

As Introduced

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H. B. No. 1003

Representatives Tims, Jarrells

To amend section 5747.01 and to enact sections 1
1749.01, 1749.02, and 1749.04 of the Revised 2
Code regarding institutional investors bidding 3
on, and the use of federal depreciation and 4
interest deductions against the state income tax 5
with respect to, certain residential property 6
and to name this act the Neighborhood Protection 7
Act. 8

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

Section 1. That section 5747.01 be amended and sections 9
1749.01, 1749.02, and 1749.04 of the Revised Code be enacted to 10
read as follows: 11

Sec. 1749.01. As used in this chapter: 12

(A) "Combined group" means a group of business entities 13
that have a common ownership interest, wherein a business has 14
the power to direct or cause the direction of the management and 15
policies of another business entity, whether through ownership 16
of voting securities, by contract, or otherwise. 17

(B) (1) "Covered entity" means an institutional real estate 18
investor or an entity that receives funding from an 19
institutional real estate investor for the purchase of a single- 20

family or two-family dwelling. A loan provided in exchange for a 21
mortgage of the residence that is being purchased is not 22
considered funding, provided that the mortgage is of a type for 23
which members of the general public can apply. 24

(2) "Covered entity" does not include any of the 25
following: 26

(a) An organization that is a nonprofit organization 27
described in section 501(c)(3) of the Internal Revenue Code, 26 28
U.S.C. 501(c)(3), that is exempt from taxation under section 26 29
U.S.C. 501(a); 30

(b) A county land reutilization corporation, as defined in 31
section 1724.01 of the Revised Code; 32

(c) A creditor or its loan servicer acquiring ownership of 33
real property in full or partial satisfaction of a secured debt. 34

(C) "Institutional real estate investor" means an entity 35
or combined group that, directly or indirectly, does all of the 36
following: 37

(1) Owns ten or more single-family or two-family 38
dwellings; 39

(2) Manages or receives funds pooled from investors and 40
acts as a fiduciary with respect to one or more investors; 41

(3) Has twenty-five million dollars or more in net value 42
or assets under management on any day during the taxable year. 43

Sec. 1749.02. A covered entity shall not purchase, 44
acquire, or offer to purchase or acquire, any interest in a 45
single-family residence or two-family residence unless the 46
single-family residence or two-family residence has been listed 47
for sale to the general public for at least thirty days. 48

Sec. 1749.04. (A) Whenever the director of commerce 49
believes a covered entity has violated section 1749.02 of the 50
Revised Code, the director may conduct a hearing in accordance 51
with Chapter 119. of the Revised Code to determine whether a 52
violation has occurred. If the director determines a violation 53
of section 1749.02 of the Revised Code has occurred, the 54
director shall impose a civil penalty of not more than two 55
hundred fifty thousand dollars for each violation. 56

(B) The attorney general, upon written request by the 57
director, shall bring a civil action for collection of a civil 58
penalty imposed under division (A) of this section. 59

Sec. 5747.01. Except as otherwise expressly provided or 60
clearly appearing from the context, any term used in this 61
chapter that is not otherwise defined in this section has the 62
same meaning as when used in a comparable context in the laws of 63
the United States relating to federal income taxes or if not 64
used in a comparable context in those laws, has the same meaning 65
as in section 5733.40 of the Revised Code. Any reference in this 66
chapter to the Internal Revenue Code includes other laws of the 67
United States relating to federal income taxes. 68

As used in this chapter: 69

(A) "Adjusted gross income" or "Ohio adjusted gross 70
income" means federal adjusted gross income, as defined and used 71
in the Internal Revenue Code, adjusted as provided in this 72
section: 73

(1) Add interest or dividends on obligations or securities 74
of any state or of any political subdivision or authority of any 75
state, other than this state and its subdivisions and 76
authorities. 77

(2) Add interest or dividends on obligations of any 78
authority, commission, instrumentality, territory, or possession 79
of the United States to the extent that the interest or 80
dividends are exempt from federal income taxes but not from 81
state income taxes. 82

(3) Deduct interest or dividends on obligations of the 83
United States and its territories and possessions or of any 84
authority, commission, or instrumentality of the United States 85
to the extent that the interest or dividends are included in 86
federal adjusted gross income but exempt from state income taxes 87
under the laws of the United States. 88

(4) Deduct disability and survivor's benefits to the 89
extent included in federal adjusted gross income. 90

