailing wind directions and velocities, 4568
physical conditions, and other factors that may or may combine 4569
to affect air pollution. 4570

Consistent with division (K) of section 3704.036 of the 4571
Revised Code, the director shall consider alternative emission 4572
limits proposed by the owner or operator of an air contaminant 4573
source that is subject to an emission limit established in rules 4574
adopted under this division and shall accept those alternative 4575
emission limits that the director determines to be equivalent to 4576
emission limits established in rules adopted under this 4577
division. 4578

(F) (1) Adopt, modify, suspend, and rescind rules 4579
consistent with the purposes of this chapter prohibiting the 4580
location, installation, construction, or modification of any air 4581
contaminant source or any machine, equipment, device, apparatus, 4582
or physical facility intended primarily to prevent or control 4583
the emission of air contaminants unless an installation permit 4584
therefor has been obtained from the director or the director's 4585
authorized representative. 4586

(2) (a) Applications for installation permits shall be 4587
accompanied by plans, specifications, construction schedules, 4588
and such other pertinent information and data, including data on 4589
ambient air quality impact and a demonstration of best available 4590
technology, as the director may require. Installation permits 4591

shall be issued for a period specified by the director and are 4592
transferable. The director shall specify in each permit the 4593
applicable emission standards and that the permit is conditioned 4594
upon payment of the applicable fees as required by section 4595
3745.11 of the Revised Code and upon the right of the director's 4596
authorized representatives to enter upon the premises of the 4597
person to whom the permit has been issued, at any reasonable 4598
time and subject to safety requirements of the person in control 4599
of the premises, for the purpose of determining compliance with 4600
such standards, this chapter, the rules adopted thereunder, and 4601
the conditions of any permit, variance, or order issued 4602
thereunder. Each proposed new or modified air contaminant source 4603
shall provide such notice of its proposed installation or 4604
modification to other states as is required under the federal 4605
Clean Air Act. Installation permits shall include the 4606
authorization to operate sources installed and operated in 4607
accordance with terms and conditions of the installation permits 4608
for a period not to exceed one year from commencement of 4609
operation, which authorization shall constitute an operating 4610
permit under division (G) of this section and rules adopted 4611
under it. 4612

No installation permit shall be required for activities 4613
that are subject to and in compliance with a plant-wide 4614
applicability limit issued by the director in accordance with 4615
rules adopted under this section. 4616

No installation permit shall be issued except in 4617
accordance with all requirements of this chapter and rules 4618
adopted thereunder. No application shall be denied or permit 4619
revoked or modified without a written order stating the findings 4620
upon which denial, revocation, or modification is based. A copy 4621
of the order shall be sent to the applicant or permit holder by 4622

certified mail. 4623

(b) An air contaminant source that is the subject of an 4624
installation permit shall be installed or modified in accordance 4625
with the permit not later than eighteen months after the 4626
permit's effective date at which point the permit shall 4627
terminate unless one of the following applies: 4628

(i) The owner or operator has undertaken a continuing 4629
program of installation or modification during the eighteen- 4630
month period. 4631

(ii) The owner or operator has entered into a binding 4632
contractual obligation to undertake and complete within a 4633
reasonable period of time a continuing program of installation 4634
or modification of the air contaminant source during the 4635
eighteen-month period. 4636

(iii) The director has extended the date by which the air 4637
contaminant source that is the subject of the installation 4638
permit must be installed or modified. 4639

(iv) The installation permit is the subject of an appeal 4640
by a party other than the owner or operator of the air 4641
contaminant source that is the subject of the installation 4642
permit, in which case the date of termination of the permit is 4643
not later than eighteen months after the effective date of the 4644
permit plus the number of days between the date in which the 4645
permit was appealed and the date on which all appeals concerning 4646
the permit have been resolved. 4647

(v) The installation permit has been superseded by a 4648
subsequent installation permit, in which case the original 4649
installation permit terminates on the effective date of the 4650
superseding installation permit. 4651

Division (F) (2) (b) of this section applies to an 4652
installation permit that has not terminated as of ~~the effective~~ 4653
~~date of this amendment~~ October 16, 2009. 4654

The director may adopt rules in accordance with Chapter 4655
119. of the Revised Code for the purpose of establishing 4656
additional requirements that are necessary for the 4657
implementation of division (F) (2) (b) of this section. 4658

(3) Not later than two years after August 3, 2006, the 4659
director shall adopt a rule in accordance with Chapter 119. of 4660
the Revised Code specifying that a permit to install is required 4661
only for new or modified air contaminant sources that emit any 4662
of the following air contaminants: 4663

(a) An air contaminant or precursor of an air contaminant 4664
for which a national ambient air quality standard has been 4665
adopted under the federal Clean Air Act; 4666

(b) An air contaminant for which the air contaminant 4667
source is regulated under the federal Clean Air Act; 4668

(c) An air contaminant that presents, or may present, 4669
through inhalation or other routes of exposure, a threat of 4670
adverse human health effects, including, but not limited to, 4671
substances that are known to be, or may reasonably be 4672
anticipated to be, carcinogenic, mutagenic, teratogenic, or 4673
neurotoxic, that cause reproductive dysfunction, or that are 4674
acutely or chronically toxic, or a threat of adverse 4675
environmental effects whether through ambient concentrations, 4676
bioaccumulation, deposition, or otherwise, and that is 4677
identified in the rule by chemical name and chemical abstract 4678
service number. 4679

The director may modify the rule adopted under division 4680

(F) (3) (c) of this section for the purpose of adding or deleting 4681
air contaminants. For each air contaminant that is contained in 4682
or deleted from the rule adopted under division (F) (3) (c) of 4683
this section, the director shall include in a notice 4684
accompanying any proposed or final rule an explanation of the 4685
director's determination that the air contaminant meets the 4686
criteria established in that division and should be added to, or 4687
no longer meets the criteria and should be deleted from, the 4688
list of air contaminants. The explanation shall include an 4689
identification of the scientific evidence on which the director 4690
relied in making the determination. Until adoption of the rule 4691
under division (F) (3) (c) of this section, nothing shall affect 4692
the director's authority to issue, deny, modify, or revoke 4693
permits to install under this chapter and rules adopted under 4694
it. 4695

(4) (a) Applications for permits to install new or modified 4696
air contaminant sources shall contain sufficient information 4697
regarding air contaminants for which the director may require a 4698
permit to install to determine conformity with the environmental 4699
protection agency's document entitled "Review of New Sources of 4700
Air Toxics Emissions, Option A," dated May 1986, which the 4701
director shall use to evaluate toxic emissions from new or 4702
modified air contaminant sources. The director shall make copies 4703
of the document available to the public upon request at no cost 4704
and post the document on the environmental protection agency's 4705
web site. Any inconsistency between the document and division 4706
(F) (4) of this section shall be resolved in favor of division 4707
(F) (4) of this section. 4708

(b) The maximum acceptable ground level concentration of 4709
an air contaminant shall be calculated in accordance with the 4710
document entitled "Review of New Sources of Air Toxics 4711

Emissions, Option A." Modeling shall be conducted to determine 4712
the increase in the ground level concentration of an air 4713
contaminant beyond the facility's boundary caused by the 4714
emissions from a new or modified source that is the subject of 4715
an application for a permit to install. Modeling shall be based 4716
on the maximum hourly rate of emissions from the source using 4717
information including, but not limited to, any emission control 4718
devices or methods, operational restrictions, stack parameters, 4719
and emission dispersion devices or methods that may affect 4720
ground level concentrations, either individually or in 4721
combination. The director shall determine whether the activities 4722
for which a permit to install is sought will cause an increase 4723
in the ground level concentration of one or more relevant air 4724
contaminants beyond the facility's boundary by an amount in 4725
excess of the maximum acceptable ground level concentration. In 4726
making the determination as to whether the maximum acceptable 4727
ground level concentration will be exceeded, the director shall 4728
give consideration to the modeling conducted under division (F) 4729
(4) (b) of this section and other relevant information submitted 4730
by the applicant. 4731

(c) If the modeling conducted under division (F) (4) (b) of 4732
this section with respect to an application for a permit to 4733
install demonstrates that the maximum ground level concentration 4734
from a new or modified source will be greater than or equal to 4735
eighty per cent, but less than one hundred per cent of the 4736
maximum acceptable ground level concentration for an air 4737
contaminant, the director may establish terms and conditions in 4738
the permit to install for the air contaminant source that will 4739
require the owner or operator of the air contaminant source to 4740
maintain emissions of that air contaminant commensurate with the 4741
modeled level, which shall be expressed as allowable emissions 4742

per day. In order to calculate the allowable emissions per day, 4743
the director shall multiply the hourly emission rate modeled 4744
under division (F) (4) (b) of this section to determine the ground 4745
level concentration by the operating schedule that has been 4746
identified in the permit to install application. Terms and 4747
conditions imposed under division (F) (4) (c) of this section are 4748
not federally enforceable requirements and, if included in a 4749
Title V permit, shall be placed in the portion of the permit 4750
that is only enforceable by the state. 4751

(d) If the modeling conducted under division (F) (4) (b) of 4752
this section with respect to an application for a permit to 4753
install demonstrates that the maximum ground level concentration 4754
from a new or modified source will be less than eighty per cent 4755
of the maximum acceptable ground level concentration, the owner 4756
or operator of the source annually shall report to the director, 4757
on a form prescribed by the director, whether operations of the 4758
source are consistent with the information regarding the 4759
operations that was used to conduct the modeling with regard to 4760
the permit to install application. The annual report to the 4761
director shall be in lieu of an emission limit or other permit 4762
terms and conditions imposed pursuant to division (F) (4) of this 4763
section. The director may consider any significant departure 4764
from the operations of the source described in the permit to 4765
install application that results in greater emissions than the 4766
emissions rate modeled to determine the ground level 4767
concentration as a modification and require the owner or 4768
operator to submit a permit to install application for the 4769
increased emissions. The requirements established in division 4770
(F) (4) (d) of this section are not federally enforceable 4771
requirements and, if included in a Title V permit, shall be 4772
placed in the portion of the permit that is only enforceable by 4773

the state. 4774

(e) Division (F) (4) of this section and the document 4775
entitled "Review of New Sources of Air Toxics Emissions, Option 4776
A" shall not be included in the state implementation plan under 4777
section 110 of the federal Clean Air Act and do not apply to an 4778
air contaminant source that is subject to a maximum achievable 4779
control technology standard or residual risk standard under 4780
section 112 of the federal Clean Air Act, to a particular air 4781
contaminant identified under 40 C.F.R. 51.166, division (b) (23), 4782
for which the director has determined that the owner or operator 4783
of the source is required to install best available control 4784
technology for that particular air contaminant, or to a 4785
particular air contaminant for which the director has determined 4786
that the source is required to meet the lowest achievable 4787
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 4788
that particular air contaminant. 4789

(f) (i) Division (F) (4) of this section and the document 4790
entitled "Review of New Sources of Air Toxics Emissions, Option 4791
A" do not apply to parking lots, storage piles, storage tanks, 4792
transfer operations, grain silos, grain dryers, emergency 4793
generators, gasoline dispensing operations, air contaminant 4794
sources that emit air contaminants solely from the combustion of 4795
fossil fuels, or the emission of wood dust, sand, glass dust, 4796
coal dust, silica, and grain dust. 4797

(ii) Notwithstanding division (F) (4) (f) (i) of this 4798
section, the director may require an individual air contaminant 4799
source that is within one of the source categories identified in 4800
division (F) (4) (f) (i) of this section to submit information in 4801
an application for a permit to install a new or modified source 4802
in order to determine the source's conformity to the document if 4803

the director has information to conclude that the particular new 4804
or modified source will potentially cause an increase in ground 4805
level concentration beyond the facility's boundary that exceeds 4806
the maximum acceptable ground level concentration as set forth 4807
in the document. 4808

(iii) The director may adopt rules in accordance with 4809
Chapter 119. of the Revised Code that are consistent with the 4810
purposes of this chapter and that add to or delete from the 4811
source category exemptions established in division (F) (4) (f) (i) 4812
of this section. 4813

(5) Not later than one year after August 3, 2006, the 4814
director shall adopt rules in accordance with Chapter 119. of 4815
the Revised Code specifying activities that do not, by 4816
themselves, constitute beginning actual construction activities 4817
related to the installation or modification of an air 4818
contaminant source for which a permit to install is required 4819
such as the grading and clearing of land, on-site storage of 4820
portable parts and equipment, and the construction of 4821
foundations or buildings that do not themselves emit air 4822
contaminants. The rules also shall allow specified initial 4823
activities that are part of the installation or modification of 4824
an air contaminant source, such as the installation of 4825
electrical and other utilities for the source, prior to issuance 4826
of a permit to install, provided that the owner or operator of 4827
the source has filed a complete application for a permit to 4828
install, the director or the director's designee has determined 4829
that the application is complete, and the owner or operator of 4830
the source has notified the director that this activity will be 4831
undertaken prior to the issuance of a permit to install. Any 4832
activity that is undertaken by the source under those rules 4833
shall be at the risk of the owner or operator. The rules shall 4834

not apply to activities that are precluded prior to permit 4835
issuance under section 111, section 112, Part C of Title I, and 4836
Part D of Title I of the federal Clean Air Act. 4837

(G) Adopt, modify, suspend, and rescind rules prohibiting 4838
the operation or other use of any new, modified, or existing air 4839
contaminant source unless an operating permit has been obtained 4840
from the director or the director's authorized representative, 4841
or the air contaminant source is being operated in compliance 4842
with the conditions of a variance issued pursuant to division 4843
(H) of this section. Applications for operating permits shall be 4844
accompanied by such plans, specifications, and other pertinent 4845
information as the director may require. Operating permits may 4846
be issued for a period determined by the director not to exceed 4847
ten years, are renewable, and are transferable. The director 4848
shall specify in each operating permit that the permit is 4849
conditioned upon payment of the applicable fees as required by 4850
section 3745.11 of the Revised Code and upon the right of the 4851
director's authorized representatives to enter upon the premises 4852
of the person to whom the permit has been issued, at any 4853
reasonable time and subject to safety requirements of the person 4854
in control of the premises, for the purpose of determining 4855
compliance with this chapter, the rules adopted thereunder, and 4856
the conditions of any permit, variance, or order issued 4857
thereunder. Operating permits may be denied or revoked for 4858
failure to comply with this chapter or the rules adopted 4859
thereunder. An operating permit shall be issued only upon a 4860
showing satisfactory to the director or the director's 4861
representative that the air contaminant source is being operated 4862
in compliance with applicable emission standards and other rules 4863
or upon submission of a schedule of compliance satisfactory to 4864
the director for a source that is not in compliance with all 4865

applicable requirements at the time of permit issuance, provided 4866
that the compliance schedule shall be consistent with and at 4867
least as stringent as that contained in any judicial consent 4868
decree or administrative order to which the air contaminant 4869
source is subject. The rules shall provide for the issuance of 4870
conditional operating permits for such reasonable periods as the 4871
director may determine to allow the holder of an installation 4872
permit, who has constructed, installed, located, or modified a 4873
new air contaminant source in accordance with the provisions of 4874
an installation permit, to make adjustments or modifications 4875
necessary to enable the new air contaminant source to comply 4876
with applicable emission standards and other rules. Terms and 4877
conditions of operating permits issued pursuant to this division 4878
shall be federally enforceable for the purpose of establishing 4879
the potential to emit of a stationary source and shall be 4880
expressly designated as federally enforceable. Any such 4881
federally enforceable restrictions on a source's potential to 4882
emit shall include both an annual limit and a short-term limit 4883
of not more than thirty days for each pollutant to be restricted 4884
together with adequate methods for establishing compliance with 4885
the restrictions. In other respects, operating permits issued 4886
pursuant to this division are enforceable as state law only. No 4887
application shall be denied or permit revoked or modified 4888
without a written order stating the findings upon which denial, 4889
revocation, or modification is based. A copy of the order shall 4890
be sent to the applicant or permit holder by certified mail. 4891

(H) Adopt, modify, and rescind rules governing the 4892
issuance, revocation, modification, or denial of variances that 4893
authorize emissions in excess of the applicable emission 4894
standards. 4895

No variance shall be issued except pursuant to those 4896

rules. The rules shall prescribe conditions and criteria in 4897
furtherance of the purposes of this chapter and consistent with 4898
the federal Clean Air Act governing eligibility for issuance of 4899
variances, which shall include all of the following: 4900

(1) Provisions requiring consistency of emissions 4901
authorized by a variance with timely attainment and maintenance 4902
of ambient air quality standards; 4903

(2) Provisions prescribing the classes and categories of 4904
air contaminants and air contaminant sources for which variances 4905
may be issued; 4906

(3) Provisions defining the circumstances under which an 4907
applicant shall demonstrate that compliance with applicable 4908
emission standards is technically infeasible, economically 4909
unreasonable, or impossible because of conditions beyond the 4910
control of the applicant; 4911

(4) Other provisions prescribed in furtherance of the 4912
goals of this chapter. 4913

The rules shall prohibit the issuance of variances from 4914
any emission limitation that was applicable to a source pursuant 4915
to an installation permit and shall prohibit issuance of 4916
variances that conflict with the federal Clean Air Act. 4917

Applications for variances shall be accompanied by such 4918
information as the director may require. In issuing variances, 4919
the director may order the person to whom a variance is issued 4920
to furnish plans and specifications and such other information 4921
and data, including interim reports, as the director may require 4922
and to proceed to take such action within such time as the 4923
director may determine to be appropriate and reasonable to 4924
prevent, control, or abate the person's existing emissions of 4925

air contaminants. The director shall specify in each variance 4926
that the variance is conditioned upon payment of the applicable 4927
fees as required by section 3745.11 of the Revised Code and upon 4928
the right of the director's authorized representatives to enter 4929
upon the premises of the person to whom the variance has been 4930
issued, at any reasonable time and subject to safety 4931
requirements of the person in control of the premises, for the 4932
purpose of determining compliance with this chapter, the rules 4933
adopted thereunder, and the conditions of any permit, variance, 4934
or order issued thereunder. 4935

The director may hold a public hearing on an application 4936
for a variance or renewal thereof at a location in the county 4937
where the variance is sought. The director shall give not less 4938
than twenty days' notice of the hearing to the applicant by 4939
certified mail or another type of mail accompanied by a 4940
receiptand. The director also shall cause at least one 4941
publication of notice in a newspaper with general circulation in 4942
the county where the variance is sought or may instead provide 4943
public notice by publication on the environmental protection 4944
agency's web site. The director shall keep available for public 4945
inspection at the principal office of the environmental 4946
protection agency a current schedule of pending applications for 4947
variances and a current schedule of pending variance hearings. 4948
The director shall make a complete stenographic record or 4949
electronic record of testimony and other evidence submitted at 4950
the hearing. The director shall make a written determination to 4951
issue, renew, or deny the variance and shall enter the 4952
determination and the basis therefor into the record of the 4953
hearing. The director shall issue, renew, or deny an application 4954
for a variance or renewal thereof, or issue a proposed action 4955
upon the application pursuant to section 3745.07 of the Revised 4956

Code, within six months of the date upon which the director 4957
receives a complete application with all pertinent information 4958
and data required by the director. 4959

Any variance granted pursuant to rules adopted under this 4960
division shall be for a period specified by the director, not to 4961
exceed three years, and may be renewed from time to time on such 4962
terms and for such periods, not to exceed three years each, as 4963
the director determines to be appropriate. A variance may be 4964
revoked, or renewal denied, for failure to comply with 4965
conditions specified in the variance. No variance shall be 4966
issued, denied, revoked, or modified without a written order 4967
stating the findings upon which the issuance, denial, 4968
revocation, or modification is based. A copy of the order shall 4969
be sent to the applicant or variance holder by certified mail. 4970

(I) Require the owner or operator of an air contaminant 4971
source to install, employ, maintain, and operate such emissions, 4972
ambient air quality, meteorological, or other monitoring devices 4973
or methods as the director shall prescribe; to sample those 4974
emissions at such locations, at such intervals, and in such 4975
manner as the director prescribes; to maintain records and file 4976
periodic reports with the director containing information as to 4977
location, size, and height of emission outlets, rate, duration, 4978
and composition of emissions, and any other pertinent 4979
information the director prescribes; and to provide such written 4980
notice to other states as the director shall prescribe. In 4981
requiring monitoring devices, records, and reports, the 4982
director, to the extent consistent with the federal Clean Air 4983
Act, shall give consideration to technical feasibility and 4984
economic reasonableness and allow reasonable time for 4985
compliance. For sources where a specific monitoring, record- 4986
keeping, or reporting requirement is specified for a particular 4987

air contaminant from a particular air contaminant source in an 4988
applicable regulation adopted by the United States environmental 4989
protection agency under the federal Clean Air Act or in an 4990
applicable rule adopted by the director, the director shall not 4991
impose an additional requirement in a permit that is a different 4992
monitoring, record-keeping, or reporting requirement other than 4993
the requirement specified in the applicable regulation or rule 4994
for that air contaminant except as otherwise agreed to by the 4995
owner or operator of the air contaminant source and the 4996
director. If two or more regulations or rules impose different 4997
monitoring, record-keeping, or reporting requirements for the 4998
same air contaminant from the same air contaminant source, the 4999
director may impose permit terms and conditions that consolidate 5000
or streamline the monitoring, record-keeping, or reporting 5001
requirements in a manner that conforms with each applicable 5002
requirement. To the extent consistent with the federal Clean Air 5003
Act and except as otherwise agreed to by the owner or operator 5004
of an air contaminant source and the director, the director 5005
shall not require an operating restriction that has the 5006
practical effect of increasing the stringency of an existing 5007
applicable emission limitation or standard. 5008

(J) Establish, operate, and maintain monitoring stations 5009
and other devices designed to measure air pollution and enter 5010
into contracts with any public or private agency for the 5011
establishment, operation, or maintenance of such stations and 5012
devices; 5013

(K) By rule adopt procedures for giving reasonable public 5014
notice and conducting public hearings on any plans for the 5015
prevention, control, and abatement of air pollution that the 5016
director is required to submit to the federal government; 5017

(L) Through any employee, agent, or authorized 5018
representative of the director or the environmental protection 5019
agency, enter upon private or public property, including 5020
improvements thereon, at any reasonable time, to make 5021
inspections, take samples, conduct tests, and examine records or 5022
reports pertaining to any emission of air contaminants and any 5023
monitoring equipment or methods and to determine if there are 5024
any actual or potential emissions from such premises and, if so, 5025
to determine the sources, amounts, contents, and extent of those 5026
emissions, or to ascertain whether there is compliance with this 5027
chapter, any orders issued or rules adopted thereunder, or any 5028
other determination of the director. The director, at reasonable 5029
times, may have access to and copy any such records. If entry or 5030
inspection authorized by this division is refused, hindered, or 5031
thwarted, the director or the director's authorized 5032
representative may by affidavit apply for, and any judge of a 5033
court of record may issue, an appropriate inspection warrant 5034
necessary to achieve the purposes of this chapter within the 5035
court's territorial jurisdiction. 5036

(M) Accept and administer gifts or grants from the federal 5037
government and from any other source, public or private, for 5038
carrying out any of the functions under this chapter; 5039

(N) Obtain necessary scientific, technical, and laboratory 5040
services; 5041

(O) Establish advisory boards in accordance with section 5042
121.13 of the Revised Code; 5043

(P) Delegate to any city or general health district or 5044
political subdivision of the state any of the director's 5045
enforcement and monitoring powers and duties, other than rule- 5046
making powers, as the director elects to delegate, and in 5047

addition employ, compensate, and prescribe the powers and duties 5048
of such officers, employees, and consultants as are necessary to 5049
enable the director to exercise the authority and perform duties 5050
imposed upon the director by law. Technical and other services 5051
shall be performed, insofar as practical, by personnel of the 5052
environmental protection agency. 5053

(Q) Certify to the government of the United States or any 5054
agency thereof that an industrial air pollution facility is in 5055
conformity with the state program or requirements for control of 5056
air pollution whenever such certificate is required for a 5057
taxpayer pursuant to any federal law or requirements; 5058

(R) Issue, modify, or revoke orders requiring abatement of 5059
or prohibiting emissions that violate applicable emission 5060
standards or other requirements of this chapter and rules 5061
adopted thereunder, or requiring emission control devices or 5062
measures in order to comply with applicable emission standards 5063
or other requirements of this chapter and rules adopted 5064
thereunder. Any such order shall require compliance with 5065
applicable emission standards by a specified date and shall not 5066
conflict with any requirement of the federal Clean Air Act. In 5067
the making of such orders, the director, to the extent 5068
consistent with the federal Clean Air Act, shall give 5069
consideration to, and base the determination on, evidence 5070
relating to the technical feasibility and economic 5071
reasonableness of compliance with such orders and their relation 5072
to benefits to the people of the state to be derived from such 5073
compliance. If, under the federal Clean Air Act, any such order 5074
shall provide for the posting of a bond or surety to secure 5075
compliance with the order as a condition of issuance of the 5076
order, the order shall so provide, but only to the extent 5077
required by the federal Clean Air Act. 5078

(S) To the extent provided by the federal Clean Air Act, 5079
adopt, modify, and rescind rules providing for the 5080
administrative assessment and collection of monetary penalties, 5081
not in excess of those required pursuant to the federal Clean 5082
Air Act, for failure to comply with any emission limitation or 5083
standard, compliance schedule, or other requirement of any rule, 5084
order, permit, or variance issued or adopted under this chapter 5085
or required under the applicable implementation plan whether or 5086
not the source is subject to a federal or state consent decree. 5087
The director may require the submission of compliance schedules, 5088
calculations of penalties for noncompliance, and related 5089
information. Any orders, payments, sanctions, or other 5090
requirements imposed pursuant to rules adopted under this 5091
division shall be in addition to any other permits, orders, 5092
payments, sanctions, or other requirements established under 5093
this chapter and shall not affect any civil or criminal 5094
enforcement proceedings brought under any provision of this 5095
chapter or any other provision of state or local law. This 5096
division does not apply to any requirement of this chapter 5097
regarding the prevention or abatement of odors. 5098

(T) Require new or modified air contaminant sources to 5099
install best available technology, but only in accordance with 5100
this division. With respect to permits issued pursuant to 5101
division (F) of this section beginning three years after August 5102
3, 2006, best available technology for air contaminant sources 5103
and air contaminants emitted by those sources that are subject 5104
to standards adopted under section 112, Part C of Title I, and 5105
Part D of Title I of the federal Clean Air Act shall be 5106
equivalent to and no more stringent than those standards. For an 5107
air contaminant or precursor of an air contaminant for which a 5108
national ambient air quality standard has been adopted under the 5109

federal Clean Air Act, best available technology only shall be 5110
required to the extent required by rules adopted under Chapter 5111
119. of the Revised Code for permit to install applications 5112
filed three or more years after August 3, 2006. 5113

Best available technology requirements established in 5114
rules adopted under this division shall be expressed only in one 5115
of the following ways that is most appropriate for the 5116
applicable source or source categories: 5117

(1) Work practices; 5118

(2) Source design characteristics or design efficiency of 5119
applicable air contaminant control devices; 5120

(3) Raw material specifications or throughput limitations 5121
averaged over a twelve-month rolling period; 5122

(4) Monthly allowable emissions averaged over a twelve- 5123
month rolling period. 5124

Best available technology requirements shall not apply to 5125
an air contaminant source that has the potential to emit, taking 5126
into account air pollution controls installed on the source, 5127
less than ten tons per year of emissions of an air contaminant 5128
or precursor of an air contaminant for which a national ambient 5129
air quality standard has been adopted under the federal Clean 5130
Air Act. In addition, best available technology requirements 5131
established in rules adopted under this division shall not apply 5132
to any existing, new, or modified air contaminant source that is 5133
subject to a plant-wide applicability limit that has been 5134
approved by the director. Further, best available technology 5135
requirements established in rules adopted under this division 5136
shall not apply to general permits issued prior to January 1, 5137
2006, under rules adopted under this chapter. 5138

For permits to install issued three or more years after 5139
August 3, 2006, any new or modified air contaminant source that 5140
has the potential to emit, taking into account air pollution 5141
controls installed on the source, ten or more tons per year of 5142
volatile organic compounds or nitrogen oxides shall meet, at a 5143
minimum, the requirements of any applicable reasonably available 5144
control technology rule in effect as of January 1, 2006, 5145
regardless of the location of the source. 5146

(U) Consistent with section 507 of the federal Clean Air 5147
Act, adopt, modify, suspend, and rescind rules for the 5148
establishment of a small business stationary source technical 5149
and environmental compliance assistance program as provided in 5150
section 3704.18 of the Revised Code; 5151

(V) Provide for emissions trading, marketable permits, 5152
auctions of emission rights, and economic incentives that would 5153
reduce the cost or increase the efficiency of achieving a 5154
specified level of environmental protection; 5155

(W) Provide for the construction of an air contaminant 5156
source prior to obtaining a permit to install pursuant to 5157
division (F) of this section if the applicant demonstrates that 5158
the source will be installed to comply with all applicable 5159
emission limits and will not adversely affect public health or 5160
safety or the environment and if the director determines that 5161
such an action will avoid an unreasonable hardship on the owner 5162
or operator of the source. Any such determination shall be 5163
consistent with the federal Clean Air Act. 5164

(X) Exercise all incidental powers, including adoption of 5165
rules, required to carry out this chapter. 5166

The environmental protection agency shall develop a plan 5167

to control air pollution resulting from state-operated 5168
facilities and property. 5169

Sec. 3734.02. (A) The director of environmental 5170
protection, in accordance with Chapter 119. of the Revised Code, 5171
shall adopt and may amend, suspend, or rescind rules having 5172
uniform application throughout the state governing solid waste 5173
facilities and the inspections of and issuance of permits and 5174
licenses for all solid waste facilities in order to ensure that 5175
the facilities will be located, maintained, and operated, and 5176
will undergo closure and post-closure care, in a sanitary manner 5177
so as not to create a nuisance, cause or contribute to water 5178
pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 5179
or 40 C.F.R. 257.3-8, as amended. The rules may include, without 5180
limitation, financial assurance requirements for closure and 5181
post-closure care and corrective action and requirements for 5182
taking corrective action in the event of the surface or 5183
subsurface discharge or migration of explosive gases or leachate 5184
from a solid waste facility, or of ground water contamination 5185
resulting from the transfer or disposal of solid wastes at a 5186
facility, beyond the boundaries of any area within a facility 5187
that is operating or is undergoing closure or post-closure care 5188
where solid wastes were disposed of or are being disposed of. 5189
The rules shall not concern or relate to personnel policies, 5190
salaries, wages, fringe benefits, or other conditions of 5191
employment of employees of persons owning or operating solid 5192
waste facilities. The director, in accordance with Chapter 119. 5193
of the Revised Code, shall adopt and may amend, suspend, or 5194
rescind rules governing the issuance, modification, revocation, 5195
suspension, or denial of variances from the director's solid 5196
waste rules, including, without limitation, rules adopted under 5197
this chapter governing the management of scrap tires. 5198

Variances shall be issued, modified, revoked, suspended, 5199
or rescinded in accordance with this division, rules adopted 5200
under it, and Chapter 3745. of the Revised Code. The director 5201
may order the person to whom a variance is issued to take such 5202
action within such time as the director may determine to be 5203
appropriate and reasonable to prevent the creation of a nuisance 5204
or a hazard to the public health or safety or the environment. 5205
Applications for variances shall contain such detail plans, 5206
specifications, and information regarding objectives, 5207
procedures, controls, and other pertinent data as the director 5208
may require. The director shall grant a variance only if the 5209
applicant demonstrates to the director's satisfaction that 5210
construction and operation of the solid waste facility in the 5211
manner allowed by the variance and any terms or conditions 5212
imposed as part of the variance will not create a nuisance or a 5213
hazard to the public health or safety or the environment. In 5214
granting any variance, the director shall state the specific 5215
provision or provisions whose terms are to be varied and also 5216
shall state specific terms or conditions imposed upon the 5217
applicant in place of the provision or provisions. 5218

The director may hold a public hearing on an application 5219
for a variance or renewal of a variance at a location in the 5220
county where the operations that are the subject of the 5221
application for the variance are conducted. The director shall 5222
give not less than twenty days' notice of the hearing to the 5223
applicant by certified mail or by another type of mail 5224
accompanied by a receipt ~~and~~. The director shall publish at 5225
least one notice of the hearing in a newspaper with general 5226
circulation in the county where the hearing is to be held or may 5227
instead provide public notice by publication on the 5228
environmental protection agency's web site. The director shall 5229

make available for public inspection at the principal office of 5230
the environmental protection agency a current list of pending 5231
applications for variances and a current schedule of pending 5232
variance hearings. The director shall make a complete 5233
stenographic record or electronic record of testimony and other 5234
evidence submitted at the hearing. 5235

Within ten days after the hearing, the director shall make 5236
a written determination to issue, renew, or deny the variance 5237
and shall enter the determination and the basis for it into the 5238
record of the hearing. The director shall issue, renew, or deny 5239
an application for a variance or renewal of a variance within 5240
six months of the date upon which the director receives a 5241
complete application with all pertinent information and data 5242
required. No variance shall be issued, revoked, modified, or 5243
denied until the director has considered the relative interests 5244
of the applicant, other persons and property affected by the 5245
variance, and the general public. Any variance granted under 5246
this division shall be for a period specified by the director 5247
and may be renewed from time to time on such terms and for such 5248
periods as the director determines to be appropriate. No 5249
application shall be denied and no variance shall be revoked or 5250
modified without a written order stating the findings upon which 5251
the denial, revocation, or modification is based. A copy of the 5252
order shall be sent to the applicant or variance holder by 5253
certified mail or by another type of mail accompanied by a 5254
receipt. 5255

(B) The director shall prescribe and furnish the forms 5256
necessary to administer and enforce this chapter. The director 5257
may cooperate with and enter into agreements with other state, 5258
local, or federal agencies to carry out the purposes of this 5259
chapter. The director may exercise all incidental powers 5260

necessary to carry out the purposes of this chapter. 5261

(C) Except as provided in this division and divisions (N) 5262
(2) and (3) of this section, no person shall establish a new 5263
solid waste facility or infectious waste treatment facility, or 5264
modify an existing solid waste facility or infectious waste 5265
treatment facility, without submitting an application for a 5266
permit with accompanying detail plans, specifications, and 5267
information regarding the facility and method of operation and 5268
receiving a permit issued by the director, except that no permit 5269
shall be required under this division to install or operate a 5270
solid waste facility for sewage sludge treatment or disposal 5271
when the treatment or disposal is authorized by a current permit 5272
issued under Chapter 3704. or 6111. of the Revised Code. 5273

No person shall continue to operate a solid waste facility 5274
for which the director has disapproved plans and specifications 5275
required to be filed by an order issued under division (A) (3) of 5276
section 3734.05 of the Revised Code, after the date prescribed 5277
for commencement of closure of the facility in the order issued 5278
under division (A) (4) of that section denying the permit 5279
application or approval. 5280

On and after the effective date of the rules adopted under 5281
division (A) of this section and division (D) of section 3734.12 5282
of the Revised Code governing solid waste transfer facilities, 5283
no person shall establish a new, or modify an existing, solid 5284
waste transfer facility without first submitting an application 5285
for a permit with accompanying engineering detail plans, 5286
specifications, and information regarding the facility and its 5287
method of operation to the director and receiving a permit 5288
issued by the director. 5289

No person shall establish a new compost facility or 5290

continue to operate an existing compost facility that accepts 5291
exclusively source separated yard wastes without submitting a 5292
completed registration for the facility to the director in 5293
accordance with rules adopted under divisions (A) and (N) (3) of 5294
this section. 5295

This division does not apply to a generator of infectious 5296
wastes that does any of the following: 5297

(1) Treats, by methods, techniques, and practices 5298
established by rules adopted under division (B) (2) (a) of section 5299
3734.021 of the Revised Code, any of the following: 5300

(a) Infectious wastes that are generated on any premises 5301
that are owned or operated by the generator; 5302

(b) Infectious wastes that are generated by a generator 5303
who has staff privileges at a hospital as defined in section 5304
3727.01 of the Revised Code; 5305

(c) Infectious wastes that are generated in providing care 5306
to a patient by an emergency medical services organization as 5307
defined in section 4765.01 of the Revised Code. 5308

(2) Holds a license or renewal of a license to operate a 5309
crematory facility issued under Chapter 4717. and a permit 5310
issued under Chapter 3704. of the Revised Code; 5311

(3) Treats or disposes of dead animals or parts thereof, 5312
or the blood of animals, and is subject to any of the following: 5313

(a) Inspection under the "Federal Meat Inspection Act," 81 5314
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 5315

(b) Chapter 918. of the Revised Code; 5316

(c) Chapter 953. of the Revised Code. 5317

(D) Neither this chapter nor any rules adopted under it 5318
apply to single-family residential premises; to infectious 5319
wastes generated by individuals for purposes of their own care 5320
or treatment; to the temporary storage of solid wastes, other 5321
than scrap tires, prior to their collection for disposal; to the 5322
storage of one hundred or fewer scrap tires unless they are 5323
stored in such a manner that, in the judgment of the director or 5324
the board of health of the health district in which the scrap 5325
tires are stored, the storage causes a nuisance, a hazard to 5326
public health or safety, or a fire hazard; or to the collection 5327
of solid wastes, other than scrap tires, by a political 5328
subdivision or a person holding a franchise or license from a 5329
political subdivision of the state; to composting, as defined in 5330
section 1511.01 of the Revised Code, conducted in accordance 5331
with section 1511.022 of the Revised Code; or to any person who 5332
is licensed to transport raw rendering material to a compost 5333
facility pursuant to section 953.23 of the Revised Code. 5334

(E) (1) As used in this division: 5335

(a) "On-site facility" means a facility that stores, 5336
treats, or disposes of hazardous waste that is generated on the 5337
premises of the facility. 5338

(b) "Off-site facility" means a facility that stores, 5339
treats, or disposes of hazardous waste that is generated off the 5340
premises of the facility and includes such a facility that is 5341
also an on-site facility. 5342

(c) "Satellite facility" means any of the following: 5343

(i) An on-site facility that also receives hazardous waste 5344
from other premises owned by the same person who generates the 5345
waste on the facility premises; 5346

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E) (3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous

waste facility installation and operation permit and of any 5377
 subsequent renewal permits. The annual permit fee shall be 5378
 determined for each permit holder by the director in accordance 5379
 with the following schedule: 5380

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A	TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
B	Storage facility using:		
C	Containers	On-site, off-site, and satellite	\$500
D	Tanks	On-site, off-site, and satellite	500
E	Waste pile	On-site, off-site, and satellite	3,000
F	Surface impoundment	On-site and satellite	8,000
G		Off-site	10,000
H	Disposal facility using:		
I	Deep well injection	On-site and satellite	15,000
J		Off-site	25,000
K	Landfill	On-site and satellite	25,000
L		Off-site	40,000
M	Land application	On-site and satellite	2,500

N	Off-site	5,000
O	Surface impoundment On-site and satellite	10,000
P	Off-site	20,000
Q	Treatment facility using:	
R	Tanks On-site, off-site, and satellite	700
S	Surface impoundment On-site and satellite	8,000
T	Off-site	10,000
U	Incinerator On-site and satellite	5,000
V	Off-site	10,000
W	Other forms of treatment On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the

schedule for each such method. 5396

The director shall not require the payment of that portion 5397
of an annual permit fee of any permit holder that would apply to 5398
a hazardous waste management unit for which a permit has been 5399
issued, but for which construction has not yet commenced. Once 5400
construction has commenced, the director shall require the 5401
payment of a part of the appropriate fee indicated by the 5402
schedule that bears the same relationship to the total fee that 5403
the number of days remaining until the next anniversary date at 5404
which payment of the annual permit fee is due bears to three 5405
hundred sixty-five. 5406

The director, by rules adopted in accordance with Chapters 5407
119. and 3745. of the Revised Code, shall prescribe procedures 5408
for collecting the annual permit fee established by this 5409
division and may prescribe other requirements necessary to carry 5410
out this division. 5411

(3) The prohibition against establishing or operating a 5412
hazardous waste facility without a hazardous waste facility 5413
installation and operation permit does not apply to either of 5414
the following: 5415

(a) A facility that is operating in accordance with a 5416
permit renewal issued under division (H) of section 3734.05 of 5417
the Revised Code, a revision issued under division (I) of that 5418
section as it existed prior to August 20, 1996, or a 5419
modification issued by the director under division (I) of that 5420
section on and after August 20, 1996; 5421

(b) Except as provided in division (J) of section 3734.05 5422
of the Revised Code, a facility that will operate or is 5423
operating in accordance with a permit by rule, or that is not 5424

subject to permit requirements, under rules adopted by the 5425
director. In accordance with Chapter 119. of the Revised Code, 5426
the director shall adopt, and subsequently may amend, suspend, 5427
or rescind, rules for the purposes of division (E) (3) (b) of this 5428
section. Any rules so adopted shall be consistent with and 5429
equivalent to regulations pertaining to interim status adopted 5430
under the "Resource Conservation and Recovery Act of 1976," 90 5431
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 5432
provided in this chapter. 5433

If a modification is requested or proposed for a facility 5434
described in division (E) (3) (a) or (b) of this section, division 5435
(I) (7) of section 3734.05 of the Revised Code applies. 5436

(F) No person shall store, treat, or dispose of hazardous 5437
waste identified or listed under this chapter and rules adopted 5438
under it, regardless of whether generated on or off the premises 5439
where the waste is stored, treated, or disposed of, or transport 5440
or cause to be transported any hazardous waste identified or 5441
listed under this chapter and rules adopted under it to any 5442
other premises, except at or to any of the following: 5443

(1) A hazardous waste facility operating under a permit 5444
issued in accordance with this chapter; 5445

(2) A facility in another state operating under a license 5446
or permit issued in accordance with the "Resource Conservation 5447
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 5448
amended; 5449

(3) A facility in another nation operating in accordance 5450
with the laws of that nation; 5451

(4) A facility holding a permit issued pursuant to Title I 5452
of the "Marine Protection, Research, and Sanctuaries Act of 5453

1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; 5454

(5) A hazardous waste facility as described in division 5455
(E) (3) (a) or (b) of this section. 5456

(G) The director, by order, may exempt any person 5457
generating, collecting, storing, treating, disposing of, or 5458
transporting solid wastes, infectious wastes, or hazardous 5459
waste, or processing solid wastes that consist of scrap tires, 5460
in such quantities or under such circumstances that, in the 5461
determination of the director, are unlikely to adversely affect 5462
the public health or safety or the environment from any 5463
requirement to obtain a registration certificate, permit, or 5464
license or comply with the manifest system or other requirements 5465
of this chapter. Such an exemption shall be consistent with and 5466
equivalent to any regulations adopted by the administrator of 5467
the United States environmental protection agency under the 5468
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 5469
42 U.S.C.A. 6921, as amended, except as otherwise provided in 5470
this chapter. 5471

(H) No person shall engage in filling, grading, 5472
excavating, building, drilling, or mining on land where a 5473
hazardous waste facility, or a solid waste facility, was 5474
operated without prior authorization from the director, who 5475
shall establish the procedure for granting such authorization by 5476
rules adopted in accordance with Chapter 119. of the Revised 5477
Code. 5478

A public utility that has main or distribution lines above 5479
or below the land surface located on an easement or right-of-way 5480
across land where a solid waste facility was operated may engage 5481
in any such activity within the easement or right-of-way without 5482
prior authorization from the director for purposes of performing 5483

emergency repair or emergency replacement of its lines; of the 5484
poles, towers, foundations, or other structures supporting or 5485
sustaining any such lines; or of the appurtenances to those 5486
structures, necessary to restore or maintain existing public 5487
utility service. A public utility may enter upon any such 5488
easement or right-of-way without prior authorization from the 5489
director for purposes of performing necessary or routine 5490
maintenance of those portions of its existing lines; of the 5491
existing poles, towers, foundations, or other structures 5492
sustaining or supporting its lines; or of the appurtenances to 5493
any such supporting or sustaining structure, located on or above 5494
the land surface on any such easement or right-of-way. Within 5495
twenty-four hours after commencing any such emergency repair, 5496
replacement, or maintenance work, the public utility shall 5497
notify the director or the director's authorized representative 5498
of those activities and shall provide such information regarding 5499
those activities as the director or the director's 5500
representative may request. Upon completion of the emergency 5501
repair, replacement, or maintenance activities, the public 5502
utility shall restore any land of the solid waste facility 5503
disturbed by those activities to the condition existing prior to 5504
the commencement of those activities. 5505

(I) No owner or operator of a hazardous waste facility, in 5506
the operation of the facility, shall cause, permit, or allow the 5507
emission therefrom of any particulate matter, dust, fumes, gas, 5508
mist, smoke, vapor, or odorous substance that, in the opinion of 5509
the director, unreasonably interferes with the comfortable 5510
enjoyment of life or property by persons living or working in 5511
the vicinity of the facility, or that is injurious to public 5512
health. Any such action is hereby declared to be a public 5513
nuisance. 5514

(J) Notwithstanding any other provision of this chapter, 5515
in the event the director finds an imminent and substantial 5516
danger to public health or safety or the environment that 5517
creates an emergency situation requiring the immediate 5518
treatment, storage, or disposal of hazardous waste, the director 5519
may issue a temporary emergency permit to allow the treatment, 5520
storage, or disposal of the hazardous waste at a facility that 5521
is not otherwise authorized by a hazardous waste facility 5522
installation and operation permit to treat, store, or dispose of 5523
the waste. The emergency permit shall not exceed ninety days in 5524
duration and shall not be renewed. The director shall adopt, and 5525
may amend, suspend, or rescind, rules in accordance with Chapter 5526
119. of the Revised Code governing the issuance, modification, 5527
revocation, and denial of emergency permits. 5528

(K) Except for infectious wastes generated by a person who 5529
produces fewer than fifty pounds of infectious wastes at a 5530
premises during any one month, no owner or operator of a 5531
sanitary landfill shall knowingly accept for disposal, or 5532
dispose of, any infectious wastes that have not been treated to 5533
render them noninfectious. 5534

(L) The director, in accordance with Chapter 119. of the 5535
Revised Code, shall adopt, and may amend, suspend, or rescind, 5536
rules having uniform application throughout the state 5537
establishing a training and certification program that shall be 5538
required for employees of boards of health who are responsible 5539
for enforcing the solid waste and infectious waste provisions of 5540
this chapter and rules adopted under them and for persons who 5541
are responsible for the operation of solid waste facilities or 5542
infectious waste treatment facilities. The rules shall provide 5543
all of the following, without limitation: 5544

- (1) The program shall be administered by the director and 5545
shall consist of a course on new solid waste and infectious 5546
waste technologies, enforcement procedures, and rules; 5547
- (2) The course shall be offered on an annual basis; 5548
- (3) Those persons who are required to take the course 5549
under division (L) of this section shall do so triennially; 5550
- (4) Persons who successfully complete the course shall be 5551
certified by the director; 5552
- (5) Certification shall be required for all employees of 5553
boards of health who are responsible for enforcing the solid 5554
waste or infectious waste provisions of this chapter and rules 5555
adopted under them and for all persons who are responsible for 5556
the operation of solid waste facilities or infectious waste 5557
treatment facilities; 5558
- (6) (a) All employees of a board of health who, on the 5559
effective date of the rules adopted under this division, are 5560
responsible for enforcing the solid waste or infectious waste 5561
provisions of this chapter and the rules adopted under them 5562
shall complete the course and be certified by the director not 5563
later than January 1, 1995; 5564
- (b) All employees of a board of health who, after the 5565
effective date of the rules adopted under division (L) of this 5566
section, become responsible for enforcing the solid waste or 5567
infectious waste provisions of this chapter and rules adopted 5568
under them and who do not hold a current and valid certification 5569
from the director at that time shall complete the course and be 5570
certified by the director within two years after becoming 5571
responsible for performing those activities. 5572
- No person shall fail to obtain the certification required 5573

under this division. 5574

(M) The director shall not issue a permit under section 5575
3734.05 of the Revised Code to establish a solid waste facility, 5576
or to modify a solid waste facility operating on December 21, 5577
1988, in a manner that expands the disposal capacity or 5578
geographic area covered by the facility, that is or is to be 5579
located within the boundaries of a state park established or 5580
dedicated under Chapter 1546. of the Revised Code, a state park 5581
purchase area established under section 1546.06 of the Revised 5582
Code, any unit of the national park system, or any property that 5583
lies within the boundaries of a national park or recreation 5584
area, but that has not been acquired or is not administered by 5585
the secretary of the United States department of the interior, 5586
located in this state, or any candidate area located in this 5587
state and identified for potential inclusion in the national 5588
park system in the edition of the "national park system plan" 5589
submitted under paragraph (b) of section 8 of "The Act of August 5590
18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current 5591
at the time of filing of the application for the permit, unless 5592
the facility or proposed facility is or is to be used 5593
exclusively for the disposal of solid wastes generated within 5594
the park or recreation area and the director determines that the 5595
facility or proposed facility will not degrade any of the 5596
natural or cultural resources of the park or recreation area. 5597
The director shall not issue a variance under division (A) of 5598
this section and rules adopted under it, or issue an exemption 5599
order under division (G) of this section, that would authorize 5600
any such establishment or expansion of a solid waste facility 5601
within the boundaries of any such park or recreation area, state 5602
park purchase area, or candidate area, other than a solid waste 5603
facility exclusively for the disposal of solid wastes generated 5604

within the park or recreation area when the director determines 5605
that the facility will not degrade any of the natural or 5606
cultural resources of the park or recreation area. 5607

(N) (1) The rules adopted under division (A) of this 5608
section, other than those governing variances, do not apply to 5609
scrap tire collection, storage, monocell, monofill, and recovery 5610
facilities. Those facilities are subject to and governed by 5611
rules adopted under sections 3734.70 to 3734.73 of the Revised 5612
Code, as applicable. 5613

(2) Division (C) of this section does not apply to scrap 5614
tire collection, storage, monocell, monofill, and recovery 5615
facilities. The establishment and modification of those 5616
facilities are subject to sections 3734.75 to 3734.78 and 5617
section 3734.81 of the Revised Code, as applicable. 5618

(3) The director may adopt, amend, suspend, or rescind 5619
rules under division (A) of this section creating an alternative 5620
system for authorizing the establishment, operation, or 5621
modification of a solid waste compost facility in lieu of the 5622
requirement that a person seeking to establish, operate, or 5623
modify a solid waste compost facility apply for and receive a 5624
permit under division (C) of this section and section 3734.05 of 5625
the Revised Code and a license under division (A) (1) of that 5626
section. The rules may include requirements governing, without 5627
limitation, the classification of solid waste compost 5628
facilities, the submittal of operating records for solid waste 5629
compost facilities, and the creation of a registration or 5630
notification system in lieu of the issuance of permits and 5631
licenses for solid waste compost facilities. The rules shall 5632
specify the applicability of divisions (A) (1) and (2) (a) of 5633
section 3734.05 of the Revised Code to a solid waste compost 5634

facility. 5635

(O) (1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes. 5636
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(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste. 5642
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(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it. 5645
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(P) (1) As used in divisions (P) and (Q) of this section: 5649

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health. 5650
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(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code. 5654
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(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background. 5656
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(3) The owner or operator of a solid waste facility may 5663
receive and process for purposes other than transfer or disposal 5664
technologically enhanced naturally occurring radioactive 5665
material that contains or is contaminated with radium-226, 5666
radium-228, or any combination of radium-226 and radium-228 at 5667
concentrations equal to or greater than five picocuries per gram 5668
above natural background, provided that the owner or operator 5669
has obtained and maintains all other necessary authorizations, 5670
including any authorization required by rules adopted by the 5671
director of health under section 3748.04 of the Revised Code. 5672

(4) The director of environmental protection may adopt 5673
rules in accordance with Chapter 119. of the Revised Code 5674
governing the receipt, acceptance, processing, handling, 5675
management, and disposal by solid waste facilities of material 5676
that contains or is contaminated with radioactive material, 5677
including, without limitation, technologically enhanced 5678
naturally occurring radioactive material that contains or is 5679
contaminated with radium-226, radium-228, or any combination of 5680
radium-226 and radium-228 at concentrations less than five 5681
picocuries per gram above natural background. Rules adopted by 5682
the director may include at a minimum both of the following: 5683

(a) Requirements in accordance with which the owner or 5684
operator of a solid waste facility must monitor leachate and 5685
ground water for radium-226, radium-228, and other 5686
radionuclides; 5687

(b) Requirements in accordance with which the owner or 5688
operator of a solid waste facility must develop procedures to 5689
ensure that technologically enhanced naturally occurring 5690
radioactive material accepted at the facility neither contains 5691
nor is contaminated with radium-226, radium-228, or any 5692

combination of radium-226 and radium-228 at concentrations equal 5693
to or greater than five picocuries per gram above natural 5694
background. 5695

(Q) Notwithstanding any other provision of this section, 5696
the owner or operator of a solid waste facility shall not 5697
receive, accept, process, handle, manage, or dispose of 5698
technologically enhanced naturally occurring radioactive 5699
material associated with drilling operations without first 5700
obtaining representative analytical results to determine 5701
compliance with divisions (P) (2) and (3) of this section and 5702
rules adopted under it. 5703

Sec. 3734.021. (A) Infectious wastes shall be segregated, 5704
managed, treated, and disposed of in accordance with rules 5705
adopted under this section. 5706

(B) The director of environmental protection, in 5707
accordance with Chapter 119. of the Revised Code, shall adopt 5708
rules necessary or appropriate to protect human health or safety 5709
or the environment that do both of the following: 5710

(1) Establish standards for generators of infectious 5711
wastes that include, without limitation, the following 5712
requirements and authorizations that: 5713

(a) All generators of infectious wastes: 5714

(i) Either treat all specimen cultures and cultures of 5715
viable infectious agents on the premises where they are 5716
generated to render them noninfectious by methods, techniques, 5717
or practices prescribed by rules adopted under division (B) (2) 5718
(a) of this section before they are transported off that 5719
premises for disposal or ensure that such wastes are treated to 5720
render them noninfectious at an infectious waste treatment 5721

facility off that premises prior to disposal of the wastes; 5722

(ii) Transport and dispose of infectious wastes, if a 5723
generator produces fewer than fifty pounds of infectious wastes 5724
during any one month that are subject to and packaged and 5725
labeled in accordance with federal requirements, in the same 5726
manner as solid wastes. Such generators who treat specimen 5727
cultures and cultures of viable infectious agents on the 5728
premises where they are generated shall not be considered 5729
treatment facilities as "treatment" and "facility" are defined 5730
in section 3734.01 of the Revised Code. 5731

(iii) Dispose of infectious wastes subject to and treated 5732
in accordance with rules adopted under division (B) (1) (a) (i) of 5733
this section in the same manner as solid wastes; 5734

(iv) May take wastes generated in providing care to a 5735
patient by an emergency medical services organization, as 5736
defined in section 4765.01 of the Revised Code, to and leave 5737
them at a hospital, as defined in section 3727.01 of the Revised 5738
Code, for treatment at a treatment facility owned or operated by 5739
the hospital or, in conjunction with infectious wastes generated 5740
by the hospital, at another treatment facility regardless of 5741
whether the wastes were generated in providing care to the 5742
patient at the scene of an emergency or during the 5743
transportation of the patient to a hospital; 5744

(v) May take wastes generated by an individual for 5745
purposes of the individual's own care or treatment to and leave 5746
them at a hospital, as defined in section 3727.01 of the Revised 5747
Code, for treatment at a treatment facility owned or operated by 5748
the hospital or, in conjunction with infectious wastes generated 5749
by the hospital, at another treatment facility. 5750

(b) Each generator of fifty pounds or more of infectious wastes during any one month: 5751
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(i) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The fee for issuance of a generator registration certificate is one hundred forty dollars payable at the time of application. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility. 5753
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A generator registration certificate is valid for three years from the date of issuance and shall be renewed for a term of three years upon the generator's submission of an application for renewal and payment of a one hundred forty dollar renewal fee. 5764
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The rules may establish a system of staggered renewal dates with approximately one-third of such certificates subject to renewal each year. The applicable renewal date shall be prescribed on each registration certificate. Registration fees shall be prorated according to the time remaining in the registration cycle to the nearest year. 5769
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The registration and renewal fees collected under division (B) (1) (b) (i) of this section shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code. 5775
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(ii) Segregate infectious wastes from other wastes at the 5779

point of generation. Nothing in this section and rules adopted 5780
under it prohibits a generator of infectious wastes from 5781
designating and managing any wastes, in addition to those 5782
defined as infectious wastes under section 3734.01 of the 5783
Revised Code, as infectious wastes. After designating any such 5784
other wastes as infectious, the generator shall manage those 5785
wastes in compliance with the requirements of this chapter and 5786
rules adopted under it applicable to the management of 5787
infectious wastes. 5788

(iii) Either treat the infectious wastes that it generates 5789
at a facility owned or operated by the generator by methods, 5790
techniques, or practices prescribed by rules adopted under 5791
division (B) (2) (a) of this section to render them noninfectious, 5792
or designate the wastes for treatment off that premises at an 5793
infectious waste treatment facility holding a license issued 5794
under division (B) of section 3734.05 of the Revised Code, at an 5795
infectious waste treatment facility that is located in another 5796
state that is in compliance with applicable state and federal 5797
laws, or at a treatment facility authorized by rules adopted 5798
under division (B) (2) (d) of this section, prior to disposal of 5799
the wastes. After being treated to render them noninfectious, 5800
the wastes shall be disposed of at a solid waste disposal 5801
facility holding a license issued under division (A) of section 5802
3734.05 of the Revised Code or at a disposal facility in another 5803
state that is in compliance with applicable state and federal 5804
laws. 5805

(iv) Not compact or grind any type of infectious wastes 5806
prior to treatment in accordance with rules adopted under 5807
division (B) (2) (a) of this section; 5808

(v) May discharge untreated liquid or semiliquid 5809

infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in section 6111.01 of the Revised Code, unless the discharge of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

(vi) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious in the same manner as solid wastes are transported.

(2) Establish standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(a) Require treatment of all wastes received to be performed in accordance with methods, techniques, and practices approved by the director;

(b) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (B) (2) (b) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B) (2) (b) of section 3734.05 of the Revised Code.

(c) Establish quality control and testing procedures to

ensure compliance with the rules adopted under division (B) (2) 5839
(b) of this section; 5840

(d) Authorize infectious wastes to be treated at a 5841
facility that holds a license or renewal of a license to operate 5842
a crematory facility issued under Chapter 4717., and a permit 5843
issued under Chapter 3704., of the Revised Code to the extent 5844
that the treatment of those wastes is consistent with that 5845
permit and its terms and conditions. The rules adopted under 5846
divisions (B) (2) (b) and (c) of this section do not apply to a 5847
facility holding such a license and permit. 5848

In adopting the rules required by divisions (B) (2) (a) to 5849
(d) of this section, the director shall consider and, to the 5850
maximum feasible extent, utilize existing standards and 5851
guidelines established by professional and governmental 5852
organizations having expertise in the fields of infection 5853
control and infectious wastes management. 5854

(e) Require shipping papers to accompany shipments of 5855
wastes that have been treated to render them noninfectious. The 5856
shipping papers shall include only the following elements: 5857

(i) The name of the owner or operator of the facility 5858
where the wastes were treated and the address of the treatment 5859
facility; 5860

(ii) A certification by the owner or operator of the 5861
treatment facility where the wastes were treated indicating that 5862
the wastes have been treated by the methods, techniques, and 5863
practices prescribed in rules adopted under division (B) (2) (a) 5864
of this section. 5865

(C) This section and rules adopted under it do not apply 5866
to the treatment or disposal of wastes consisting of dead 5867

animals or parts thereof, or the blood of animals:	5868
(1) By the owner of the animal after slaughter by the	5869
owner on the owner's premises to obtain meat for consumption by	5870
the owner and the members of the owner's household;	5871
(2) In accordance with Chapter 941. of the Revised Code;	5872
or	5873
(3) By persons who are subject to any of the following:	5874
(a) Inspection under the "Federal Meat Inspection Act," 81	5875
Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	5876
(b) Chapter 918. of the Revised Code;	5877
(c) Chapter 953. of the Revised Code.	5878
(D) As used in this section, "generator" means a person	5879
who produces infectious wastes at a specific premises.	5880
(E) Rules adopted under this section shall not concern or	5881
relate to personnel policies, salaries, wages, fringe benefits,	5882
or other conditions of employment of employees of persons owning	5883
or operating infectious waste treatment facilities.	5884
(F) (1) The director, in accordance with Chapter 119. of	5885
the Revised Code, shall adopt rules governing the issuance,	5886
modification, revocation, suspension, and denial of variances	5887
from the rules adopted under division (B) of this section.	5888
Variances shall be issued, modified, revoked, suspended, or	5889
denied in accordance with division (F) of this section, rules	5890
adopted under it, and Chapter 3745. of the Revised Code.	5891
(2) A person who desires to obtain a variance or renew a	5892
variance from the rules adopted under division (B) of this	5893
section shall submit to the director an application as	5894

prescribed by the director. The application shall contain detail 5895
plans, specifications, and information regarding objectives, 5896
procedures, controls, and any other information that the 5897
director may require. The director shall issue, renew, or deny a 5898
variance or renewal of a variance within six months of the date 5899
on which the director receives a complete application with all 5900
required information and data. 5901

(3) The director may hold a public hearing on an 5902
application submitted under division (F) of this section for a 5903
variance at a location in the county in which the operations 5904
that are the subject of the application for a variance or 5905
renewal of variance are conducted. Not less than twenty days 5906
before the hearing, the director shall provide to the applicant 5907
notice of the hearing by certified mail or by another type of 5908
mail that is accompanied by a receipt and shall publish notice 5909
of the hearing at least one time in a newspaper of general 5910
circulation in the county in which the hearing is to be held or 5911
may instead provide public notice by publication on the 5912
environmental protection agency's web site. The director shall 5913
make a complete stenographic record or electronic record of 5914
testimony and other evidence submitted at the hearing. Not later 5915
than ten days after the hearing, the director shall make a 5916
written determination to issue, renew, or deny the variance and 5917
shall enter the determination and the basis for it into the 5918
record of the hearing. 5919

(4) A variance shall not be issued, modified, revoked, or 5920
denied under division (F) of this section until the director has 5921
considered the relative interests of the applicant, other 5922
persons and property that will be affected by the variance, and 5923
the general public. The director shall grant a variance only if 5924
the applicant demonstrates to the director's satisfaction that 5925

the requested action will not create a nuisance or a hazard to 5926
the health or safety of the public or to the environment. In 5927
granting a variance, the director shall state the specific 5928
provision or provisions whose terms are to be varied and also 5929
shall state specific terms or conditions imposed on the 5930
applicant in place of the provision or provisions. 5931

(5) A variance granted under division (F) of this section 5932
shall be for a period specified by the director and may be 5933
renewed from time to time on terms and for periods that the 5934
director determines to be appropriate. The director may order 5935
the person to whom a variance has been issued to take action 5936
within the time that the director determines to be appropriate 5937
and reasonable to prevent the creation of a nuisance or a hazard 5938
to the health or safety of the public or to the environment. 5939

(6) An application submitted under division (F) of this 5940
section shall not be denied and a variance shall not be revoked 5941
or modified under that division without a written order of the 5942
director stating the findings on which the denial, revocation, 5943
or modification is based. A copy of the order shall be sent to 5944
the applicant or holder of a variance by certified mail or by 5945
another type of mail that is accompanied by a receipt. 5946

(7) The director shall make available for public 5947
inspection at the principal office of the environmental 5948
protection agency a current list of pending applications for 5949
variances submitted under division (F) of this section and a 5950
current schedule of pending variance hearings under it. 5951

Sec. 3734.575. (A) The board of county commissioners of a 5952
county solid waste management district and the board of 5953
directors of a joint solid waste management district that is 5954
levying fees or amended fees or receiving fee revenue under 5955

division (B) of section 3734.57; section 3734.571, 3734.572, or 5956
3734.573; or division (A), (B), or (D) of section 3734.574 of 5957
the Revised Code, within thirty days after the end of each 5958
calendar quarter, shall submit to the director of environmental 5959
protection a report containing all of the following information 5960
for that preceding quarter: 5961

(1) The specific fees levied by the district; 5962

(2) Revenues received by the district during the quarter 5963
from each of those sources, as applicable; 5964

(3) All district planning account balances; 5965

(4) The amount and use of revenues spent; 5966

(5) A certification statement that the information in the 5967
report is true and accurate. 5968

A board shall submit each report on forms prescribed by 5969
the director and ~~by computer disk as in a manner~~ prescribed by 5970
~~him the director~~. A board is responsible for the accuracy of the 5971
information contained in each report and for providing it to the 5972
director not later than the deadline established in this 5973
division. 5974

Annually by not earlier than the first day of April, the 5975
director shall submit a compilation of the individual district 5976
reports received during the preceding calendar year to the 5977
speaker of the house of representatives and the president of the 5978
senate. In submitting the compilation, the director's sole 5979
responsibility shall be to compile the information submitted by 5980
the boards under this division. 5981

(B) If changes in the 1994 budget of a county or joint 5982
district result from the required change in the fees levied by 5983

the district under division (B) of section 3734.57 of the 5984
Revised Code, the levying of the fees under section 3734.573 of 5985
the Revised Code, or the levying of fees under division (A) or 5986
(B) of section 3734.574 of the Revised Code, the board of county 5987
commissioners or directors of the district shall include a 5988
description of the changes in the annual report of the district 5989
required to be submitted to the director pursuant to rules 5990
adopted under section 3734.50 of the Revised Code. 5991

Sec. 3745.019. (A) Notwithstanding any provision of the 5992
Revised Code or Administrative Code requiring the director of 5993
environmental protection to provide public notice by publication 5994
in one or more newspapers, including one or more newspapers of 5995
general circulation, the director may instead provide public 5996
notice by publication on the environmental protection agency's 5997
official web site. 5998

(B) Notwithstanding any provision of the Revised Code or 5999
Administrative Code requiring the director of environmental 6000
protection to deliver a document or notice by certified mail, 6001
the director may instead deliver the document or notice by any 6002
method capable of documenting the intended recipient's receipt 6003
of the document or notice. 6004

Sec. 3746.09. (A) A person who proposes to enter into or 6005
who is participating in the voluntary action program under this 6006
chapter and rules adopted under it, in accordance with this 6007
section and rules adopted under division (B)(10) of section 6008
3746.04 of the Revised Code, may apply to the director of 6009
environmental protection for a variance from applicable 6010
standards otherwise established in this chapter and rules 6011
adopted under it. The application for a variance shall be 6012
prepared by a certified professional. The director shall issue a 6013

variance from those applicable standards only if the application 6014
makes all of the following demonstrations to the director's 6015
satisfaction: 6016

(1) Either or both of the following: 6017

(a) It is technically infeasible to comply with the 6018
applicable standards otherwise established at the property named 6019
in the application; 6020

(b) The costs of complying with the applicable standards 6021
otherwise established at the property substantially exceed the 6022
economic benefits. 6023

(2) The proposed alternative standard or set of standards 6024
and terms and conditions set forth in the application will 6025
result in an improvement of environmental conditions at the 6026
property and ensure that public health and safety will be 6027
protected. 6028

(3) The establishment of and compliance with the 6029
alternative standard or set of standards and terms and 6030
conditions are necessary to promote, protect, preserve, or 6031
enhance employment opportunities or the reuse of the property 6032
named in the application. 6033

A variance issued under this section shall state the 6034
specific standard or standards whose terms are being varied and 6035
shall set forth the specific alternative standard or set of 6036
standards and the terms and conditions imposed on the applicant 6037
in their place. A variance issued under this section shall 6038
include only standards and terms and conditions proposed by the 6039
applicant in the application, except that the director may 6040
impose any additional or alternative terms and conditions that 6041
the director determines to be necessary to ensure that public 6042

health and safety will be protected. If the director finds that 6043
compliance with any standard or term or condition proposed by 6044
the applicant will not protect public health and safety and that 6045
the imposition of additional or alternative terms and conditions 6046
will not ensure that public health or safety will be protected, 6047
the director shall disapprove the application and shall include 6048
in the order of denial the specific findings on which the denial 6049
was based. 6050

(B) Variances shall be issued or denied in accordance with 6051
this section, rules adopted under division (B) (10) of section 6052
3746.04 of the Revised Code, and Chapter 3745. of the Revised 6053
Code. Upon determining that an application for a variance is 6054
complete, the director shall schedule a public meeting on the 6055
application to be held within ninety days after the director 6056
determines that the application is complete in the county in 6057
which is located the property to which the application pertains. 6058

(C) Not less than thirty days before the date scheduled 6059
for the public meeting on an application for a variance, the 6060
director shall publish notice of the public meeting and that the 6061
director will receive written comments on the application for a 6062
period of forty-five days commencing on the date of the 6063
publication of the notice. The notice shall contain all of the 6064
following information, at a minimum: 6065

(1) The address of the property to which the application 6066
pertains; 6067

(2) A brief summary of the alternative standards and terms 6068
and conditions proposed by the applicant; 6069

(3) The date, time, and location of the public meeting. 6070

The notice shall be published in a newspaper of general 6071

circulation in the county in which the property is located and, 6072
if the property is located in close proximity to the boundary of 6073
the county with an adjacent county, as determined by the 6074
director, shall be published in a newspaper of general 6075
circulation in the adjacent county. Concurrently with the 6076
publication of the notice of the public meeting, the director 6077
shall mail notice of the application, comment period, and public 6078
meeting to the owner of each parcel of land that is adjacent to 6079
the affected property and to the legislative authority of the 6080
municipal corporation or township, and county, in which the 6081
affected property is located. The notices mailed to the adjacent 6082
land owners and legislative authorities shall contain the same 6083
information as the published notice. 6084

(D) At the public meeting on an application for a 6085
variance, the applicant, or a representative of the applicant 6086
who is knowledgeable about the affected property and the 6087
application, shall present information regarding the application 6088
and the basis of the request for the variance and shall respond 6089
to questions from the public regarding the affected property and 6090
the application. A representative of the environmental 6091
protection agency who is familiar with the affected property and 6092
the application shall attend the public meeting to hear the 6093
public's comments and to respond to questions from the public 6094
regarding the affected property and the application. A 6095
stenographic record or electronic record of the proceedings at 6096
the public meeting shall be kept and shall be made a part of the 6097
administrative record regarding the application. 6098

(E) Within ninety days after conducting the public meeting 6099
on an application for a variance under division (D) of this 6100
section, the director shall issue a proposed action to the 6101
applicant in accordance with section 3745.07 of the Revised Code 6102

that indicates the director's intent with regard to the issuance 6103
or denial of the application. When considering whether to issue 6104
or deny the application or whether to impose terms and 6105
conditions of the variance that are in addition or alternative 6106
to those proposed by the applicant, the director shall consider 6107
comments on the application made by the public at the public 6108
meeting and written comments on the application received from 6109
the public. 6110

Sec. 3752.11. (A) As used in this section: 6111

(1) "Reporting facility" means a reporting facility at 6112
which all regulated operations have been temporarily or 6113
permanently discontinued. 6114

(2) "Abandoned by the owner" means either of the following 6115
that occurs on or after ~~the effective date of this section~~ July 6116
1, 1996: 6117

(a) All of the fee owners of a reporting facility have 6118
indicated ~~affirmately~~ affirmatively in writing to the holder of 6119
the first mortgage on the real property at the facility that 6120
they, and all tenants claiming possession under those owners, 6121
have abandoned all rights of possession to the reporting 6122
facility; 6123

(b) The first mortgage loan on the real property at the 6124
reporting facility is in default, the property is not occupied 6125
by any tenants, and the holder of the first ~~morgage~~ mortgage has 6126
been unable to contact the mortgagor under the mortgage 6127
regarding the default within the earlier of ninety days after 6128
the default or sixty days after the first time the first 6129
mortgage holder has attempted unsuccessfully to contact the 6130
mortgagor following the default if the first mortgage holder is 6131

unable to contact the mortgagor within the sixty-day period. 6132

(3) "Default" means the failure of the mortgagor to make 6133
any payment to the holder of the first mortgage required by the 6134
terms of the mortgage documents that is not cured by the 6135
mortgagor within any applicable cure periods, deferred with the 6136
consent of the holder of the first mortgage, or waived by the 6137
holder of the first mortgage. 6138

(4) "Contact" means actual person to person, telephonic, 6139
or similar direct voice conversation between the holder of the 6140
first mortgage and the mortgagor or written correspondence from 6141
the mortgagor to the holder of the first mortgage by mail, 6142
telegram, telefax any other method capable of documenting the 6143
intended recipient's receipt of the document or notice, or 6144
similar means of communication. 6145

(B) Not later than fifteen days after a reporting facility 6146
has been abandoned by the owner, the holder of the first 6147
mortgage on real property at the reporting facility shall do 6148
both of the following: 6149

(1) Secure against unauthorized entry each building or 6150
structure at the facility where regulated operations were 6151
conducted and that contains or is contaminated with regulated 6152
substances and each outdoor location of operation. The holder 6153
shall secure each such building, structure, or outdoor location 6154
of operation by boarding windows, doors, and other potential 6155
means of entry, by providing security personnel, or by other 6156
methods prescribed in rules adopted under section 3752.03 of the 6157
Revised Code. Within that period, the holder also shall post 6158
about each such building, structure, or outdoor location of 6159
operation in publicly visible locations warning signs that 6160
prohibit trespassing and state that the building, structure, or 6161

outdoor location of operation contains or is contaminated with 6162
regulated substances that may endanger public health or safety 6163
if released into the environment. The holder shall continue the 6164
security measures, and maintain the warning signs, as required 6165
at each such building, structure, or outdoor location of 6166
operation until title to the facility has been transferred or 6167
until the holder files a release of the mortgage with the county 6168
recorder of the county in which the facility is located. 6169
Promptly after discovering that any of the entry barriers or 6170
warning signs installed pursuant to division (B)(1) of this 6171
section have been damaged, lost, or removed, the holder shall 6172
repair or replace them in order to maintain the security of the 6173
building, structure, or outdoor location of operation. 6174

(2) Submit to the director of environmental protection, 6175
the local emergency planning committee of the emergency planning 6176
district in which the facility is located, and the fire 6177
department having jurisdiction where the facility is located a 6178
notice of the abandonment of the facility by the owner and of 6179
the holder's compliance with division (B)(1) of this section. 6180
The holder shall submit the notice on a form prescribed by the 6181
director. 6182

(C) Within thirty days before the date when the holder of 6183
a mortgage will cease to maintain security and warning signs at 6184
a reporting facility pursuant to the filing of a release of the 6185
mortgage as provided in division (B)(1) of this section, the 6186
holder shall so notify the director, the local emergency 6187
planning committee of the emergency planning district in which 6188
the facility is located, and the fire department having 6189
jurisdiction where the facility is located. The holder shall 6190
submit the notice on a form prescribed by the director. 6191

(D) Actions undertaken by a holder of a mortgage under 6192
division (B) of this section, and the undertaking of any other 6193
activities relating to protecting and securing the facility, do 6194
not cause the holder to be an owner, operator, or mortgagee in 6195
possession of the facility or subject the holder to this chapter 6196
or any other provision of state law imposing liability or 6197
responsibility for the cleanup, removal, or remediation of 6198
regulated substances, provided that all activities not specified 6199
in that division shall be performed in compliance with the 6200
applicable requirements of Chapters 3704., 3714., 3734., 3737., 6201
3750., 3751., 6109., and 6111. of the Revised Code and rules 6202
adopted under them. 6203

(E) The holder of a mortgage who proceeds in good faith 6204
under divisions (B) and (C) of this section is not liable to the 6205
owner of the facility or the mortgagor, as appropriate, for 6206
damages suffered by the owner or mortgagor due to actions taken 6207
by the holder under those divisions. 6208

(F) Nothing in this section prevents the holder of a first 6209
mortgage from applying to the court for the appointment of a 6210
receiver. If a receiver is appointed, the receiver shall succeed 6211
to the obligations of the holder of the first mortgage under 6212
divisions (B) and (C) of this section. 6213

(G) No person shall fail to comply with this section. 6214

Sec. 3772.031. (A) (1) The general assembly finds that the 6215
exclusion or ejection of certain persons from casino facilities 6216
and from sports gaming is necessary to effectuate the intents 6217
and purposes of this chapter and Chapter 3775. of the Revised 6218
Code and to maintain strict and effective regulation of casino 6219
gaming and sports gaming. 6220

(2) The commission, by rule, shall provide for a list of persons who are to be excluded or ejected from a casino facility and a list of persons who are to be excluded or ejected from a sports gaming facility and from participating in the play or operation of sports gaming in this state. Persons included on an exclusion list shall be identified by name and physical description. The commission shall publish the exclusion lists on its web site, and shall transmit a copy of the exclusion lists periodically to casino operators and sports gaming proprietors, as applicable, as they are initially issued and thereafter as they are revised from time to time.

(3) A casino operator shall take steps necessary to ensure that all its key employees and casino gaming employees are aware of and understand the casino exclusion list and its function, and that all its key employees and casino gaming employees are kept aware of the content of the casino exclusion list as it is issued and thereafter revised from time to time.

(4) A sports gaming proprietor shall take steps necessary to ensure that its appropriate agents and employees are aware of and understand the sports gaming exclusion list and its function, and that all its appropriate agents and employees are kept aware of the content of the sports gaming exclusion list as it is issued and thereafter revised from time to time.

(B) The casino exclusion list may include any person whose presence in a casino facility is determined by the commission to pose a threat to the interests of the state, to achieving the intents and purposes of this chapter, or to the strict and effective regulation of casino gaming. The sports gaming exclusion list may include any person whose presence in a sports gaming facility or whose participation in the play or operation

of sports gaming in this state is determined by the commission 6251
to pose a threat to the interests of the state, to achieving the 6252
intents and purposes of Chapter 3775. of the Revised Code, or to 6253
the strict and effective regulation of sports gaming. In 6254
determining whether to include a person on an exclusion list, 6255
the commission may consider: 6256

(1) Any prior conviction of a crime that is a felony under 6257
the laws of this state, another state, or the United States, a 6258
crime involving moral turpitude, or a violation of the gaming 6259
laws of this state, another state, or the United States; and 6260

(2) A violation, or a conspiracy to violate, any provision 6261
of this chapter or Chapter 3775. of the Revised Code, as 6262
applicable, that consists of: 6263

(a) A failure to disclose an interest in a gaming facility 6264
or a sports gaming-related person or entity for which the person 6265
must obtain a license; 6266

(b) Purposeful evasion of taxes or fees; 6267

(c) A notorious or unsavory reputation that would 6268
adversely affect public confidence and trust that casino gaming 6269
or sports gaming is free from criminal or corruptive elements; 6270
or 6271

(d) A violation of an order of the commission or of any 6272
other governmental agency that warrants exclusion or ejection of 6273
the person from a casino facility, from a sports gaming 6274
facility, or from participating in the play or operation of 6275
sports gaming in this state. 6276

(3) If the person has pending charges or indictments for a 6277
gaming or gambling crime or a crime related to the integrity of 6278
gaming operations in any state; 6279

(4) If the person's conduct or reputation is such that the person's presence within a casino facility or in the sports gaming industry in this state may call into question the honesty and integrity of the casino gaming or sports gaming operations or interfere with the orderly conduct of the casino gaming or sports gaming operations;

(5) If the person is a career or professional offender whose presence in a casino facility or in the sports gaming industry in this state would be adverse to the interest of licensed gaming in this state;

(6) If the person has a known relationship or connection with a career or professional offender whose presence in a casino facility or in the sports gaming industry in this state would be adverse to the interest of licensed gaming in this state;

(7) If the commission has suspended the person's gaming privileges;

(8) If the commission has revoked the person's licenses related to this chapter or Chapter 3775. of the Revised Code;

(9) If the commission determines that the person poses a threat to the safety of patrons or employees of a casino facility or a sports gaming facility;

(10) If the person has a history of conduct involving the disruption of gaming operations within a casino facility or in the sports gaming industry in this state.

Race, color, creed, national origin or ancestry, or sex are not grounds for placing a person on an exclusion list.