(5) Deduct the following, to the extent not otherwise 91
deducted or excluded in computing federal or Ohio adjusted gross 92
income: 93

(a) Benefits under Title II of the Social Security Act and 94
tier 1 railroad retirement; 95

(b) Railroad retirement benefits, other than tier 1 96
railroad retirement benefits, to the extent such amounts are 97
exempt from state taxation under federal law. 98

(6) Deduct the amount of wages and salaries, if any, not 99
otherwise allowable as a deduction but that would have been 100
allowable as a deduction in computing federal adjusted gross 101
income for the taxable year, had the work opportunity tax credit 102
allowed and determined under sections 38, 51, and 52 of the 103
Internal Revenue Code not been in effect. 104

(7) Deduct any interest or interest equivalent on public 105
obligations and purchase obligations to the extent that the 106

interest or interest equivalent is included in federal adjusted 107
gross income. 108

(8) Add any loss or deduct any gain resulting from the 109
sale, exchange, or other disposition of public obligations to 110
the extent that the loss has been deducted or the gain has been 111
included in computing federal adjusted gross income. 112

(9) Deduct or add amounts, as provided under section 113
5747.70 of the Revised Code, related to contributions made to or 114
tuition units purchased under a qualified tuition program 115
established pursuant to section 529 of the Internal Revenue 116
Code. 117

(10)(a) Deduct, to the extent not otherwise allowable as a 118
deduction or exclusion in computing federal or Ohio adjusted 119
gross income for the taxable year, the amount the taxpayer paid 120
during the taxable year for medical care insurance and qualified 121
long-term care insurance for the taxpayer, the taxpayer's 122
spouse, and dependents. No deduction for medical care insurance 123
under division (A)(10)(a) of this section shall be allowed 124
either to any taxpayer who is eligible to participate in any 125
subsidized health plan maintained by any employer of the 126
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 127
entitled to, or on application would be entitled to, benefits 128
under part A of Title XVIII of the "Social Security Act," 49 129
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 130
division (A)(10)(a) of this section, "subsidized health plan" 131
means a health plan for which the employer pays any portion of 132
the plan's cost. The deduction allowed under division (A)(10)(a) 133
of this section shall be the net of any related premium refunds, 134
related premium reimbursements, or related insurance premium 135
dividends received during the taxable year. 136

(b) Deduct, to the extent not otherwise deducted or 137
excluded in computing federal or Ohio adjusted gross income 138
during the taxable year, the amount the taxpayer paid during the 139
taxable year, not compensated for by any insurance or otherwise, 140
for medical care of the taxpayer, the taxpayer's spouse, and 141
dependents, to the extent the expenses exceed seven and one-half 142
per cent of the taxpayer's federal adjusted gross income. 143

(c) For purposes of division (A)(10) of this section, 144
"medical care" has the meaning given in section 213 of the 145
Internal Revenue Code, subject to the special rules, 146
limitations, and exclusions set forth therein, and "qualified 147
long-term care" has the same meaning given in section 7702B(c) 148
of the Internal Revenue Code. Solely for purposes of division 149
(A)(10)(a) of this section, "dependent" includes a person who 150
otherwise would be a "qualifying relative" and thus a 151
"dependent" under section 152 of the Internal Revenue Code but 152
for the fact that the person fails to meet the income and 153
support limitations under section 152(d)(1)(B) and (C) of the 154
Internal Revenue Code. 155

(11)(a) Deduct any amount included in federal adjusted 156
gross income solely because the amount represents a 157
reimbursement or refund of expenses that in any year the 158
taxpayer had deducted as an itemized deduction pursuant to 159
section 63 of the Internal Revenue Code and applicable United 160
States department of the treasury regulations. The deduction 161
otherwise allowed under division (A)(11)(a) of this section 162
shall be reduced to the extent the reimbursement is attributable 163
to an amount the taxpayer deducted under this section in any 164
taxable year. 165

(b) Add any amount not otherwise included in Ohio adjusted 166

gross income for any taxable year to the extent that the amount 167
is attributable to the recovery during the taxable year of any 168
amount deducted or excluded in computing federal or Ohio 169
adjusted gross income in any taxable year. 170

(12) Deduct any portion of the deduction described in 171
section 1341(a)(2) of the Internal Revenue Code, for repaying 172
previously reported income received under a claim of right, that 173
meets both of the following requirements: 174

(a) It is allowable for repayment of an item that was 175
included in the taxpayer's adjusted gross income for a prior 176
taxable year and did not qualify for a credit under division (A) 177
or (B) of section 5747.05 of the Revised Code for that year; 178

(b) It does not otherwise reduce the taxpayer's adjusted 179
gross income for the current or any other taxable year. 180

(13) Deduct an amount equal to the deposits made to, and 181
net investment earnings of, a medical savings account during the 182
taxable year, in accordance with section 3924.66 of the Revised 183
Code. The deduction allowed by division (A)(13) of this section 184
does not apply to medical savings account deposits and earnings 185
otherwise deducted or excluded for the current or any other 186
taxable year from the taxpayer's federal adjusted gross income. 187

(14)(a) Add an amount equal to the funds withdrawn from a 188
medical savings account during the taxable year, and the net 189
investment earnings on those funds, when the funds withdrawn 190
were used for any purpose other than to reimburse an account 191
holder for, or to pay, eligible medical expenses, in accordance 192
with section 3924.66 of the Revised Code; 193

(b) Add the amounts distributed from a medical savings 194
account under division (A)(2) of section 3924.68 of the Revised 195

Code during the taxable year. 196

(15) Add any amount claimed as a credit under section 197
5747.059 of the Revised Code to the extent that such amount 198
satisfies either of the following: 199

(a) The amount was deducted or excluded from the 200
computation of the taxpayer's federal adjusted gross income as 201
required to be reported for the taxpayer's taxable year under 202
the Internal Revenue Code; 203

(b) The amount resulted in a reduction of the taxpayer's 204
federal adjusted gross income as required to be reported for any 205
of the taxpayer's taxable years under the Internal Revenue Code. 206

(16) Deduct the amount contributed by the taxpayer to an 207
individual development account program established by a county 208
department of job and family services pursuant to sections 209
329.11 to 329.14 of the Revised Code for the purpose of matching 210
funds deposited by program participants. On request of the tax 211
commissioner, the taxpayer shall provide any information that, 212
in the tax commissioner's opinion, is necessary to establish the 213
amount deducted under division (A) (16) of this section. 214

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), ~~and~~ 215
(v), and (vi) of this section, add five-sixths of the amount of 216
depreciation expense allowed by subsection (k) of section 168 of 217
the Internal Revenue Code, including the taxpayer's 218
proportionate or distributive share of the amount of 219
depreciation expense allowed by that subsection to a pass- 220
through entity in which the taxpayer has a direct or indirect 221
ownership interest. 222

(ii) Subject to divisions (A) (17) (a) (iii), (iv), ~~and (v)~~, and (vi) 223
of this section, add five-sixths of the amount of 224

qualifying section 179 depreciation expense, including the 225
taxpayer's proportionate or distributive share of the amount of 226
qualifying section 179 depreciation expense allowed to any pass- 227
through entity in which the taxpayer has a direct or indirect 228
ownership interest. 229

(iii) Subject to division (A) (17) (a) (v) of this section, 230
for taxable years beginning in 2012 or thereafter, if the 231
increase in income taxes withheld by the taxpayer is equal to or 232
greater than ten per cent of income taxes withheld by the 233
taxpayer during the taxpayer's immediately preceding taxable 234
year, "two-thirds" shall be substituted for "five-sixths" for 235
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 236

(iv) Subject to division (A) (17) (a) (v) of this section, 237
for taxable years beginning in 2012 or thereafter, a taxpayer is 238
not required to add an amount under division (A) (17) of this 239
section if the increase in income taxes withheld by the taxpayer 240
and by any pass-through entity in which the taxpayer has a 241
direct or indirect ownership interest is equal to or greater 242
than the sum of (I) the amount of qualifying section 179 243
depreciation expense and (II) the amount of depreciation expense 244
allowed to the taxpayer by subsection (k) of section 168 of the 245
Internal Revenue Code, and including the taxpayer's 246
proportionate or distributive shares of such amounts allowed to 247
any such pass-through entities. 248

(v) If a taxpayer directly or indirectly incurs a net 249
operating loss for the taxable year for federal income tax 250
purposes, to the extent such loss resulted from depreciation 251
expense allowed by subsection (k) of section 168 of the Internal 252
Revenue Code and by qualifying section 179 depreciation expense, 253
"the entire" shall be substituted for "five-sixths of the" for 254

the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 255

The tax commissioner, under procedures established by the 256
commissioner, may waive the add-backs related to a pass-through 257
entity if the taxpayer owns, directly or indirectly, less than 258
five per cent of the pass-through entity. 259