(C) The commission shall notify a person of the

commission's intent to include such person on one or both 6308
exclusion lists. The notice shall be provided by personal 6309
service, by certified mail to the person's last known address, 6310
by commercial carrier utilizing a method of delivery that 6311
provides confirmation of delivery, or, if service cannot be 6312
accomplished by personal service ~~or,~~ certified mail, or 6313
commercial carrier, by publication daily for two weeks in a 6314
newspaper of general circulation within the county in which the 6315
person resides and in a newspaper of general circulation within 6316
each county in which a casino facility or sports gaming 6317
facility, as applicable, is located. 6318

(D) (1) Except as otherwise provided in this section, a 6319
person who receives notice of intent to include the person on an 6320
exclusion list is entitled, upon the person's request, to an 6321
adjudication hearing under Chapter 119. of the Revised Code, in 6322
which the person may demonstrate why the person should not be 6323
included on the exclusion list or lists. The person shall 6324
request such an adjudication hearing not later than thirty days 6325
after the person receives the notice by personal service ~~or,~~ 6326
certified mail, or commercial carrier, or not later than thirty 6327
days after the last newspaper publication of the notice. 6328

(2) If the person does not request a hearing in accordance 6329
with division (D) (1) of this section, the commission may, but is 6330
not required to, conduct an adjudication hearing under Chapter 6331
119. of the Revised Code. The commission may reopen an 6332
adjudication under this section at any time. 6333

(3) If the adjudication hearing, order, or any appeal 6334
thereof under Chapter 119. of the Revised Code results in an 6335
order that the person should not be included on the exclusion 6336
list or lists, the commission shall publish a revised exclusion 6337

list that does not include the person. The commission also shall 6338
notify casino operators or sports gaming proprietors, as 6339
applicable, that the person has been removed from the exclusion 6340
list or lists. A casino operator shall take all steps necessary 6341
to ensure its key employees and casino gaming employees are made 6342
aware that the person has been removed from the casino exclusion 6343
list. A sports gaming proprietor shall take all steps necessary 6344
to ensure its appropriate agents and employees are made aware 6345
that the person has been removed from the sports gaming 6346
exclusion list. 6347

(E) This section does not apply to any voluntary exclusion 6348
list created as part of a voluntary exclusion program under this 6349
chapter or Chapter 3775. of the Revised Code. 6350

Sec. 3772.04. (A) (1) If the commission concludes that an 6351
applicant, licensee, or other person subject to the commission's 6352
jurisdiction under this chapter should be fined or penalized, or 6353
that a license required by this chapter or Chapter 3775. of the 6354
Revised Code should be limited, conditioned, restricted, 6355
suspended, revoked, denied, or not renewed, the commission may, 6356
and if so requested by the licensee, applicant, or other person, 6357
shall, conduct a hearing in an adjudication under Chapter 119. 6358
of the Revised Code. After notice and opportunity for a hearing, 6359
the commission may fine or penalize the applicant, licensee, or 6360
other person or limit, condition, restrict, suspend, revoke, 6361
deny, or not renew a license under rules adopted by the 6362
commission. The commission may reopen an adjudication under this 6363
section at any time. 6364

(2) The commission shall appoint a hearing examiner to 6365
conduct the hearing in the adjudication. A party to the 6366
adjudication may file written objections to the hearing 6367

examiner's report and recommendations not later than the 6368
thirtieth day after they are served upon the party or the 6369
party's attorney or other representative of record. The 6370
commission shall not take up the hearing examiner's report and 6371
recommendations earlier than the thirtieth day after the hearing 6372
examiner's report and recommendations were submitted to the 6373
commission. 6374

(3) If the commission finds that a person fails or has 6375
failed to meet any requirement under this chapter or Chapter 6376
3775. of the Revised Code or a rule adopted thereunder, or 6377
violates or has violated this chapter or Chapter 3775. of the 6378
Revised Code or a rule adopted thereunder, the commission may 6379
issue an order: 6380

(a) Limiting, conditioning, restricting, suspending, 6381
revoking, denying, or not renewing, a license issued under this 6382
chapter or Chapter 3775. of the Revised Code; 6383

(b) Requiring a casino facility to exclude a licensee from 6384
the casino facility or requiring a casino facility not to pay to 6385
the licensee any remuneration for services or any share of 6386
profits, income, or accruals on the licensee's investment in the 6387
casino facility; or 6388

(c) Fining a licensee or other person according to the 6389
penalties adopted by the commission. 6390

(4) An order may be judicially reviewed under section 6391
119.12 of the Revised Code. 6392

(B) Without in any manner limiting the authority of the 6393
commission to impose the level and type of discipline the 6394
commission considers appropriate, the commission may take into 6395
consideration the following: 6396

(1) If the licensee knew or reasonably should have known that the action complained of was a violation of any law, rule, or condition on the licensee's license;

(2) If the licensee has previously been disciplined by the commission;

(3) If the licensee has previously been subject to discipline by the commission concerning the violation of any law, rule, or condition of the licensee's license;

(4) If the licensee reasonably relied upon professional advice from a lawyer, doctor, accountant, or other recognized professional that was relevant to the action resulting in the violation;

(5) If the licensee or the licensee's employer had a reasonably constituted and functioning compliance program;

(6) If the imposition of a condition requiring the licensee to establish and implement a written self-enforcement and compliance program would assist in ensuring the licensee's future compliance with all statutes, rules, and conditions of the license;

(7) If the licensee realized a pecuniary gain from the violation;

(8) If the amount of any fine or other penalty imposed would result in disgorgement of any gains unlawfully realized by the licensee;

(9) If the violation was caused by an officer or employee of the licensee, the level of authority of the individual who caused the violation;

(10) If the individual who caused the violation acted

within the scope of the individual's authority as granted by the licensee;	6425 6426
(11) The adequacy of any training programs offered by the licensee or the licensee's employer that were relevant to the activity that resulted in the violation;	6427 6428 6429
(12) If the licensee's action substantially deviated from industry standards and customs;	6430 6431
(13) The extent to which the licensee cooperated with the commission during the investigation of the violation;	6432 6433
(14) If the licensee has initiated remedial measures to prevent similar violations;	6434 6435
(15) The magnitude of penalties imposed on other licensees for similar violations;	6436 6437
(16) The proportionality of the penalty in relation to the misconduct;	6438 6439
(17) The extent to which the amount of any fine imposed would punish the licensee for the conduct and deter future violations;	6440 6441 6442
(18) Any mitigating factors offered by the licensee; and	6443
(19) Any other factors the commission considers relevant.	6444
(C) For the purpose of conducting any study or investigation, the commission may direct that public hearings be held at a time and place, prescribed by the commission, in accordance with section 121.22 of the Revised Code. The commission shall give notice of all public hearings in such manner as will give actual notice to all interested parties.	6445 6446 6447 6448 6449 6450
(D) (1) For the purpose of conducting the hearing in an	6451

adjudication under division (A) of this section, or in the 6452
discharge of any duties imposed by this chapter or Chapter 3775. 6453
of the Revised Code, the commission may require that testimony 6454
be given under oath and administer such oath, issue subpoenas 6455
compelling the attendance of witnesses and the production of any 6456
papers, books, and accounts, directed to the sheriffs of the 6457
counties where such witnesses or papers, books, and accounts are 6458
found and cause the deposition of any witness. The subpoenas 6459
shall be served and returned in the same manner as subpoenas in 6460
criminal cases are served and returned. The fees of sheriffs 6461
shall be the same as those allowed by the court of common pleas 6462
in criminal cases. 6463

(2) In the event of the refusal of any person without good 6464
cause to comply with the terms of a subpoena issued by the 6465
commission or refusal to testify on matters about which the 6466
person may lawfully be questioned, the prosecuting attorney of 6467
the county in which such person resides, upon the petition of 6468
the commission, may bring a proceeding for contempt against such 6469
person in the court of common pleas of that county. 6470

(3) Witnesses shall be paid the fees and mileage provided 6471
for in section 119.094 of the Revised Code. 6472

(4) All fees and mileage expenses incurred at the request 6473
of a party shall be paid in advance by the party. 6474

(E) When conducting a public hearing, the commission shall 6475
not limit the number of speakers who may testify. However, the 6476
commission may set reasonable time limits on the length of an 6477
individual's testimony or the total amount of time allotted to 6478
proponents and opponents of an issue before the commission. 6479

(F) The commission may rely, in whole or in part, upon 6480

investigations, conclusions, or findings of other casino gaming 6481
or sports gaming commissions, as applicable, or other government 6482
regulatory bodies in connection with licensing, investigations, 6483
or other matters relating to an applicant or licensee under this 6484
chapter. 6485

(G) Notwithstanding anything to the contrary in this 6486
chapter or Chapter 3775. of the Revised Code, and except with 6487
respect to a license issued under this chapter to a casino 6488
operator, management company, or holding company, the executive 6489
director may issue an emergency order for the suspension, 6490
limitation, or conditioning of any license, registration, 6491
approval, or certificate issued, approved, granted, or otherwise 6492
authorized by the commission under Chapter 3772. or 3775. of the 6493
Revised Code or the rules adopted thereunder, requiring the 6494
inclusion of persons on the casino exclusion list or sports 6495
gaming exclusion list provided for under section 3772.031 of the 6496
Revised Code or Chapter 3775. of the Revised Code and the rules 6497
adopted thereunder, and requiring a casino facility not to pay a 6498
licensee, registrant, or approved or certified person any 6499
remuneration for services or any share of profits, income, or 6500
accruals on that person's investment in the casino facility. 6501

(1) An emergency order may be issued when the executive 6502
director finds either of the following: 6503

(a) A licensee, registrant, or approved or certified 6504
person has been charged with a violation of any of the criminal 6505
laws of this state, another state, or the federal government; 6506

(b) Such an action is necessary to prevent a violation of 6507
this chapter or Chapter 3775. of the Revised Code or a rule 6508
adopted thereunder. 6509

(2) An emergency order issued under division (G) of this section shall state the reasons for the commission's action, cite the law or rule directly involved, and state that the party will be afforded a hearing if the party requests it within thirty days after the time of mailing or personal delivery of the order.

(3) (a) Not later than the next business day after the issuance of the emergency order, the order shall be sent by registered or certified mail, return receipt requested, or by commercial carrier utilizing any form of delivery requiring a signed receipt, to the party at the party's last known mailing address appearing in the commission's records or personally delivered at any time to the party by an employee or agent of the commission.

(b) A copy of the order shall be mailed or an electronic copy provided to the attorney or other representative of record representing the party.

(c) If the order sent by registered or certified mail or by commercial carrier is returned because the party fails to claim the order, the commission shall send the order by ordinary mail to the party at the party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the order is returned showing failure of delivery.

(d) If the order sent by commercial carrier or registered, certified, or ordinary mail is returned for failure of delivery, the commission shall either make personal delivery of the order by an employee or agent of the commission or cause a summary of the substantive provisions of the order to be published once a week for three consecutive weeks in a newspaper of general

circulation in the county where the last known address of the party is located. 6540
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(i) Failure of delivery occurs only when a mailed order is returned by the postal authorities or commercial carrier marked undeliverable, address or addressee unknown, or forwarding address unknown or expired. 6542
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(ii) When service is completed by publication, a proof of publication affidavit, with the first publication of the summary set forth in the affidavit, shall be mailed by ordinary mail to the party at the party's last known address and the order shall be deemed received as of the date of the last publication. 6546
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(e) Refusal of delivery of the order sent by mail or personally delivered to the party is not failure of delivery and service is deemed to be complete. 6551
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(4) The emergency order shall be effective immediately upon service of the order on the party. The emergency order shall remain effective until further order of the executive director or the commission. 6554
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(5) The commission may, and if so requested by the person affected by the emergency order shall, promptly conduct a hearing in an adjudication under Chapter 119. of the Revised Code. 6558
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Sec. 3772.11. (A) A person may apply to the commission for a casino operator, management company, or holding company license to conduct casino gaming at a casino facility as provided in this chapter. The application shall be ~~made under oath~~ certified as true on forms provided by the commission and shall contain information as prescribed by rule, including, but not limited to, all of the following: 6562
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(1) The name, business address, business telephone number, 6569
social security number, and, where applicable, the federal tax 6570
identification number of any applicant; 6571

(2) The identity of every person having a greater than 6572
five per cent direct or indirect interest in the applicant 6573
casino facility for which the license is sought; 6574

(3) An identification of any business, including the state 6575
of incorporation or registration if applicable, in which an 6576
applicant, or the spouse or children of an applicant, has an 6577
equity interest of more than five per cent; 6578

(4) The name of any casino operator, management company, 6579
holding company, and gaming-related vendor in which the 6580
applicant has an equity interest of at least five per cent; 6581

(5) If an applicant has ever applied for or has been 6582
granted any gaming license or certificate issued by a licensing 6583
authority in Ohio or any other jurisdiction that has been 6584
denied, restricted, suspended, revoked, or not renewed and a 6585
statement describing the facts and circumstances concerning the 6586
application, denial, restriction, suspension, revocation, or 6587
nonrenewal, including the licensing authority, the date each 6588
action was taken, and the reason for each action; 6589

(6) If an applicant has ever filed or had filed against it 6590
a civil or administrative action or proceeding in bankruptcy, 6591
including the date of filing, the name and location of the 6592
court, the case caption, the docket number, and the disposition; 6593

(7) The name and business telephone number of any attorney 6594
representing an applicant in matters before the commission; 6595

(8) Information concerning the amount, type of tax, the 6596
taxing agency, and times involved, if the applicant has filed or 6597

been served with a complaint or notice filed with a public body 6598
concerning a delinquency in the payment of or a dispute over a 6599
filing concerning the payment of a tax required under federal, 6600
state, or local law; 6601

(9) A description of any proposed casino gaming operation 6602
and related casino enterprises, including the type of casino 6603
facility, location, expected economic benefit to the community, 6604
anticipated or actual number of employees, any statement from an 6605
applicant regarding compliance with federal and state 6606
affirmative action guidelines, projected or actual admissions, 6607
projected or actual gross receipts, and scientific market 6608
research; 6609

(10) Financial information in the manner and form 6610
prescribed by the commission; 6611

(11) If an applicant has directly made a political 6612
contribution, loan, donation, or other payment of one hundred 6613
dollars or more to a statewide office holder, a member of the 6614
general assembly, a local government official elected in a 6615
jurisdiction where a casino facility is located, or a ballot 6616
issue not more than one year before the date the applicant filed 6617
the application and all information relating to the 6618
contribution, loan, donation, or other payment; 6619

(12) Any criminal conviction; and 6620

(13) Other information required by the commission under 6621
rules adopted by the commission. 6622

(B) Any holding company or management company, its 6623
directors, executive officers, members, managers, and any 6624
shareholder who holds more than five per cent ownership interest 6625
of a holding company or management company shall be required to 6626

submit the same information as required by an applicant under 6627
this section. 6628

Sec. 3772.12. (A) A person may apply for a gaming-related 6629
vendor license. All applications shall be ~~made under~~ 6630
~~oath~~certified as true. 6631

(B) A person who holds a gaming-related vendor's license 6632
is authorized to sell or lease, and to contract to sell or 6633
lease, equipment and supplies to any licensee involved in the 6634
ownership or management of a casino facility. 6635

(C) Gambling supplies and equipment shall not be 6636
distributed unless supplies and equipment conform to standards 6637
adopted in rules adopted by the commission. 6638

Sec. 3772.13. (A) No person may be employed as a key 6639
employee of a casino operator, management company, or holding 6640
company unless the person is the holder of a valid key employee 6641
license issued by the commission. 6642

(B) No person may be employed as a key employee of a 6643
gaming-related vendor unless that person is either the holder of 6644
a valid key employee license issued by the commission, or the 6645
person, at least five business days prior to the first day of 6646
employment as a key employee, has filed a notification of 6647
employment with the commission and subsequently files a 6648
completed application for a key employee license within the 6649
first thirty days of employment as a key employee. 6650

(C) Each applicant shall, before the issuance of any key 6651
employee license, produce information, documentation, and 6652
assurances as are required by this chapter and rules adopted 6653
thereunder. In addition, each applicant shall, in writing, 6654
authorize the examination of all bank accounts and records as 6655

may be deemed necessary by the commission. 6656

(D) To be eligible for a key employee license, the 6657
applicant shall be at least twenty-one years of age and shall 6658
meet the criteria set forth by rule by the commission. 6659

(E) Each application for a key employee license shall be 6660
on a form prescribed by the commission and shall contain all 6661
information required by the commission. The applicant shall set 6662
forth in the application if the applicant has been issued prior 6663
gambling-related licenses; if the applicant has been licensed in 6664
any other state under any other name, and, if so, the name under 6665
which the license was issued and the applicant's age at the time 6666
the license was issued; any criminal conviction the applicant 6667
has had; and if a permit or license issued to the applicant in 6668
any other state has been suspended, restricted, or revoked, and, 6669
if so, the cause and the duration of each action. The applicant 6670
also shall complete a cover sheet for the application on which 6671
the applicant shall disclose the applicant's name, the business 6672
address of the casino operator, management company, holding 6673
company, or gaming-related vendor employing the applicant, the 6674
business address and telephone number of such employer, and the 6675
county, state, and country in which the applicant's residence is 6676
located. 6677

(F) Each applicant shall submit with each application, on 6678
a form provided by the commission, two sets of fingerprints and 6679
a photograph. The commission shall charge each applicant an 6680
application fee set by the commission to cover all actual costs 6681
generated by each licensee and all background checks under this 6682
section and section 3772.07 of the Revised Code. 6683

(G) (1) The casino operator, management company, or holding 6684
company by whom a person is employed as a key employee shall 6685

terminate the person's employment in any capacity requiring a 6686
license under this chapter and shall not in any manner permit 6687
the person to exercise a significant influence over the 6688
operation of a casino facility if: 6689

(a) The person does not apply for and receive a key 6690
employee license within three months of being issued a 6691
provisional license, as established under commission rule. 6692

(b) The person's application for a key employee license is 6693
denied by the commission. 6694

(c) The person's key employee license is revoked by the 6695
commission. 6696

The commission shall notify the casino operator, 6697
management company, or holding company who employs such a person 6698
by certified mail, personal service, common carrier service 6699
utilizing any form of delivery requiring a signed receipt, or by 6700
an electronic means that provides evidence of delivery, of any 6701
such finding, denial, or revocation. 6702

(2) A casino operator, management company, or holding 6703
company shall not pay to a person whose employment is terminated 6704
under division (G)(1) of this section, any remuneration for any 6705
services performed in any capacity in which the person is 6706
required to be licensed, except for amounts due for services 6707
rendered before notice was received under that division. A 6708
contract or other agreement for personal services or for the 6709
conduct of any casino gaming at a casino facility between a 6710
casino operator, management company, or holding company and a 6711
person whose employment is terminated under division (G)(1) of 6712
this section may be terminated by the casino operator, 6713
management company, or holding company without further liability 6714

on the part of the casino operator, management company, or 6715
holding company. Any such contract or other agreement is deemed 6716
to include a term authorizing its termination without further 6717
liability on the part of the casino operator, management 6718
company, or holding company upon receiving notice under division 6719
(G) (1) of this section. That a contract or other agreement does 6720
not expressly include such a term is not a defense in any action 6721
brought to terminate the contract or other agreement, and is not 6722
grounds for relief in any action brought questioning termination 6723
of the contract or other agreement. 6724

(3) A casino operator, management company, or holding 6725
company, without having obtained the prior approval of the 6726
commission, shall not enter into any contract or other agreement 6727
with a person who has been found unsuitable, who has been denied 6728
a license, or whose license has been revoked under division (G) 6729
(1) of this section, or with any business enterprise under the 6730
control of such a person, after the date on which the casino 6731
operator, management company, or holding company receives notice 6732
under that division. 6733

Sec. 3772.131. (A) All casino gaming employees are 6734
required to have a casino gaming employee license. "Casino 6735
gaming employee" means the following and their supervisors: 6736

(1) Individuals involved in operating a casino gaming pit, 6737
including dealers, shills, clerks, hosts, and junket 6738
representatives; 6739

(2) Individuals involved in handling money, including 6740
cashiers, change persons, count teams, and coin wrappers; 6741

(3) Individuals involved in operating casino games; 6742

(4) Individuals involved in operating and maintaining slot 6743

machines, including mechanics, floor persons, and change and 6744
payoff persons; 6745

(5) Individuals involved in security, including guards and 6746
game observers; 6747

(6) Individuals with duties similar to those described in 6748
divisions (A) (1) to (5) of this section or other persons as the 6749
commission determines. "Casino gaming employee" does not include 6750
an individual whose duties are related solely to nongaming 6751
activities such as entertainment, hotel operation, maintenance, 6752
or preparing or serving food and beverages. 6753

(B) The commission may issue a casino gaming employee 6754
license to an applicant after it has determined that the 6755
applicant is eligible for a license under rules adopted by the 6756
commission and paid any applicable fee. All applications shall 6757
be ~~made under oath~~certified as true. 6758

(C) To be eligible for a casino gaming employee license, 6759
an applicant shall be at least twenty-one years of age. 6760

(D) Each application for a casino gaming employee license 6761
shall be on a form prescribed by the commission and shall 6762
contain all information required by the commission. The 6763
applicant shall set forth in the application if the applicant 6764
has been issued prior gambling-related licenses; if the 6765
applicant has been licensed in any other state under any other 6766
name, and, if so, the name under which the license was issued 6767
and the applicant's age at the time the license was issued; any 6768
criminal conviction the applicant has had; and if a permit or 6769
license issued to the applicant in any other state has been 6770
suspended, restricted, or revoked, and, if so, the cause and the 6771
duration of each action. 6772

(E) Each applicant shall submit with each application, on 6773
a form provided by the commission, two sets of the applicant's 6774
fingerprints and a photograph. The commission shall charge each 6775
applicant an application fee to cover all actual costs generated 6776
by each licensee and all background checks. 6777

Sec. 3781.08. The board of building standards shall 6778
organize by choosing a ~~chairman~~ chairperson who shall serve for 6779
a term of two years. The department of commerce shall provide 6780
and assign to the board of building standards such 6781
~~stenographers,~~ clerks, experts, and other employees as are 6782
required to enable the board to perform the duties and exercise 6783
the powers imposed upon or vested in it by law. 6784

Sec. 3781.11. (A) The rules of the board of building 6785
standards shall: 6786

(1) For nonresidential buildings, provide uniform minimum 6787
standards and requirements, and for residential buildings, 6788
provide standards and requirements that are uniform throughout 6789
the state, for construction and construction materials, 6790
including construction of industrialized units, to make 6791
residential and nonresidential buildings safe and sanitary as 6792
defined in section 3781.06 of the Revised Code; 6793

(2) Formulate such standards and requirements, so far as 6794
may be practicable, in terms of performance objectives, so as to 6795
make adequate performance for the use intended the test of 6796
acceptability; 6797

(3) Permit, to the fullest extent feasible, the use of 6798
materials and technical methods, devices, and improvements, 6799
including the use of industrialized units which tend to reduce 6800
the cost of construction and erection without affecting minimum 6801

requirements for the health, safety, and security of the 6802
occupants or users of buildings or industrialized units and 6803
without preferential treatment of types or classes of materials 6804
or products or methods of construction; 6805

(4) Encourage, so far as may be practicable, the 6806
standardization of construction practices, methods, equipment, 6807
material, and techniques, including methods employed to produce 6808
industrialized units; 6809

(5) Not require any alteration or repair of any part of a 6810
school building owned by a chartered nonpublic school or a city, 6811
local, exempted village, or joint vocational school district and 6812
operated in conjunction with any primary or secondary school 6813
program that is not being altered or repaired if all of the 6814
following apply: 6815

(a) The school building meets all of the applicable 6816
building code requirements in existence at the time of the 6817
construction of the building. 6818

(b) The school building otherwise satisfies the 6819
requirements of section 3781.06 of the Revised Code. 6820

(c) The part of the school building altered or repaired 6821
conforms to all rules of the board existing on the date of the 6822
repair or alteration. 6823

(6) Not require any alteration or repair to any part of a 6824
workshop or factory that is not otherwise being altered, 6825
repaired, or added to if all of the following apply: 6826

(a) The workshop or factory otherwise satisfies the 6827
requirements of section 3781.06 of the Revised Code. 6828

(b) The part of the workshop or factory altered, repaired, 6829

or added conforms to all rules of the board existing on the date 6830
of plan approval of the repair, alteration, or addition. 6831

(B) The rules of the board shall supersede and govern any 6832
order, standard, or rule of the division of industrial 6833
compliance in the department of commerce, division of the state 6834
fire marshal, the department of health, and of counties and 6835
townships, in all cases where such orders, standards, or rules 6836
are in conflict with the rules of the board, except that rules 6837
adopted and orders issued by the state fire marshal pursuant to 6838
Chapter 3743. of the Revised Code prevail in the event of a 6839
conflict. 6840

(C) The construction, alteration, erection, and repair of 6841
buildings including industrialized units, and the materials and 6842
devices of any kind used in connection with them and the heating 6843
and ventilating of them and the plumbing and electric wiring in 6844
them shall conform to the statutes of this state or the rules 6845
adopted and promulgated by the board, and to provisions of local 6846
ordinances not inconsistent therewith. Any building, structure, 6847
or part thereof, constructed, erected, altered, manufactured, or 6848
repaired not in accordance with the statutes of this state or 6849
with the rules of the board, and any building, structure, or 6850
part thereof in which there is installed, altered, or repaired 6851
any fixture, device, and material, or plumbing, heating, or 6852
ventilating system, or electric wiring not in accordance with 6853
such statutes or rules is a public nuisance. 6854

(D) As used in this section: 6855

(1) "Nonpublic school" means a chartered school for which 6856
minimum standards are prescribed by the state board of education 6857
pursuant to division (D) of section 3301.07 of the Revised Code. 6858

(2) "Workshop or factory" includes manufacturing, 6859
mechanical, electrical, mercantile, art, and laundering 6860
establishments, printing, ~~telegraph,~~ and telephone offices, 6861
railroad depots, and memorial buildings, but does not include 6862
hotels and tenement and apartment houses. 6863

Sec. 3781.25. As used in sections 3781.25 to 3781.38 of 6864
the Revised Code: 6865

(A) "Protection service" means a notification center, but 6866
not an owner of an individual utility, that exists for the 6867
purpose of receiving notice from persons that prepare plans and 6868
specifications for or that engage in excavation work, that 6869
distributes this information to its members and participants, 6870
and that has registered by March 14, 1989, with the secretary of 6871
state and the public utilities commission of Ohio under former 6872
division (F) of section 153.64 of the Revised Code as it existed 6873
on that date. 6874

(B) "Underground utility facility" includes any item 6875
buried or placed below ground or submerged under water for use 6876
in connection with the storage or conveyance of water or sewage; 6877
electronic, or telephonic, ~~or telegraphic~~ communications; 6878
television signals; electricity; crude oil; petroleum products; 6879
artificial or liquefied petroleum; manufactured, mixed, or 6880
natural gas; synthetic or liquefied natural gas; propane gas; 6881
coal; steam; hot water; or other substances. "Underground 6882
utility facility" includes all operational underground pipes, 6883
sewers, tubing, conduits, cables, valves, lines, wires, worker 6884
access holes, and attachments, owned by any person, firm, or 6885
company. "Underground utility facility" does not include a 6886
private septic system in a one-family or multi-family dwelling 6887
utilized only for that dwelling and not connected to any other 6888

system. 6889

(C) "Utility" means any owner or operator, or an agent of 6890
an owner or operator, of an underground utility facility, 6891
including any public authority, that owns or operates an 6892
underground utility facility. "Utility" does not include the 6893
owners of the following types of real property with respect to 6894
any underground utility facility located on that property: 6895

(1) The owner of a single-family or two-, three-, or four- 6896
unit residential dwelling; 6897

(2) The owner of an apartment complex; 6898

(3) The owner of a commercial or industrial building or 6899
complex of buildings, including but not limited to, factories 6900
and shopping centers; 6901

(4) The owner of a farm; 6902

(5) The owner of an exempt domestic well as defined in 6903
section 1509.01 of the Revised Code. 6904

(D) "Approximate location" means the immediate area within 6905
the perimeter of a proposed excavation site where the 6906
underground utility facilities are located. 6907

(E) "Tolerance zone" means the site of the underground 6908
utility facility including the width of the underground utility 6909
facility plus eighteen inches on each side of the facility. 6910

(F) "Working days" excludes Saturdays, Sundays, and legal 6911
holidays as defined in section 1.14 of the Revised Code and 6912
"hours" excludes hours on Saturdays, Sundays, and legal 6913
holidays. 6914

(G) "Designer" means an engineer, architect, landscape 6915

architect, contractor, surveyor, or other person who develops 6916
plans or designs for real property improvement or any other 6917
activity that will involve excavation. 6918

(H) "Developer" means the person for whom the excavation 6919
is made and who will own or be the lessee of any improvement 6920
that is the object of the excavation. 6921

(I) "Excavation" means the use of hand tools, powered 6922
equipment, or explosives to move earth, rock, or other materials 6923
in order to penetrate or bore or drill into the earth, or to 6924
demolish any structure whether or not it is intended that the 6925
demolition will disturb the earth. "Excavation" includes such 6926
agricultural operations as the installation of drain tile, but 6927
excludes agricultural operations such as tilling that do not 6928
penetrate the earth to a depth of more than twelve inches. 6929
"Excavation" excludes any activity by a governmental entity 6930
which does not penetrate the earth to a depth of more than 6931
twelve inches. "Excavation" excludes coal mining and reclamation 6932
operations regulated under Chapter 1513. of the Revised Code and 6933
rules adopted under it. 6934

(J) "Excavation site" means the area within which 6935
excavation will be performed. 6936

(K) "Excavator" means the person or persons responsible 6937
for making the actual excavation. 6938

(L) "Interstate gas pipeline" means an interstate gas 6939
pipeline subject to the "Natural Gas Pipeline Safety Act of 6940
1968," 82 Stat. 720, 49 U.S.C. 1671, as amended. 6941

(M) "Interstate hazardous liquids pipeline" means an 6942
interstate hazardous liquids pipeline subject to the "Hazardous 6943
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 6944

2002, as amended. 6945

(N) "Special notification requirements" means requirements 6946
for notice to an owner of an interstate hazardous liquids 6947
pipeline or an interstate gas pipeline that must be made prior 6948
to commencing excavation and pursuant to the owner's public 6949
safety program adopted under federal law. 6950

(O) "Commercial excavator" means any excavator, excluding 6951
a utility as defined in this section, that satisfies both of the 6952
following: 6953

(1) For compensation, performs, directs, supervises, or is 6954
responsible for the excavation, construction, improvement, 6955
renovation, repair, or maintenance on a construction project and 6956
holds out or represents oneself as qualified or permitted to act 6957
as such; 6958

(2) Employs tradespersons who actually perform excavation, 6959
construction, improvement, renovation, repair, or maintenance on 6960
a construction project. 6961

(P) "Person" has the same meaning as in section 1.59 of 6962
the Revised Code and also includes a public authority. 6963

(Q) "Positive response system" means an automated system 6964
facilitated by a protection service allowing a utility to 6965
communicate to an excavator the presence or absence of any 6966
conflict between the existing underground utility facilities and 6967
the proposed excavation site. 6968

(R) "One-call notification system" means the software or 6969
communications system used by a protection system to notify its 6970
membership of proposed excavation sites. 6971

(S) "Project" means any undertaking by a private party of 6972

an improvement requiring excavation. 6973

(T) "Public authority" has the same meaning as in section 6974
153.64 of the Revised Code. 6975

(U) "Improvement" means any construction, reconstruction, 6976
improvement, enlargement, alteration, or repair of a building, 6977
highway, drainage system, water system, road, street, alley, 6978
sewer, ditch, sewage disposal plant, water works, and all other 6979
structures or works of any nature. 6980

(V) "Emergency" means an unexpected occurrence causing a 6981
disruption or damage to an underground utility facility that 6982
requires immediate repair or a situation that creates a clear 6983
and imminent danger that demands immediate action to prevent or 6984
mitigate loss of or damage to life, health, property, or 6985
essential public services. 6986

(W) "Nondestructive manner" means using low-impact, low- 6987
risk technologies such as hand tools, or hydro or air vacuum 6988
excavation equipment. 6989

(X) "Cable service provider" has the same meaning as in 6990
section 1332.01 of the Revised Code. 6991

(Y) "Electric cooperative" and "electric utility" have the 6992
same meanings as in section 4928.01 of the Revised Code. 6993

Sec. 3781.29. (A) (1) Except as otherwise provided in 6994
division (A) (2) of this section, within forty-eight hours of 6995
receiving notice under section 3781.28 of the Revised Code, each 6996
utility shall review the status of its facilities within the 6997
excavation site, locate and mark its underground utility 6998
facilities at the excavation site in such a manner as to 6999
indicate their course, and report the appropriate information to 7000
the protection service for its positive response system. If a 7001

utility does not mark its underground utility facilities or 7002
contact the excavator within that time, the utility is deemed to 7003
have given notice that it does not have any facilities at the 7004
excavation site. If the utility cannot accurately mark the 7005
facilities, the utility shall mark them to the best of its 7006
ability, notify the excavator using the positive response system 7007
that the markings may not be accurate, and provide additional 7008
guidance to the excavator in locating the facilities as needed 7009
during the excavation. 7010

(2) In the case of an interstate hazardous liquids 7011
pipeline or an interstate gas pipeline, the owner of the 7012
pipeline shall locate and mark its pipeline within the time 7013
frame established in the public safety program of the owner. 7014

(B) Unless a facility actually is uncovered or probed by 7015
the utility or excavator, any indications of the depth of the 7016
facility shall be treated as estimates only. 7017

(C) (1) Except as provided in division (C) (2) of this 7018
section, a utility shall mark its underground facilities using 7019
the following color codes: 7020

7021

1

2

A	Type of Underground Utility Facility	Color
B	Electric power transmission and distribution	Safety red
C	Gas transmission and	High visibility safety yellow

	distribution	
D	Oil transmission and distribution	High visibility safety yellow
E	Dangerous materials, product lines, and steam lines	High visibility safety yellow
F	Telephone and telegraph systems	Safety alert orange
G	Police and fire communications	Safety alert orange
H	Cable television	Safety alert orange
I	Water systems	Safety precaution blue
J	Slurry systems	Safety precaution purple
K	Sewer lines	Safety green.

(2) All underground facilities shall be marked in accordance with the Ohio universal marking standards that are on file with the Ohio utilities protection service. Industry representatives serving on Ohio damage prevention councils shall review the marking standards every two years.

(D) Except as otherwise provided in divisions (E) and (F) of this section, prior to notifying a protection service of the proposed excavation, an excavator shall define and premark the approximate location. Proposed construction or excavation markings shall be made in white through the use of an industry-recognized method such as chalk-based paint, flags, stakes, or

other method applicable to the specific site and when possible 7033
shall indicate the excavator's identity by name, abbreviation, 7034
or initial. 7035

(E) (1) Before beginning an emergency excavation, or as 7036
soon as possible thereafter, an excavator shall make every 7037
effort to notify a protection service of the excavation. In 7038
providing notification, the excavator shall provide, at a 7039
minimum: 7040

(a) The name of the individual notifying the protection 7041
service; 7042

(b) The name, address, any electronic mail address, and 7043
~~any telephone and facsimile~~ numbers of the excavator; 7044

(c) The specific location of the excavation site; 7045

(d) A description of the excavation. 7046

(2) Upon receiving the information set forth in division 7047
(E) (1) of this section, the protection service shall provide the 7048
excavator with a reference number and a list of utilities that 7049
the protection service intends to notify. The protection service 7050
shall immediately notify each utility that according to the 7051
registration information provided under section 3781.26 of the 7052
Revised Code has facilities located within the designated area 7053
of the emergency excavation. 7054

(3) Any utility notified of an emergency excavation may 7055
inspect all of its underground utility facilities located at the 7056
emergency excavation site and may take any otherwise lawful 7057
action it considers necessary to prevent disturbance to or 7058
interference with its facilities during excavation. 7059

(F) An excavator is not required to premark the 7060

approximate location of an excavation as provided in division 7061
(D) of this section in any of the following situations: 7062

(1) The utility can determine the precise location, 7063
direction, size, and length of the proposed excavation site by 7064
referring to the notification provided by the protection service 7065
pursuant to sections 3781.27 and 3781.28 of the Revised Code. 7066

(2) The excavator and the affected utility have had an on- 7067
site, preconstruction meeting for the purpose of premarking the 7068
excavation site. 7069

(3) The excavation involves replacing a pole that is 7070
within five feet of the location of an existing pole. 7071

(4) Premarking by the excavator would clearly interfere 7072
with pedestrian or vehicular traffic control. 7073

Sec. 3781.342. (A) The underground technical committee may 7074
conduct meetings in person, by teleconference, or by video 7075
conference. 7076

(B) The committee shall establish a primary meeting 7077
location that is open and accessible to the public. 7078

(C) Before convening a meeting by teleconference or video 7079
conference, the committee shall send, via electronic mail, 7080
~~facsimile,~~ or United States postal service, a copy of meeting- 7081
related documents to each committee member. 7082

(D) The minutes of each meeting shall specify who was 7083
attending by teleconference, who was attending by video 7084
conference, and who was physically present. Any vote taken in a 7085
meeting held by teleconference that is not unanimous shall be 7086
recorded as a roll call vote. 7087

Sec. 3904.08. (A) If any individual, after proper 7088

identification, submits a written request to an insurance 7089
institution, agent, or insurance support organization for access 7090
to recorded personal information about the individual that is 7091
reasonably described by the individual and reasonably locatable 7092
and retrievable by the insurance institution, agent, or 7093
insurance support organization, the insurance institution, 7094
agent, or insurance support organization, within thirty business 7095
days from the date such request is received, shall do all of the 7096
following: 7097

(1) Inform the individual of the nature and substance of 7098
such recorded personal information in writing, by telephone, or 7099
by other oral communication, whichever the insurance 7100
institution, agent, or insurance support organization prefers; 7101

(2) Permit the individual to ~~see and copy, in person,~~ 7102
~~such recorded personal information pertaining to him or to~~ 7103
obtain a copy of such recorded ~~personal information by mail,~~ 7104
~~whichever the individual prefers~~in a manner agreed upon by the 7105
individual and insurance institution, agent, or insurance 7106
support organization, unless such recorded personal information 7107
is in coded form, in which case an accurate translation in plain 7108
language shall be provided in writing; 7109

(3) Disclose to the individual the identity, if recorded, 7110
of those persons to whom the insurance institution, agent, or 7111
insurance support organization has disclosed such personal 7112
information within two years prior to such request, and if the 7113
identity is not recorded, the names of those insurance 7114
institutions, agents, insurance support organizations, or other 7115
persons to whom such information is normally disclosed; 7116

(4) Provide the individual with a summary of the 7117
procedures by which ~~he~~the individual may request correction, 7118

amendment, or deletion of recorded personal information. 7119

(B) Any personal information provided pursuant to division 7120
(A) of this section shall identify the source of the information 7121
if such source is an institutional source. 7122

(C) Medical record information supplied by a medical care 7123
institution or medical professional and requested under division 7124
(A) of this section, together with the identity of the medical 7125
professional or medical care institution that provided such 7126
information, shall be supplied either directly to the individual 7127
or to a medical professional designated by the individual and 7128
licensed to provide medical care with respect to the condition 7129
to which the information relates, whichever the insurance 7130
institution, agent, or insurance support organization prefers. 7131
If it elects to disclose the information to a medical 7132
professional designated by the individual, the insurance 7133
institution, agent, or insurance support organization shall 7134
notify the individual, at the time of the disclosure, that it 7135
has provided the information to the medical professional. 7136

(D) Except for personal information provided under section 7137
3904.10 of the Revised Code, an insurance institution, agent, or 7138
insurance support organization may charge a reasonable fee to 7139
cover the costs incurred in providing a copy of recorded 7140
personal information to individuals. 7141

(E) The obligations imposed by this section upon an 7142
insurance institution or agent may be satisfied by another 7143
insurance institution or agent authorized to act on its behalf. 7144
With respect to the copying and disclosure of recorded personal 7145
information pursuant to a request under division (A) of this 7146
section, an insurance institution, agent, or insurance support 7147
organization may make arrangements with an insurance support 7148

organization or a consumer reporting agency to copy and disclose 7149
recorded personal information on its behalf. 7150

(F) The rights granted to individuals in this section 7151
extend to all natural persons to the extent information about 7152
them is collected and maintained by an insurance institution, 7153
agent, or insurance support organization in connection with an 7154
insurance transaction. The rights granted to all natural persons 7155
by this division do not extend to information about them that 7156
relates to and is collected in connection with or in reasonable 7157
anticipation of a claim or civil or criminal proceeding 7158
involving them. 7159

(G) This section does not apply to a consumer reporting 7160
agency. 7161

Sec. 3905.72. (A) (1) No person shall act as a managing 7162
general agent representing an insurer licensed in this state 7163
with respect to risks located in this state unless the person is 7164
licensed as a managing general agent pursuant to division (C) or 7165
(D) of this section. 7166

(2) No person shall act as a managing general agent 7167
representing an insurer organized under the laws of this state 7168
with respect to risks located outside this state unless the 7169
person is licensed as a managing general agent pursuant to 7170
division (C) of this section. 7171

(B) Every person that seeks to act as a managing general 7172
agent as described in division (A) of this section shall apply 7173
to the superintendent of insurance for a license. Except as 7174
otherwise provided in division (D) of this section, the 7175
application shall be in writing on a form provided by the 7176
superintendent ~~and shall be sworn or affirmed before a notary~~ 7177

~~public or other person empowered to administer oaths.~~ The 7178
application shall be kept on file by the superintendent and 7179
shall include all of the following: 7180

(1) The name and principal business address of the 7181
applicant; 7182

(2) If the applicant is an individual, the applicant's 7183
current occupation; 7184

(3) If the applicant is an individual, the applicant's 7185
occupation or occupations during the five-year period prior to 7186
applying for the license to act as a managing general agent; 7187

(4) A copy of the contract between the applicant and the 7188
insurer as required by, and in compliance with, section 3905.73 7189
of the Revised Code; 7190

(5) A copy of a certified resolution of the board of 7191
directors of the insurer on whose behalf the applicant will act, 7192
appointing the applicant as a managing general agent and agent 7193
of the insurer, specifying the duties the applicant is expected 7194
to perform on behalf of the insurer and the lines of insurance 7195
the applicant will manage, and authorizing the insurer to enter 7196
into a contract with the applicant as required by section 7197
3905.73 of the Revised Code; 7198

(6) A statement that the applicant submits to the 7199
jurisdiction of the superintendent and the courts of this state; 7200

(7) Any other information required by the superintendent. 7201

(C) The superintendent shall issue to a resident of this 7202
state or a business entity organized under the laws of this 7203
state a license to act as a managing general agent representing 7204
an insurer licensed to do business in this state with respect to 7205

risks located in this state or a license to act as a managing 7206
general agent representing an insurer organized under the laws 7207
of this state with respect to risks located outside this state, 7208
and shall renew such a license, if the superintendent is 7209
satisfied that all of the following conditions are met: 7210

(1) The applicant is a suitable person and intends to hold 7211
self out in good faith as a managing general agent. 7212

(2) The applicant understands the duties and obligations 7213
of a managing general agent. 7214

(3) The applicant has filed a completed application that 7215
complies with division (B) of this section. 7216

(4) The applicant has paid a fee in the amount of twenty 7217
dollars. 7218

(5) The applicant maintains a bond in the amount of not 7219
less than fifty thousand dollars for the protection of the 7220
insurer. 7221

(6) The applicant maintains an errors and omissions policy 7222
of insurance. 7223

(7) The applicant is not, and has never been, under an 7224
order of suspension or revocation under section 3905.77 of the 7225
Revised Code or under any other law of this state, or any other 7226
state, relating to insurance, and is otherwise in compliance 7227
with sections 3905.71 to 3905.79 of the Revised Code and all 7228
other laws of this state relating to insurance. 7229

(D) If the applicant is a resident of another state or a 7230
business entity organized under the laws of another state, the 7231
applicant shall submit a request for licensure, along with a fee 7232
of twenty dollars, to the superintendent. The superintendent 7233

shall issue a license to act as a managing general agent if the 7234
request for licensure includes proof that the applicant is 7235
licensed and in good standing as a managing general agent in the 7236
applicant's home state and either a copy of the application for 7237
licensure the applicant submitted to the applicant's home state 7238
or the application described in division (B) of this section. 7239

If the applicant's home state does not license managing 7240
general agents under provisions similar to those in sections 7241
3905.71 to 3905.79 of the Revised Code, or if the applicant's 7242
home state does not grant licenses to residents of this state on 7243
the same reciprocal basis, the applicant shall comply with 7244
divisions (B) and (C) of this section. 7245

(E) Unless suspended or revoked by an order of the 7246
superintendent pursuant to section 3905.77 of the Revised Code 7247
and except as provided in division (F) of this section, any 7248
license issued or renewed pursuant to division (C) or (D) of 7249
this section shall expire on the last day of February next after 7250
its issuance or renewal. 7251

(F) If the appointment of a managing general agent is 7252
terminated by the insurer, the license of the managing general 7253
agent shall expire on the date of the termination. 7254

(G) A license shall be renewed in accordance with the 7255
standard renewal procedure specified in Chapter 4745. of the 7256
Revised Code. 7257

(H) All license fees collected pursuant to this section 7258
shall be paid into the state treasury to the credit of the 7259
department of insurance operating fund. 7260

Sec. 3951.03. Before any certificate of authority shall be 7261
issued by the superintendent of insurance there shall be filed 7262

in ~~his~~ the superintendent's office a written application 7263
therefor. Such application shall be in the form or forms and 7264
supplements thereto prescribed by the superintendent and shall 7265
set forth: 7266

(A) The name and address of the applicant, and if the 7267
applicant be a firm, association, or partnership, the name and 7268
address of each member thereof, and if the applicant be a 7269
corporation, the name and address of each of its officers and 7270
directors; 7271

(B) Whether any license or certificate of authority as 7272
agent, broker, or public insurance adjuster has been issued 7273
previously by the superintendent of this state or by the 7274
insurance department of any state to the individual applicant, 7275
and, if the applicant be an individual, whether any such 7276
certificate has been issued previously to any firm, association, 7277
or partnership of which ~~he~~ the individual was or is an officer 7278
or director, and, if the applicant be a firm, association, or 7279
partnership, whether any such certificate has been issued 7280
previously to any member thereof, and, if the applicant be a 7281
corporation, whether any such certificate has been issued 7282
previously to any officer or director of such corporation; 7283

(C) The business or employment in which the applicant has 7284
been engaged for the five years next preceding the date of the 7285
application, and the name and address of such business and the 7286
name or names and addresses of his employer or employers; 7287

(D) Such information as the superintendent may require of 7288
applicants in order to determine their trustworthiness and 7289
competency to transact the business of public insurance 7290
adjusters, in such manner as to safeguard the interest of the 7291
public; 7292

(E) The superintendent shall issue a public insurance adjuster agent certificate to a person, who is a bona fide employee of a public insurance adjuster without examination, provided said application is made by a person, partnership, association, or corporation engaged in the public insurance adjusting business. The fee to be paid by the applicant for such a license at the time the application is made, and annually thereafter for the renewal thereof according to the standard renewal procedure of sections 4745.01 to 4745.03, inclusive, of the Revised Code, shall be fifty dollars, and such applicant shall be bonded in the amount of one thousand dollars as provided for in division (D) of section 3951.06 of the Revised Code.