(vi) Division (A) (17) (a) of this section does not apply to 260
any depreciation expense required to be added back under 261
division (A) (46) (a) or (b) of this section. 262

(b) Nothing in division (A) (17) of this section shall be 263
construed to adjust or modify the adjusted basis of any asset. 264

(c) To the extent the add-back required under division (A) 265
(17) (a) of this section is attributable to property generating 266
nonbusiness income or loss allocated under section 5747.20 of 267
the Revised Code, the add-back shall be situated to the same 268
location as the nonbusiness income or loss generated by the 269
property for the purpose of determining the credit under 270
division (A) of section 5747.05 of the Revised Code. Otherwise, 271
the add-back shall be apportioned, subject to one or more of the 272
four alternative methods of apportionment enumerated in section 273
5747.21 of the Revised Code. 274

(d) For the purposes of division (A) (17) (a) (v) of this 275
section, net operating loss carryback and carryforward shall not 276
include the allowance of any net operating loss deduction 277
carryback or carryforward to the taxable year to the extent such 278
loss resulted from depreciation allowed by section 168(k) of the 279
Internal Revenue Code and by the qualifying section 179 280
depreciation expense amount. 281

(e) For the purposes of divisions (A) (17) and (18) of this 282
section: 283

(i) "Income taxes withheld" means the total amount 284
withheld and remitted under sections 5747.06 and 5747.07 of the 285
Revised Code by an employer during the employer's taxable year. 286

(ii) "Increase in income taxes withheld" means the amount 287
by which the amount of income taxes withheld by an employer 288
during the employer's current taxable year exceeds the amount of 289
income taxes withheld by that employer during the employer's 290
immediately preceding taxable year. 291

(iii) "Qualifying section 179 depreciation expense" means 292
the difference between (I) the amount of depreciation expense 293
directly or indirectly allowed to a taxpayer under section 179 294
of the Internal Revised Code, and (II) the amount of 295
depreciation expense directly or indirectly allowed to the 296
taxpayer under section 179 of the Internal Revenue Code as that 297
section existed on December 31, 2002. 298

(18)(a) If the taxpayer was required to add an amount 299
under division (A)(17)(a) of this section for a taxable year, 300
deduct one of the following: 301

(i) One-fifth of the amount so added for each of the five 302
succeeding taxable years if the amount so added was five-sixths 303
of qualifying section 179 depreciation expense or depreciation 304
expense allowed by subsection (k) of section 168 of the Internal 305
Revenue Code; 306

(ii) One-half of the amount so added for each of the two 307
succeeding taxable years if the amount so added was two-thirds 308
of such depreciation expense; 309

(iii) One-sixth of the amount so added for each of the six 310
succeeding taxable years if the entire amount of such 311
depreciation expense was so added. 312

(b) If the amount deducted under division (A) (18) (a) of 313
this section is attributable to an add-back allocated under 314
division (A) (17) (c) of this section, the amount deducted shall 315
be situated to the same location. Otherwise, the deduction shall 316
be apportioned using the apportionment factors for the taxable 317
year in which the deduction is taken, subject to one or more of 318
the four alternative methods of apportionment enumerated in 319
section 5747.21 of the Revised Code. 320

(c) No deduction is available under division (A) (18) (a) of 321
this section with regard to any depreciation allowed by section 322
168(k) of the Internal Revenue Code and by the qualifying 323
section 179 depreciation expense amount to the extent that such 324
depreciation results in or increases a federal net operating 325
loss carryback or carryforward. If no such deduction is 326
available for a taxable year, the taxpayer may carry forward the 327
amount not deducted in such taxable year to the next taxable 328
year and add that amount to any deduction otherwise available 329
under division (A) (18) (a) of this section for that next taxable 330
year. The carryforward of amounts not so deducted shall continue 331
until the entire addition required by division (A) (17) (a) of 332
this section has been deducted. 333

(19) Deduct, to the extent not otherwise deducted or 334
excluded in computing federal or Ohio adjusted gross income for 335
the taxable year, the amount the taxpayer received during the 336
taxable year as reimbursement for life insurance premiums under 337
section 5919.31 of the Revised Code. 338