An application for any certificate of authority shall be signed ~~and verified under oath~~ by the applicant and, if made by a firm, association, partnership, or corporation, by each member or officer and director thereof to be authorized thereby to act as a public insurance adjuster.

Sec. 4121.19. A full and complete record shall be kept of all proceedings had before the bureau of workers' compensation on any investigation, ~~and all testimony shall be taken down by a stenographer appointed by the bureau.~~

Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure

occurred outside the state. If no common pleas court has 7323
jurisdiction for the purposes of an appeal by the use of the 7324
jurisdictional requirements described in this division, the 7325
appellant may use the venue provisions in the Rules of Civil 7326
Procedure to vest jurisdiction in a court. If the claim is for 7327
an occupational disease, the appeal shall be to the court of 7328
common pleas of the county in which the exposure which caused 7329
the disease occurred. Like appeal may be taken from an order of 7330
a staff hearing officer made under division (D) of section 7331
4123.511 of the Revised Code from which the commission has 7332
refused to hear an appeal. Except as otherwise provided in this 7333
division, the appellant shall file the notice of appeal with a 7334
court of common pleas within sixty days after the date of the 7335
receipt of the order appealed from or the date of receipt of the 7336
order of the commission refusing to hear an appeal of a staff 7337
hearing officer's decision under division (D) of section 7338
4123.511 of the Revised Code. Either the claimant or the 7339
employer may file a notice of an intent to settle the claim 7340
within thirty days after the date of the receipt of the order 7341
appealed from or of the order of the commission refusing to hear 7342
an appeal of a staff hearing officer's decision. The claimant or 7343
employer shall file notice of intent to settle with the 7344
administrator of workers' compensation, and the notice shall be 7345
served on the opposing party and the party's representative. The 7346
filing of the notice of intent to settle extends the time to 7347
file an appeal to one hundred fifty days, unless the opposing 7348
party files an objection to the notice of intent to settle 7349
within fourteen days after the date of the receipt of the notice 7350
of intent to settle. The party shall file the objection with the 7351
administrator, and the objection shall be served on the party 7352
that filed the notice of intent to settle and the party's 7353
representative. The filing of the notice of the appeal with the 7354

court is the only act required to perfect the appeal. 7355

If an action has been commenced in a court of a county 7356
other than a court of a county having jurisdiction over the 7357
action, the court, upon notice by any party or upon its own 7358
motion, shall transfer the action to a court of a county having 7359
jurisdiction. 7360

Notwithstanding anything to the contrary in this section, 7361
if the commission determines under section 4123.522 of the 7362
Revised Code that an employee, employer, or their respective 7363
representatives have not received written notice of an order or 7364
decision which is appealable to a court under this section and 7365
which grants relief pursuant to section 4123.522 of the Revised 7366
Code, the party granted the relief has sixty days from receipt 7367
of the order under section 4123.522 of the Revised Code to file 7368
a notice of appeal under this section. 7369

(B) The notice of appeal shall state the names of the 7370
administrator of workers' compensation, the claimant, and the 7371
employer; the number of the claim; the date of the order 7372
appealed from; and the fact that the appellant appeals 7373
therefrom. 7374

The administrator, the claimant, and the employer shall be 7375
parties to the appeal and the court, upon the application of the 7376
commission, shall make the commission a party. The party filing 7377
the appeal shall serve a copy of the notice of appeal on the 7378
administrator at the central office of the bureau of workers' 7379
compensation in Columbus. The administrator shall notify the 7380
employer that if the employer fails to become an active party to 7381
the appeal, then the administrator may act on behalf of the 7382
employer and the results of the appeal could have an adverse 7383
effect upon the employer's premium rates or may result in a 7384

recovery from the employer if the employer is determined to be a 7385
noncomplying employer under section 4123.75 of the Revised Code. 7386

(C) The attorney general or one or more of the attorney 7387
general's assistants or special counsel designated by the 7388
attorney general shall represent the administrator and the 7389
commission. In the event the attorney general or the attorney 7390
general's designated assistants or special counsel are absent, 7391
the administrator or the commission shall select one or more of 7392
the attorneys in the employ of the administrator or the 7393
commission as the administrator's attorney or the commission's 7394
attorney in the appeal. Any attorney so employed shall continue 7395
the representation during the entire period of the appeal and in 7396
all hearings thereof except where the continued representation 7397
becomes impractical. 7398

(D) Upon receipt of notice of appeal, the clerk of courts 7399
shall provide notice to all parties who are appellees and to the 7400
commission. 7401

The claimant shall, within thirty days after the filing of 7402
the notice of appeal, file a petition containing a statement of 7403
facts in ordinary and concise language showing a cause of action 7404
to participate or to continue to participate in the fund and 7405
setting forth the basis for the jurisdiction of the court over 7406
the action. Further pleadings shall be had in accordance with 7407
the Rules of Civil Procedure, provided that service of summons 7408
on such petition shall not be required and provided that the 7409
claimant may not dismiss the complaint without the employer's 7410
consent if the employer is the party that filed the notice of 7411
appeal to court pursuant to this section. The clerk of the court 7412
shall, upon receipt thereof, transmit by certified mail a copy 7413
thereof to each party named in the notice of appeal other than 7414

the claimant. Any party may file with the clerk prior to the 7415
trial of the action a deposition of any physician taken in 7416
accordance with the provisions of the Revised Code, which 7417
deposition may be read in the trial of the action even though 7418
the physician is a resident of or subject to service in the 7419
county in which the trial is had. The bureau of workers' 7420
compensation shall pay the cost of the ~~stenographic~~ deposition 7421
filed in court and of copies of the ~~stenographic~~ deposition for 7422
each party from the surplus fund and charge the costs thereof 7423
against the unsuccessful party if the claimant's right to 7424
participate or continue to participate is finally sustained or 7425
established in the appeal. In the event the deposition is taken 7426
and filed, the physician whose deposition is taken is not 7427
required to respond to any subpoena issued in the trial of the 7428
action. The court, or the jury under the instructions of the 7429
court, if a jury is demanded, shall determine the right of the 7430
claimant to participate or to continue to participate in the 7431
fund upon the evidence adduced at the hearing of the action. 7432

(E) The court shall certify its decision to the commission 7433
and the certificate shall be entered in the records of the 7434
court. Appeals from the judgment are governed by the law 7435
applicable to the appeal of civil actions. 7436

(F) The cost of any legal proceedings authorized by this 7437
section, including an attorney's fee to the claimant's attorney 7438
to be fixed by the trial judge, based upon the effort expended, 7439
in the event the claimant's right to participate or to continue 7440
to participate in the fund is established upon the final 7441
determination of an appeal, shall be taxed against the employer 7442
or the commission if the commission or the administrator rather 7443
than the employer contested the right of the claimant to 7444
participate in the fund. The attorney's fee shall not exceed 7445

five thousand dollars. 7446

(G) If the finding of the court or the verdict of the jury 7447
is in favor of the claimant's right to participate in the fund, 7448
the commission and the administrator shall thereafter proceed in 7449
the matter of the claim as if the judgment were the decision of 7450
the commission, subject to the power of modification provided by 7451
section 4123.52 of the Revised Code. 7452

(H) (1) An appeal from an order issued under division (E) 7453
of section 4123.511 of the Revised Code or any action filed in 7454
court in a case in which an award of compensation or medical 7455
benefits has been made shall not stay the payment of 7456
compensation or medical benefits under the award, or payment for 7457
subsequent periods of total disability or medical benefits 7458
during the pendency of the appeal. If, in a final administrative 7459
or judicial action, it is determined that payments of 7460
compensation or benefits, or both, made to or on behalf of a 7461
claimant should not have been made, the amount thereof shall be 7462
charged to the surplus fund account under division (B) of 7463
section 4123.34 of the Revised Code. In the event the employer 7464
is a state risk, the amount shall not be charged to the 7465
employer's experience, and the administrator shall adjust the 7466
employer's account accordingly. In the event the employer is a 7467
self-insuring employer, the self-insuring employer shall deduct 7468
the amount from the paid compensation the self-insuring employer 7469
reports to the administrator under division (L) of section 7470
4123.35 of the Revised Code. If an employer is a state risk and 7471
has paid an assessment for a violation of a specific safety 7472
requirement, and, in a final administrative or judicial action, 7473
it is determined that the employer did not violate the specific 7474
safety requirement, the administrator shall reimburse the 7475
employer from the surplus fund account under division (B) of 7476

section 4123.34 of the Revised Code for the amount of the 7477
assessment the employer paid for the violation. 7478

(2) (a) Notwithstanding a final determination that payments 7479
of benefits made to or on behalf of a claimant should not have 7480
been made, the administrator or self-insuring employer shall 7481
award payment of medical or vocational rehabilitation services 7482
submitted for payment after the date of the final determination 7483
if all of the following apply: 7484

(i) The services were approved and were rendered by the 7485
provider in good faith prior to the date of the final 7486
determination. 7487

(ii) The services were payable under division (I) of 7488
section 4123.511 of the Revised Code prior to the date of the 7489
final determination. 7490

(iii) The request for payment is submitted within the time 7491
limit set forth in section 4123.52 of the Revised Code. 7492

(b) Payments made under division (H) (1) of this section 7493
shall be charged to the surplus fund account under division (B) 7494
of section 4123.34 of the Revised Code. If the employer of the 7495
employee who is the subject of a claim described in division (H) 7496
(2) (a) of this section is a state fund employer, the payments 7497
made under that division shall not be charged to the employer's 7498
experience. If that employer is a self-insuring employer, the 7499
self-insuring employer shall deduct the amount from the paid 7500
compensation the self-insuring employer reports to the 7501
administrator under division (L) of section 4123.35 of the 7502
Revised Code. 7503

(c) Division (H) (2) of this section shall apply only to a 7504
claim under this chapter or Chapter 4121., 4127., or 4131. of 7505

the Revised Code arising on or after July 29, 2011. 7506

(3) A self-insuring employer may elect to pay compensation 7507
and benefits under this section directly to an employee or an 7508
employee's dependents by filing an application with the bureau 7509
of workers' compensation not more than one hundred eighty days 7510
and not less than ninety days before the first day of the 7511
employer's next six-month coverage period. If the self-insuring 7512
employer timely files the application, the application is 7513
effective on the first day of the employer's next six-month 7514
coverage period, provided that the administrator shall compute 7515
the employer's assessment for the surplus fund account due with 7516
respect to the period during which that application was filed 7517
without regard to the filing of the application. On and after 7518
the effective date of the employer's election, the self-insuring 7519
employer shall pay directly to an employee or to an employee's 7520
dependents compensation and benefits under this section 7521
regardless of the date of the injury or occupational disease, 7522
and the employer shall receive no money or credits from the 7523
surplus fund account on account of those payments and shall not 7524
be required to pay any amounts into the surplus fund account on 7525
account of this section. The election made under this division 7526
is irrevocable. 7527

(I) All actions and proceedings under this section which 7528
are the subject of an appeal to the court of common pleas or the 7529
court of appeals shall be preferred over all other civil actions 7530
except election causes, irrespective of position on the 7531
calendar. 7532

This section applies to all decisions of the commission or 7533
the administrator on November 2, 1959, and all claims filed 7534
thereafter are governed by sections 4123.511 and 4123.512 of the 7535

Revised Code. 7536

Any action pending in common pleas court or any other 7537
court on January 1, 1986, under this section is governed by 7538
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 7539
section 4123.522 of the Revised Code. 7540

Sec. 4123.52. (A) The jurisdiction of the industrial 7541
commission and the authority of the administrator of workers' 7542
compensation over each case is continuing, and the commission 7543
may make such modification or change with respect to former 7544
findings or orders with respect thereto, as, in its opinion is 7545
justified. No modification or change nor any finding or award in 7546
respect of any claim shall be made with respect to disability, 7547
compensation, dependency, or benefits, after five years from the 7548
date of injury in the absence of medical benefits being provided 7549
under this chapter or in the absence of payment of compensation 7550
under section 4123.57, 4123.58, or division (A) or (B) of 7551
section 4123.56 of the Revised Code or wages in lieu of 7552
compensation in a manner so as to satisfy the requirements of 7553
section 4123.84 of the Revised Code, in which event the 7554
modification, change, finding, or award shall be made within 7555
five years from the date of the last medical services being 7556
rendered or the date of the last payment of compensation or from 7557
the date of death, nor unless written notice of claim for the 7558
specific part or parts of the body injured or disabled has been 7559
given as provided in section 4123.84 or 4123.85 of the Revised 7560
Code. The commission shall not make any modification, change, 7561
finding, or award which shall award compensation for a back 7562
period in excess of two years prior to the date of filing 7563
application therefor. 7564

(B) Notwithstanding division (A) of this section, and 7565

except as otherwise provided in a rule that shall be adopted by 7566
the administrator, with the advice and consent of the bureau of 7567
workers' compensation board of directors, neither the 7568
administrator nor the commission shall make any finding or award 7569
for payment of medical or vocational rehabilitation services 7570
submitted for payment more than one year after the date the 7571
services were rendered or more than one year after the date the 7572
services became payable under division (I) of section 4123.511 7573
of the Revised Code, whichever is later. No medical or 7574
vocational rehabilitation provider shall bill a claimant for 7575
services rendered if the administrator or commission is 7576
prohibited from making that payment under this division. 7577

(C) Division (B) of this section does not apply to 7578
requests made by the centers for medicare and medicaid services 7579
in the United States department of health and human services for 7580
reimbursement of conditional payments made pursuant to section 7581
1395y(b) (2) of title 42, United States Code (commonly known as 7582
the "Medicare Secondary Payer Act"). 7583

(D) This section does not affect the right of a claimant 7584
to compensation accruing subsequent to the filing of any such 7585
application, provided the application is filed within the time 7586
limit provided in this section. 7587

(E) This section does not deprive the commission of its 7588
continuing jurisdiction to determine the questions raised by any 7589
application for modification of award which has been filed with 7590
the commission after June 1, 1932, and prior to the expiration 7591
of the applicable period but in respect to which no award has 7592
been granted or denied during the applicable period. 7593

(F) The commission may, by general rules, provide for the 7594
destruction of files of cases in which no further action may be 7595

taken. 7596

(G) The commission and administrator of workers' 7597
compensation each may, by general rules, provide for the 7598
retention and destruction of all other records in their 7599
possession or under their control pursuant to section 121.211 7600
and sections 149.34 to 149.36 of the Revised Code. The bureau of 7601
workers' compensation may purchase or rent required equipment 7602
for the document retention media, as determined necessary to 7603
preserve the records. Photographs, microphotographs, microfilm, 7604
films, or other direct or electronic document retention media, 7605
when properly identified, have the same effect as the original 7606
record and may be offered in like manner and may be received as 7607
evidence in proceedings before the industrial commission, staff 7608
hearing officers, and district hearing officers, and in any 7609
court where the original record could have been introduced. 7610

Sec. 4125.03. (A) The professional employer organization 7611
with whom a shared employee is coemployed shall do all of the 7612
following: 7613

(1) Pay wages associated with a shared employee pursuant 7614
to the terms and conditions of compensation in the professional 7615
employer organization agreement between the professional 7616
employer organization and the client employer; 7617

(2) Pay all related payroll taxes associated with a shared 7618
employee independent of the terms and conditions contained in 7619
the professional employer organization agreement between the 7620
professional employer organization and the client employer; 7621

(3) Maintain workers' compensation coverage, pay all 7622
workers' compensation premiums and manage all workers' 7623
compensation claims, filings, and related procedures associated 7624

with a shared employee in compliance with Chapters 4121. and 7625
4123. of the Revised Code, except that when shared employees 7626
include family farm officers, ordained ministers, or corporate 7627
officers of the client employer, payroll reports shall include 7628
the entire amount of payroll associated with those persons; 7629

(4) Provide written notice to each shared employee it 7630
assigns to perform services to a client employer of the 7631
relationship between and the responsibilities of the 7632
professional employer organization and the client employer; 7633

(5) Maintain complete records separately listing the 7634
manual classifications of each client employer and the payroll 7635
reported to each manual classification for each client employer 7636
for each payroll reporting period during the time period covered 7637
in the professional employer organization agreement; 7638

(6) Maintain a record of workers' compensation claims for 7639
each client employer; 7640

(7) Make periodic reports, as determined by the 7641
administrator of workers' compensation, of client employers and 7642
total workforce to the administrator; 7643

(8) Report individual client employer payroll, claims, and 7644
classification data under a separate and unique subaccount to 7645
the administrator; 7646

(9) Within fourteen days after receiving notice from the 7647
bureau of workers' compensation that a refund or rebate will be 7648
applied to workers' compensation premiums, provide a copy of 7649
that notice to any client employer to whom that notice is 7650
relevant. 7651

(B) The professional employer organization with whom a 7652
shared employee is coemployed shall provide a list of all of the 7653

following information to the client employer upon the written 7654
request of the client employer: 7655

(1) All workers' compensation claims, premiums, and 7656
payroll associated with that client employer; 7657

(2) Compensation and benefits paid and reserves 7658
established for each claim listed under division (B) (1) of this 7659
section; 7660

(3) Any other information available to the professional 7661
employer organization from the bureau of workers' compensation 7662
regarding that client employer. 7663

(C) (1) A professional employer organization shall provide 7664
the information required under division (B) of this section in 7665
writing to the requesting client employer within forty-five days 7666
after receiving a written request from the client employer. 7667

(2) For purposes of division (C) of this section, a 7668
professional employer organization has provided the required 7669
information to the client employer when ~~the~~ any of the following 7670
occur: 7671

(a) The information is received by the United States 7672
postal service ~~or when the;~~ 7673

(b) The information is personally delivered, in writing, 7674
directly to the client employer; 7675

(c) The information is delivered by electronic mail to the 7676
client employer. 7677

(D) Except as provided in section 4125.08 of the Revised 7678
Code and unless otherwise agreed to in the professional employer 7679
organization agreement, the professional employer organization 7680
with whom a shared employee is coemployed has a right of 7681

direction and control over each shared employee assigned to a 7682
client employer's location. However, a client employer shall 7683
retain sufficient direction and control over a shared employee 7684
as is necessary to do any of the following: 7685

(1) Conduct the client employer's business, including 7686
training and supervising shared employees; 7687

(2) Ensure the quality, adequacy, and safety of the goods 7688
or services produced or sold in the client employer's business; 7689

(3) Discharge any fiduciary responsibility that the client 7690
employer may have; 7691

(4) Comply with any applicable licensure, regulatory, or 7692
statutory requirement of the client employer. 7693

(E) Unless otherwise agreed to in the professional 7694
employer organization agreement, liability for acts, errors, and 7695
omissions shall be determined as follows: 7696

(1) A professional employer organization shall not be 7697
liable for the acts, errors, and omissions of a client employer 7698
or a shared employee when those acts, errors, and omissions 7699
occur under the direction and control of the client employer. 7700

(2) A client employer shall not be liable for the acts, 7701
errors, and omissions of a professional employer organization or 7702
a shared employee when those acts, errors, and omissions occur 7703
under the direction and control of the professional employer 7704
organization. 7705

(F) Nothing in divisions (D) and (E) of this section shall 7706
be construed to limit any liability or obligation specifically 7707
agreed to in the professional employer organization agreement. 7708

Sec. 4141.09. (A) There is hereby created an unemployment 7709

compensation fund to be administered by the state without 7710
liability on the part of the state beyond the amounts paid into 7711
the fund and earned by the fund. The unemployment compensation 7712
fund shall consist of all contributions, payments in lieu of 7713
contributions described in sections 4141.241 and 4141.242 of the 7714
Revised Code, reimbursements of the federal share of extended 7715
benefits described in section 4141.301 of the Revised Code, 7716
collected under sections 4141.01 to 4141.56 of the Revised Code, 7717
and the amount required under division (A) (4) of section 4141.35 7718
of the Revised Code, together with all interest earned upon any 7719
moneys deposited with the secretary of the treasury of the 7720
United States to the credit of the account of this state in the 7721
unemployment trust fund established and maintained pursuant to 7722
section 904 of the "Social Security Act," any property or 7723
securities acquired through the use of moneys belonging to the 7724
fund, and all earnings of such property or securities. The 7725
unemployment compensation fund shall be used to pay benefits, 7726
shared work compensation as defined in section 4141.50 of the 7727
Revised Code, and refunds as provided by such sections and for 7728
no other purpose. 7729

(B) The treasurer of state shall be the custodian of the 7730
unemployment compensation fund and shall administer such fund in 7731
accordance with the directions of the director of job and family 7732
services. All disbursements therefrom shall be paid by the 7733
treasurer of state on warrants drawn by the director. Such 7734
warrants may ~~bear the facsimile~~ have the signature of the 7735
director printed thereon and that of a deputy or other employee 7736
of the director charged with the duty of keeping the account of 7737
the unemployment compensation fund and with the preparation of 7738
warrants for the payment of benefits to the persons entitled 7739
thereto. Moneys in the clearing and benefit accounts shall not 7740

be commingled with other state funds, except as provided in 7741
division (C) of this section, but shall be maintained in 7742
separate accounts on the books of the depository bank. Such 7743
money shall be secured by the depository bank to the same extent 7744
and in the same manner as required by sections 135.01 to 135.21 7745
of the Revised Code; and collateral pledged for this purpose 7746
shall be kept separate and distinct from any collateral pledged 7747
to secure other funds of this state. All sums recovered for 7748
losses sustained by the unemployment compensation fund shall be 7749
deposited therein. The treasurer of state shall be liable on the 7750
treasurer's official bond for the faithful performance of the 7751
treasurer's duties in connection with the unemployment 7752
compensation fund, such liability to exist in addition to any 7753
liability upon any separate bond. 7754

(C) The treasurer of state shall maintain within the 7755
unemployment compensation fund three separate accounts which 7756
shall be a clearing account, a trust fund account, and a benefit 7757
account. All moneys payable to the unemployment compensation 7758
fund, upon receipt by the director, shall be forwarded to the 7759
treasurer of state, who shall immediately deposit them in the 7760
clearing account. Refunds of contributions, or payments in lieu 7761
of contributions, payable pursuant to division (E) of this 7762
section may be paid from the clearing account upon warrants 7763
signed by a deputy or other employee of the director charged 7764
with the duty of keeping the record of the clearing account and 7765
with the preparation of warrants for the payment of refunds to 7766
persons entitled thereto. After clearance thereof, all moneys in 7767
the clearing account shall be deposited with the secretary of 7768
the treasury of the United States to the credit of the account 7769
of this state in the unemployment trust fund established and 7770
maintained pursuant to section 904 of the "Social Security Act," 7771

in accordance with requirements of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Federal funds may be deposited, at the director's discretion, into the benefit account. Any funds deposited into the benefit account shall be disbursed solely for payment of benefits under a federal program administered by this state and for no other purpose. Moneys in the clearing and benefit accounts may be deposited by the treasurer of state, under the direction of the director, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

(D) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the director. The director shall requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this state's account therein, as are deemed necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the treasurer of state shall deposit such moneys in the benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not require specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall

either be deducted from estimates for and may be utilized for 7803
the payment of benefits during succeeding periods, or, in the 7804
discretion of the director, shall be redeposited with the 7805
secretary of the treasury of the United States to the credit of 7806
this state's account in the unemployment trust fund, as provided 7807
in division (C) of this section. Unclaimed or unpaid federal 7808
funds redeposited with the secretary of the treasury of the 7809
United States shall be credited to the appropriate federal 7810
account. 7811

(E) No claim for an adjustment or a refund on 7812
contribution, payment in lieu of contributions, interest, or 7813
forfeiture alleged to have been erroneously or illegally 7814
assessed or collected, or alleged to have been collected without 7815
authority, and no claim for an adjustment or a refund of any sum 7816
alleged to have been excessive or in any manner wrongfully 7817
collected shall be allowed unless an application, in writing, 7818
therefor is made within four years from the date on which such 7819
payment was made. If the director determines that such 7820
contribution, payment in lieu of contributions, interest, or 7821
forfeiture, or any portion thereof, was erroneously collected, 7822
the director shall allow such employer to make an adjustment 7823
thereof without interest in connection with subsequent 7824
contribution payments, or payments in lieu of contributions, by 7825
the employer, or the director may refund said amount, without 7826
interest, from the clearing account of the unemployment 7827
compensation fund, except as provided in division (B) of section 7828
4141.11 of the Revised Code. For like cause and within the same 7829
period, adjustment or refund may be so made on the director's 7830
own initiative. An overpayment of contribution, payment in lieu 7831
of contributions, interest, or forfeiture for which an employer 7832
has not made application for refund prior to the date of sale of 7833

the employer's business shall accrue to the employer's successor 7834
in interest. 7835

An application for an adjustment or a refund, or any 7836
portion thereof, that is rejected is binding upon the employer 7837
unless, within thirty days after the mailing of a written notice 7838
of rejection to the employer's last known address, or, in the 7839
absence of mailing of such notice, within thirty days after the 7840
delivery of such notice, the employer files an application for a 7841
review and redetermination setting forth the reasons therefor. 7842
The director shall promptly examine the application for review 7843
and redetermination, and if a review is granted, the employer 7844
shall be promptly notified thereof, and shall be granted an 7845
opportunity for a prompt hearing. 7846

(F) If the director finds that contributions have been 7847
paid to the director in error, and that such contributions 7848
should have been paid to a department of another state or of the 7849
United States charged with the administration of an unemployment 7850
compensation law, the director may upon request by such 7851
department or upon the director's own initiative transfer to 7852
such department the amount of such contributions, less any 7853
benefits paid to claimants whose wages were the basis for such 7854
contributions. The director may request and receive from such 7855
department any contributions or adjusted contributions paid in 7856
error to such department which should have been paid to the 7857
director. 7858

(G) In accordance with section 303(c)(3) of the Social 7859
Security Act, and section 3304(a)(17) of the Internal Revenue 7860
Code of 1954 for continuing certification of Ohio unemployment 7861
compensation laws for administrative grants and for tax credits, 7862
any interest required to be paid on advances under Title XII of 7863

the Social Security Act shall be paid in a timely manner and 7864
shall not be paid, directly or indirectly, by an equivalent 7865
reduction in the Ohio unemployment taxes or otherwise, by the 7866
state from amounts in the unemployment compensation fund. 7867

(H) The treasurer of state, under the direction of the 7868
director and in accordance with the "Cash Management Improvement 7869
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall 7870
deposit amounts of interest earned by the state on funds in the 7871
benefit account established pursuant to division (C) of this 7872
section into the unemployment trust fund. 7873

(I) The treasurer of state, under the direction of the 7874
director, shall deposit federal funds received by the director 7875
for training and administration and for payment of benefits, job 7876
search, relocation, transportation, and subsistence allowances 7877
pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 7878
2101, as amended; the "North American Free Trade Agreement 7879
Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, as 7880
amended; and the "Trade Act of 2002," 116 Stat. 993, 19 U.S.C.A. 7881
3801, as amended, into the Trade Act training and administration 7882
account, which is hereby created for the purpose of making 7883
payments specified under those acts. The treasurer of state, 7884
under the direction of the director, may transfer funds from the 7885
Trade Act training and administration account to the benefit 7886
account for the purpose of making any payments directly to 7887
claimants for benefits, job search, relocation, transportation, 7888
and subsistence allowances, as specified by those acts. 7889

Sec. 4141.47. (A) There is hereby created the auxiliary 7890
services personnel unemployment compensation fund, which shall 7891
not be a part of the state treasury. The fund shall consist of 7892
moneys paid into the fund pursuant to section 3317.06 of the 7893

Revised Code. The treasurer of state shall administer it in 7894
accordance with the directions of the director of job and family 7895
services. The director shall establish procedures under which 7896
school districts that are charged and have paid for unemployment 7897
benefits as reimbursing employers pursuant to this chapter for 7898
personnel employed pursuant to section 3317.06 of the Revised 7899
Code may apply for and receive reimbursement for those payments 7900
under this section. School districts are not entitled to 7901
reimbursement for any delinquency charges, except as otherwise 7902
provided by law. In the case of school districts electing to pay 7903
contributions under section 4141.242 of the Revised Code, the 7904
director shall establish procedures for reimbursement of the 7905
district from the fund of contributions made on wages earned by 7906
any auxiliary service personnel. 7907

(B) In the event of the termination of the auxiliary 7908
services program established pursuant to section 3317.06 of the 7909
Revised Code, and after the director has made reimbursement to 7910
school districts for all possible unemployment compensation 7911
claims of persons who were employed pursuant to section 3317.06 7912
of the Revised Code, the director shall certify that fact to the 7913
treasurer of state, who shall then transfer all unexpended 7914
moneys in the auxiliary services personnel unemployment 7915
compensation fund to the general revenue fund. In the event the 7916
auxiliary services personnel unemployment compensation fund 7917
contains insufficient moneys to pay all valid claims by school 7918
districts for reimbursement pursuant to this section, the 7919
director shall estimate the total additional amount necessary to 7920
meet the liabilities of the fund and submit a request to the 7921
general assembly for an appropriation of that amount of money 7922
from the general revenue fund to the auxiliary services 7923
personnel unemployment compensation fund. 7924

(C) All disbursements from the auxiliary services 7925
personnel unemployment compensation fund shall be paid by the 7926
treasurer of state on warrants drawn by the director. The 7927
warrants may ~~bear~~ have the ~~facsimile~~-signature of the director 7928
printed thereon or that of a deputy or other employee of the 7929
director charged with the duty of keeping the account of the 7930
fund. Moneys in the fund shall be maintained in a separate 7931
account on the books of the depository bank. The money shall be 7932
secured by the depository bank to the same extent and in the 7933
same manner as required by Chapter 135. of the Revised Code. All 7934
sums recovered for losses sustained by the fund shall be 7935
deposited therein. The treasurer of state is liable on the 7936
treasurer of state's official bond for the faithful performance 7937
of the treasurer of state's duties in connection with the fund. 7938

(D) All necessary and proper expenses incurred in 7939
administering this section shall be paid to the director from 7940
the auxiliary services personnel unemployment compensation fund. 7941
For this purpose, there is hereby created in the state treasury 7942
the auxiliary services program administrative fund. The 7943
treasurer of state, pursuant to the warrant procedures specified 7944
in division (C) of this section, shall advance moneys as 7945
requested by the director from the auxiliary services personnel 7946
unemployment compensation fund to the auxiliary services program 7947
administrative fund. The director periodically may request the 7948
advance of such moneys as in the treasurer of state's opinion 7949
are needed to meet anticipated administrative expenses and may 7950
make disbursements from the auxiliary services program 7951
administrative fund to pay those expenses. 7952

(E) Upon receipt of a certification from the department of 7953
education regarding a refund to a board of education pursuant to 7954
section 3317.06 of the Revised Code, the director shall issue a 7955

refund in the amount certified to the board from the auxiliary 7956
services personnel unemployment compensation fund. 7957

Sec. 4167.10. (A) In order to carry out the purposes of 7958
this chapter, the administrator of workers' compensation or the 7959
administrator's designee shall, as provided in this section, 7960
enter without delay during normal working hours and at other 7961
reasonable times, to inspect and investigate any plant, 7962
facility, establishment, construction site, or any other area, 7963
workplace, or environment where work is being performed by a 7964
public employee of a public employer, and any place of 7965
employment and all pertinent conditions, structures, machines, 7966
apparatus, devices, equipment, and materials therein, and 7967
question privately any public employer, administrator, 7968
department head, operator, agent, or public employee. The 7969
authority to inspect and investigate includes the taking of 7970
environmental samples, the taking and obtaining of photographs 7971
related to the purposes of the inspection or investigation, the 7972
examination of records required to be kept under section 4167.11 7973
of the Revised Code and other documents and records relevant to 7974
the inspection and investigation, the issuance of subpoenas, and 7975
the conducting of tests and other studies reasonably calculated 7976
to serve the purposes of implementing and enforcing this 7977
chapter. Except as provided in this section, the administrator 7978
or the administrator's designee shall conduct scheduled 7979
inspections and investigations only pursuant to rules adopted 7980
under section 4167.02 of the Revised Code, a request to do so by 7981
a public employee or public employee representative, or the 7982
notification the administrator receives pursuant to division (B) 7983
of section 4167.06 of the Revised Code and only if the 7984
administrator or the administrator's designee complies with this 7985
section. The administrator or the administrator's designee shall 7986

conduct all requested or required inspections within a 7987
reasonable amount of time following receipt of the request or 7988
notification. 7989

(B) (1) Any public employee or public employee 7990
representative who believes that a violation of an Ohio 7991
employment risk reduction standard exists that threatens 7992
physical harm, or that an imminent danger exists, may request an 7993
inspection by giving written notice to the administrator or the 7994
administrator's designee of the violation or danger. The notice 7995
shall set forth with reasonable particularity the grounds for 7996
the notice, and shall be signed by the public employee or public 7997
employee representative. The names of individual public 7998
employees making the notice or referred to therein shall not 7999
appear in the copy provided to the public employer pursuant to 8000
division (B) (2) of this section and shall be kept confidential. 8001

(2) If, upon receipt of a notification pursuant to 8002
division (B) (1) of this section, the administrator determines 8003
that there are no reasonable grounds to believe that a violation 8004
or danger exists, the administrator shall inform the public 8005
employee or public employee representative in writing of the 8006
determination. If, upon receipt of a notification, the 8007
administrator determines that there are reasonable grounds to 8008
believe that a violation or danger exists, the administrator 8009
shall, within one week, excluding Saturdays, Sundays, and any 8010
legal holiday as defined in section 1.14 of the Revised Code, 8011
after receipt of the notification, notify the public employer, 8012
by certified mail, return receipt requested, of the alleged 8013
violation or danger. The notice provided to the public employer 8014
or the public employer's agent shall inform the public employer 8015
of the alleged violation or danger and that the administrator or 8016
the administrator's designee will investigate and inspect the 8017

public employer's workplace as provided in this section. The 8018
public employer must respond to the administrator, in a method 8019
determined by the administrator, concerning the alleged 8020
violation or danger, within thirty days after receipt of the 8021
notice. If the public employer does not correct the violation or 8022
danger within the thirty-day period or if the public employer 8023
fails to respond within that time period, the administrator or 8024
the administrator's designee shall investigate and inspect the 8025
public employer's workplace as provided in this section. The 8026
administrator or the administrator's designee shall not conduct 8027
any inspection prior to the end of the thirty-day period unless 8028
requested or permitted by the public employer. The administrator 8029
may, at any time upon the request of the public employer, 8030
inspect and investigate any violation or danger alleged to exist 8031
at the public employer's place of employment. 8032

(3) The authority of the administrator or the 8033
administrator's designee to investigate and inspect a premises 8034
pursuant to a public employee or public employee representative 8035
notification is not limited to the alleged violation or danger 8036
contained in the notification. The administrator or the 8037
administrator's designee may investigate and inspect any other 8038
area of the premises where there is reason to believe that a 8039
violation or danger exists. In addition, if the administrator or 8040
the administrator's designee detects any obvious or apparent 8041
violation at any temporary place of employment while en route to 8042
the premises to be inspected or investigated, and that violation 8043
presents a substantial probability that the condition or 8044
practice could result in death or serious physical harm, the 8045
administrator or the administrator's designee may use any of the 8046
enforcement mechanisms provided in this section to correct or 8047
remove the condition or practice. 8048

(4) If, during an inspection or investigation, the administrator or the administrator's designee finds any condition or practice in any place of employment that presents a substantial probability that the condition or practice could result in death or serious physical harm, after notifying the employer of the administrator's intent to issue an order, the administrator shall issue an order, or the administrator's designee shall issue an order after consultation ~~either by telephone or in person~~ with the administrator and upon the recommendation of the administrator, which prohibits the employment of any public employee or any continuing operation or process under such condition or practice until necessary steps are taken to correct or remove the condition or practice. The order shall not be effective for more than fifteen days, unless a court of competent jurisdiction otherwise orders as provided in section 4167.14 of the Revised Code.

(C) In making any inspections or investigations under this chapter, the administrator or the administrator's designee may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive the fees and mileage provided for under section 119.094 of the Revised Code. In the case of contumacy, failure, or refusal of any person to comply with an order or any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the administrator or the administrator's designee, shall issue an order requiring the person to appear and to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question. The court may punish

any failure to obey the order of the court as a contempt 8080
thereof. 8081

(D) If, upon inspection or investigation, the 8082
administrator or the administrator's designee believes that a 8083
public employer has violated any requirement of this chapter or 8084
any rule, Ohio employment risk reduction standard, or order 8085
adopted or issued pursuant thereto, the administrator or the 8086
administrator's designee shall, with reasonable promptness, 8087
issue a citation to the public employer. The citation shall be 8088
in writing and describe with particularity the nature of the 8089
alleged violation, including a reference to the provision of 8090
law, Ohio employment risk reduction standard, rule, or order 8091
alleged to have been violated. In addition, the citation shall 8092
fix a time for the abatement of the violation, as provided in 8093
division (H) of this section. The administrator may prescribe 8094
procedures for the issuance of a notice with respect to minor 8095
violations and for enforcement of minor violations that have no 8096
direct or immediate relationship to safety or health. 8097

(E) Upon receipt of any citation under this section, the 8098
public employer shall immediately post the citation, or a copy 8099
thereof, at or near each place an alleged violation referred to 8100
in the citation occurred. 8101

(F) The administrator may not issue a citation under this 8102
section after the expiration of six months following the final 8103
occurrence of any violation. 8104

(G) If the administrator issues a citation pursuant to 8105
this section, the administrator shall mail the citation to the 8106
public employer by certified mail, return receipt requested. The 8107
public employer has fourteen days after receipt of the citation 8108
within which to notify the administrator that the employer 8109

wishes to contest the citation. If the employer notifies the administrator within the fourteen days that the employer wishes to contest the citation, or if within fourteen days after the issuance of a citation a public employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the administrator shall hold an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(H) In establishing the time limits in which a public employer must abate a violation under this section, the administrator shall consider the costs to the public employer, the size and financial resources of the public employer, the severity of the violation, the technological feasibility of the public employer's ability to comply with requirements of the citation, the possible present and future detriment to the health and safety of any public employee for failure of the public employer to comply with requirements of the citation, and such other factors as the administrator determines appropriate. The administrator may, after considering the above factors, permit the public employer to comply with the citation over a period of up to two years and may extend that period an additional one year, as the administrator determines appropriate.

(I) Any public employer may request the administrator to conduct an employment risk reduction inspection of the public employer's place of employment. The administrator or the administrator's designee shall conduct the inspection within a reasonable amount of time following the request. Neither the administrator nor any other person may use any information obtained from the inspection for a period not to exceed three years in any proceeding for a violation of this chapter or any

rule or order issued thereunder nor in any other action in any court in this state.

Sec. 4301.17. (A) (1) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each twenty thousand of population of that county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal decennial census or according to the population estimates certified by the department of development between decennial censuses. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code. The division shall fix the compensation for such an agent in the manner it considers best, but the compensation shall not exceed seven per cent of the gross sales made by the agent in any one year.

(2) The division shall adopt rules in accordance with Chapter 119. of the Revised Code governing the allocation and equitable distribution of agency store contracts. The division shall comply with the rules when awarding a contract under division (A) (1) of this section.

(3) Pursuant to an agency store's contract, an agency store may be issued a D-1 permit to sell beer, a D-2 permit to sell wine and mixed beverages, and a D-5 permit to sell beer, wine, mixed beverages, and spirituous liquor.

(4) Pursuant to an agency store's contract, an agency store may be issued a D-3 permit to sell spirituous liquor if

the agency store contains at least ten thousand square feet of 8171
sales floor area. A D-3 permit issued to an agency store shall 8172
not be transferred to a new location. The division shall revoke 8173
any D-3 permit issued to an agency store under division (A) (4) 8174
of this section if the agent no longer operates the agency 8175
store. The division shall not issue a D-3a permit to an agency 8176
store. 8177

(5) An agency store to which a D-8 permit has been issued 8178
may allow the sale of tasting samples of spirituous liquor in 8179
accordance with section 4301.171 of the Revised Code. 8180

(6) An agency store may sell beer, wine, mixed beverages, 8181
and spirituous liquor only between the hours of nine a.m. and 8182
eleven p.m. 8183

(B) When an agency contract is proposed, when an existing 8184
agency contract is assigned, when an existing agency proposes to 8185
relocate, or when an existing agency is relocated and assigned, 8186
before entering into any contract, consenting to any assignment, 8187
or consenting to any relocation, the division shall notify the 8188
legislative authority of the municipal corporation in which the 8189
agency store is to be located, or the board of county 8190
commissioners and the board of township trustees of the county 8191
and the township in which the agency store is to be located if 8192
the agency store is to be located outside the corporate limits 8193
of a municipal corporation, of the proposed contract, 8194
assignment, or relocation, and an opportunity shall be provided 8195
officials or employees of the municipal corporation or county 8196
and township for a complete hearing upon the advisability of 8197
entering into the contract or consenting to the assignment or 8198
relocation. When the division sends notice to the legislative 8199
authority of the political subdivision, the division shall 8200

~~notify, by certified mail or by personal service,~~ the chief 8201
peace officer of the political subdivision, who may appear and 8202
testify, either in person or through a representative, at any 8203
hearing held on the advisability of entering into the contract 8204
or consenting to the assignment or relocation. 8205

If the proposed agency store, the assignment of an agency 8206
contract, or the relocation of an agency store would be located 8207
within five hundred feet of a school, church, library, public 8208
playground, or township park, the division shall not enter into 8209
an agency contract until it has provided notice of the proposed 8210
contract to the authorities in control of the school, church, 8211
library, public playground, or township park and has provided 8212
those authorities with an opportunity for a complete hearing 8213
upon the advisability of entering into the contract. If an 8214
agency store so located is operating under an agency contract, 8215
the division may consent to relocation of the agency store or to 8216
the assignment of that contract to operate an agency store at 8217
the same location. The division may also consent to the 8218
assignment of an existing agency contract simultaneously with 8219
the relocation of the agency store. In any such assignment or 8220
relocation, the assignee and the location shall be subject to 8221
the same requirements that the existing location met at the time 8222
that the contract was first entered into as well as any 8223
additional requirements imposed by the division in rules adopted 8224
by the superintendent of liquor control. The division shall not 8225
consent to an assignment or relocation of an agency store until 8226
it has notified the authorities in control of the school, 8227
church, library, public playground, or township park and has 8228
provided those authorities with an opportunity for a complete 8229
hearing upon the advisability of consenting to the assignment or 8230
relocation. 8231

Any hearing provided for in this division shall be held in 8232
the central office of the division, except that upon written 8233
request of the legislative authority of the municipal 8234
corporation, the board of county commissioners, the board of 8235
township trustees, or the authorities in control of the school, 8236
church, library, public playground, or township park, the 8237
hearing shall be held in the county seat of the county where the 8238
proposed agency store is to be located. 8239

(C) All agency contracts entered into by the division 8240
pursuant to this section shall be in writing and shall contain a 8241
clause providing for the termination of the contract at will by 8242
the division upon its giving ninety days' notice in writing to 8243
the agent of its intention to do so. Any agency contract may 8244
include a clause requiring the agent to report to the 8245
appropriate law enforcement agency the name and address of any 8246
individual under twenty-one years of age who attempts to make an 8247
illegal purchase. 8248

The division shall issue a C-1 and C-2 permit to each 8249
agent who prior to November 1, 1994, had not been issued both of 8250
these permits, notwithstanding the population quota restrictions 8251
contained in section 4303.29 of the Revised Code or in any rule 8252
of the liquor control commission and notwithstanding the 8253
requirements of section 4303.31 of the Revised Code. The 8254
location of a C-1 or C-2 permit issued to such an agent shall 8255
not be transferred. The division shall revoke any C-1 or C-2 8256
permit issued to an agent under this paragraph if the agent no 8257
longer operates an agency store. 8258

The division may enter into agreements with the department 8259
of development to implement a minority loan program to provide 8260
low-interest loans to minority business enterprises, as defined 8261

in section 122.71 of the Revised Code, that are awarded liquor 8262
agency contracts or assignments. 8263

(D) If the division closes a state liquor store and 8264
replaces that store with an agency store, any employees of the 8265
division employed at that state liquor store who lose their jobs 8266
at that store as a result shall be given preference by the agent 8267
who operates the agency store in filling any vacancies that 8268
occur among the agent's employees, if that preference does not 8269
conflict with the agent's obligations pursuant to a collective 8270
bargaining agreement. 8271

If the division closes a state liquor store and replaces 8272
the store with an agency store, any employees of the division 8273
employed at the state liquor store who lose their jobs at that 8274
store as a result may displace other employees as provided in 8275
sections 124.321 to 124.328 of the Revised Code. If an employee 8276
cannot displace other employees and is laid off, the employee 8277
shall be reinstated in another job as provided in sections 8278
124.321 to 124.328 of the Revised Code, except that the 8279
employee's rights of reinstatement in a job at a state liquor 8280
store shall continue for a period of two years after the date of 8281
the employee's layoff and shall apply to jobs at state liquor 8282
stores located in the employee's layoff jurisdiction and any 8283
layoff jurisdiction adjacent to the employee's layoff 8284
jurisdiction. 8285

(E) The division shall require every agent to give bond 8286
with surety to the satisfaction of the division, in the amount 8287
the division fixes, conditioned for the faithful performance of 8288
the agent's duties as prescribed by the division. 8289

Sec. 4301.30. (A) All fees collected by the division of 8290
liquor control shall be deposited in the state treasury to the 8291

credit of the undivided liquor permit fund, which is hereby 8292
created, at the time prescribed under section 4301.12 of the 8293
Revised Code. Each payment shall be accompanied by a statement 8294
showing separately the amount collected for each class of 8295
permits in each municipal corporation and in each township 8296
outside the limits of any municipal corporation in such 8297
township. 8298

(B) (1) An amount equal to forty-five per cent of the fund 8299
shall be paid from the fund into the state liquor regulatory 8300
fund, which is hereby created in the state treasury. The state 8301
liquor regulatory fund shall be used to pay the operating 8302
expenses of the division of liquor control in administering and 8303
enforcing Title XLIII of the Revised Code and the operating 8304
expenses of the liquor control commission. Investment earnings 8305
of the fund shall be credited to the fund. 8306

(2) Whenever, in the judgment of the director of budget 8307
and management, the amount of money that is in the state liquor 8308
regulatory fund is in excess of the amount that is needed to pay 8309
the operating expenses of the division in administering and 8310
enforcing Title XLIII of the Revised Code and the operating 8311
expenses of the commission, the director shall credit the excess 8312
amount to the general revenue fund. 8313

(C) Twenty per cent of the undivided liquor permit fund 8314
shall be paid into the statewide treatment and prevention fund, 8315
which is hereby created in the state treasury. This amount shall 8316
be appropriated by the general assembly, together with an amount 8317
equal to one and one-half per cent of the gross profit of the 8318
division of liquor control derived under division (B) (4) of 8319
section 4301.10 of the Revised Code, to the department of mental 8320
health and addiction services. In planning for the allocation of 8321

and in allocating these amounts for the purposes of Chapter 8322
5119. of the Revised Code, the department shall comply with the 8323
nondiscrimination provisions of Title VI of the Civil Rights Act 8324
of 1964, and any rules adopted under that act. 8325

(D) Thirty-five per cent of the undivided liquor permit 8326
fund shall be distributed by the superintendent of liquor 8327
control at quarterly calendar periods as follows: 8328

(1) To each municipal corporation, the aggregate amount 8329
shown by the statements to have been collected from permits in 8330
the municipal corporation, for the use of the general fund of 8331
the municipal corporation; 8332

(2) To each township, the aggregate amount shown by the 8333
statements to have been collected from permits in its territory, 8334
outside the limits of any municipal corporation located in the 8335
township, for the use of the general fund of the township, or 8336
for fire protection purposes, including buildings and equipment 8337
in the township or in an established fire district within the 8338
township, to the extent that the funds are derived from liquor 8339
permits within the territory comprising such fire district. 8340

(E) For the purpose of the distribution required by this 8341
section, E, H, and D permits covering boats or vessels are 8342
deemed to have been issued in the municipal corporation or 8343
township wherein the owner or operator of the vehicle, boat, 8344
vessel, or dining car equipment to which the permit relates has 8345
the owner's or operator's principal office or place of business 8346
within the state. 8347

(F) If the ~~liquor control commission~~ division determines 8348
that the police or other officers of any municipal corporation 8349
or township entitled to share in distributions under this 8350

section are refusing or culpably neglecting to enforce this 8351
chapter and Chapter 4303. of the Revised Code, or the penal laws 8352
of this state relating to the manufacture, importation, 8353
transportation, distribution, and sale of beer and intoxicating 8354
liquors, or if the prosecuting officer of a municipal 8355
corporation or a municipal court fails to comply with the 8356
request of the ~~commission~~division authorized by division (A) (4) 8357
of section 4301.10 of the Revised Code, the ~~commission~~division, 8358
by certified mail or by electronic means as determined by the 8359
superintendent to provide proper notice under the laws of this 8360
state, may notify the chief executive officer of the municipal 8361
corporation or the board of township trustees of the township of 8362
the failure and require the immediate cooperation of the 8363
responsible officers of the municipal corporation or township 8364
with the division ~~of liquor control~~ in the enforcement of those 8365
chapters and penal laws. Within thirty days after the notice is 8366
served, the ~~commission~~division shall determine whether the 8367
requirement has been complied with. If the ~~commission~~division 8368
determines that the requirement has not been complied with, it 8369
may ~~issue an order to the superintendent to withhold the~~ 8370
distributive share of the municipal corporation or township 8371
~~until further order of the commission~~. This action of the 8372
~~commission~~division is reviewable within thirty days thereafter 8373
in the court of common pleas of Franklin county. 8374

(G) All fees collected by the division of liquor control 8375
from the issuance or renewal of B-2a, S-1, and S-2 permits, and 8376
paid by B-2a, S-1, and S-2 permit holders who do not also hold 8377
A-1 or A-1c permits or A-2 or A-2f permits, shall be deposited 8378
in the state treasury to the credit of the state liquor 8379
regulatory fund. Once during each fiscal year, an amount equal 8380
to fifty per cent of the fees collected shall be paid from the 8381

state liquor regulatory fund into the general revenue fund. 8382

Sec. 4303.24. All application processing fees shall be 8383
remitted to the division of liquor control when applications are 8384
filed. The pendency, priority, or validity of an application for 8385
a permit or duplicate permit received by the division shall not 8386
be affected because the division did not issue the permit 8387
applied for or the applicant failed to appeal to the liquor 8388
control commission. 8389

The division, prior to the granting of a permit or 8390
duplicate permit applied for, shall notify, by certified mail, 8391
the applicant or the applicant's authorized agent. The applicant 8392
or the applicant's authorized agent, within thirty days after 8393
the mailing of that notice, shall pay to the division the entire 8394
amount of ~~the any unpaid~~ requisite permit fee required by 8395
sections 4303.02 to 4303.231 or, in the case of a duplicate 8396
permit, section 4303.30 of the Revised Code, if the permit or 8397
duplicate permit is issued during the first six months of the 8398
year the permit or duplicate permit covers, or one-half of the 8399
amount of the requisite permit fee, if the permit or duplicate 8400
permit is issued during the last six months of the year the 8401
permit or duplicate permit covers. If the notice is returned 8402
because of failure or refusal of delivery, the division shall 8403
send another notice, by regular mail or by electronic means as 8404
determined by the division to provide proper notice under the 8405
laws of this state, to the applicant or the applicant's agent. 8406
If the applicant fails to pay the applicable amount of that 8407
requisite permit fee within ~~those~~ thirty days of the mailing of 8408
the last notice, the division shall cancel the applicant's 8409
application. 8410

All other fees shall be paid at the time and in the manner 8411

prescribed by the division. The liquor control commission may 8412
adopt rules requiring reports or returns for the purpose of 8413
determining the amounts of additional permit fees. 8414

Sec. 4503.04. Except as provided in sections 4503.042 and 8415
4503.65 of the Revised Code for the registration of commercial 8416
cars, trailers, semitrailers, and certain buses, the rates of 8417
the taxes imposed by section 4503.02 of the Revised Code shall 8418
be as follows: 8419

(A) (1) For motor vehicles having three wheels or less, the 8420
license tax is: 8421

(a) For each motorized bicycle or moped, ten dollars; 8422

(b) For each motorcycle, autocycle, cab-enclosed 8423
motorcycle, motor-driven cycle, or motor scooter, fourteen 8424
dollars. 8425

(2) For each low-speed, under-speed, and utility vehicle, 8426
and each mini-truck, ten dollars. 8427

(B) For each passenger car, twenty dollars; 8428

(C) For each manufactured home, each mobile home, and each 8429
travel trailer or house vehicle, ten dollars; 8430

(D) For each noncommercial motor vehicle designed by the 8431
manufacturer to carry a load of no more than three-quarters of 8432
one ton and for each motor home, thirty-five dollars; for each 8433
noncommercial motor vehicle designed by the manufacturer to 8434
carry a load of more than three-quarters of one ton, but not 8435
more than one ton, seventy dollars; 8436

(E) For each noncommercial trailer, the license tax is: 8437

(1) Eighty-five cents for each one hundred pounds or part 8438

thereof for the first two thousand pounds or part thereof of 8439
weight of vehicle fully equipped; 8440

(2) One dollar and forty cents for each one hundred pounds 8441
or part thereof in excess of two thousand pounds up to and 8442
including ten thousand pounds. 8443

(F) Notwithstanding its weight, twelve dollars for any: 8444

(1) Vehicle equipped, owned, and used by a charitable or 8445
nonprofit corporation exclusively for the purpose of 8446
administering chest x-rays or receiving blood donations; 8447

(2) Van used principally for the transportation of persons 8448
with disabilities that has been modified by being equipped with 8449
adaptive equipment to facilitate the movement of such persons 8450
into and out of the van; 8451

(3) Bus used principally for the transportation of persons 8452
with disabilities or persons sixty-five years of age or older. 8453

(G) Notwithstanding its weight, twenty dollars for any bus 8454
used principally for the transportation of persons in a 8455
ridesharing arrangement. 8456

(H) For each transit bus having motor power the license 8457
tax is twelve dollars. 8458

"Transit bus" means either a motor vehicle having a 8459
seating capacity of more than seven persons which is operated 8460
and used by any person in the rendition of a public mass 8461
transportation service primarily in a municipal corporation or 8462
municipal corporations and provided at least seventy-five per 8463
cent of the annual mileage of such service and use is within 8464
such municipal corporation or municipal corporations or a motor 8465
vehicle having a seating capacity of more than seven persons 8466

which is operated solely for the transportation of persons 8467
associated with a charitable or nonprofit corporation, but does 8468
not mean any motor vehicle having a seating capacity of more 8469
than seven persons when such vehicle is used in a ridesharing 8470
capacity or any bus described by division (F) (3) of this 8471
section. 8472

The application for registration of such transit bus shall 8473
be accompanied by an affidavit prescribed by the registrar of 8474
motor vehicles and signed by the person or an agent of the firm 8475
or corporation operating such bus stating that the bus has a 8476
seating capacity of more than seven persons, and that it is 8477
either to be operated and used in the rendition of a public mass 8478
transportation service and that at least seventy-five per cent 8479
of the annual mileage of such operation and use shall be within 8480
one or more municipal corporations or that it is to be operated 8481
solely for the transportation of persons associated with a 8482
charitable or nonprofit corporation. 8483

The form of the license plate, and the manner of its 8484
attachment to the vehicle, shall be prescribed by the registrar 8485
of motor vehicles. 8486

(I) Except as otherwise provided in division (A) or (J) of 8487
this section, the minimum tax for any vehicle having motor power 8488
is ten dollars and eighty cents, and for each noncommercial 8489
trailer, five dollars. 8490

(J) (1) Except as otherwise provided in division (J) of 8491
this section, for each farm truck, except a noncommercial motor 8492
vehicle, that is owned, controlled, or operated by one or more 8493
farmers exclusively in farm use as defined in this section, and 8494
not for commercial purposes, and provided that at least seventy- 8495
five per cent of such farm use is by or for the one or more 8496

owners, controllers, or operators of the farm in the operation 8497
of which a farm truck is used, the license tax is five dollars 8498
plus: 8499

(a) Fifty cents per one hundred pounds or part thereof for 8500
the first three thousand pounds; 8501

(b) Seventy cents per one hundred pounds or part thereof 8502
in excess of three thousand pounds up to and including four 8503
thousand pounds; 8504

(c) Ninety cents per one hundred pounds or part thereof in 8505
excess of four thousand pounds up to and including six thousand 8506
pounds; 8507

(d) Two dollars for each one hundred pounds or part 8508
thereof in excess of six thousand pounds up to and including ten 8509
thousand pounds; 8510

(e) Two dollars and twenty-five cents for each one hundred 8511
pounds or part thereof in excess of ten thousand pounds; 8512

(f) The minimum license tax for any farm truck shall be 8513
twelve dollars. 8514

(2) The owner of a farm truck may register the truck for a 8515
period of one-half year by paying one-half the registration tax 8516
imposed on the truck under this chapter and one-half the amount 8517
of any tax imposed on the truck under Chapter 4504. of the 8518
Revised Code. 8519

(3) A farm bus may be registered for a period of three 8520
hundred ten days from the date of issue of the license plates 8521
for the bus, for a fee of ten dollars, provided such license 8522
plates shall not be issued for more than one such period in any 8523
calendar year. Such use does not include the operation of trucks 8524

by commercial processors of agricultural products. 8525

(4) License plates for farm trucks and for farm buses 8526
shall have some distinguishing marks, letters, colors, or other 8527
characteristics to be determined by the director of public 8528
safety. 8529

(5) Every person registering a farm truck or bus under 8530
this section shall furnish an affidavit certifying that the 8531
truck or bus licensed to that person is to be so used as to meet 8532
the requirements necessary for the farm truck or farm bus 8533
classification. 8534

Any farmer may use a truck owned by the farmer for 8535
commercial purposes by paying the difference between the 8536
commercial truck registration fee and the farm truck 8537
registration fee for the remaining part of the registration 8538
period for which the truck is registered. Such remainder shall 8539
be calculated from the beginning of the semiannual period in 8540
which application for such commercial license is made. 8541

Taxes at the rates provided in this section are in lieu of 8542
all taxes on or with respect to the ownership of such motor 8543
vehicles, except as provided in sections 4503.042, 4503.06, and 8544
4503.65 of the Revised Code. 8545

(K) Other than trucks registered under the international 8546
registration plan in another jurisdiction and for which this 8547
state has received an apportioned registration fee, the license 8548
tax for each truck which is owned, controlled, or operated by a 8549
nonresident, and licensed in another state, and which is used 8550
exclusively for the transportation of nonprocessed agricultural 8551
products intrastate, from the place of production to the place 8552
of processing, is twenty-four dollars. 8553

"Truck," as used in this division, means any pickup truck, 8554
straight truck, semitrailer, or trailer other than a travel 8555
trailer. Nonprocessed agricultural products, as used in this 8556
division, does not include livestock or grain. 8557

A license issued under this division shall be issued for a 8558
period of one hundred thirty days in the same manner in which 8559
all other licenses are issued under this section, provided that 8560
no truck shall be so licensed for more than one one-hundred- 8561
thirty-day period during any calendar year. 8562

The license issued pursuant to this division shall consist 8563
of a windshield decal to be designed by the director of public 8564
safety. 8565

Every person registering a truck under this division shall 8566
furnish an affidavit certifying that the truck licensed to the 8567
person is to be used exclusively for the purposes specified in 8568
this division. 8569

(L) Every person registering a motor vehicle as a 8570
noncommercial motor vehicle as defined in section 4501.01 of the 8571
Revised Code, or registering a trailer as a noncommercial 8572
trailer as defined in that section, shall furnish an affidavit 8573
certifying that the motor vehicle or trailer so licensed to the 8574
person is to be so used as to meet the requirements necessary 8575
for the noncommercial vehicle classification. 8576

(M) Every person registering a van or bus as provided in 8577
divisions (F) (2) and (3) of this section shall ~~furnish a~~ 8578
~~notarized statement certifying affirm as prescribed by the~~ 8579
registrar that the van or bus licensed to the person is to be 8580
used for the purposes specified in those divisions. The form of 8581
the license plate issued for such motor vehicles shall be 8582

prescribed by the registrar. 8583

(N) Every person registering as a passenger car a motor 8584
vehicle designed and used for carrying more than nine but not 8585
more than fifteen passengers, and every person registering a bus 8586
as provided in division (G) of this section, shall furnish an 8587
affidavit certifying that the vehicle so licensed to the person 8588
is to be used in a ridesharing arrangement and that the person 8589
will have in effect whenever the vehicle is used in a 8590
ridesharing arrangement a policy of liability insurance with 8591
respect to the motor vehicle in amounts and coverages no less 8592
than those required by section 4509.79 of the Revised Code. The 8593
form of the license plate issued for such a motor vehicle shall 8594
be prescribed by the registrar. 8595

(O) (1) If an application for registration renewal is not 8596
applied for prior to the expiration date of the registration or 8597
within thirty days after that date, the registrar or deputy 8598
registrar shall collect a fee of ten dollars for the issuance of 8599
the vehicle registration. For any motor vehicle that is used on 8600
a seasonal basis, whether used for general transportation or 8601
not, and that has not been used on the public roads or highways 8602
since the expiration of the registration, the registrar or 8603
deputy registrar shall waive the fee established under this 8604
division if the application is accompanied by supporting 8605
evidence of seasonal use as the registrar may require. The 8606
registrar or deputy registrar may waive the fee for other good 8607
cause shown if the application is accompanied by supporting 8608
evidence as the registrar may require. The fee shall be in 8609
addition to all other fees established by this section. A deputy 8610
registrar shall retain fifty cents of the fee and shall transmit 8611
the remaining amount to the registrar at the time and in the 8612
manner provided by section 4503.10 of the Revised Code. The 8613

registrar shall deposit all moneys received under this division 8614
into the public safety - highway purposes fund established in 8615
section 4501.06 of the Revised Code. 8616

(2) Division (O)(1) of this section does not apply to a 8617
farm truck or farm bus registered under division (J) of this 8618
section. 8619

(P) As used in this section: 8620

(1) "Van" means any motor vehicle having a single rear 8621
axle and an enclosed body without a second seat. 8622

(2) "Person with a disability" means any person who has 8623
lost the use of one or both legs, or one or both arms, or is 8624
blind, deaf, or unable to move about without the aid of crutches 8625
or a wheelchair. 8626

(3) "Farm truck" means a truck used in the transportation 8627
from the farm of products of the farm, including livestock and 8628
its products, poultry and its products, floricultural and 8629
horticultural products, and in the transportation to the farm of 8630
supplies for the farm, including tile, fence, and every other 8631
thing or commodity used in agricultural, floricultural, 8632
horticultural, livestock, and poultry production and livestock, 8633
poultry, and other animals and things used for breeding, 8634
feeding, or other purposes connected with the operation of the 8635
farm. 8636

(4) "Farm bus" means a bus used only for the 8637
transportation of agricultural employees and used only in the 8638
transportation of such employees as are necessary in the 8639
operation of the farm. 8640

(5) "Farm supplies" includes fuel used exclusively in the 8641
operation of a farm, including one or more homes located on and 8642

used in the operation of one or more farms, and furniture and 8643
other things used in and around such homes. 8644

Sec. 4507.081. (A) Upon the expiration of a restricted 8645
license issued under division (D) (3) of section 4507.08 of the 8646
Revised Code and submission of a statement as provided in 8647
division (C) of this section, the registrar of motor vehicles 8648
may issue a driver's license to the person to whom the 8649
restricted license was issued. A driver's license issued under 8650
this section, unless otherwise suspended or canceled, shall be 8651
effective for one year. 8652

(B) A driver's license issued under this section may be 8653
renewed annually, for no more than three consecutive years, 8654
whenever the person to whom the license has been issued submits 8655
to the registrar, ~~by certified mail and~~ no sooner than thirty 8656
days prior to the expiration date of the license or renewal 8657
thereof, a statement as provided in division (C) of this 8658
section. A renewal of a driver's license, unless the license is 8659
otherwise suspended or canceled, shall be effective for one year 8660
following the expiration date of the license or renewal thereof, ~~—~~ 8661
~~and shall be evidenced by a validation sticker. The renewal~~ 8662
~~validation sticker shall be in a form prescribed by the~~ 8663
~~registrar and shall be affixed to the license.~~ 8664

(C) No person may be issued a driver's license under this 8665
section, and no such driver's license may be renewed, unless the 8666
person presents a signed statement from a licensed physician 8667
that the person's condition either is dormant or is under 8668
effective medical control, that the control has been maintained 8669
continuously for at least one year prior to the date on which 8670
application for the license is made, and that, if continued 8671
medication is prescribed to control the condition, the person 8672

may be depended upon to take the medication. 8673

The statement shall be made on a form provided by the 8674
registrar, ~~shall be in not less than duplicate,~~ and shall 8675
contain any other information the registrar considers necessary. 8676
~~The duplicate copy of the statement may be retained by the~~ 8677
~~person requesting the license renewal and, when in the person's~~ 8678
~~immediate possession and used in conjunction with the original~~ 8679
~~license, shall entitle the person to operate a motor vehicle~~ 8680
~~during a period of no more than thirty days following the date~~ 8681
~~of submission of the statement to the registrar, except when the~~ 8682
~~registrar denies the request for the license renewal and so~~ 8683
~~notifies the person.~~ 8684

(D) Whenever the registrar receives a statement indicating 8685
that the condition of a person to whom a driver's license has 8686
been issued under this section no longer is dormant or under 8687
effective medical control, the registrar shall cancel the 8688
person's driver's license. 8689

(E) Nothing in this section shall require a person 8690
submitting a signed statement from a licensed physician to 8691
obtain a medical examination prior to the submission of the 8692
statement. 8693

(F) Any person whose driver's license has been canceled 8694
under this section may apply for a subsequent restricted license 8695
according to the provisions of section 4507.08 of the Revised 8696
Code. 8697

Sec. 4508.021. (A) As used in this section: 8698

(1) "State agency" has the same meaning as in section 1.60 8699
of the Revised Code. 8700

(2) "Electronic medium" means a ~~video cassette tape, CD~~ 8701

~~ROM, interactive videodisc, web site, electronic mail~~ 8702
~~communication, compact disc media, or other electronic format~~ 8703
~~used to convey information to students through electronic~~ 8704
~~means which information is sent or conveyed.~~ 8705

(B) The classroom instruction required by division (C) of 8706
section 4508.02 of the Revised Code shall include the 8707
dissemination of information regarding anatomical gifts and 8708
anatomical gift procedures or a presentation and discussion of 8709
such gifts and procedures in accordance with this section. The 8710
second chance trust fund advisory committee created under 8711
section 2108.35 of the Revised Code shall approve any brochure, 8712
written material, or electronic medium used by a driver training 8713
school to provide information to students regarding anatomical 8714
gifts and anatomical gift procedures. However, the committee 8715
shall not approve any such brochure, written material, or 8716
electronic medium that contains religious content for use in a 8717
driver education course conducted by a school district or 8718
educational service center. 8719

(C) (1) If any brochure or other written material approved 8720
by the committee under division (B) of this section is made 8721
available to a driver training school at no cost, the instructor 8722
shall provide such brochure or material to students. 8723

(2) If any electronic medium that is less than twenty 8724
minutes in length and that is approved by the committee under 8725
division (B) of this section is made available to a driver 8726
training school at no cost, the instructor shall show the 8727
electronic medium to students, provided that the school 8728
maintains operable viewing equipment. If more than one such 8729
electronic medium is made available to a school in accordance 8730
with this division, the instructor shall select one electronic 8731

medium from among those received by the school to show to 8732
students. 8733

(3) If no electronic medium is shown to students as 8734
specified in division (C)(2) of this section, the instructor 8735
shall organize a classroom presentation and discussion regarding 8736
anatomical gifts and anatomical gift procedures. The instructor 8737
may arrange for the presentation to be conducted by an employee 8738
of the department of health or any other state agency, an 8739
employee or volunteer of the second chance trust fund, an 8740
employee or volunteer of any organization involved in the 8741
procurement of organ donations, an organ donor, an organ 8742
recipient, an employee or volunteer of a tissue or eye bank, or 8743
a tissue or corneal transplant recipient, provided that no such 8744
person charges a fee to the school for the presentation. 8745
However, no such presentation that contains religious content 8746
shall be made to students of a driver education course conducted 8747
by a school district or educational service center. Students 8748
shall be granted the opportunity to ask questions on anatomical 8749
gifts and anatomical gift procedures during the presentation and 8750
discussion. 8751

Nothing in this section shall prohibit an instructor from 8752
also organizing a classroom presentation and discussion 8753
regarding anatomical gifts and anatomical gift procedures in 8754
accordance with this division if the instructor shows an 8755
electronic medium to students pursuant to division (C)(2) of 8756
this section. 8757

(D) No student shall be required to participate in any 8758
instruction in anatomical gifts or anatomical gift procedures 8759
conducted under this section upon written notification from the 8760
student's parent or guardian, or the student if the student is 8761

over eighteen years of age, that such instruction conflicts with 8762
the religious convictions of the student or the student's parent 8763
or guardian. If a student is excused from such instruction, the 8764
instructor shall give the student an alternative assignment. 8765

Sec. 4509.101. (A) (1) No person shall operate, or permit 8766
the operation of, a motor vehicle in this state, unless proof of 8767
financial responsibility is maintained continuously throughout 8768
the registration period with respect to that vehicle, or, in the 8769
case of a driver who is not the owner, with respect to that 8770
driver's operation of that vehicle. 8771

(2) Whoever violates division (A) (1) of this section shall 8772
be subject to the following civil penalties: 8773

(a) Subject to divisions (A) (2) (b) and (c) of this 8774
section, a class (F) suspension of the person's driver's 8775
license, commercial driver's license, temporary instruction 8776
permit, probationary license, or nonresident operating privilege 8777
for the period of time specified in division (B) (6) of section 8778
4510.02 of the Revised Code and impoundment of the person's 8779
license. The court may grant limited driving privileges to the 8780
person, but only if the person presents proof of financial 8781
responsibility and is enrolled in a reinstatement fee payment 8782
plan pursuant to section 4510.10 of the Revised Code. 8783

(b) If, within five years of the violation, the person's 8784
operating privileges are again suspended and the person's 8785
license again is impounded for a violation of division (A) (1) of 8786
this section, a class C suspension of the person's driver's 8787
license, commercial driver's license, temporary instruction 8788
permit, probationary license, or nonresident operating privilege 8789
for the period of time specified in division (B) (3) of section 8790
4510.02 of the Revised Code. The court may grant limited driving 8791

privileges to the person only if the person presents proof of 8792
financial responsibility and has complied with division (A) (5) 8793
of this section, and no court may grant limited driving 8794
privileges for the first fifteen days of the suspension. 8795

(c) If, within five years of the violation, the person's 8796
operating privileges are suspended and the person's license is 8797
impounded two or more times for a violation of division (A) (1) 8798
of this section, a class B suspension of the person's driver's 8799
license, commercial driver's license, temporary instruction 8800
permit, probationary license, or nonresident operating privilege 8801
for the period of time specified in division (B) (2) of section 8802
4510.02 of the Revised Code. The court may grant limited driving 8803
privileges to the person only if the person presents proof of 8804
financial responsibility and has complied with division (A) (5) 8805
of this section, except that no court may grant limited driving 8806
privileges for the first thirty days of the suspension. 8807

(d) In addition to the suspension of an owner's license 8808
under division (A) (2) (a), (b), or (c) of this section, the 8809
suspension of the rights of the owner to register the motor 8810
vehicle and the impoundment of the owner's certificate of 8811
registration and license plates until the owner complies with 8812
division (A) (5) of this section. 8813

The clerk of court shall waive the cost of filing a 8814
petition for limited driving privileges if, pursuant to section 8815
2323.311 of the Revised Code, the petitioner applies to be 8816
qualified as an indigent litigant and the court approves the 8817
application. 8818

(3) A person to whom this state has issued a certificate 8819
of registration for a motor vehicle or a license to operate a 8820
motor vehicle or who is determined to have operated any motor 8821

vehicle or permitted the operation in this state of a motor 8822
vehicle owned by the person shall be required to verify the 8823
existence of proof of financial responsibility covering the 8824
operation of the motor vehicle or the person's operation of the 8825
motor vehicle under either of the following circumstances: 8826

(a) The person or a motor vehicle owned by the person is 8827
involved in a traffic accident that requires the filing of an 8828
accident report under section 4509.06 of the Revised Code. 8829

(b) The person receives a traffic ticket indicating that 8830
proof of the maintenance of financial responsibility was not 8831
produced upon the request of a peace officer or state highway 8832
patrol trooper made in accordance with division (D) (2) of this 8833
section. 8834

(4) An order of the registrar that suspends and impounds a 8835
license or registration, or both, shall state the date on or 8836
before which the person is required to surrender the person's 8837
license or certificate of registration and license plates. The 8838
person is deemed to have surrendered the license or certificate 8839
of registration and license plates, in compliance with the 8840
order, if the person does either of the following: 8841

(a) On or before the date specified in the order, 8842
~~personally delivers the license or certificate of registration~~ 8843
~~and license plates, or causes the delivery of the items,~~ to the 8844
registrar; 8845

(b) Mails the license or certificate of registration and 8846
license plates to the registrar in an envelope or container 8847
bearing a postmark showing a date no later than the date 8848
specified in the order. 8849

(5) Except as provided in division (L) of this section, 8850

the registrar shall not restore any operating privileges or 8851
registration rights suspended under this section, return any 8852
license, certificate of registration, or license plates 8853
impounded under this section, or reissue license plates under 8854
section 4503.232 of the Revised Code, if the registrar destroyed 8855
the impounded license plates under that section, or reissue a 8856
license under section 4510.52 of the Revised Code, if the 8857
registrar destroyed the suspended license under that section, 8858
unless the rights are not subject to suspension or revocation 8859
under any other law and unless the person, in addition to 8860
complying with all other conditions required by law for 8861
reinstatement of the operating privileges or registration 8862
rights, complies with all of the following: 8863

(a) Pays to the registrar or an eligible deputy registrar 8864
a financial responsibility reinstatement fee of one hundred 8865
dollars for the first violation of division (A)(1) of this 8866
section, three hundred dollars for a second violation of that 8867
division, and six hundred dollars for a third or subsequent 8868
violation of that division; 8869

(b) If the person has not voluntarily surrendered the 8870
license, certificate, or license plates in compliance with the 8871
order, pays to the registrar or an eligible deputy registrar a 8872
financial responsibility nonvoluntary compliance fee in an 8873
amount, not to exceed fifty dollars, determined by the 8874
registrar; 8875

(c) Files and continuously maintains proof of financial 8876
responsibility under sections 4509.44 to 4509.65 of the Revised 8877
Code; 8878

(d) Pays a deputy registrar a service fee of ten dollars 8879
to compensate the deputy registrar for services performed under 8880

this section. The deputy registrar shall retain eight dollars of 8881
the service fee and shall transmit the reinstatement fee, any 8882
nonvoluntary compliance fee, and two dollars of the service fee 8883
to the registrar in the manner the registrar shall determine. 8884

(B) (1) Every party required to file an accident report 8885
under section 4509.06 of the Revised Code also shall include 8886
with the report a document described in division (G) (1) (a) of 8887
this section or shall present proof of financial responsibility 8888
through use of an electronic wireless communications device as 8889
permitted by division (G) (1) (b) of this section. 8890

If the registrar determines, within forty-five days after 8891
the report is filed, that an operator or owner has violated 8892
division (A) (1) of this section, the registrar shall do all of 8893
the following: 8894

(a) Order the impoundment, with respect to the motor 8895
vehicle involved, required under division (A) (2) (d) of this 8896
section, of the certificate of registration and license plates 8897
of any owner who has violated division (A) (1) of this section; 8898

(b) Order the suspension required under division (A) (2) 8899
(a), (b), or (c) of this section of the license of any operator 8900
or owner who has violated division (A) (1) of this section; 8901

(c) Record the name and address of the person whose 8902
certificate of registration and license plates have been 8903
impounded or are under an order of impoundment, or whose license 8904
has been suspended or is under an order of suspension; the 8905
serial number of the person's license; the serial numbers of the 8906
person's certificate of registration and license plates; and the 8907
person's social security account number, if assigned, or, where 8908
the motor vehicle is used for hire or principally in connection 8909

with any established business, the person's federal taxpayer 8910
identification number. The information shall be recorded in such 8911
a manner that it becomes a part of the person's permanent 8912
record, and assists the registrar in monitoring compliance with 8913
the orders of suspension or impoundment. 8914

(d) Send written notification to every person to whom the 8915
order pertains, at the person's last known address as shown on 8916
the records of the bureau. The person, within ten days after the 8917
date of the mailing of the notification, shall surrender to the 8918
registrar, in a manner set forth in division (A) (4) of this 8919
section, any certificate of registration and registration plates 8920
under an order of impoundment, or any license under an order of 8921
suspension. 8922

(2) The registrar shall issue any order under division (B) 8923
(1) of this section without a hearing. Any person adversely 8924
affected by the order, within ten days after the issuance of the 8925
order, may request an administrative hearing before the 8926
registrar, who shall provide the person with an opportunity for 8927
a hearing in accordance with this paragraph. A request for a 8928
hearing does not operate as a suspension of the order. The scope 8929
of the hearing shall be limited to whether the person in fact 8930
demonstrated to the registrar proof of financial responsibility 8931
in accordance with this section. The registrar shall determine 8932
the date, time, and place of any hearing, provided that the 8933
hearing shall be held, and an order issued or findings made, 8934
within thirty days after the registrar receives a request for a 8935
hearing. If requested by the person in writing, the registrar 8936
may designate as the place of hearing the county seat of the 8937
county in which the person resides or a place within fifty miles 8938
of the person's residence. The person shall pay the cost of the 8939
hearing before the registrar, if the registrar's order of 8940

suspension or impoundment is upheld. 8941

(C) Any order of suspension or impoundment issued under 8942
this section or division (B) of section 4509.37 of the Revised 8943
Code may be terminated at any time if the registrar determines 8944
upon a showing of proof of financial responsibility that the 8945
operator or owner of the motor vehicle was in compliance with 8946
division (A)(1) of this section at the time of the traffic 8947
offense, motor vehicle inspection, or accident that resulted in 8948
the order against the person. A determination may be made 8949
without a hearing. This division does not apply unless the 8950
person shows good cause for the person's failure to present 8951
satisfactory proof of financial responsibility to the registrar 8952
prior to the issuance of the order. 8953

(D) (1) (a) For the purpose of enforcing this section, every 8954
peace officer is deemed an agent of the registrar. 8955

(b) Any peace officer who, in the performance of the peace 8956
officer's duties as authorized by law, becomes aware of a person 8957
whose license is under an order of suspension, or whose 8958
certificate of registration and license plates are under an 8959
order of impoundment, pursuant to this section, may confiscate 8960
the license, certificate of registration, and license plates, 8961
and return them to the registrar. 8962

(2) A peace officer shall request the owner or operator of 8963
a motor vehicle to produce proof of financial responsibility in 8964
a manner described in division (G) of this section at the time 8965
the peace officer acts to enforce the traffic laws of this state 8966
and during motor vehicle inspections conducted pursuant to 8967
section 4513.02 of the Revised Code. 8968

(3) A peace officer shall indicate on every traffic ticket 8969

whether the person receiving the traffic ticket produced proof 8970
of the maintenance of financial responsibility in response to 8971
the officer's request under division (D) (2) of this section. The 8972
peace officer shall inform every person who receives a traffic 8973
ticket and who has failed to produce proof of the maintenance of 8974
financial responsibility that the person must submit proof to 8975
the traffic violations bureau with any payment of a fine and 8976
costs for the ticketed violation or, if the person is to appear 8977
in court for the violation, the person must submit proof to the 8978
court. 8979

(4) (a) If a person who has failed to produce proof of the 8980
maintenance of financial responsibility appears in court for a 8981
ticketed violation, the court may permit the defendant to 8982
present evidence of proof of financial responsibility to the 8983
court at such time and in such manner as the court determines to 8984
be necessary or appropriate. In a manner prescribed by the 8985
registrar, the clerk of courts shall provide the registrar with 8986
the identity of any person who fails to submit proof of the 8987
maintenance of financial responsibility pursuant to division (D) 8988
(3) of this section. 8989

(b) If a person who has failed to produce proof of the 8990
maintenance of financial responsibility also fails to submit 8991
that proof to the traffic violations bureau with payment of a 8992
fine and costs for the ticketed violation, the traffic 8993
violations bureau, in a manner prescribed by the registrar, 8994
shall notify the registrar of the identity of that person. 8995

(5) (a) Upon receiving notice from a clerk of courts or 8996
traffic violations bureau pursuant to division (D) (4) of this 8997
section, the registrar shall order the suspension of the license 8998
of the person required under division (A) (2) (a), (b), or (c) of 8999

this section and the impoundment of the person's certificate of 9000
registration and license plates required under division (A) (2) 9001
(d) of this section, effective thirty days after the date of the 9002
mailing of notification. The registrar also shall notify the 9003
person that the person must present the registrar with proof of 9004
financial responsibility in accordance with this section, 9005
surrender to the registrar the person's certificate of 9006
registration, license plates, and license, or submit a statement 9007
subject to section 2921.13 of the Revised Code that the person 9008
did not operate or permit the operation of the motor vehicle at 9009
the time of the offense. Notification shall be in writing and 9010
shall be sent to the person at the person's last known address 9011
as shown on the records of the bureau of motor vehicles. The 9012
person, within fifteen days after the date of the mailing of 9013
notification, shall present proof of financial responsibility, 9014
surrender the certificate of registration, license plates, and 9015
license to the registrar in a manner set forth in division (A) 9016
(4) of this section, or submit the statement required under this 9017
section together with other information the person considers 9018
appropriate. 9019