(20) Deduct, to the extent not otherwise deducted or 339
excluded in computing federal or Ohio adjusted gross income for 340
the taxable year, the amount the taxpayer received during the 341
taxable year as a death benefit paid by the adjutant general 342

under section 5919.33 of the Revised Code. 343

(21) Deduct, to the extent included in federal adjusted 344
gross income and not otherwise allowable as a deduction or 345
exclusion in computing federal or Ohio adjusted gross income for 346
the taxable year, military pay and allowances received by the 347
taxpayer during the taxable year for active duty service in the 348
armed forces of the United States, as defined in section 5907.01 349
of the Revised Code, or reserve components thereof or the 350
national guard. The deduction may not be claimed for military 351
pay and allowances received by the taxpayer while the taxpayer 352
is stationed in this state. 353

(22) Deduct, to the extent not otherwise allowable as a 354
deduction or exclusion in computing federal or Ohio adjusted 355
gross income for the taxable year and not otherwise compensated 356
for by any other source, the amount of qualified organ donation 357
expenses incurred by the taxpayer during the taxable year, not 358
to exceed ten thousand dollars. A taxpayer may deduct qualified 359
organ donation expenses only once for all taxable years 360
beginning with taxable years beginning in 2007. 361

For the purposes of division (A) (22) of this section: 362

(a) "Human organ" means all or any portion of a human 363
liver, pancreas, kidney, intestine, or lung, and any portion of 364
human bone marrow. 365

(b) "Qualified organ donation expenses" means travel 366
expenses, lodging expenses, and wages and salary forgone by a 367
taxpayer in connection with the taxpayer's donation, while 368
living, of one or more of the taxpayer's human organs to another 369
human being. 370

(23) Deduct, to the extent not otherwise deducted or 371

excluded in computing federal or Ohio adjusted gross income for 372
the taxable year, amounts received by the taxpayer as retired 373
personnel pay for service in the uniformed services or reserve 374
components thereof, or the national guard, or received by the 375
surviving spouse or former spouse of such a taxpayer under the 376
survivor benefit plan on account of such a taxpayer's death. If 377
the taxpayer receives income on account of retirement paid under 378
the federal civil service retirement system or federal employees 379
retirement system, or under any successor retirement program 380
enacted by the congress of the United States that is established 381
and maintained for retired employees of the United States 382
government, and such retirement income is based, in whole or in 383
part, on credit for the taxpayer's uniformed service, the 384
deduction allowed under this division shall include only that 385
portion of such retirement income that is attributable to the 386
taxpayer's uniformed service, to the extent that portion of such 387
retirement income is otherwise included in federal adjusted 388
gross income and is not otherwise deducted under this section. 389
Any amount deducted under division (A) (23) of this section is 390
not included in a taxpayer's adjusted gross income for the 391
purposes of section 5747.055 of the Revised Code. No amount may 392
be deducted under division (A) (23) of this section on the basis 393
of which a credit was claimed under section 5747.055 of the 394
Revised Code. 395

(24) Deduct, to the extent not otherwise deducted or 396
excluded in computing federal or Ohio adjusted gross income for 397
the taxable year, the amount the taxpayer received during the 398
taxable year from the military injury relief fund created in 399
section 5902.05 of the Revised Code. 400

(25) Deduct, to the extent not otherwise deducted or 401
excluded in computing federal or Ohio adjusted gross income for 402

the taxable year, the amount the taxpayer received as a veterans 403
bonus during the taxable year from the Ohio department of 404
veterans services as authorized by Section 2r of Article VIII, 405
Ohio Constitution. 406

(26) Deduct, to the extent not otherwise deducted or 407
excluded in computing federal or Ohio adjusted gross income for 408
the taxable year, any income derived from a transfer agreement 409
or from the enterprise transferred under that agreement under 410
section 4313.02 of the Revised Code. 411

(27) Deduct, to the extent not otherwise deducted or 412
excluded in computing federal or Ohio adjusted gross income for 413
the taxable year, Ohio college opportunity or federal Pell grant 414
amounts received by the taxpayer or the taxpayer's spouse or 415
dependent pursuant to section 3333.122 of the Revised Code or 20 416
U.S.C. 1070a, et seq., and used to pay room or board furnished 417
by the educational institution for which the grant was awarded 418
at the institution's facilities, including meal plans 419
administered by the institution. For the purposes of this 420
division, receipt of a grant includes the distribution of a 421
grant directly to an educational institution and the crediting 422
of the grant to the enrollee's account with the institution. 423