If the registrar does not receive proof or the person does 9020
not surrender the certificate of registration, license plates, 9021
and license, in accordance with this division, the registrar 9022
shall permit the order for the suspension of the license of the 9023
person and the impoundment of the person's certificate of 9024
registration and license plates to take effect. 9025

(b) In the case of a person who presents, within the 9026
fifteen-day period, proof of financial responsibility, the 9027
registrar shall terminate the order of suspension and the 9028
impoundment of the registration and license plates required 9029
under division (A) (2) (d) of this section and shall send written 9030

notification to the person, at the person's last known address 9031
as shown on the records of the bureau. 9032

(c) Any person adversely affected by the order of the 9033
registrar under division (D) (5) (a) or (b) of this section, 9034
within ten days after the issuance of the order, may request an 9035
administrative hearing before the registrar, who shall provide 9036
the person with an opportunity for a hearing in accordance with 9037
this paragraph. A request for a hearing does not operate as a 9038
suspension of the order. The scope of the hearing shall be 9039
limited to whether, at the time of the hearing, the person 9040
presents proof of financial responsibility covering the vehicle 9041
and whether the person is eligible for an exemption in 9042
accordance with this section or any rule adopted under it. The 9043
registrar shall determine the date, time, and place of any 9044
hearing; provided, that the hearing shall be held, and an order 9045
issued or findings made, within thirty days after the registrar 9046
receives a request for a hearing. If requested by the person, 9047
the hearing may be held remotely by electronic means. If 9048
requested by the person in writing, the registrar may designate 9049
as the place of hearing the county seat of the county in which 9050
the person resides or a place within fifty miles of the person's 9051
residence. Such person shall pay the cost of the hearing before 9052
the registrar, if the registrar's order of suspension or 9053
impoundment under division (D) (5) (a) or (b) of this section is 9054
upheld. 9055

(6) A peace officer may charge an owner or operator of a 9056
motor vehicle with a violation of section 4510.16 of the Revised 9057
Code when the owner or operator fails to show proof of the 9058
maintenance of financial responsibility pursuant to a peace 9059
officer's request under division (D) (2) of this section, if a 9060
check of the owner or operator's driving record indicates that 9061

the owner or operator, at the time of the operation of the motor 9062
vehicle, is required to file and maintain proof of financial 9063
responsibility under section 4509.45 of the Revised Code for a 9064
previous violation of this chapter. 9065

(7) Any forms used by law enforcement agencies in 9066
administering this section shall be prescribed, supplied, and 9067
paid for by the registrar. 9068

(8) No peace officer, law enforcement agency employing a 9069
peace officer, or political subdivision or governmental agency 9070
that employs a peace officer shall be liable in a civil action 9071
for damages or loss to persons arising out of the performance of 9072
any duty required or authorized by this section. 9073

(9) As used in this section, "peace officer" has the 9074
meaning set forth in section 2935.01 of the Revised Code. 9075

(E) All fees, except court costs, fees paid to a deputy 9076
registrar, and those portions of the financial responsibility 9077
reinstatement fees as otherwise specified in this division, 9078
collected under this section shall be paid into the state 9079
treasury to the credit of the public safety - highway purposes 9080
fund established in section 4501.06 of the Revised Code and used 9081
to cover costs incurred by the bureau in the administration of 9082
this section and sections 4503.20, 4507.212, and 4509.81 of the 9083
Revised Code, and by any law enforcement agency employing any 9084
peace officer who returns any license, certificate of 9085
registration, and license plates to the registrar pursuant to 9086
division (C) of this section. 9087

Of each financial responsibility reinstatement fee the 9088
registrar collects pursuant to division (A) (5) (a) of this 9089
section or receives from a deputy registrar under division (A) 9090

(5) (d) of this section, the registrar shall deposit twenty-five 9091
dollars of each one-hundred-dollar reinstatement fee, fifty 9092
dollars of each three-hundred-dollar reinstatement fee, and one 9093
hundred dollars of each six-hundred-dollar reinstatement fee 9094
into the state treasury to the credit of the indigent defense 9095
support fund created by section 120.08 of the Revised Code. 9096

(F) Chapter 119. of the Revised Code applies to this 9097
section only to the extent that any provision in that chapter is 9098
not clearly inconsistent with this section. 9099

(G) (1) (a) The registrar, court, traffic violations bureau, 9100
or peace officer may require proof of financial responsibility 9101
to be demonstrated by use of a standard form prescribed by the 9102
registrar. If the use of a standard form is not required, a 9103
person may demonstrate proof of financial responsibility under 9104
this section by presenting to the traffic violations bureau, 9105
court, registrar, or peace officer any of the following 9106
documents or a copy of the documents: 9107

(i) A financial responsibility identification card as 9108
provided in section 4509.103 of the Revised Code; 9109

(ii) A certificate of proof of financial responsibility on 9110
a form provided and approved by the registrar for the filing of 9111
an accident report required to be filed under section 4509.06 of 9112
the Revised Code; 9113

(iii) A policy of liability insurance, a declaration page 9114
of a policy of liability insurance, or liability bond, if the 9115
policy or bond complies with section 4509.20 or sections 4509.49 9116
to 4509.61 of the Revised Code; 9117

(iv) A bond or certification of the issuance of a bond as 9118
provided in section 4509.59 of the Revised Code; 9119

(v) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;	9120 9121
(vi) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.	9122 9123
(b) A person also may present proof of financial responsibility under this section to the traffic violations bureau, court, registrar, or peace officer through use of an electronic wireless communications device as specified under section 4509.103 of the Revised Code.	9124 9125 9126 9127 9128
(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.	9129 9130 9131 9132 9133 9134
(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect.	9135 9136 9137 9138 9139 9140
(4) (a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section.	9141 9142 9143 9144 9145 9146
(b) The preparation and delivery of a financial responsibility identification card or any other document	9147 9148

authorized to be used as proof of financial responsibility and 9149
the generation and delivery of proof of financial responsibility 9150
to an electronic wireless communications device that is 9151
displayed on the device as text or images does not do any of the 9152
following: 9153

(i) Create any liability or estoppel against an insurer or 9154
surety, or any of its officers, employees, agents, or 9155
representatives; 9156

(ii) Constitute an admission of the existence of, or of 9157
any liability or coverage under, any policy or bond; 9158

(iii) Waive any defenses or counterclaims available to an 9159
insurer, surety, agent, employee, or representative in an action 9160
commenced by an insured or third-party claimant upon a cause of 9161
action alleged to have arisen under an insurance policy or 9162
surety bond or by reason of the preparation and delivery of a 9163
document for use as proof of financial responsibility or the 9164
generation and delivery of proof of financial responsibility to 9165
an electronic wireless communications device. 9166

(c) Whenever it is determined by a final judgment in a 9167
judicial proceeding that an insurer or surety, which has been 9168
named on a document or displayed on an electronic wireless 9169
communications device accepted by a court or the registrar as 9170
proof of financial responsibility covering the operation of a 9171
motor vehicle at the time of an accident or offense, is not 9172
liable to pay a judgment for injuries or damages resulting from 9173
such operation, the registrar, notwithstanding any previous 9174
contrary finding, shall forthwith suspend the operating 9175
privileges and registration rights of the person against whom 9176
the judgment was rendered as provided in division (A) (2) of this 9177
section. 9178

(H) In order for any document or display of text or images 9179
on an electronic wireless communications device described in 9180
division (G) (1) of this section to be used for the demonstration 9181
of proof of financial responsibility under this section, the 9182
document or words or images shall state the name of the insured 9183
or obligor, the name of the insurer or surety company, and the 9184
effective and expiration dates of the financial responsibility, 9185
and designate by explicit description or by appropriate 9186
reference all motor vehicles covered which may include a 9187
reference to fleet insurance coverage. 9188

(I) For purposes of this section, "owner" does not include 9189
a licensed motor vehicle leasing dealer as defined in section 9190
4517.01 of the Revised Code, but does include a motor vehicle 9191
renting dealer as defined in section 4549.65 of the Revised 9192
Code. Nothing in this section or in section 4509.51 of the 9193
Revised Code shall be construed to prohibit a motor vehicle 9194
renting dealer from entering into a contractual agreement with a 9195
person whereby the person renting the motor vehicle agrees to be 9196
solely responsible for maintaining proof of financial 9197
responsibility, in accordance with this section, with respect to 9198
the operation, maintenance, or use of the motor vehicle during 9199
the period of the motor vehicle's rental. 9200

(J) The purpose of this section is to require the 9201
maintenance of proof of financial responsibility with respect to 9202
the operation of motor vehicles on the highways of this state, 9203
so as to minimize those situations in which persons are not 9204
compensated for injuries and damages sustained in motor vehicle 9205
accidents. The general assembly finds that this section contains 9206
reasonable civil penalties and procedures for achieving this 9207
purpose. 9208

(K) Nothing in this section shall be construed to be 9209
subject to section 4509.78 of the Revised Code. 9210

(L) (1) The registrar may terminate any suspension imposed 9211
under this section and not require the owner to comply with 9212
divisions (A) (5) (a), (b), and (c) of this section if the 9213
registrar with or without a hearing determines that the owner of 9214
the vehicle has established by clear and convincing evidence 9215
that all of the following apply: 9216

(a) The owner customarily maintains proof of financial 9217
responsibility. 9218

(b) Proof of financial responsibility was not in effect 9219
for the vehicle on the date in question for one of the following 9220
reasons: 9221

(i) The vehicle was inoperable. 9222

(ii) The vehicle is operated only seasonally, and the date 9223
in question was outside the season of operation. 9224

(iii) A person other than the vehicle owner or driver was 9225
at fault for the lapse of proof of financial responsibility 9226
through no fault of the owner or driver. 9227

(iv) The lapse of proof of financial responsibility was 9228
caused by excusable neglect under circumstances that are not 9229
likely to recur and do not suggest a purpose to evade the 9230
requirements of this chapter. 9231

(2) The registrar may grant an owner or driver relief for 9232
a reason specified in division (L) (1) (b) (iii) or (iv) of this 9233
section only if the owner or driver has not previously been 9234
granted relief under division (L) (1) (b) (iii) or (iv) of this 9235
section. 9236

(M) The registrar shall adopt rules in accordance with 9237
Chapter 119. of the Revised Code that are necessary to 9238
administer and enforce this section. The rules shall include 9239
procedures for the surrender of license plates upon failure to 9240
maintain proof of financial responsibility and provisions 9241
relating to reinstatement of registration rights, acceptable 9242
forms of proof of financial responsibility, the use of an 9243
electronic wireless communications device to present proof of 9244
financial responsibility, and verification of the existence of 9245
financial responsibility during the period of registration. 9246

(N) (1) When a person utilizes an electronic wireless 9247
communications device to present proof of financial 9248
responsibility, only the evidence of financial responsibility 9249
displayed on the device shall be viewed by the registrar, peace 9250
officer, employee or official of the traffic violations bureau, 9251
or the court. No other content of the device shall be viewed for 9252
purposes of obtaining proof of financial responsibility. 9253

(2) When a person provides an electronic wireless 9254
communications device to the registrar, a peace officer, an 9255
employee or official of a traffic violations bureau, or the 9256
court, the person assumes the risk of any resulting damage to 9257
the device unless the registrar, peace officer, employee, or 9258
official, or court personnel purposely, knowingly, or recklessly 9259
commits an action that results in damage to the device. 9260

Sec. 4510.03. (A) Every county court judge, mayor of a 9261
mayor's court, and clerk of a court of record shall keep a full 9262
record of every case in which a person is charged with any 9263
violation of any provision of sections 4511.01 to 4511.771 or 9264
4513.01 to 4513.36 of the Revised Code or of any other law or 9265
ordinance regulating the operation of vehicles, streetcars, and 9266

trackless trolleys on highways or streets. 9267

(B) If a person is convicted of or forfeits bail in 9268
relation to a violation of any section listed in division (A) of 9269
this section or a violation of any other law or ordinance 9270
regulating the operation of vehicles, streetcars, and trackless 9271
trolleys on highways or streets, the county court judge, mayor 9272
of a mayor's court, or clerk, within seven days after the 9273
conviction or bail forfeiture, shall prepare and immediately 9274
forward to the bureau of motor vehicles, in a secure electronic 9275
format, an abstract, certified by the preparer to be true and 9276
correct, of the court record covering the case in which the 9277
person was convicted or forfeited bail. Every court of record 9278
also shall forward to the bureau of motor vehicles, in a secure 9279
electronic format, an abstract of the court record as described 9280
in division (C) of this section upon the conviction of any 9281
person of aggravated vehicular homicide or vehicular homicide or 9282
of a felony in the commission of which a vehicle was used. 9283

(C) Each abstract required by this section shall be made 9284
upon a form approved and furnished by the bureau and shall 9285
include the name and address of the person charged, the number 9286
of the person's driver's or commercial driver's license, 9287
probationary driver's license, or temporary instruction permit, 9288
the registration number of the vehicle involved, the nature of 9289
the offense, the date of the offense, the date of hearing, the 9290
plea, the judgment, or whether bail was forfeited, and the 9291
amount of the fine or forfeiture. 9292

Sec. 4510.41. (A) As used in this section: 9293

(1) "Arrested person" means a person who is arrested for a 9294
violation of section 4510.14 or 4511.203 of the Revised Code, or 9295
a municipal ordinance that is substantially equivalent to either 9296

of those sections, and whose arrest results in a vehicle being 9297
seized under division (B) of this section. 9298

(2) "Vehicle owner" means either of the following: 9299

(a) The person in whose name is registered, at the time of 9300
the seizure, a vehicle that is seized under division (B) of this 9301
section; 9302

(b) A person to whom the certificate of title to a vehicle 9303
that is seized under division (B) of this section has been 9304
assigned and who has not obtained a certificate of title to the 9305
vehicle in that person's name, but who is deemed by the court as 9306
being the owner of the vehicle at the time the vehicle was 9307
seized under division (B) of this section. 9308

(3) "Interested party" includes the owner of a vehicle 9309
seized under this section, all lienholders, the arrested person, 9310
the owner of the place of storage at which a vehicle seized 9311
under this section is stored, and the person or entity that 9312
caused the vehicle to be removed. 9313

(B) (1) If a person is arrested for a violation of section 9314
4510.14 or 4511.203 of the Revised Code or a municipal ordinance 9315
that is substantially equivalent to either of those sections, 9316
the arresting officer or another officer of the law enforcement 9317
agency that employs the arresting officer, in addition to any 9318
action that the arresting officer is required or authorized to 9319
take by any other provision of law, shall seize the vehicle that 9320
the person was operating at the time of, or that was involved 9321
in, the alleged offense if the vehicle is registered in the 9322
arrested person's name and its license plates. A law enforcement 9323
agency that employs a law enforcement officer who makes an 9324
arrest of a type that is described in this division and that 9325

involves a rented or leased vehicle that is being rented or 9326
leased for a period of thirty days or less shall notify, within 9327
twenty-four hours after the officer makes the arrest, the lessor 9328
or owner of the vehicle regarding the circumstances of the 9329
arrest and the location at which the vehicle may be picked up. 9330
At the time of the seizure of the vehicle, the law enforcement 9331
officer who made the arrest shall give the arrested person 9332
written notice that the vehicle and its license plates have been 9333
seized; that the vehicle either will be kept by the officer's 9334
law enforcement agency or will be immobilized at least until the 9335
person's initial appearance on the charge of the offense for 9336
which the arrest was made; that, at the initial appearance, the 9337
court in certain circumstances may order that the vehicle and 9338
license plates be released to the arrested person until the 9339
disposition of that charge; that, if the arrested person is 9340
convicted of that charge, the court generally must order the 9341
immobilization of the vehicle and the impoundment of its license 9342
plates or the forfeiture of the vehicle; and that the arrested 9343
person may be charged expenses or charges incurred under this 9344
section and section 4503.233 of the Revised Code for the removal 9345
and storage of the vehicle. 9346

(2) The arresting officer or a law enforcement officer of 9347
the agency that employs the arresting officer shall give written 9348
notice of the seizure under division (B)(1) of this section to 9349
the court that will conduct the initial appearance of the 9350
arrested person on the charges arising out of the arrest. Upon 9351
receipt of the notice, the court promptly shall determine 9352
whether the arrested person is the vehicle owner. If the court 9353
determines that the arrested person is not the vehicle owner, it 9354
promptly shall send by regular mail written notice of the 9355
seizure to the vehicle's registered owner. The written notice 9356

shall contain all of the information required by division (B) (1) 9357
of this section to be in a notice to be given to the arrested 9358
person and also shall specify the date, time, and place of the 9359
arrested person's initial appearance. The notice also shall 9360
inform the vehicle owner that if title to a motor vehicle that 9361
is subject to an order for criminal forfeiture under this 9362
section is assigned or transferred and division (B) (2) or (3) of 9363
section 4503.234 of the Revised Code applies, the court may fine 9364
the arrested person the value of the vehicle. The notice also 9365
shall state that if the vehicle is immobilized under division 9366
(A) of section 4503.233 of the Revised Code, seven days after 9367
the end of the period of immobilization a law enforcement agency 9368
will send the vehicle owner a notice, informing the owner that 9369
if the release of the vehicle is not obtained in accordance with 9370
division (D) (3) of section 4503.233 of the Revised Code, the 9371
vehicle shall be forfeited. The notice also shall inform the 9372
vehicle owner that the owner may be charged expenses or charges 9373
incurred under this section and section 4503.233 of the Revised 9374
Code for the removal and storage of the vehicle. 9375

The written notice that is given to the arrested person 9376
also shall state that if the person is convicted of or pleads 9377
guilty to the offense and the court issues an immobilization and 9378
impoundment order relative to that vehicle, division (D) (4) of 9379
section 4503.233 of the Revised Code prohibits the vehicle from 9380
being sold during the period of immobilization without the prior 9381
approval of the court. 9382

(3) At or before the initial appearance, the vehicle owner 9383
may file a motion requesting the court to order that the vehicle 9384
and its license plates be released to the vehicle owner. Except 9385
as provided in this division and subject to the payment of 9386
expenses or charges incurred in the removal and storage of the 9387

vehicle, the court, in its discretion, then may issue an order 9388
releasing the vehicle and its license plates to the vehicle 9389
owner. Such an order may be conditioned upon such terms as the 9390
court determines appropriate, including the posting of a bond in 9391
an amount determined by the court. If the arrested person is not 9392
the vehicle owner and if the vehicle owner is not present at the 9393
arrested person's initial appearance, and if the court believes 9394
that the vehicle owner was not provided with adequate notice of 9395
the initial appearance, the court, in its discretion, may allow 9396
the vehicle owner to file a motion within seven days of the 9397
initial appearance. If the court allows the vehicle owner to 9398
file such a motion after the initial appearance, the extension 9399
of time granted by the court does not extend the time within 9400
which the initial appearance is to be conducted. If the court 9401
issues an order for the release of the vehicle and its license 9402
plates, a copy of the order shall be made available to the 9403
vehicle owner. If the vehicle owner presents a copy of the order 9404
to the law enforcement agency that employs the law enforcement 9405
officer who arrested the arrested person, the law enforcement 9406
agency promptly shall release the vehicle and its license plates 9407
to the vehicle owner upon payment by the vehicle owner of any 9408
expenses or charges incurred in the removal or storage of the 9409
vehicle. 9410

(4) A vehicle seized under division (B)(1) of this section 9411
either shall be towed to a place specified by the law 9412
enforcement agency that employs the arresting officer to be 9413
safely kept by the agency at that place for the time and in the 9414
manner specified in this section or shall be otherwise 9415
immobilized for the time and in the manner specified in this 9416
section. ~~A law enforcement officer of that agency shall remove~~ 9417
~~the identification license plates of the vehicle, and they shall~~ 9418

~~be safely kept by the agency for the time and in the manner~~ 9419
~~specified in this section. The license plates shall remain on~~ 9420
~~the seized vehicle unless otherwise ordered by the court. No~~ 9421
vehicle that is seized and either towed or immobilized pursuant 9422
to this division shall be considered contraband for purposes of 9423
Chapter 2981. of the Revised Code. The vehicle shall not be 9424
immobilized at any place other than a commercially operated 9425
private storage lot, a place owned by a law enforcement or other 9426
government agency, or a place to which one of the following 9427
applies: 9428

(a) The place is leased by or otherwise under the control 9429
of a law enforcement or other government agency. 9430

(b) The place is owned by the arrested person, the 9431
arrested person's spouse, or a parent or child of the arrested 9432
person. 9433

(c) The place is owned by a private person or entity, and, 9434
prior to the immobilization, the private entity or person that 9435
owns the place, or the authorized agent of that private entity 9436
or person, has given express written consent for the 9437
immobilization to be carried out at that place. 9438

(d) The place is a public street or highway on which the 9439
vehicle is parked in accordance with the law. 9440

(C) (1) A vehicle seized under division (B) (1) of this 9441
section shall be safely kept at the place to which it is towed 9442
or otherwise moved by the law enforcement agency that employs 9443
the arresting officer until the initial appearance of the 9444
arrested person relative to the charge in question. The license 9445
plates ~~of shall remain on the seized vehicle that are removed~~ 9446
~~pursuant to division (B) (1) of this section shall be safely kept~~ 9447

~~by the law enforcement agency that employs the arresting officer—~~ 9448
~~until at least the initial appearance of the arrested person—~~ 9449
~~relative to the charge in question~~unless otherwise ordered by 9450
the court. 9451

(2) (a) At the initial appearance or not less than seven 9452
days prior to the date of final disposition, the court shall 9453
notify the arrested person that, if title to a motor vehicle 9454
that is subject to an order for criminal forfeiture under this 9455
section is assigned or transferred and division (B) (2) or (3) of 9456
section 4503.234 of the Revised Code applies, the court may fine 9457
the arrested person the value of the vehicle. If, at the initial 9458
appearance, the arrested person pleads guilty to the violation 9459
of section 4510.14 or 4511.203 of the Revised Code, or a 9460
municipal ordinance that is substantially equivalent to either 9461
of those sections or pleads no contest to and is convicted of 9462
the violation, the following sentencing provisions apply: 9463

(i) If the person violated section 4510.14 of the Revised 9464
Code or a municipal ordinance that is substantially equivalent 9465
to that section, the court shall impose sentence upon the person 9466
as provided by law or ordinance; the court shall order the 9467
immobilization of the vehicle the arrested person was operating 9468
at the time of, or that was involved in, the offense if 9469
registered in the arrested person's name and the impoundment of 9470
its license plates under sections 4503.233 and 4510.14 of the 9471
Revised Code or the criminal forfeiture to the state of the 9472
vehicle if registered in the arrested person's name under 9473
sections 4503.234 and 4510.14 of the Revised Code, whichever is 9474
applicable; and the vehicle and its license plates shall not be 9475
returned or released to the arrested person. 9476

(ii) If the person violated section 4511.203 of the 9477

Revised Code or a municipal ordinance that is substantially 9478
equivalent to that section, the court shall impose sentence upon 9479
the person as provided by law or ordinance; the court may order 9480
the immobilization of the vehicle the arrested person was 9481
operating at the time of, or that was involved in, the offense 9482
if registered in the arrested person's name and the impoundment 9483
of its license plates under section 4503.233 and section 9484
4511.203 of the Revised Code or the criminal forfeiture to the 9485
state of the vehicle if registered in the arrested person's name 9486
under section 4503.234 and section 4511.203 of the Revised Code, 9487
whichever is applicable; and the vehicle and its license plates 9488
shall not be returned or released to the arrested person. 9489

(b) If, at any time, the charge that the arrested person 9490
violated section 4510.14 or 4511.203 of the Revised Code, or a 9491
municipal ordinance that is substantially equivalent to either 9492
of those sections is dismissed for any reason, the court shall 9493
order that the vehicle seized at the time of the arrest and its 9494
license plates immediately be released to the person. 9495

(D) If a vehicle and its license plates are seized under 9496
division (B) (1) of this section and are not returned or released 9497
to the arrested person pursuant to division (C) of this section, 9498
the vehicle and its license plates shall be retained until the 9499
final disposition of the charge in question. Upon the final 9500
disposition of that charge, the court shall do whichever of the 9501
following is applicable: 9502

(1) If the arrested person is convicted of or pleads 9503
guilty to the violation of section 4510.14 of the Revised Code 9504
or a municipal ordinance that is substantially equivalent to 9505
that section, the court shall impose sentence upon the person as 9506
provided by law or ordinance and shall order the immobilization 9507

of the vehicle the person was operating at the time of, or that 9508
was involved in, the offense if it is registered in the arrested 9509
person's name and the impoundment of its license plates under 9510
sections 4503.233 and 4510.14 of the Revised Code or the 9511
criminal forfeiture of the vehicle if it is registered in the 9512
arrested person's name under sections 4503.234 and 4510.14 of 9513
the Revised Code, whichever is applicable. 9514

(2) If the arrested person is convicted of or pleads 9515
guilty to the violation of section 4511.203 of the Revised Code, 9516
or a municipal ordinance that is substantially equivalent to 9517
that section, the court shall impose sentence upon the person as 9518
provided by law or ordinance and may order the immobilization of 9519
the vehicle the person was operating at the time of, or that was 9520
involved in, the offense if it is registered in the arrested 9521
person's name and the impoundment of its license plates under 9522
section 4503.233 and section 4511.203 of the Revised Code or the 9523
criminal forfeiture of the vehicle if it is registered in the 9524
arrested person's name under section 4503.234 and section 9525
4511.203 of the Revised Code, whichever is applicable. 9526

(3) If the arrested person is found not guilty of the 9527
violation of section 4510.14 or 4511.203 of the Revised Code, or 9528
a municipal ordinance that is substantially equivalent to either 9529
of those sections, the court shall order that the vehicle and 9530
its license plates immediately be released to the arrested 9531
person. 9532

(4) If the charge that the arrested person violated 9533
section 4510.14 or 4511.203 of the Revised Code, or a municipal 9534
ordinance that is substantially equivalent to either of those 9535
sections is dismissed for any reason, the court shall order that 9536
the vehicle and its license plates immediately be released to 9537

the arrested person. 9538

(5) If the impoundment of the vehicle was not authorized 9539
under this section, the court shall order that the vehicle and 9540
its license plates be returned immediately to the arrested 9541
person or, if the arrested person is not the vehicle owner, to 9542
the vehicle owner and shall order that the state or political 9543
subdivision of the law enforcement agency served by the law 9544
enforcement officer who seized the vehicle pay all expenses and 9545
charges incurred in its removal and storage. 9546

(E) If a vehicle is seized under division (B) (2) of this 9547
section, the time between the seizure of the vehicle and either 9548
its release to the arrested person pursuant to division (C) of 9549
this section or the issuance of an order of immobilization of 9550
the vehicle under section 4503.233 of the Revised Code shall be 9551
credited against the period of immobilization ordered by the 9552
court. 9553

(F) (1) Except as provided in division (D) (4) of this 9554
section, the arrested person may be charged expenses or charges 9555
incurred in the removal and storage of the immobilized vehicle. 9556
The court with jurisdiction over the case, after notice to all 9557
interested parties, including lienholders, and after an 9558
opportunity for them to be heard, if the court finds that the 9559
arrested person does not intend to seek release of the vehicle 9560
at the end of the period of immobilization under section 9561
4503.233 of the Revised Code or that the arrested person is not 9562
or will not be able to pay the expenses and charges incurred in 9563
its removal and storage, may order that title to the vehicle be 9564
transferred, in order of priority, first into the name of the 9565
person or entity that removed it, next into the name of a 9566
lienholder, or lastly into the name of the owner of the place of 9567

storage. 9568

Any lienholder that receives title under a court order 9569
shall do so on the condition that it pay any expenses or charges 9570
incurred in the vehicle's removal and storage. If the person or 9571
entity that receives title to the vehicle is the person or 9572
entity that removed it, the person or entity shall receive title 9573
on the condition that it pay any lien on the vehicle. The court 9574
shall not order that title be transferred to any person or 9575
entity other than the owner of the place of storage if the 9576
person or entity refuses to receive the title. Any person or 9577
entity that receives title either may keep title to the vehicle 9578
or may dispose of the vehicle in any legal manner that it 9579
considers appropriate, including assignment of the certificate 9580
of title to the motor vehicle to a salvage dealer or a scrap 9581
metal processing facility. The person or entity shall not 9582
transfer the vehicle to the person who is the vehicle's 9583
immediate previous owner. 9584

If the person or entity that receives title assigns the 9585
motor vehicle to a salvage dealer or scrap metal processing 9586
facility, the person or entity shall send the assigned 9587
certificate of title to the motor vehicle to the clerk of the 9588
court of common pleas of the county in which the salvage dealer 9589
or scrap metal processing facility is located. The person or 9590
entity shall mark the face of the certificate of title with the 9591
words "FOR DESTRUCTION" and shall deliver a photocopy of the 9592
certificate of title to the salvage dealer or scrap metal 9593
processing facility for its records. 9594

(2) Whenever a court issues an order under division (F) (1) 9595
of this section, the court also shall order removal of the 9596
license plates from the vehicle and cause them to be sent to the 9597

registrar if they have not already been sent to the registrar. 9598
Thereafter, no further proceedings shall take place under this 9599
section or under section 4503.233 of the Revised Code. 9600

(3) Prior to initiating a proceeding under division (F) (1) 9601
of this section, and upon payment of the fee under division (B) 9602
of section 4505.14, any interested party may cause a search to 9603
be made of the public records of the bureau of motor vehicles or 9604
the clerk of the court of common pleas, to ascertain the 9605
identity of any lienholder of the vehicle. The initiating party 9606
shall furnish this information to the clerk of the court with 9607
jurisdiction over the case, and the clerk shall provide notice 9608
to the arrested person, any lienholder, and any other interested 9609
parties listed by the initiating party, at the last known 9610
address supplied by the initiating party, by certified mail, or, 9611
at the option of the initiating party, by personal service or 9612
ordinary mail. 9613

Sec. 4701.04. (A) No public accounting firm located in 9614
this state shall engage in the practice of public accounting in 9615
this state unless it registers with the accountancy board and 9616
pays a registration fee set by the board. 9617

(B) Public accounting firms shall apply for initial 9618
registration within ninety days after formation or within ninety 9619
days after the commencement of practicing public accounting in 9620
this state. All public accounting firms shall renew their 9621
registration triennially. All public accounting firms shall 9622
submit with their initial and renewal registration applications 9623
all of the following: 9624

(1) A list of the names, addresses, and certificate or 9625
registration numbers of all individuals who hold an Ohio permit 9626
and who own an equity interest in the public accounting firm or 9627

are employed by the public accounting firm; 9628

(2) A list of the names and addresses of each person who 9629
does not hold an Ohio permit or a foreign certificate and who 9630
owns an equity interest in the public accounting firm if the 9631
person's principal place of business is located in this state; 9632

(3) A statement that the public accounting firm and each 9633
person who owns an equity interest in the public accounting firm 9634
or is employed by the public accounting firm and who does not 9635
hold an Ohio permit or a foreign certificate is in compliance 9636
with divisions (C) and (D) of this section. 9637

(C) A public accounting firm shall satisfy all of the 9638
following requirements in order to register: 9639

(1) Except as provided in division (C) (5) of this section, 9640
each partner, shareholder, member, or other person who owns an 9641
equity interest in the public accounting firm shall hold an Ohio 9642
permit or a foreign certificate. 9643

(2) The public accounting firm shall designate an 9644
individual who holds an Ohio permit who shall be responsible for 9645
the proper registration of the firm. The public accounting firm 9646
shall identify this individual to the board. 9647

(3) Each individual in a public accounting firm who signs 9648
any attest report issued from an office of the public accounting 9649
firm located in this state shall hold an Ohio permit. 9650

(4) An individual who owns an equity interest in the 9651
public accounting firm or is employed by the public accounting 9652
firm and who holds an Ohio permit or a foreign certificate, or a 9653
qualified firm that owns an equity interest in the public 9654
accounting firm, shall assume ultimate responsibility for any 9655
attest report issued from an office of the public accounting 9656

firm located in this state. 9657

(5) Any person who does not hold an Ohio permit or a 9658
foreign certificate and who holds an equity interest in the 9659
public accounting firm shall satisfy the conditions set forth in 9660
division (D) of this section. 9661

(6) The public accounting firm shall provide for the 9662
transfer of the equity interest owned by persons who do not hold 9663
an Ohio permit or a foreign certificate to either the public 9664
accounting firm or to another person who owns an equity interest 9665
in the firm if a person who does not hold an Ohio permit or a 9666
foreign certificate withdraws from or ceases to be employed by 9667
the public accounting firm. The public accounting firm may make 9668
payments in connection with the person's withdrawal from the 9669
firm to that person or, if that person is deceased or dissolved, 9670
to the person's estate or successor in interest. 9671

(D) A person who does not hold an Ohio permit or a foreign 9672
certificate may own an equity interest in a public accounting 9673
firm if all of the following conditions are met: 9674

(1) All of the individuals who hold an Ohio permit or a 9675
foreign certificate and who own equity interests in the public 9676
accounting firm, and qualified firms that own equity interests 9677
in the public accounting firm, own, in the aggregate, a majority 9678
of the equity interests in the public accounting firm and 9679
control the public accounting firm. 9680

(2) The person does not assume or use any titles or 9681
designations specified in division (A) of section 4701.14 of the 9682
Revised Code. The person may designate or refer to the person as 9683
a shareholder, partner, member, principal, owner, or officer of 9684
the public accounting firm and also may use any other title that 9685

the board authorizes by rule. 9686

(3) The person is not in violation of any standard 9687
regarding the character or conduct of that person that the board 9688
establishes by rule. 9689

(4) The person's participation in the business of the 9690
public accounting firm is the person's principal occupation and 9691
consists of providing services to or on behalf of the public 9692
accounting firm, and the person is not functioning solely or 9693
predominately as a passive investor in the public accounting 9694
firm. 9695

(5) The person meets or exceeds the continuing education 9696
requirements that the board establishes by rule. 9697

(6) A person who holds a professional license, 9698
registration, or certification issued by this state or another 9699
state complies with the requirements of that license, 9700
registration, or certification. 9701

(7) The person abides by the code of conduct of the 9702
American institute of certified public accountants or a 9703
comparable code of professional conduct that the board adopts by 9704
rule. 9705

(8) The person complies with all applicable provisions of 9706
this chapter and the rules adopted by the board. 9707

(E) A person who owns a voting equity interest in a public 9708
accounting firm may not delegate, by proxy or otherwise, the 9709
duty to exercise any voting rights to a person that does not 9710
hold an Ohio permit or a foreign certificate or to a person that 9711
is not a qualified firm. 9712

(F) As a condition for initial or renewal registration of 9713

a public accounting firm on and after January 1, 1993, the board, by rule, shall require that each public accounting firm undergo a peer review to determine the public accounting firm's degree of compliance in the practice of public accounting with generally accepted accounting principles, generally accepted auditing standards, and other generally accepted technical standards as defined by the board in rule, unless the public accounting firm meets one of the exceptions in division (J) of this section.

(G) The board shall adopt rules establishing guidelines for peer reviews, and may authorize an agent to administer all or part of the board's peer review program and to assess a reasonable fee to firms to cover the costs incurred by the agent for program administration. The rules shall do all of the following:

(1) Designate a peer review committee consisting of accounting professionals to serve as advisors to the board and to ensure that the board's guidelines are followed.

(2) Require that the peer review be conducted by a reviewer that is both independent of the public accounting firm reviewed and qualified pursuant to board rules;

(3) Require that the standards and practices applied by the reviewer be at least as stringent as those applied by the American institute of certified public accountants;

(4) Prohibit the use or disclosure of information obtained by members of the board or a committee of peer reviewers during or in connection with the peer review process for purposes other than those related to determining the degree of compliance by the public accounting firm with generally accepted accounting

principles, generally accepted auditing standards, and other 9743
generally accepted technical standards as defined by the board 9744
in rule. Division (G) (4) of this section does not apply to the 9745
use or disclosure of information that is described in division 9746
(K) (3) of this section or that is necessary to comply with any 9747
provision of law. 9748

(H) (1) If a peer review report indicates that a public 9749
accounting firm does not comply with standards and practices set 9750
forth in the rules adopted by the board, the board, in its 9751
discretion, may review the results of the peer review report. If 9752
the board, or its authorized peer review program administrator, 9753
determines that the public accounting firm does not comply with 9754
the standards and practices, it may require both of the 9755
following: 9756

(a) Remedial action, which may include any of the 9757
following: 9758

(i) Requiring employees of the public accounting firm to 9759
complete general or specific continuing professional education 9760
courses; 9761

(ii) Requiring the public accounting firm to undergo peer 9762
review more frequently than triennially and peer review that is 9763
conducted in whole or part under the direct supervision of the 9764
board or its designee; 9765

(iii) Any other remedial action specified by the board. 9766

(b) An affidavit and supporting documentation from the 9767
public accounting firm submitted within the time specified by 9768
the board indicating completion of required remedial actions. 9769

(2) If the board, or its authorized peer review program 9770
administrator, determines that a public accounting firm has not 9771

complied with any requirement ordered under division (H) of this 9772
section, or if the board determines, after the review of a peer 9773
review report, that the public accounting firm has a history of 9774
noncompliance with standards and practices set forth in board 9775
rules, the board may hold a hearing to determine the extent of 9776
the firm's noncompliance. If the board, after conducting the 9777
hearing, determines that the public accounting firm does not 9778
comply with appropriate standards and practices, the board may 9779
issue an order that imposes any disciplinary measure set forth 9780
in division (B) of section 4701.16 of the Revised Code. 9781

(3) Notwithstanding divisions (K) (1) and (2) of this 9782
section, all matters relating to the procedures for determining 9783
compliance with the standards and practices under division (H) 9784
(2) of this section are subject to Chapter 119. of the Revised 9785
Code, including the notice and conduct of any hearing and the 9786
issuance and appeal of any order. Remedial orders made under 9787
division (H) (1) of this section are not subject to Chapter 119. 9788
of the Revised Code. 9789

(I) The public accounting firm reviewed shall pay for any 9790
peer review performed. 9791

(J) The board may exempt a public accounting firm from the 9792
requirement to undergo a peer review if the public accounting 9793
firm submits to the board a written ~~and notarized~~ statement that 9794
the public accounting firm meets at least one of the following 9795
grounds for exemption identified in the statement: 9796

(1) Within three years of the date of application for 9797
initial or renewal registration, the public accounting firm has 9798
completed a peer review acceptable to the board and conducted 9799
pursuant to standards not less stringent than the peer review 9800
standards promulgated by the American institute of certified 9801

public accountants. A peer review that does not comply with 9802
standards and practices set forth in the rules adopted by the 9803
board and that may subject a public accounting firm to remedial 9804
or disciplinary action pursuant to division (H) of this section, 9805
does not qualify as an acceptable peer review. The public 9806
accounting firm shall submit to the board a copy of the results 9807
of the peer review and any additional documentation required by 9808
the board. The board shall not require submittal of the working 9809
papers related to the peer review process. 9810

(2) Within three years of the date of application for 9811
initial or renewal registration, the public accounting firm has 9812
completed a peer review acceptable to the board that was 9813
conducted in another state or foreign country. The public 9814
accounting firm shall submit to the board a copy of the results 9815
of the peer review and any additional documentation required by 9816
the board, including a detailed report of the procedures and 9817
standards applied by the reviewer. 9818

(3) The public accounting firm has never practiced public 9819
accounting in this state or any other state or foreign country, 9820
will complete a peer review acceptable to the board within 9821
eighteen months of initial registration, and will review its 9822
registration with the board two years after initial registration 9823
as specified in rules the board adopts. 9824

(4) The public accounting firm, on a schedule as required 9825
by rule adopted by the board, submits a report to the board that 9826
states all of the following: 9827

(a) The public accounting firm does not undertake any 9828
engagement that will result in the issuance of an attest report 9829
or other engagement that is subject to peer review in accordance 9830
with division (F) of this section. 9831

(b) The public accounting firm agrees to notify the board 9832
within ninety days after accepting any engagement that will 9833
result in the issuance of any attest report or other engagement 9834
that is subject to peer review in accordance with division (F) 9835
of this section and will complete a peer review acceptable to 9836
the board within one year after the acceptance of an engagement 9837
of that nature. 9838

(5) Subject to the board's approval and for good cause as 9839
defined in rules the board adopts, the public accounting firm is 9840
entitled to an exemption. 9841

(K) In any civil action, arbitration, or administrative 9842
proceeding involving a public accounting firm, all of the 9843
following shall apply: 9844

(1) The proceedings, records, and work papers of any 9845
reviewer, including board members and review committee members, 9846
involved in the peer review process are privileged and not 9847
subject to discovery, subpoena, or other means of legal process 9848
and may not be introduced into evidence. 9849

(2) No reviewer, including board members and review 9850
committee members, involved in the peer review process shall be 9851
permitted or required to testify as to any matters produced, 9852
presented, disclosed, or discussed during or in connection with 9853
the peer review process or shall be required to testify to any 9854
finding, recommendation, evaluation, opinion, or other actions 9855
of those committees or their members. 9856

(3) No privilege exists under this section for either of 9857
the following: 9858

(a) Information presented or considered in the peer review 9859
process that was otherwise available to the public; 9860

(b) Materials prepared in connection with a particular 9861
engagement merely because they subsequently are presented or 9862
considered as part of the peer review process. 9863

(L) (1) If a peer review report indicates that a public 9864
accounting firm complies with standards and practices set forth 9865
in rules adopted by the board, the board shall destroy all 9866
documents and reports related to the peer review within thirty 9867
days after the board completes its review of the report. 9868

(2) If a peer review report indicates that a public 9869
accounting firm does not comply with those standards and 9870
practices set forth in rules adopted by the board, the board 9871
shall retain all documents and reports related to the peer 9872
review until completion of the next peer review that complies 9873
with standards and practices set forth in rules adopted by the 9874
board pursuant to division (G) of this section. The board also 9875
may use these documents to determine a history of noncompliance 9876
with standards and practices in any proceeding held under 9877
division (H) (2) of this section. 9878

Sec. 4735.13. (A) Every real estate broker licensed under 9879
this chapter shall have and maintain a definite place of 9880
business in this state. A post office box address is not a 9881
definite place of business for purposes of this section. The 9882
license of a real estate broker shall be prominently displayed 9883
in the office or place of business of the broker, and no license 9884
shall authorize the licensee to do business except from the 9885
location specified in it. If the broker maintains more than one 9886
place of business within the state, the broker shall apply for 9887
and procure a duplicate license for each branch office 9888
maintained by the broker. Each branch office shall be in the 9889
charge of a licensed broker or salesperson. The branch office 9890

license shall be prominently displayed at the branch office 9891
location. 9892

(B) The license of each real estate salesperson shall be 9893
electronically mailed to and remain in the possession of the 9894
licensed broker with whom the salesperson is or is to be 9895
associated until the licensee places the license on inactive or 9896
resigned status or until the salesperson leaves the brokerage or 9897
is terminated. The broker shall keep a copy of each 9898
salesperson's license in a way that it can, and shall on 9899
request, be made immediately available for public inspection at 9900
the office or place of business of the broker. Except as 9901
provided in divisions (G) and (H) of this section, immediately 9902
upon the salesperson's leaving the association or termination of 9903
the association of a real estate salesperson with the broker, 9904
the broker shall ~~return the salesperson's license to~~ notify the 9905
superintendent of real estate by electronic mail to the division 9906
of real estate's general electronic mail address. The broker 9907
shall keep a copy of the written notification for three years 9908
after it is sent. 9909

The failure of a broker to ~~return the license~~ notify the 9910
superintendent of real estate in writing of a real estate 9911
salesperson or broker who leaves or who is terminated, via 9912
~~certified electronic mail return receipt requested~~, within three 9913
business days of the receipt of a written request from the 9914
superintendent for ~~the return of the licenses~~ such notification, 9915
is prima-facie evidence of misconduct under division (A) (6) of 9916
section 4735.18 of the Revised Code. 9917

(C) A licensee shall notify the superintendent in writing 9918
within fifteen days of any of the following occurrences: 9919

(1) The licensee is convicted of a felony. 9920

(2) The licensee is convicted of a crime involving moral turpitude.	9921 9922
(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing.	9923 9924 9925
(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.	9926 9927 9928 9929
(5) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.	9930 9931 9932 9933
(6) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.	9934 9935 9936 9937
If a licensee fails to notify the superintendent within the required time, the superintendent immediately may suspend the license of the licensee.	9938 9939 9940
Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.	9941 9942 9943 9944
(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a	9945 9946 9947 9948 9949

business location without giving the required notice and without 9950
receiving new licenses that action is prima-facie evidence of 9951
misconduct under division (A) (6) of section 4735.18 of the 9952
Revised Code. 9953

(E) If a real estate broker desires to associate with 9954
another real estate broker in the capacity of a real estate 9955
salesperson, the broker shall apply to the superintendent to 9956
deposit the broker's real estate broker's license with the 9957
superintendent and for the issuance of a real estate 9958
salesperson's license. The application shall be made on a form 9959
prescribed by the superintendent and shall be accompanied by the 9960
recommendation of the real estate broker with whom the applicant 9961
intends to become associated and a fee of thirty-four dollars 9962
for the real estate salesperson's license. One dollar of the fee 9963
shall be credited to the real estate education and research 9964
fund. If the superintendent is satisfied that the applicant is 9965
honest and truthful, has not been convicted of a disqualifying 9966
offense as determined in accordance with section 9.79 of the 9967
Revised Code, and has not been finally adjudged by a court to 9968
have violated any municipal, state, or federal civil rights laws 9969
relevant to the protection of purchasers or sellers of real 9970
estate, and that the association of the real estate broker and 9971
the applicant will be in the public interest, the superintendent 9972
shall grant the application and issue a real estate 9973
salesperson's license to the applicant. Any license so deposited 9974
with the superintendent shall be subject to this chapter. A 9975
broker who intends to deposit the broker's license with the 9976
superintendent, as provided in this section, shall give written 9977
notice of this fact in a format prescribed by the superintendent 9978
to all salespersons associated with the broker when applying to 9979
place the broker's license on deposit. 9980

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of thirty-four dollars. One dollar of the fee shall be credited to the real estate education and research fund.