(28) Deduct from the portion of an individual's federal 424
adjusted gross income that is business income, to the extent not 425
otherwise deducted or excluded in computing federal adjusted 426
gross income for the taxable year, one hundred twenty-five 427
thousand dollars for each spouse if spouses file separate 428
returns under section 5747.08 of the Revised Code or two hundred 429
fifty thousand dollars for all other individuals. 430

(29) Deduct, as provided under section 5747.78 of the 431
Revised Code, contributions to ABLE savings accounts made in 432

accordance with sections 113.50 to 113.56 of the Revised Code. 433

(30) (a) Deduct, to the extent not otherwise deducted or 434
excluded in computing federal or Ohio adjusted gross income 435
during the taxable year, all of the following: 436

(i) Compensation paid to a qualifying employee described 437
in division (A) (14) (a) of section 5703.94 of the Revised Code to 438
the extent such compensation is for disaster work conducted in 439
this state during a disaster response period pursuant to a 440
qualifying solicitation received by the employee's employer; 441

(ii) Compensation paid to a qualifying employee described 442
in division (A) (14) (b) of section 5703.94 of the Revised Code to 443
the extent such compensation is for disaster work conducted in 444
this state by the employee during the disaster response period 445
on critical infrastructure owned or used by the employee's 446
employer; 447

(iii) Income received by an out-of-state disaster business 448
for disaster work conducted in this state during a disaster 449
response period, or, if the out-of-state disaster business is a 450
pass-through entity, a taxpayer's distributive share of the 451
pass-through entity's income from the business conducting 452
disaster work in this state during a disaster response period, 453
if, in either case, the disaster work is conducted pursuant to a 454
qualifying solicitation received by the business. 455

(b) All terms used in division (A) (30) of this section 456
have the same meanings as in section 5703.94 of the Revised 457
Code. 458

(31) For a taxpayer who is a qualifying Ohio educator, 459
deduct, to the extent not otherwise deducted or excluded in 460
computing federal or Ohio adjusted gross income for the taxable 461

year, the lesser of three hundred dollars or the amount of 462
expenses described in subsections (a)(2)(D)(i) and (ii) of 463
section 62 of the Internal Revenue Code paid or incurred by the 464
taxpayer during the taxpayer's taxable year in excess of the 465
amount the taxpayer is authorized to deduct for that taxable 466
year under subsection (a)(2)(D) of that section. 467

(32) Deduct, to the extent not otherwise deducted or 468
excluded in computing federal or Ohio adjusted gross income for 469
the taxable year, amounts received by the taxpayer as a 470
disability severance payment, computed under 10 U.S.C. 1212, 471
following discharge or release under honorable conditions from 472
the armed forces of the United States, as defined in section 473
5907.01 of the Revised Code. 474

(33) Deduct, to the extent not otherwise deducted or 475
excluded in computing federal adjusted gross income or Ohio 476
adjusted gross income, amounts not subject to tax due to an 477
agreement entered into under division (A)(2) of section 5747.05 478
of the Revised Code. 479

(34) Deduct amounts as provided under section 5747.79 of 480
the Revised Code related to the taxpayer's qualifying capital 481
gains and deductible payroll. 482

To the extent a qualifying capital gain described under 483
division (A)(34) of this section is business income, the 484
taxpayer shall deduct those gains under this division before 485
deducting any such gains under division (A)(28) of this section. 486

(35)(a) For taxable years beginning in or after 2026, 487
deduct, to the extent not otherwise deducted or excluded in 488
computing federal or Ohio adjusted gross income for the taxable 489
year: 490

(i) One hundred per cent of the capital gain received by 491
the taxpayer in the taxable year from a qualifying interest in 492
an Ohio venture capital operating company attributable to the 493
company's investments in Ohio businesses during the period for 494
which the company was an Ohio venture operating company; and 495

(ii) Fifty per cent of the capital gain received by the 496
taxpayer in the taxable year from a qualifying interest in an 497
Ohio venture capital operating company attributable to the 498
company's investments in all other businesses during the period 499
for which the company was an Ohio venture operating company. 500

(b) Add amounts previously deducted by the taxpayer under 501
division (A) (35) (a) of this section if the director of 502
development certifies to the tax commissioner that the 503
requirements for the deduction were not met. 504

(c) All terms used in division (A) (35) of this section 505
have the same meanings as in section 122.851 of the Revised 506
Code. 507

(d) To the extent a capital gain described in division (A) 508
(35) (a) of this section is business income, the taxpayer shall 509
apply that division before applying division (A) (28) of this 510
section. 511