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G) (1) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter.

Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge or within the amount of time equal to the total number of months the licensee spent on active duty,

whichever is greater. The licensee shall submit proper 10011
documentation of active duty service and the length of that 10012
active duty service to the superintendent. The extension shall 10013
not exceed the total number of months that the licensee served 10014
in active duty. The superintendent shall notify the licensee of 10015
the licensee's obligations under section 4735.141 of the Revised 10016
Code at the time the licensee applies for reactivation of the 10017
licensee's license. 10018

(2) If a licensee is a spouse of a member of the armed 10019
forces and the spouse's service resulted in the licensee's 10020
absence from this state, both of the following apply: 10021

(a) The licensee shall not be required to renew the 10022
license until the renewal date that follows the date of the 10023
spouse's discharge from the armed forces. 10024

(b) If the licensee fails to meet the continuing education 10025
requirements of section 4735.141 of the Revised Code, the 10026
licensee shall satisfy the commission that the licensee has 10027
complied with the continuing education requirements within 10028
twelve months after the licensee's first birthday after the 10029
spouse's discharge or within the amount of time equal to the 10030
total number of months the licensee's spouse spent on active 10031
duty, whichever is greater. The licensee shall submit proper 10032
documentation of the spouse's active duty service and the length 10033
of that active duty service. This extension shall not exceed the 10034
total number of months that the licensee's spouse served in 10035
active duty. 10036

(3) In the case of a licensee as described in division (G) 10037
(2) of this section, who holds the license through a reciprocity 10038
agreement with another state, the spouse's service shall have 10039
resulted in the licensee's absence from the licensee's state of 10040

residence for the provisions of that division to apply. 10041

(4) As used in this division, "armed forces" means the 10042
armed forces of the United States or reserve component of the 10043
armed forces of the United States including the Ohio national 10044
guard or the national guard of any other state. 10045

(H) If a licensed real estate salesperson submits an 10046
application to the superintendent to leave the association of 10047
one broker to associate with a different broker, the broker 10048
possessing the licensee's license need not ~~return the~~ 10049
~~salesperson's license to notify the superintendent pursuant to~~ 10050
division (B) of this section. The superintendent may process the 10051
application regardless of whether the licensee's license is 10052
returned to the superintendent or the superintendent is notified 10053
pursuant to division (B) of this section. 10054

Sec. 4735.14. (A) Each license issued under this chapter, 10055
shall be valid without further recommendation or examination 10056
until it is placed in an inactive or resigned status, is revoked 10057
or suspended, or such license expires by operation of law. 10058

(B) Except for a licensee who has placed the licensee's 10059
license in resigned status pursuant to section 4735.142 of the 10060
Revised Code, each licensed broker, brokerage, or salesperson 10061
shall file, on or before the date the Ohio real estate 10062
commission has adopted by rule for that licensee in accordance 10063
with division (A) (2) (f) of section 4735.10 of the Revised Code, 10064
a notice of renewal on a form prescribed by the superintendent 10065
of real estate. The notice of renewal shall be ~~mailed sent~~ by 10066
the superintendent two months prior to the filing deadline to 10067
the ~~personal residence~~ electronic mail address of each broker or 10068
salesperson that is on file with the division. If the licensee 10069
is a partnership, association, limited liability company, 10070

limited liability partnership, or corporation, the notice of 10071
renewal shall be ~~mailed-sent~~ by the superintendent two months 10072
prior to the filing deadline to the brokerage's business 10073
electronic mail address on file with the division. A licensee 10074
shall not renew the licensee's license any earlier than two 10075
months prior to the filing deadline. 10076

(C) Except as otherwise provided in division (B) of this 10077
section, the license of any real estate broker, brokerage, or 10078
salesperson that fails to file a notice of renewal on or before 10079
the filing deadline of each ensuing year shall be suspended 10080
automatically without the taking of any action by the 10081
superintendent. A suspended license may be reactivated within 10082
twelve months of the date of suspension, provided that the 10083
renewal fee plus a penalty fee of fifty per cent of the renewal 10084
fee is paid to the superintendent. Failure to reactivate the 10085
license as provided in this division shall result in automatic 10086
revocation of the license without the taking of any action by 10087
the superintendent. No person, partnership, association, 10088
corporation, limited liability company, or limited partnership 10089
shall engage in any act or acts for which a real estate license 10090
is required while that entity's license is placed in an inactive 10091
or resigned status, or is suspended, or revoked. The commission 10092
shall adopt rules in accordance with Chapter 119. of the Revised 10093
Code to provide to licensees notice of suspension or revocation 10094
or both. 10095

(D) Each licensee shall notify the superintendent of a 10096
change in personal residence address within thirty days after 10097
the change of location. A licensee's failure to notify the 10098
superintendent of a change in personal residence address does 10099
not negate the requirement to file the license renewal by the 10100
required deadline established by the commission by rule under 10101

division (A) (2) (f) of section 4735.10 of the Revised Code. Each 10102
licensee shall maintain a valid electronic mail address on file 10103
with the division and notify the superintendent of any change in 10104
electronic mail address within thirty days after the change. 10105

(E) The superintendent shall not renew a license if the 10106
licensee fails to comply with section 4735.141 of the Revised 10107
Code or is otherwise not in compliance with this chapter. 10108

(F) The superintendent shall make notice of successful 10109
renewal available electronically to licensees as soon as 10110
practicable, but not later than thirty days after receipt by the 10111
division of a complete application and renewal fee. This notice 10112
shall serve as a notice of renewal for purposes of section 10113
4745.02 of the Revised Code. 10114

Sec. 4751.23. (A) Subject to section 4751.32 of the 10115
Revised Code, the board of executives of long-term services and 10116
supports may issue to a licensed nursing home administrator or 10117
licensed health services executive a duplicate of the 10118
individual's nursing home administrator license or health 10119
services executive license if the license or temporary license 10120
has been lost, mutilated, or destroyed and the individual does 10121
both of the following: 10122

(1) Submits to the board ~~a notarized~~ an electronic or 10123
signed statement explaining the conditions of the loss, 10124
mutilation, or destruction; 10125

(2) Pays to the board a fee of twenty-five dollars. 10126

(B) Subject to section 4751.32 of the Revised Code, the 10127
board may issue to a licensed nursing home administrator or 10128
licensed health services executive whose name has been legally 10129
changed a duplicate of the individual's nursing home 10130

administrator license or health services executive license that 10131
has the individual's new name if the individual does all of the 10132
following: 10133

(1) Submits to the board a certified copy of the court 10134
order or marriage license establishing the change of name; 10135

(2) Returns to the board the license or temporary license 10136
that has the individual's previous name; 10137

(3) Pays to the board a fee of twenty-five dollars. 10138

Sec. 4755.01. (A) There is hereby created the Ohio 10139
occupational therapy, physical therapy, and athletic trainers 10140
board consisting of sixteen residents of this state, who shall 10141
be appointed by the governor with the advice and consent of the 10142
senate. The board shall be composed of a physical therapy 10143
section, an occupational therapy section, and an athletic 10144
trainers section. 10145

(1) Four members of the board shall be physical therapists 10146
who are licensed to practice physical therapy and who have been 10147
engaged in or actively associated with the practice of physical 10148
therapy in this state for at least five years immediately 10149
preceding appointment. One member shall be a licensed physical 10150
therapist assistant who has been engaged in or actively 10151
associated with the practice of assisting in the provision of 10152
physical therapy treatments in this state for at least five 10153
years immediately preceding appointment. Such members of the 10154
board shall sit on the physical therapy section. The physical 10155
therapy section also shall consist of four additional members, 10156
appointed by the governor with the advice and consent of the 10157
senate, who satisfy the same qualifications as the members of 10158
the board sitting on the physical therapy section, but who are 10159

not members of the board. Of the additional physical therapy 10160
section members, at least three shall be physical therapists. 10161
The fourth additional member shall be either a physical 10162
therapist or a physical therapist assistant. Of the additional 10163
physical therapy section members whose terms commence on August 10164
28, 2007, one shall be for a term of one year, one for a term of 10165
two years, one for a term of three years, and one for a term of 10166
four years. Such additional members of the physical therapy 10167
section are vested with only such powers and shall perform only 10168
such duties as relate to the affairs of that section. 10169

(2) Four members of the board shall be occupational 10170
therapists and one member shall be a licensed occupational 10171
therapy assistant, all of whom have been engaged in or actively 10172
associated with the practice of occupational therapy or practice 10173
as an occupational therapy assistant in this state for at least 10174
five years immediately preceding appointment. Such members of 10175
the board shall sit on the occupational therapy section. 10176

(3) Four members of the board shall be athletic trainers 10177
who have been engaged in the practice of athletic training in 10178
Ohio for at least five years immediately preceding appointment. 10179
One member of the board shall be a physician licensed to 10180
practice medicine and surgery in this state. Such members of the 10181
board shall sit on the athletic trainers section. 10182

(4) One member of the board shall represent the public. 10183
This member shall sit on the board and shall attend each year at 10184
least three meetings of the physical therapy section, three 10185
meetings of the occupational therapy section, and three meetings 10186
of the athletic trainers section. 10187

(B) Except for the terms of office specified in division 10188
(A) (1) of this section for the additional members of the 10189

physical therapy section commencing on August 28, 2007, terms 10190
for the members of the board and the additional members of the 10191
physical therapy section are for three years. Each member's term 10192
shall commence on the twenty-eighth day of August and end on the 10193
twenty-seventh day of August. Each member shall serve subsequent 10194
to the expiration of the member's term until the member's 10195
successor is appointed and qualifies, or until a period of 10196
ninety days has elapsed, whichever occurs first. A member shall 10197
not serve for more than three consecutive terms. All vacancies 10198
shall be filled in the manner prescribed for the regular 10199
appointments and are limited to the unexpired terms. 10200

(C) Each member of the board and each additional member of 10201
the physical therapy section, before entering upon the official 10202
duties of office, shall ~~do both of the following:~~ 10203

~~(1) Subscribe subscribe to and file with the secretary of 10204
state the constitutional oath of office;~~ 10205

~~(2) Sign and file with the executive director of the board 10206
a notarized statement that the member has read and understands 10207
sections 121.22 and 149.43 of the Revised Code and the 10208
provisions of Chapter 119. of the Revised Code that are 10209
applicable to the duties of the board. 10210~~

(D) Annually, upon the qualification of the member or 10211
members appointed in that year, the board shall organize by 10212
selecting from its members a president and secretary. Each 10213
section of the board shall independently organize by selecting 10214
from its members a chairperson and secretary. 10215

(E) A majority of the members of the board constitutes a 10216
quorum to transact and vote on the business of the board. A 10217
majority of the members of each section constitutes a quorum to 10218

transact and vote on the affairs of that section. 10219

(F) Each member of the board and each additional member of 10220
the physical therapy section shall receive an amount fixed 10221
pursuant to division (J) of section 124.15 of the Revised Code 10222
for each day employed in the discharge of official duties. In 10223
addition, each member of the board and each additional member of 10224
the physical therapy section shall receive the member's actual 10225
and necessary expenses incurred in the performance of official 10226
duties. 10227

(G) The board of trustees of the Ohio occupational therapy 10228
association may recommend, after any term expires or vacancy 10229
occurs in an occupational therapy position, at least three 10230
persons to fill each such position or vacancy on the board, and 10231
the governor may make the appointment from the persons so 10232
recommended. The executive board of the Ohio chapter of the 10233
American physical therapy association may recommend, after any 10234
term expires or vacancy occurs in a physical therapy position, 10235
at least three persons to fill each such vacancy on the board, 10236
and the governor may make appointments from the persons so 10237
recommended. The Ohio athletic trainers association shall 10238
recommend to the governor at least three persons when any term 10239
expires or any vacancy occurs in an athletic trainer position. 10240
The governor may select one of the association's recommendations 10241
in making such an appointment. 10242

(H) The board shall meet as a whole to determine all 10243
administrative, personnel, and budgetary matters. The executive 10244
director of the board appointed by the board shall not be a 10245
physical therapist, an occupational therapist, or an athletic 10246
trainer who has been licensed to practice physical therapy, 10247
occupational therapy, or as an athletic trainer in this state 10248

within three years immediately preceding appointment. The 10249
executive director shall execute, under the direction of the 10250
board, the policies, orders, directives, and administrative 10251
functions of the board and shall direct, under rules adopted by 10252
the board, the work of all persons employed by the board. Upon 10253
the request of the board, the executive director shall report to 10254
the board on any matter. The executive director shall serve at 10255
the pleasure of the board. 10256

(I) The occupational therapy section of the board shall 10257
have the authority to act on behalf of the board on matters 10258
concerning the practice of occupational therapy and, in 10259
particular, the examination of applicants, the issuance of 10260
licenses, and the suspension or revocation of licenses to 10261
practice as an occupational therapist or occupational therapy 10262
assistant. The physical therapy section of the board shall have 10263
the authority to act on behalf of the board on matters 10264
concerning the practice of physical therapy and, in particular, 10265
the examination, licensure, and suspension or revocation of 10266
licensure of applicants, physical therapists, and physical 10267
therapist assistants. The athletic trainers section of the board 10268
shall have the authority to act on behalf of the board on 10269
matters concerning the practice of athletic training and, in 10270
particular, the examination, licensure, and suspension or 10271
revocation of licensure of applicants and athletic trainers. All 10272
actions taken by any section of the board under this division 10273
shall be in accordance with Chapter 119. of the Revised Code. 10274

Sec. 5107.161. Before a county department of job and 10275
family services sanctions an assistance group under section 10276
5107.16 of the Revised Code, the state department of job and 10277
family services shall provide the assistance group written 10278
notice of the sanction in accordance with rules adopted under 10279

section 5107.05 of the Revised Code. The written notice shall 10280
include a provision printed in bold type face that informs the 10281
assistance group that, not later than fifteen calendar days 10282
after the state department mailed the written notice to the 10283
assistance group, the assistance group may request, for the 10284
purpose of explaining why the assistance group believes it 10285
should not be sanctioned, a state hearing under division (B) of 10286
section 5101.35 of the Revised Code which, at the assistance 10287
group's request, may be preceded by a ~~face-to-face~~ county 10288
conference with the county department. The written notice shall 10289
include either the telephone number of an Ohio works first 10290
ombudsperson provided for under section 329.07 of the Revised 10291
Code or the toll-free telephone number of the state department 10292
of job and family services that the assistance group may call to 10293
obtain the telephone number of an Ohio works first ombudsperson. 10294

Sec. 5120.14. (A) If a person who was convicted of or 10295
pleaded guilty to an offense escapes from a correctional 10296
institution in this state under the control of the department of 10297
rehabilitation and correction or otherwise escapes from the 10298
custody of the department, the department immediately after the 10299
escape shall report the escape, by telephone and in writing, to 10300
all local law enforcement agencies with jurisdiction in the 10301
county in which the institution from which the escape was made 10302
or to which the person was sentenced is located, to all local 10303
law enforcement agencies with jurisdiction in the county in 10304
which the person was convicted or pleaded guilty to the offense 10305
for which the escaped person was sentenced, to the state highway 10306
patrol, to the prosecuting attorney of the county in which the 10307
institution from which the escape was made or to which the 10308
person was sentenced is located, to the prosecuting attorney of 10309
the county in which the person was convicted or pleaded guilty 10310

to the offense for which the escaped person was sentenced, to a newspaper of general circulation in the county in which the institution from which the escape was made or to which the person was sentenced is located, and to a newspaper of general circulation in each county in which the escaped person was indicted for an offense for which, at the time of the escape, the escaped person had been sentenced to that institution. The written notice may be by ~~either~~ facsimile transmission, electronic mail, or mail. A failure to comply with this requirement is a violation of section 2921.22 of the Revised Code.

(B) Upon the apprehension of the escaped person, the department shall give notice of the apprehension by telephone and in writing to the persons who were given notice of the escape under division (A) of this section.

Sec. 5123.081. (A) As used in this section:

(1) (a) "Applicant" means any of the following:

(i) A person who is under final consideration for appointment to or employment with the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person who is being transferred to the department or a county board;

(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;

(iv) A person under final consideration for a direct services position with a provider or subcontractor.

(b) Neither of the following is an applicant:

(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense;

(ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with a developmental disability who is to receive the respite care selects the person.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with developmental disabilities.

(4) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(5) (a) "Employee" means either of the following:

(i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person employed in a direct services position by a provider or subcontractor.

(b) "Employee" does not mean a person who provides only

respite care under a family support services program established 10367
under section 5126.11 of the Revised Code if a family member of 10368
the individual with a developmental disability who receives the 10369
respite care selected the person. 10370

(6) "Minor drug possession offense" has the same meaning 10371
as in section 2925.01 of the Revised Code. 10372

(7) "Provider" means a person that provides specialized 10373
services to individuals with developmental disabilities and 10374
employs one or more persons in direct services positions. 10375

(8) "Responsible entity" means the following: 10376

(a) The department of developmental disabilities in the 10377
case of either of the following: 10378

(i) A person who is an applicant because the person is 10379
under final consideration for appointment to or employment with 10380
the department, being transferred to the department, or being 10381
recalled to or reemployed by the department after a layoff; 10382

(ii) A person who is an employee because the person is 10383
appointed to or employed by the department. 10384

(b) A county board of developmental disabilities in the 10385
case of either of the following: 10386

(i) A person who is an applicant because the person is 10387
under final consideration for appointment to or employment with 10388
the county board, being transferred to the county board, or 10389
being recalled to or reemployed by the county board after a 10390
layoff; 10391

(ii) A person who is an employee because the person is 10392
appointed to or employed by the county board. 10393

(c) A provider in the case of either of the following:	10394
(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider;	10395 10396 10397
(ii) A person who is an employee because the person is employed in a direct services position by the provider.	10398 10399
(d) A subcontractor in the case of either of the following:	10400 10401
(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;	10402 10403 10404
(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.	10405 10406
(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with developmental disabilities, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The director's determination is final.	10407 10408 10409 10410 10411 10412 10413 10414 10415
(10) "Subcontractor" means a person to which both of the following apply:	10416 10417
(a) The person has either of the following:	10418
(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of	10419 10420 10421

developmental disabilities; 10422

(ii) A subcontract with another subcontractor to provide 10423
specialized services included in a subcontract between the other 10424
subcontractor and a provider or other subcontractor. 10425

(b) The person employs one or more persons in direct 10426
services positions. 10427

(B) A responsible entity shall not employ an applicant or 10428
continue to employ an employee if either of the following 10429
applies: 10430

(1) The applicant or employee fails to comply with 10431
division (D) (3) of this section. 10432

(2) Except as provided in rules adopted under this 10433
section, the applicant or employee is found by a criminal 10434
records check required by this section to have been convicted 10435
of, pleaded guilty to, or been found eligible for intervention 10436
in lieu of conviction for a disqualifying offense. 10437

(C) Before employing an applicant in a position for which 10438
a criminal records check is required by this section, a 10439
responsible entity shall require the applicant to submit a 10440
statement with the applicant's signature attesting that the 10441
applicant has not been convicted of, pleaded guilty to, or been 10442
found eligible for intervention in lieu of conviction for a 10443
disqualifying offense. The responsible entity also shall require 10444
the applicant to sign an agreement under which the applicant 10445
agrees to notify the responsible entity within fourteen calendar 10446
days if, while employed by the responsible entity, the applicant 10447
is formally charged with, is convicted of, pleads guilty to, or 10448
is found eligible for intervention in lieu of conviction for a 10449
disqualifying offense. The agreement shall provide that the 10450

applicant's failure to provide the notification may result in 10451
termination of the applicant's employment. 10452

(D) (1) As a condition of employing any applicant in a 10453
position for which a criminal records check is required by this 10454
section, a responsible entity shall request the superintendent 10455
of the bureau of criminal identification and investigation to 10456
conduct a criminal records check of the applicant. If rules 10457
adopted under this section require an employee to undergo a 10458
criminal records check, a responsible entity shall request the 10459
superintendent to conduct a criminal records check of the 10460
employee at times specified in the rules as a condition of the 10461
responsible entity's continuing to employ the employee in a 10462
position for which a criminal records check is required by this 10463
section. If an applicant or employee does not present proof that 10464
the applicant or employee has been a resident of this state for 10465
the five-year period immediately prior to the date upon which 10466
the criminal records check is requested, the responsible entity 10467
shall request that the superintendent obtain information from 10468
the federal bureau of investigation as a part of the criminal 10469
records check. If the applicant or employee presents proof that 10470
the applicant or employee has been a resident of this state for 10471
that five-year period, the responsible entity may request that 10472
the superintendent include information from the federal bureau 10473
of investigation in the criminal records check. For purposes of 10474
this division, an applicant or employee may provide proof of 10475
residency in this state by presenting, with a ~~notarized~~-signed 10476
statement asserting that the applicant or employee has been a 10477
resident of this state for that five-year period, a valid 10478
driver's license, notification of registration as an elector, a 10479
copy of an officially filed federal or state tax form 10480
identifying the applicant's or employee's permanent residence, 10481

or any other document the responsible entity considers acceptable. 10482
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(2) A responsible entity shall do all of the following: 10484

(a) Provide to each applicant and employee for whom a criminal records check is required by this section a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C) (2) of section 109.572 of the Revised Code; 10485
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(b) Obtain the completed form and standard impression sheet from the applicant or employee; 10491
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(c) Forward the completed form and standard impression sheet to the superintendent at the time the criminal records check is requested. 10493
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(3) Any applicant or employee who receives pursuant to this division a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and a copy of the standard impression sheet prescribed pursuant to division (C) (2) of that section and who is requested to complete the form and provide a set of the applicant's or employee's fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the standard impression sheet with the impressions of the applicant's or employee's fingerprints. 10496
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(4) A responsible entity shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C) (3) of section 109.572 of the Revised Code for each criminal records check requested and conducted pursuant to this section. 10506
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(E) A responsible entity may request any other state or federal agency to supply the responsible entity with a written report regarding the criminal record of an applicant or employee. If an employee holds an occupational or professional license or other credentials, the responsible entity may request that the state or federal agency that regulates the employee's occupation or profession supply the responsible entity with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials. The responsible entity may consider the reports when determining whether to employ the applicant or to continue to employ the employee.

(F) As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record from the bureau of motor vehicles. If rules adopted under this section require a responsible entity to obtain an employee's driving record, the responsible entity shall obtain the employee's driving record from the bureau at times specified in the rules as a condition of continuing to employ the employee. The responsible entity may consider the applicant's or employee's driving record when determining whether to employ the applicant or to continue to employ the employee.

(G) A responsible entity may employ an applicant conditionally pending receipt of a report regarding the applicant requested under this section. The responsible entity shall request the report before employing the applicant

conditionally. The responsible entity shall terminate the 10542
applicant's employment if it is determined from a report that 10543
the applicant failed to inform the responsible entity that the 10544
applicant had been convicted of, pleaded guilty to, or been 10545
found eligible for intervention in lieu of conviction for a 10546
disqualifying offense. 10547

(H) A responsible entity may charge an applicant a fee for 10548
costs the responsible entity incurs in obtaining a report 10549
regarding the applicant under this section if the responsible 10550
entity notifies the applicant of the amount of the fee at the 10551
time of the applicant's initial application for employment and 10552
that, unless the fee is paid, the responsible entity will not 10553
consider the applicant for employment. The fee shall not exceed 10554
the amount of the fee, if any, the responsible entity pays for 10555
the report. 10556

(I) (1) Any report obtained pursuant to this section is not 10557
a public record for purposes of section 149.43 of the Revised 10558
Code and shall not be made available to any person, other than 10559
the following: 10560

(a) The applicant or employee who is the subject of the 10561
report or the applicant's or employee's representative; 10562

(b) The responsible entity that requested the report or 10563
its representative; 10564

(c) The department if a county board, provider, or 10565
subcontractor is the responsible entity that requested the 10566
report and the department requests the responsible entity to 10567
provide a copy of the report to the department; 10568

(d) A county board if a provider or subcontractor is the 10569
responsible entity that requested the report and the county 10570

board requests the responsible entity to provide a copy of the report to the county board; 10571
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(e) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following: 10573
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(i) The denial of employment to the applicant or employee; 10575

(ii) The denial, suspension, or revocation of a certificate under section 5123.166 or 5123.45 of the Revised Code; 10576
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(iii) A civil or criminal action regarding the medicaid program or a program the department administers. 10579
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(2) An applicant or employee for whom the responsible entity has obtained reports under this section may submit a written request to the responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the responsible entity shall send copies of the reports to the agencies or entities specified. 10581
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(3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the responsible entity obtains the written consent of the individual who is the subject of the report. 10590
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(4) A responsible entity shall provide each applicant and employee with a copy of any report obtained about the applicant or employee under this section. 10596
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(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of employees from the requirements.

(2) The rules shall do all of the following:

(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving records are to be obtained;

(b) Specify circumstances under which a responsible entity may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets standards in regard to rehabilitation set by the director;

(c) Require a responsible entity to request a criminal records check under this section before employing an applicant conditionally as permitted under division (G) of this section.

Sec. 5123.169. (A) The director of developmental

disabilities shall not issue a supported living certificate to 10627
an applicant or renew an applicant's supported living 10628
certificate if either of the following applies: 10629

(1) The applicant fails to comply with division (C) (2) of 10630
this section; 10631

(2) Except as provided in rules adopted under section 10632
5123.1611 of the Revised Code, the applicant is found by a 10633
criminal records check required by this section to have been 10634
convicted of, pleaded guilty to, or been found eligible for 10635
intervention in lieu of conviction for a disqualifying offense. 10636

(B) Before issuing a supported living certificate to an 10637
applicant or renewing an applicant's supported living 10638
certificate, the director shall require the applicant to submit 10639
a statement with the applicant's signature attesting that the 10640
applicant has not been convicted of, pleaded guilty to, or been 10641
found eligible for intervention in lieu of conviction for a 10642
disqualifying offense. The director also shall require the 10643
applicant to sign an agreement under which the applicant agrees 10644
to notify the director within fourteen calendar days if, while 10645
holding a supported living certificate, the applicant is 10646
formally charged with, is convicted of, pleads guilty to, or is 10647
found eligible for intervention in lieu of conviction for a 10648
disqualifying offense. The agreement shall provide that the 10649
applicant's failure to provide the notification may result in 10650
action being taken by the director against the applicant under 10651
section 5123.166 of the Revised Code. 10652

(C) (1) As a condition of receiving a supported living 10653
certificate or having a supported living certificate renewed, an 10654
applicant shall request the superintendent of the bureau of 10655
criminal identification and investigation to conduct a criminal 10656

records check of the applicant. If an applicant does not present 10657
proof to the director that the applicant has been a resident of 10658
this state for the five-year period immediately prior to the 10659
date that the applicant applies for issuance or renewal of the 10660
supported living certificate, the director shall require the 10661
applicant to request that the superintendent obtain information 10662
from the federal bureau of investigation as a part of the 10663
criminal records check. If the applicant presents proof to the 10664
director that the applicant has been a resident of this state 10665
for that five-year period, the director may require the 10666
applicant to request that the superintendent include information 10667
from the federal bureau of investigation in the criminal records 10668
check. For purposes of this division, an applicant may provide 10669
proof of residency in this state by presenting, with a ~~notarized~~ 10670
signed statement asserting that the applicant has been a 10671
resident of this state for that five-year period, a valid 10672
driver's license, notification of registration as an elector, a 10673
copy of an officially filed federal or state tax form 10674
identifying the applicant's permanent residence, or any other 10675
document the director considers acceptable. 10676

(2) Each applicant shall do all of the following: 10677

(a) Obtain a copy of the form prescribed pursuant to 10678
division (C) (1) of section 109.572 of the Revised Code and a 10679
standard impression sheet prescribed pursuant to division (C) (2) 10680
of section 109.572 of the Revised Code; 10681

(b) Complete the form and provide the applicant's 10682
fingerprint impressions on the standard impression sheet; 10683

(c) Forward the completed form and standard impression 10684
sheet to the superintendent at the time the criminal records 10685
check is requested; 10686

(d) Instruct the superintendent to submit the completed report of the criminal records check directly to the director;

(e) Pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C) (3) of section 109.572 of the Revised Code for each criminal records check of the applicant requested and conducted pursuant to this section.

(D) The director may request any other state or federal agency to supply the director with a written report regarding the criminal record of an applicant. The director may consider the reports when determining whether to issue a supported living certificate to the applicant or to renew an applicant's supported living certificate.

(E) An applicant who seeks to be an independent provider or is an independent provider seeking renewal of the applicant's supported living certificate shall obtain the applicant's driving record from the bureau of motor vehicles and provide a copy of the record to the director if the supported living that the applicant will provide involves transporting individuals with developmental disabilities. The director may consider the applicant's driving record when determining whether to issue the applicant a supported living certificate or to renew the applicant's supported living certificate.

(F) (1) A report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following:

(a) The applicant who is the subject of the report or the applicant's representative;

(b) The director or the director's representative;	10716
(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	10717 10718
(i) The denial of a supported living certificate or refusal to renew a supported living certificate;	10719 10720
(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code;	10721 10722
(iii) A civil or criminal action regarding the medicaid program.	10723 10724
(2) An applicant for whom the director has obtained reports under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified.	10725 10726 10727 10728 10729 10730 10731
(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report.	10732 10733 10734 10735 10736 10737
(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.	10738 10739
Sec. 5165.193. (A) The department of medicaid may, pursuant to rules authorized by this section, conduct an exception review of resident assessment data submitted by a nursing facility provider under section 5165.191 of the Revised	10740 10741 10742 10743

Code. The department may conduct an exception review based on 10744
the findings of a medicaid certification survey conducted by the 10745
department of health, a risk analysis, or prior performance of 10746
the provider. 10747

Exception reviews shall be conducted ~~at the nursing~~ 10748
~~facility~~ by appropriate health professionals under contract with 10749
or employed by the department. The professionals may review 10750
resident assessment forms and supporting documentation, conduct 10751
interviews, and observe residents to identify any patterns or 10752
trends of inaccurate resident assessments and resulting 10753
inaccurate case-mix scores. 10754

(B) If an exception review is conducted before the 10755
effective date of a nursing facility's rate for direct care 10756
costs that is based on the resident assessment data being 10757
reviewed and the review results in findings that exceed 10758
tolerance levels specified in the rules authorized by this 10759
section, the department, in accordance with those rules, may use 10760
the findings to redetermine individual resident case-mix scores, 10761
the nursing facility's case-mix score for the quarter, and the 10762
nursing facility's annual average case-mix score. The department 10763
may use the nursing facility's redetermined quarterly and annual 10764
average case-mix scores to determine the nursing facility's rate 10765
for direct care costs for the appropriate calendar quarter or 10766
quarters. 10767

(C) The department shall prepare a written summary of any 10768
exception review finding that is made after the effective date 10769
of a nursing facility's rate for direct care costs that is based 10770
on the resident assessment data that was reviewed. Where the 10771
provider is pursuing judicial or administrative remedies in good 10772
faith regarding the finding, the department shall not withhold 10773

from the provider's current payments any amounts the department 10774
claims to be due from the provider pursuant to section 5165.41 10775
of the Revised Code. 10776

(D) (1) The medicaid director shall adopt rules under 10777
section 5165.02 of the Revised Code as necessary to implement 10778
this section. The rules shall establish an exception review 10779
program that does all of the following: 10780

(a) Requires each exception review to comply with Title 10781
XVIII and Title XIX; 10782

(b) Requires a written summary for each exception review 10783
that states whether resident assessment forms have been 10784
completed accurately; 10785

(c) Prohibits each health professional who conducts an 10786
exception review from doing either of the following: 10787

(i) During the period of the professional's contract or 10788
employment with the department, having or being committed to 10789
acquire any direct or indirect financial interest in the 10790
ownership, financing, or operation of nursing facilities in this 10791
state; 10792

(ii) Reviewing any provider that has been a client of the 10793
professional. 10794

(2) For the purposes of division (D) (1) (c) (i) of this 10795
section, employment of a member of a health professional's 10796
family by a nursing facility that the professional does not 10797
review does not constitute a direct or indirect financial 10798
interest in the ownership, financing, or operation of the 10799
nursing facility. 10800

Sec. 5165.86. The department of medicaid, the department 10801

of health, and any contracting agency shall deliver a written 10802
notice, statement, or order to a nursing facility under sections 10803
5165.60 to 5165.66 and 5165.69 to 5165.89 of the Revised Code by 10804
certified mail ~~or~~, hand delivery, or other means reasonably 10805
calculated to provide prompt actual notice. If the notice, 10806
statement, or order is mailed, it shall be addressed to the 10807
administrator of the facility as indicated in the department's 10808
or agency's records. If it is hand delivered, it shall be 10809
delivered to a person at the facility who would appear to the 10810
average prudent person to have authority to accept it. 10811

Delivery of written notice by a nursing facility to the 10812
department of health, the department of medicaid, or a 10813
contracting agency under sections 5165.60 to 5165.89 of the 10814
Revised Code shall be by certified mail ~~or~~, hand delivery, or 10815
other means reasonably calculated to provide prompt actual 10816
notice to the appropriate department or the agency. 10817

Sec. 5166.303. A home care attendant shall do all of the 10818
following: 10819

(A) Maintain a clinical record for each consumer to whom 10820
the attendant provides home care attendant services in a manner 10821
that protects the consumer's privacy; 10822

(B) Participate in a face-to-face visit every ninety days 10823
with all of the following to monitor the health and welfare of 10824
each of the consumers to whom the attendant provides home care 10825
attendant services: 10826

(1) The consumer; 10827

(2) The consumer's authorized representative, if any; 10828

(3) A registered nurse who agrees to answer any questions 10829
that the attendant, consumer, or authorized representative has 10830

about consumer care needs, medications, and other issues. 10831

(C) Document the activities of each visit required by 10832
division (B) of this section in the consumer's clinical record 10833
with the assistance of the registered nurse. 10834

(D) The face-to-face visit requirement in division (B) of 10835
this section may be satisfied by telephone or electronically if 10836
permitted by rules adopted under section 5166.02 of the Revised 10837
Code. 10838

Sec. 5168.08. (A) Before or during each program year, the 10839
department of medicaid shall ~~mail-issue~~ to each hospital ~~by~~ 10840
~~certified mail, return receipt requested,~~ the preliminary 10841
determination of the amount that the hospital is assessed under 10842
section 5168.06 of the Revised Code during the program year. The 10843
preliminary determination of a hospital's assessment shall be 10844
calculated for a cost-reporting period that is specified in 10845
rules adopted under section 5168.02 of the Revised Code. 10846

The department shall consult with hospitals each year when 10847
determining the date on which it will ~~mail-issue~~ the preliminary 10848
determinations in order to minimize hospitals' cash flow 10849
difficulties. 10850

If no hospital submits a request for reconsideration under 10851
division (B) of this section, the preliminary determination 10852
constitutes the final reconciliation of each hospital's 10853
assessment under section 5168.06 of the Revised Code. The final 10854
reconciliation is subject to adjustments under division (D) of 10855
this section. 10856

(B) Not later than fourteen days after the preliminary 10857
determinations are ~~mailed~~issued, any hospital may submit to the 10858
department a written request to reconsider the preliminary 10859

determinations. The request shall be accompanied by written 10860
materials setting forth the basis for the reconsideration. If 10861
one or more hospitals submit a request, the department shall 10862
hold a public hearing not later than thirty days after the 10863
preliminary determinations are ~~mailed~~issued to reconsider the 10864
preliminary determinations. The department shall ~~mail~~issue to 10865
each hospital a written notice of the date, time, and place of 10866
the hearing at least ten days prior to the hearing. On the basis 10867
of the evidence submitted to the department or presented at the 10868
public hearing, the department shall reconsider and may adjust 10869
the preliminary determinations. The result of the 10870
reconsideration is the final reconciliation of the hospital's 10871
assessment under section 5168.06 of the Revised Code. The final 10872
reconciliation is subject to adjustments under division (D) of 10873
this section. 10874

(C) The department shall ~~mail~~issue to each hospital a 10875
written notice of its assessment for the program year under the 10876
final reconciliation. A hospital may appeal the final 10877
reconciliation of its assessment to the court of common pleas of 10878
Franklin county. While a judicial appeal is pending, the 10879
hospital shall pay, in accordance with the schedules required by 10880
division (B) of section 5168.06 of the Revised Code, any amount 10881
of its assessment that is not in dispute into the hospital care 10882
assurance program fund created in section 5168.11 of the Revised 10883
Code. 10884

(D) In the course of any program year, the department may 10885
adjust the assessment rate or rates established in rules 10886
pursuant to section 5168.06 of the Revised Code or adjust the 10887
amounts of intergovernmental transfers required under section 10888
5168.07 of the Revised Code and, as a result of the adjustment, 10889
adjust each hospital's assessment and intergovernmental 10890

transfer, to reflect refinements made by the United States 10891
centers for medicare and medicaid services during that program 10892
year to the limits it prescribed under the "Social Security 10893
Act," section 1923(f), 42 U.S.C. 1396r-4(f). When adjusted, the 10894
assessment rate or rates must comply with division (A) of 10895
section 5168.06 of the Revised Code. An adjusted 10896
intergovernmental transfer must comply with division (A) of 10897
section 5168.07 of the Revised Code. The department shall notify 10898
hospitals of adjustments made under this division and adjust for 10899
the remainder of the program year the installments paid by 10900
hospitals under sections 5168.06 and 5168.07 of the Revised Code 10901
in accordance with rules adopted under section 5168.02 of the 10902
Revised Code. 10903

Sec. 5168.22. (A) Before or during each assessment program 10904
year, the department of medicaid shall ~~mail-issue~~ to each 10905
hospital ~~by certified mail, return receipt requested,~~ the 10906
preliminary determination of the amount that the hospital is 10907
assessed under section 5168.21 of the Revised Code for the 10908
assessment program year. Except as provided in division (B) of 10909
this section, the preliminary determination becomes the final 10910
determination for the assessment program year fifteen days after 10911
the preliminary determination is ~~mailed-issued~~ to the hospital. 10912

(B) A hospital may request that the department reconsider 10913
the preliminary determination ~~mailed-issued~~ to the hospital 10914
under division (A) of this section by submitting to the 10915
department a written request for a reconsideration not later 10916
than fourteen days after the hospital's preliminary 10917
determination is ~~mailed-issued~~ to the hospital. The request must 10918
be accompanied by written materials setting forth the basis for 10919
the reconsideration. On receipt of the timely request, the 10920
department shall reconsider the preliminary determination and 10921

may adjust the preliminary determination on the basis of the written materials accompanying the request. The result of the reconsideration is the final determination of the hospital's assessment under section 5168.21 of the Revised Code for the assessment program year.

(C) The department shall ~~mail-issue~~ to each hospital a written notice of the final determination of its assessment for the assessment program year. A hospital may appeal the final determination to the court of common pleas of Franklin county. While a judicial appeal is pending, the hospital shall pay, in accordance with section 5168.23 of the Revised Code, any amount of its assessment that is not in dispute.

Sec. 5168.23. Each hospital shall pay the amount it is assessed under section 5168.21 of the Revised Code in accordance with a payment schedule the department of medicaid shall establish for each assessment program year. The department shall consult with the Ohio hospital association before establishing the payment schedule for any assessment program year. The department shall include the payment schedule in each preliminary determination notice the department ~~mails-issues~~ to hospitals under division (A) of section 5168.22 of the Revised Code.

Sec. 5516.10. (A) No person shall do either of the following without first obtaining a permit and permit plates from the director of transportation:

(1) Erect, use, maintain, operate, construct, or cause or permit to be erected, used, maintained, operated, or constructed, any advertising device located in either of the following:

(a) Commercial or industrial zones traversed by segments 10951
of the interstate system within the boundaries of a municipal 10952
corporation as such boundaries existed on September 21, 1959; 10953

(b) Zoned or unzoned industrial or commercial areas 10954
adjacent to highways on the primary system. 10955

(2) Maintain any nonconforming advertising device. 10956

(B) Applications for such a permit shall be made on forms 10957
prescribed by the director, and a separate application shall be 10958
submitted for each sign face. The director shall adopt rules 10959
setting forth the requirements for completion of the application 10960
process and the issuance of permits consistent with this 10961
section. 10962

(1) As part of the application process, the director may 10963
require an acknowledgment to be signed by the owner or person in 10964
lawful possession or control of the proposed location of the 10965
advertising device. Such acknowledgment may include, but shall 10966
not be limited to, a statement that the applicant has the right 10967
to occupy the land at the subject location, that if at any time 10968
removal is required, the owner or person in lawful possession or 10969
control of the location may be jointly liable, and that the 10970
applicant may only occupy the land for a specified time period. 10971
If legal use of the location is terminated at any time during 10972
the permit period, the permit is subject to cancellation 10973
pursuant to section 5516.12 of the Revised Code. 10974

(2) As part of the application process, the director may 10975
require an applicant or the applicant's authorized 10976
representative to certify ~~in a notarized signed statement~~ that 10977
the applicant has not knowingly provided materially false, 10978
misleading, or inaccurate information. 10979

(3) Each application shall be accompanied by the 10980
appropriate application fee as set forth in the fee schedule 10981
established by the director. Such fee schedule shall be based on 10982
the reasonable cost of administering and processing such 10983
permits. Application fees shall be nonrefundable. 10984

(4) Applications for permits shall be disapproved and 10985
permits shall not be issued under any of the following 10986
conditions: 10987

(a) The proposed location for an advertising device is not 10988
visible from the main traveled portion of the highway due to 10989
existing landscaping on the right-of-way of any highway. 10990

(b) The advertising device can be erected or maintained 10991
only from the right-of-way of an interstate or primary highway 10992
system. 10993

(c) The proposed location for the advertising device is on 10994
land that is used principally as a residence. 10995

(d) The advertising device is erected or maintained on 10996
trees, or painted or drawn upon rocks or other natural features. 10997

(e) The advertising device would be a traffic hazard or a 10998
danger to the safety of the traveling public. 10999

(f) The advertising device would prevent the driver of a 11000
motor vehicle from having a clear and unobstructed view of 11001
official signs and approaching or merging traffic. 11002

(g) The advertising device is illuminated so as to 11003
interfere with the effectiveness of an official sign, signal, or 11004
other traffic control device. 11005

(h) The advertising device attempts, or appears to 11006
attempt, to direct the movement of traffic, or interferes with, 11007

imitates, or resembles an official sign, signal, or other 11008
traffic control device. 11009

(C) The issuance of a permit under this section shall not 11010
be construed to invalidate municipal ordinances requiring a 11011
permit or license or providing for an inspection fee for 11012
advertising devices, or regulating such advertising devices. The 11013
cost of the application fee for such permits or licenses issued, 11014
or the cost of initial inspection fees charged under municipal 11015
ordinances shall be credited against and shall reduce the cost 11016
of the permit issued by the director under this section. If a 11017
permit is issued by a zoning authority pursuant to its 11018
ordinances, rules, or regulations controlling outdoor 11019
advertising devices, a copy thereof shall be furnished to the 11020
director with any application for a new permit required by this 11021
section or within thirty days of its issuance by a zoning 11022
authority. 11023

(D) Where an application is submitted for the erection, 11024
use, maintenance, operation, or construction of an advertising 11025
device, the director may conditionally approve such application 11026
as to location only, and final approval shall remain pending 11027
until the advertising device is erected, used, maintained, or 11028
constructed or becomes operational. Upon notification by the 11029
permit applicant that the erection, use, maintenance, 11030
construction, or operation of the advertising device is 11031
completed, the director shall verify that the advertising device 11032
complies with the terms and conditions of the conditional 11033
permit. Upon verification of compliance with the terms and 11034
conditions of the conditional permit, the director may approve 11035
and issue a permit and permit plates, which shall be securely 11036
and permanently attached in the corner of the face of the 11037
advertising device nearest to the highway in such a manner as to 11038

be visible from the main traveled way of the interstate or 11039
primary highway system. Replacement plates may be issued upon 11040
request and upon the payment of a replacement fee to be 11041
determined by the director. 11042

(E) All permits issued pursuant to this section shall be 11043
in effect for a period of two years. Permits may be renewed upon 11044
application made on forms designated by the director and upon 11045
the payment of a nonrefundable renewal fee in an amount to be 11046
determined by the director based on the reasonable cost of 11047
administering and processing such renewal permits. Any permits 11048
that are not renewed, and any permit plates issued in connection 11049
with such permits, shall be returned to the director for 11050
cancellation by the expiration date. The director may adopt 11051
rules for the reinstatement of permits canceled as a result of 11052
nonpayment of renewal fees, and shall develop a fee schedule for 11053
late renewals. 11054

(F) (1) Where the director conditionally approves the 11055
issuance of a permit as to location only and the permit 11056
applicant fails to construct, erect, use, operate, or maintain 11057
an advertising device within the period for which the permit was 11058
issued, such permit shall not be renewed unless a renewal fee is 11059
paid to extend the privilege for one additional permit period. 11060
No conditional permit shall be renewed and no extensions shall 11061
be granted after the second renewal period. 11062

(2) A last permit holder's application for a permit shall 11063
not be accepted until a permit issued pursuant to division (F) 11064
(1) of this section has expired for a period of six months, 11065
commencing from the expiration date, for any of the following 11066
locations: 11067

(a) The expired location; 11068

(b) A location within five hundred feet of the expired 11069
location on an interstate highway, a primary highway outside a 11070
municipal corporation, or a freeway inside a municipal 11071
corporation; 11072

(c) A location within two hundred fifty feet of the 11073
expired location on any other primary highway inside a municipal 11074
corporation. 11075

The director shall process written applications in the 11076
order in which they are received. 11077

(G) Permits for advertising devices erected and maintained 11078
with a valid permit issued before July 1, 1997, may be renewed 11079
unless the director finds that the permit application contains 11080
materially false, misleading, or inaccurate information or the 11081
sign has been erected or maintained contrary to this chapter or 11082
the rules adopted thereunder, and in such event the director may 11083
take appropriate action pursuant to section 5516.12 of the 11084
Revised Code. An applicant who has a conditional permit issued 11085
by the director before June 30, 1997, and who has not yet 11086
exercised the privilege of constructing, using, operating, 11087
erecting, or maintaining an advertising device at the proposed 11088
location as of that date, shall have until December 31, 1997, to 11089
comply with the terms and conditions of the conditional permit 11090
or such permit shall be canceled. However, the applicant may 11091
request that the conditional permit be renewed by submitting a 11092
renewal application and paying a nonrefundable renewal fee to 11093
extend the privilege for one additional permit period. 11094

(H) Permits may be transferred from one sign owner to 11095
another upon written acknowledgment from the current permittee 11096
and the payment of a transfer fee in an amount to be determined 11097
by the director for each permit to be transferred. The new 11098

permit holder is subject to all the terms and conditions of the 11099
prior permit holder and shall be subject to this chapter and the 11100
rules adopted thereunder. 11101

(I) No person shall submit an application for an 11102
advertising device permit where the proposed location is 11103
adjacent to a proposed project on the interstate or primary 11104
system and the proposed location for the device would be illegal 11105
under this chapter upon completion of the project. 11106

(J) Any permit issued by the director under this chapter 11107
or the rules adopted under it, is the property of the permit 11108
holder. Upon the sale of an advertising device, a permit issued 11109
under this section continues in effect for the period 11110
established under division (E) of this section. 11111

Sec. 5525.01. Before entering into a contract, the 11112
director of transportation ~~shall~~may advertise for bids for two 11113
consecutive weeks in one newspaper of general circulation 11114
published in the county in which the improvement or part thereof 11115
is located, but if there is no such newspaper then in one 11116
newspaper having general circulation in an adjacent county. In 11117
the alternative, the director may advertise for bids as provided 11118
in section 7.16 of the Revised Code. The director ~~may~~shall 11119
advertise for bids in such other publications as the director 11120
considers advisable. Such notices shall state that plans and 11121
specifications for the improvement are on file in the office of 11122
the director and the district deputy director of the district in 11123
which the improvement or part thereof is located and the time 11124
within which bids therefor will be received. 11125

Each bidder shall be required to file with the bidder's 11126
bid a bid guaranty in the form of a certified check, a cashier's 11127
check, or an electronic funds transfer to the treasurer of state 11128

that is evidenced by a receipt or by a certification to the 11129
director of transportation in a form prescribed by the director 11130
that an electronic funds transfer has been made to the treasurer 11131
of state, for an amount equal to five per cent of the bidder's 11132
bid, but in no event more than fifty thousand dollars, or a bid 11133
bond for ten per cent of the bidder's bid, payable to the 11134
director, which check, transferred sum, or bond shall be 11135
forthwith returned to the bidder in case the contract is awarded 11136
to another bidder, or, in case of a successful bidder, when the 11137
bidder has entered into a contract and furnished the bonds 11138
required by section 5525.16 of the Revised Code. In the event 11139
the contract is awarded to a bidder, and the bidder fails or 11140
refuses to furnish the bonds as required by section 5525.16 of 11141
the Revised Code, the check, transferred sum, or bid bond filed 11142
with the bidder's bid shall be forfeited as liquidated damages. 11143
No bidder shall be required either to file a signed contract 11144
with the bidder's bid, to enter into a contract, or to furnish 11145
the contract performance bond and the payment bond required by 11146
that section until the bids have been opened and the bidder has 11147
been notified by the director that the bidder is awarded the 11148
contract. 11149

The director shall permit a bidder to withdraw the 11150
bidder's bid from consideration, without forfeiture of the 11151
check, transferred sum, or bid bond filed with the bid, 11152
providing a written request together with a sworn statement of 11153
the grounds for such withdrawal is delivered within forty-eight 11154
hours after the time established for the receipt of bids, and if 11155
the price bid was substantially lower than the other bids, 11156
providing the bid was submitted in good faith, and the reason 11157
for the price bid being substantially lower was a clerical 11158
mistake evident on the face of the bid, as opposed to a judgment 11159

mistake, and was actually due to an unintentional and 11160
substantial arithmetic error or an unintentional omission of a 11161
substantial quantity of work, labor, or material made directly 11162
in the compilation of the bid. In the event the director decides 11163
the conditions for withdrawal have not been met, the director 11164
may award the contract to such bidder. If such bidder does not 11165
then enter into a contract and furnish the contract bond as 11166
required by law, the director may declare forfeited the check, 11167
transferred sum, or bid bond as liquidated damages and award the 11168
contract to the next higher bidder or reject the remaining bids 11169
and readvertise the project for bids. Such bidder, within thirty 11170
days, may appeal the decision of the director to the court of 11171
common pleas of Franklin county and the court may affirm or 11172
reverse the decision of the director and may order the director 11173
to refund the amount of the forfeiture. At the hearing before 11174
the common pleas court evidence may be introduced for and 11175
against the decision of the director. The decision of the common 11176
pleas court may be appealed as in other cases. 11177

There is hereby created the ODOT letting fund, which shall 11178
be in the custody of the treasurer of state but shall not be 11179
part of the state treasury. All certified checks and cashiers' 11180
checks received with bidders' bids, and all sums transferred to 11181
the treasurer of state by electronic funds transfer in 11182
connection with bidders' bids, under this section shall be 11183
credited to the fund. All such bid guaranties shall be held in 11184
the fund until a determination is made as to the final 11185
disposition of the money. If the department determines that any 11186
such bid guaranty is no longer required to be held, the amount 11187
of the bid guaranty shall be returned to the appropriate bidder. 11188
If the department determines that a bid guaranty under this 11189
section shall be forfeited, the amount of the bid guaranty shall 11190

be transferred or, in the case of money paid on a forfeited 11191
bond, deposited into the state treasury, to the credit of the 11192
highway operating fund. Any investment earnings of the ODOT 11193
letting fund shall be distributed as the treasurer of state 11194
considers appropriate. 11195

The director shall require all bidders to furnish the 11196
director, upon such forms as the director may prescribe, 11197
detailed information with respect to all pending work of the 11198
bidder, whether with the department of transportation or 11199
otherwise, together with such other information as the director 11200
considers necessary. 11201

In the event a bidder fails to submit anything required to 11202
be submitted with the bid and then fails or refuses to so submit 11203
such at the request of the director, the failure or refusal 11204
constitutes grounds for the director, in the director's 11205
discretion, to declare as forfeited the bid guaranty submitted 11206
with the bid. 11207

The director may reject any or all bids. Except in regard 11208
to contracts for environmental remediation and specialty work 11209
for which there are no classes of work set out in the rules 11210
adopted by the director, if the director awards the contract, 11211
the director shall award it to the lowest competent and 11212
responsible bidder as defined by rules adopted by the director 11213
under section 5525.05 of the Revised Code, who is qualified to 11214
bid under sections 5525.02 to 5525.09 of the Revised Code. In 11215
regard to contracts for environmental remediation and specialty 11216
work for which there are no classes of work set out in the rules 11217
adopted by the director, the director shall competitively bid 11218
the projects in accordance with this chapter and shall award the 11219
contracts to the lowest and best bidder. 11220

The award for all projects competitively let by the 11221
director under this section shall be made within ten days after 11222
the date on which the bids are opened, and the successful bidder 11223
shall enter into a contract and furnish a contract performance 11224
bond and a payment bond, as provided for in section 5525.16 of 11225
the Revised Code, within ten days after the bidder is notified 11226
that the bidder has been awarded the contract. 11227

The director may insert in any contract awarded under this 11228
chapter a clause providing for value engineering change 11229
proposals, under which a contractor who has been awarded a 11230
contract may propose a change in the plans and specifications of 11231
the project that saves the department time or money on the 11232
project without impairing any of the essential functions and 11233
characteristics of the project such as service life, 11234
reliability, economy of operation, ease of maintenance, safety, 11235
and necessary standardized features. If the director adopts the 11236
value engineering proposal, the savings from the proposal shall 11237
be divided between the department and the contractor according 11238
to guidelines established by the director, provided that the 11239
contractor shall receive at least fifty per cent of the savings 11240
from the proposal. The adoption of a value engineering proposal 11241
does not invalidate the award of the contract or require the 11242
director to rebid the project. 11243

Sec. 5703.37. (A) (1) Except as provided in division (B) of 11244
this section, whenever service of a notice or order is required 11245
in the manner provided in this section, a copy of the notice or 11246
order shall be served upon the person affected thereby either by 11247
personal service, by certified mail, or by a delivery service 11248
authorized under section 5703.056 of the Revised Code that 11249
notifies the tax commissioner of the date of delivery. 11250

(2) In lieu of serving a copy of a notice or order through 11251
one of the means provided in division (A) (1) of this section, 11252
the commissioner may serve a notice or order upon the person 11253
affected thereby through alternative means as provided in this 11254
section, including, but not limited to, delivery by secure 11255
electronic mail as provided in division (F) of this section. 11256
Delivery by such means satisfies the requirements for delivery 11257
under this section. 11258

(B) (1) (a) If certified mail is returned because of an 11259
undeliverable address, the commissioner shall first utilize 11260
reasonable means to ascertain a new last known address, 11261
including the use of a change of address service offered by the 11262
United States postal service or an authorized delivery service 11263
under section 5703.056 of the Revised Code. If, after using 11264
reasonable means, the commissioner is unable to ascertain a new 11265
last known address, the assessment is final for purposes of 11266
section 131.02 of the Revised Code sixty days after the notice 11267
or order sent by certified mail is first returned to the 11268
commissioner, and the commissioner shall certify the notice or 11269
order, if applicable, to the attorney general for collection 11270
under section 131.02 of the Revised Code. 11271

(b) Notwithstanding certification to the attorney general 11272
under division (B) (1) (a) of this section, once the commissioner 11273
or attorney general, or the designee of either, makes an initial 11274
contact with the person to whom the notice or order is directed, 11275
the person may protest an assessment by filing a petition for 11276
reassessment within sixty days after the initial contact. The 11277
certification of an assessment under division (B) (1) (a) of this 11278
section is prima-facie evidence that delivery is complete and 11279
that the notice or order is served. 11280

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address or if a person does not access an electronic notice or order within the time provided in division (F) of this section, the commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or

order if, at that time, the person was residing, receiving legal 11311
documents, or conducting business at the address; or if, before 11312
that time, the person had conducted business at the address and, 11313
when the notice or order was mailed, the person's agent or the 11314
person's affiliate was conducting business at the address. For 11315
the purposes of this section, a person's affiliate is any other 11316
person that, at the time the notice or order was mailed, owned 11317
or controlled at least twenty per cent, as determined by voting 11318
rights, of the addressee's business. 11319

(2) If the person elects to protest an assessment 11320
certified to the attorney general for collection, the person 11321
must do so within sixty days after the attorney general's 11322
initial contact with the person. The attorney general may enter 11323
into a compromise with the person under sections 131.02 and 11324
5703.06 of the Revised Code if the person does not file a 11325
petition for reassessment with the commissioner. 11326

(D) Nothing in this section prohibits the commissioner or 11327
the commissioner's designee from delivering a notice or order by 11328
personal service. 11329

(E) Collection actions taken pursuant to section 131.02 of 11330
the Revised Code upon any assessment being challenged under 11331
division (B) (1) (b) of this section shall be stayed upon the 11332
pendency of an appeal under this section. If a petition for 11333
reassessment is filed pursuant to this section on a claim that 11334
has been certified to the attorney general for collection, the 11335
claim shall be uncertified. 11336

~~(F)~~ (F) (1) The commissioner may serve a notice or order 11337
upon the person affected by the notice or order or that person's 11338
authorized representative through secure electronic means 11339
associated with the person's or representative's last known 11340

address only with the person's consent. Such consent may be 11341
provided as determined by the commissioner. The commissioner 11342
must inform the recipient, electronically or by mail, that a 11343
notice or order is available for electronic review and provide 11344
instructions to access and print the notice or order. The types 11345
of electronic notification the commissioner may use include 11346
electronic mail, text message, or any other form of electronic 11347
communication. The recipient's electronic access of the notice 11348
or order through the secure electronic notification system 11349
specified in division (F) (2) of this section satisfies the 11350
requirements for delivery under this section. If the recipient 11351
fails to access the notice or order electronically within ten 11352
business days, then the commissioner shall inform the recipient 11353
a second time, electronically or by mail, that a notice or order 11354
is available for electronic review and provide instructions to 11355
access and print the notice or order. If the recipient fails to 11356
access the notice or order electronically within ten business 11357
days of the second notification, the notice or order shall be 11358
served upon the person by mail through the means provided in 11359
division (B) (2) of this section. No assessment shall be deemed 11360
received unless the recipient accesses the notice through the 11361
secure electronic delivery system specified under division (F) 11362
(2) of this section, or the notice is sent to the individual's 11363
last known address by mail. 11364

(2) The tax commissioner shall establish a system to issue 11365
notification of assessments to taxpayers through secure 11366
electronic means. The system shall be password-protected. 11367

(G) As used in this section: 11368

(1) "Last known address" means the address the department 11369
has at the time the document is originally sent by certified 11370

mail, or any address the department can ascertain using 11371
reasonable means such as the use of a change of address service 11372
offered by the United States postal service or an authorized 11373
delivery service under section 5703.056 of the Revised Code. For 11374
documents sent by secure electronic means, "last known address" 11375
means an electronic mode of communication that is identified on 11376
a form prescribed by the commissioner for such purpose or that 11377
is associated with the person or the authorized representative 11378
of the person on the Ohio business gateway, as defined in 11379
section 718.01 of the Revised Code, as of the date the 11380
notification was sent. 11381

(2) "Undeliverable address" means an address to which the 11382
United States postal service or an authorized delivery service 11383
under section 5703.056 of the Revised Code is not able to 11384
deliver a notice or order, except when the reason for 11385
nondelivery is because the addressee fails to acknowledge or 11386
accept the notice or order. 11387

Sec. 5709.83. (A) Except as otherwise provided in division 11388
(B) or (C) of this section, prior to taking formal action to 11389
adopt or enter into any instrument granting a tax exemption 11390
under section 725.02, 1728.06, 5709.40, 5709.41, 5709.45, 11391
5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 11392
5709.88 of the Revised Code or formally approving an agreement 11393
under section 3735.671 of the Revised Code, or prior to 11394
forwarding an application for a tax exemption for residential 11395
property under section 3735.67 of the Revised Code to the county 11396
auditor, the legislative authority of the political subdivision 11397
or housing officer shall notify the board of education of each 11398
city, local, exempted village, or joint vocational school 11399
district in which the proposed tax-exempted property is located. 11400
The notice shall include a copy of the instrument or 11401

application. The notice shall be delivered not later than 11402
fourteen days prior to the day the legislative authority takes 11403
formal action to adopt or enter into the instrument, or not 11404
later than fourteen days prior to the day the housing officer 11405
forwards the application to the county auditor. If the board of 11406
education comments on the instrument or application to the 11407
legislative authority or housing officer, the legislative 11408
authority or housing officer shall consider the comments. If the 11409
board of education of the city, local, exempted village, or 11410
joint vocational school district so requests, the legislative 11411
authority or the housing officer shall meet ~~in person~~ with a 11412
representative designated by the board of education to discuss 11413
the terms of the instrument or application. 11414

(B) The notice otherwise required to be provided to boards 11415
of education under division (A) of this section is not required 11416
if the board has adopted a resolution waiving its right to 11417
receive such notices, and that resolution remains in effect. If 11418
a board of education adopts such a resolution, the board shall 11419
cause a copy of the resolution to be certified to the 11420
legislative authority. If the board of education rescinds such a 11421
resolution, it shall certify notice of the rescission to the 11422
legislative authority. A board of education may adopt such a 11423
resolution with respect to any one or more counties, townships, 11424
or municipal corporations situated in whole or in part within 11425
the school district. 11426

(C) If a legislative authority is required to provide 11427
notice to a city, local, or exempted village school district of 11428
its intent to adopt or enter into any instrument granting a tax 11429
exemption as required by section 3735.671, 5709.40, 5709.41, 11430
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 11431
Revised Code, the legislative authority, before adopting a 11432

resolution or ordinance or entering into an agreement under that 11433
section, shall notify the board of education of each joint 11434
vocational school district in which the property to be exempted 11435
is located using the same time requirements for the notice that 11436
applies to notices to city, local, and exempted village school 11437
districts. The content of the notice and procedures for 11438
responding to the notice are the same as required in division 11439
(A) of this section. 11440

Sec. 5736.041. The tax commissioner shall prepare and 11441
maintain a list of suppliers holding a license issued under 11442
section 5736.06 of the Revised Code that has not been revoked or 11443
canceled under section 5736.07 of the Revised Code. The list 11444
shall contain the names and addresses of all such suppliers and 11445
each supplier's account number for the tax imposed under section 11446
5736.02 of the Revised Code. ~~The list shall be open to public~~ 11447
~~inspection in the office of the commissioner.~~ The commissioner 11448
~~may~~ shall post the list on the department of taxation's web 11449
site. 11450

Sec. 5751.40. (A) As used in this section and division (F) 11451
(2) (z) of section 5751.01 of the Revised Code: 11452

(1) "Qualifying distribution center receipts" means 11453
receipts of a supplier from qualified property that is delivered 11454
to a qualified distribution center, multiplied by a quantity 11455
that equals one minus the Ohio delivery percentage. If the 11456
qualified distribution center is a refining facility, "supplier" 11457
includes all dealers, brokers, processors, sellers, vendors, 11458
cosigners, and distributors of qualified property. 11459

(2) "Qualified property" means tangible personal property 11460
delivered to a qualified distribution center that is shipped to 11461
that qualified distribution center solely for further shipping 11462

by the qualified distribution center to another location in this 11463
state or elsewhere or, in the case of gold, silver, platinum, or 11464
palladium delivered to a refining facility solely for refining 11465
to a grade and fineness acceptable for delivery to a registered 11466
commodities exchange. "Further shipping" includes storing and 11467
repackaging property into smaller or larger bundles, so long as 11468
the property is not subject to further manufacturing or 11469
processing. "Refining" is limited to extracting impurities from 11470
gold, silver, platinum, or palladium through smelting or some 11471
other process at a refining facility. 11472

(3) "Qualified distribution center" means a warehouse, a 11473
facility similar to a warehouse, or a refining facility in this 11474
state that, for the qualifying year, is operated by a person 11475
that is not part of a combined taxpayer group and that has a 11476
qualifying certificate. All warehouses or facilities similar to 11477
warehouses that are operated by persons in the same taxpayer 11478
group and that are located within one mile of each other shall 11479
be treated as one qualified distribution center. All refining 11480
facilities that are operated by persons in the same taxpayer 11481
group and that are located in the same or adjacent counties may 11482
be treated as one qualified distribution center. 11483

(4) "Qualifying year" means the calendar year to which the 11484
qualifying certificate applies. 11485

(5) "Qualifying period" means the period of the first day 11486
of July of the second year preceding the qualifying year through 11487
the thirtieth day of June of the year preceding the qualifying 11488
year. 11489

(6) "Qualifying certificate" means the certificate issued 11490
by the tax commissioner after the operator of a distribution 11491
center files an annual application with the commissioner under 11492

division (B) of this section. 11493

(7) "Ohio delivery percentage" means the proportion of the 11494
total property delivered to a destination inside Ohio from the 11495
qualified distribution center during the qualifying period 11496
compared with total deliveries from such distribution center 11497
everywhere during the qualifying period. 11498

(8) "Refining facility" means one or more buildings 11499
located in a county in the Appalachian region of this state as 11500
defined by section 107.21 of the Revised Code and utilized for 11501
refining or smelting gold, silver, platinum, or palladium to a 11502
grade and fineness acceptable for delivery to a registered 11503
commodities exchange. 11504

(9) "Registered commodities exchange" means a board of 11505
trade, such as New York mercantile exchange, inc. or commodity 11506
exchange, inc., designated as a contract market by the commodity 11507
futures trading commission under the "Commodity Exchange Act," 7 11508
U.S.C. 1 et seq., as amended. 11509

(10) "Ineligible operator's supplier tax liability" means 11510
an amount equal to the tax liability of all suppliers of a 11511
distribution center had the distribution center not been issued 11512
a qualifying certificate for the qualifying year. Ineligible 11513
operator's supplier tax liability shall not include interest or 11514
penalties. 11515

(B) For purposes of division (B) of this section, 11516
"supplier" excludes any person that is part of the consolidated 11517
elected taxpayer group, if applicable, of the operator of the 11518
qualified distribution center. 11519

(1) An application for a qualifying certificate to be a 11520
qualified distribution center shall be filed, and an annual fee 11521

paid, for each qualified distribution center on or before the 11522
first day of September before the qualifying year or within 11523
forty-five days after the distribution center opens, whichever 11524
is later. The applicant must substantiate to the commissioner's 11525
satisfaction that, for the qualifying period, all persons 11526
operating the distribution center have more than fifty per cent 11527
of the cost of the qualified property shipped to a location such 11528
that it would be situated outside this state under the provisions 11529
of division (E) of section 5751.033 of the Revised Code. The 11530
applicant must also substantiate that the distribution center 11531
cumulatively had costs from its suppliers equal to or exceeding 11532
five hundred million dollars during the qualifying period. 11533

The commissioner may require an applicant to have an 11534
independent certified public accountant certify that the 11535
calculation of the minimum thresholds required for a qualified 11536
distribution center by the operator of a distribution center has 11537
been made in accordance with generally accepted accounting 11538
principles. The commissioner shall issue or deny the issuance of 11539
a certificate within sixty days after the receipt of the 11540
application. A denial is subject to appeal under section 5717.02 11541
of the Revised Code. If the operator files a timely appeal under 11542
section 5717.02 of the Revised Code, the operator shall be 11543
granted a qualifying certificate effective for the remainder of 11544
the qualifying year or until the appeal is finalized, whichever 11545
is earlier. If the operator does not prevail in the appeal, the 11546
operator shall pay the ineligible operator's supplier tax 11547
liability. 11548

(2) If the distribution center is new and was not open for 11549
the entire qualifying period, the operator of the distribution 11550
center may request that the commissioner grant a qualifying 11551
certificate. If the certificate is granted and it is later 11552

determined that more than fifty per cent of the qualified 11553
property during that year was not shipped to a location such 11554
that it would be situated outside of this state under the 11555
provisions of division (E) of section 5751.033 of the Revised 11556
Code or if it is later determined that the person that operates 11557
the distribution center had average monthly costs from its 11558
suppliers of less than forty million dollars during that year, 11559
then the operator of the distribution center shall pay the 11560
ineligible operator's supplier tax liability. 11561

(3) The commissioner may grant a qualifying certificate to 11562
a distribution center that does not qualify as a qualified 11563
distribution center for an entire qualifying period if the 11564
operator of the distribution center demonstrates that the 11565
business operations of the distribution center have changed or 11566
will change such that the distribution center will qualify as a 11567
qualified distribution center within thirty-six months after the 11568
date the operator first applies for a certificate. If, at the 11569
end of that thirty-six-month period, the business operations of 11570
the distribution center have not changed such that the 11571
distribution center qualifies as a qualified distribution 11572
center, the operator of the distribution center shall pay the 11573
ineligible operator's supplier tax liability for each year that 11574
the distribution center received a certificate but did not 11575
qualify as a qualified distribution center. For each year the 11576
distribution center receives a certificate under division (B) (3) 11577
of this section, the distribution center shall pay all 11578
applicable fees required under this section and shall submit an 11579
updated business plan showing the progress the distribution 11580
center made toward qualifying as a qualified distribution center 11581
during the preceding year. 11582

(4) An operator may appeal a determination under division 11583

(B) (2) or (3) of this section that the ineligible operator is 11584
liable for the operator's supplier tax liability as a result of 11585
not qualifying as a qualified distribution center, as provided 11586
in section 5717.02 of the Revised Code. 11587

(C) (1) When filing an application for a qualifying 11588
certificate under division (B) (1) of this section, the operator 11589
of a qualified distribution center also shall provide 11590
documentation, as the commissioner requires, for the 11591
commissioner to ascertain the Ohio delivery percentage. The 11592
commissioner, upon issuing the qualifying certificate, also 11593
shall certify the Ohio delivery percentage. The operator of the 11594
qualified distribution center may appeal the commissioner's 11595
certification of the Ohio delivery percentage in the same manner 11596
as an appeal is taken from the denial of a qualifying 11597
certificate under division (B) (1) of this section. 11598

(2) In the case where the distribution center is new and 11599
not open for the entire qualifying period, the operator shall 11600
make a good faith estimate of an Ohio delivery percentage for 11601
use by suppliers in their reports of taxable gross receipts for 11602
the remainder of the qualifying period. The operator of the 11603
facility shall disclose to the suppliers that such Ohio delivery 11604
percentage is an estimate and is subject to recalculation. By 11605
the due date of the next application for a qualifying 11606
certificate, the operator shall determine the actual Ohio 11607
delivery percentage for the estimated qualifying period and 11608
proceed as provided in division (C) (1) of this section with 11609
respect to the calculation and recalculation of the Ohio 11610
delivery percentage. The supplier is required to file, within 11611
sixty days after receiving notice from the operator of the 11612
qualified distribution center, amended reports for the impacted 11613
calendar quarter or quarters or calendar year, whichever the 11614

case may be. Any additional tax liability or tax overpayment 11615
shall be subject to interest but shall not be subject to the 11616
imposition of any penalty so long as the amended returns are 11617
timely filed. 11618

(3) The operator of a distribution center that receives a 11619
qualifying certificate under division (B) (3) of this section 11620
shall make a good faith estimate of the Ohio delivery percentage 11621
that the operator estimates will apply to the distribution 11622
center at the end of the thirty-six-month period after the 11623
operator first applied for a qualifying certificate under that 11624
division. The result of the estimate shall be multiplied by a 11625
factor of one and seventy-five one-hundredths. The product of 11626
that calculation shall be the Ohio delivery percentage used by 11627
suppliers in their reports of taxable gross receipts for each 11628
qualifying year that the distribution center receives a 11629
qualifying certificate under division (B) (3) of this section, 11630
except that, if the product is less than five per cent, the Ohio 11631
delivery percentage used shall be five per cent and that, if the 11632
product exceeds forty-nine per cent, the Ohio delivery 11633
percentage used shall be forty-nine per cent. 11634

(D) Qualifying certificates and Ohio delivery percentages 11635
issued by the commissioner shall be ~~open to public inspection~~ 11636
~~and shall be timely published by the commissioner on the~~ 11637
department of taxation's web site and shall be accessible on 11638
that web site for at least four years after the date of 11639
issuance. A supplier relying in good faith on a certificate 11640
issued under this section shall not be subject to tax on the 11641
qualifying distribution center receipts under this section and 11642
division (F) (2) (z) of section 5751.01 of the Revised Code. An 11643
operator receiving a qualifying certificate is liable for the 11644
ineligible operator's supplier tax liability for each year the 11645

operator received a certificate but did not qualify as a 11646
qualified distribution center. 11647

(E) The tax commissioner shall determine an ineligible 11648
operator's supplier tax liability based on information that the 11649
commissioner may request from the operator of the distribution 11650
center. An operator shall provide a list of all suppliers of the 11651
distribution center and the corresponding costs of qualified 11652
property for the qualifying year at issue within sixty days of a 11653
request by the commissioner under this division. 11654

(F) The annual fee for a qualifying certificate shall be 11655
one hundred thousand dollars for each qualified distribution 11656
center. If a qualifying certificate is not issued, the annual 11657
fee is subject to refund after the exhaustion of all appeals 11658
provided for in division (B) (1) of this section. The first one 11659
hundred thousand dollars of the annual application fees 11660
collected each calendar year shall be credited to the revenue 11661
enhancement fund. The remainder of the annual application fees 11662
collected shall be distributed in the same manner required under 11663
section 5751.20 of the Revised Code. 11664

(G) The tax commissioner may require that adequate 11665
security be posted by the operator of the distribution center on 11666
appeal when the commissioner disagrees that the applicant has 11667
met the minimum thresholds for a qualified distribution center 11668
as set forth in this section. 11669

Section 2. That existing sections 127.15, 173.03, 753.19, 11670
1121.38, 1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 11671
1571.08, 1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 11672
1707.042, 1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 11673
3111.23, 3301.05, 3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 11674
3319.081, 3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 11675

3321.21, 3704.03, 3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 11676
3772.031, 3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 11677
3781.11, 3781.25, 3781.29, 3781.342, 3904.08, 3905.72, 3951.03, 11678
4121.19, 4123.512, 4123.52, 4125.03, 4141.09, 4141.47, 4167.10, 11679
4301.17, 4301.30, 4303.24, 4503.04, 4507.081, 4508.021, 11680
4509.101, 4510.03, 4510.41, 4701.04, 4735.13, 4735.14, 4751.23, 11681
4755.01, 5107.161, 5120.14, 5123.081, 5123.169, 5165.193, 11682
5165.86, 5166.303, 5168.08, 5168.22, 5168.23, 5516.10, 5525.01, 11683
5703.37, 5709.83, 5736.041, and 5751.40 of the Revised Code are 11684
hereby repealed. 11685

Section 3. That section 5123.195 of the Revised Code is 11686
hereby repealed. 11687

Section 4. That the version of section 3951.03 of the 11688
Revised Code schedule to take effect December 29, 2023, be 11689
amended to read as follows: 11690

Sec. 3951.03. (A) Before any certificate of authority 11691
shall be issued by the superintendent of insurance there shall 11692
be filed in the superintendent's office a written application 11693
therefor. Such application shall be in the form or forms and 11694
supplements thereto prescribed by the superintendent and shall 11695
set forth: 11696

(1) The name and address of the applicant, and if the 11697
applicant be a firm, association, or partnership, the name and 11698
address of each member thereof, and if the applicant be a 11699
corporation, the name and address of each of its officers and 11700
directors; 11701

(2) Whether any license or certificate of authority as 11702
agent, broker, or public insurance adjuster has been issued 11703
previously by the superintendent of this state or by the 11704

insurance department of any state to the individual applicant, 11705
and, if the applicant be an individual, whether any such 11706
certificate has been issued previously to any firm, association, 11707
or partnership of which the individual was or is an officer or 11708
director, and, if the applicant be a firm, association, or 11709
partnership, whether any such certificate has been issued 11710
previously to any member thereof, and, if the applicant be a 11711
corporation, whether any such certificate has been issued 11712
previously to any officer or director of such corporation; 11713

(3) The business or employment in which the applicant has 11714
been engaged for the five years next preceding the date of the 11715
application, and the name and address of such business and the 11716
name or names and addresses of his employer or employers; 11717

(4) Such information as the superintendent may require of 11718
applicants in order to determine their trustworthiness and 11719
competency to transact the business of public insurance 11720
adjusters, in such manner as to safeguard the interest of the 11721
public; 11722

(B) Except as provided in division (C) of this section, 11723
the superintendent shall issue a public insurance adjuster agent 11724
certificate to a person, who is a bona fide employee of a public 11725
insurance adjuster without examination, provided said 11726
application is made by a person, partnership, association, or 11727
corporation engaged in the public insurance adjusting business. 11728
The fee to be paid by the applicant for such a license at the 11729
time the application is made, and annually thereafter for the 11730
renewal thereof according to the standard renewal procedure of 11731
sections 4745.01 to 4745.03, inclusive, of the Revised Code, 11732
shall be fifty dollars, and such applicant shall be bonded in 11733
the amount of one thousand dollars as provided for in division 11734

(D) of section 3951.06 of the Revised Code. 11735

(C) The superintendent shall issue a public insurance 11736
adjuster agent certificate in accordance with Chapter 4796. of 11737
the Revised Code to an applicant if either of the following 11738
applies: 11739

(1) The applicant holds a license or certificate in 11740
another state. 11741

(2) The applicant has satisfactory work experience, a 11742
government certification, or a private certification as 11743
described in that chapter as a public insurance adjuster agent 11744
in a state that does not issue that license or certificate. 11745

(D) An application for any certificate of authority shall 11746
be signed ~~and verified under oath~~ by the applicant and, if made 11747
by a firm, association, partnership, or corporation, by each 11748
member or officer and director thereof to be authorized thereby 11749
to act as a public insurance adjuster. 11750

Section 5. That the existing version of section 3951.03 of 11751
the Revised Code scheduled to take effect December 29, 2023, is 11752
hereby repealed. 11753

Section 6. The amendment by this act of sections 5168.22 11754
and 5168.23 of the Revised Code does not supersede the repeal of 11755
those sections on October 1, 2023, as prescribed by Section 11756
610.20 of H.B. 110 of the 134th General Assembly. 11757

The amendment by this act of section 5168.08 of the 11758
Revised Code does not supersede the repeal of that section on 11759
October 16, 2023, as prescribed by Section 610.20 of H.B. 110 of 11760
the 134th General Assembly. 11761

Section 7. Section 5123.169 of the Revised Code was 11762

amended by H.B. 263 of the 133rd General Assembly, with the 11763
amendments to that section scheduled to take effect October 9, 11764
2021. S.B. 3 of the 134th General Assembly subsequently amended 11765
the version of that section that was scheduled to take effect on 11766
October 9, 2021, to remove the future amendments. The section 11767
presented as existing law in this act is the section as it 11768
results from S.B. 3 of the 134th General Assembly, which took 11769
effect September 30, 2021, and which superseded the future 11770
amendments to that section by H.B. 263 of the 133rd General 11771
Assembly. 11772

Section 8. The General Assembly, applying the principle 11773
stated in division (B) of section 1.52 of the Revised Code that 11774
amendments are to be harmonized if reasonably capable of 11775
simultaneous operation, finds that the following sections, 11776
presented in this act as composites of the sections as amended 11777
by the acts indicated, are the resulting versions of the 11778
sections in effect prior to the effective date of the sections 11779
as presented in this act: 11780

Section 3302.04 of the Revised Code as amended by both 11781
H.B. 82 and H.B. 110 of the 134th General Assembly. 11782

Section 4503.04 of the Revised Code as amended by both 11783
H.B. 74 and H.B. 281 of the 134th General Assembly. 11784

Section 4509.101 of the Revised Code as amended by both 11785
H.B. 62 and H.B. 158 of the 133rd General Assembly. 11786