(36) Add, to the extent not otherwise included in 512
computing federal or Ohio adjusted gross income for any taxable 513
year, the taxpayer's proportionate share of the amount of the 514
tax levied under section 5747.38 of the Revised Code and paid by 515
an electing pass-through entity for the taxable year. 516

Notwithstanding any provision of the Revised Code to the 517
contrary, the portion of the addition required by division (A) 518
(36) of this section related to the apportioned business income 519

of the pass-through entity shall be considered business income 520
under division (B) of this section. Such addition is eligible 521
for the deduction in division (A) (28) of this section, subject 522
to the applicable dollar limitations, and the tax rate 523
prescribed by division (A) (4) (a) of section 5747.02 of the 524
Revised Code. The taxpayer shall provide, upon request of the 525
tax commissioner, any documentation necessary to verify the 526
portion of the addition that is business income under this 527
division. 528

(37) Deduct, to the extent not otherwise deducted or 529
excluded in computing federal or Ohio adjusted gross income for 530
the taxable year, amounts delivered to a qualifying institution 531
pursuant to section 3333.128 of the Revised Code for the benefit 532
of the taxpayer or the taxpayer's spouse or dependent. 533

(38) Deduct, to the extent not otherwise deducted or 534
excluded in computing federal or Ohio adjusted gross income for 535
the taxable year, amounts received under the Ohio adoption grant 536
program pursuant to section 5180.451 of the Revised Code. 537

(39) Deduct, to the extent included in federal adjusted 538
gross income, income attributable to amounts provided to a 539
taxpayer for any of the purposes for which an exclusion would 540
have been authorized under section 139 of the Internal Revenue 541
Code if the train derailment near the city of East Palestine on 542
February 3, 2023, had been a qualified disaster pursuant to that 543
section, or to compensate for lost business resulting from that 544
derailment, if such amounts are provided by any of the 545
following: 546

(a) A federal, state, or local government agency; 547

(b) A railroad company, as that term is defined in section 548

5727.01 of the Revised Code; 549

(c) Any subsidiary, insurer, or agent of a railroad 550
company or any related person. 551

Notwithstanding any provision to the contrary, the 552
derailment is not required to meet the definition of a 553
"qualified disaster" pursuant to section 139 of the Internal 554
Revenue Code to qualify for the deduction under this section. 555

(40) Deduct, to the extent included in federal adjusted 556
gross income, income attributable to loan repayments on behalf 557
of the taxpayer under the rural practice incentive program under 558
section 3333.135 of the Revised Code. 559

(41) Add any income taxes deducted in computing federal or 560
Ohio adjusted gross income to the extent the income taxes were 561
derived from income subject to a tax levied in another state or 562
the District of Columbia when such tax was enacted for purposes 563
of complying with internal revenue service notice 2020-75. 564

Notwithstanding any provision of the Revised Code to the 565
contrary, the portion of the addition required by division (A) 566
(41) of this section related to the apportioned business income 567
of the pass-through entity shall be considered business income 568
under division (B) of this section. Such addition is eligible 569
for the deduction in division (A) (28) of this section, subject 570
to the applicable dollar limitations, and the tax rate 571
prescribed by division (A) (4) (a) of section 5747.02 of the 572
Revised Code. The taxpayer shall provide, upon request of the 573
tax commissioner, any documentation necessary to verify the 574
portion of the addition that is business income under this 575
division. 576

(42) Deduct amounts contributed to a homeownership savings 577

account and calculated pursuant to divisions (B) and (C) of 578
section 5747.85 of the Revised Code. 579

(43) If the taxpayer is the account owner of a 580
homeownership savings account, upon withdrawal or transfer of 581
funds from the account, or closure of the account containing 582
funds that are not used for eligible expenses, add the amount of 583
such funds not used for an eligible expense. The addition 584
required under this division shall not exceed the sum of the 585
amounts deducted by the taxpayer for such account under division 586
(A) (42) of this section in any taxable year and the amount of 587
any funds deposited in the account by a contributor other than 588
the account owner. As used in division (A) (43) of this section, 589
"homeownership savings account," "contributor," "account owner," 590
and "eligible expenses" have the same meanings as in section 591
5747.85 of the Revised Code. 592

(44) Deduct, to the extent not otherwise deducted or 593
excluded in computing federal or Ohio adjusted gross income 594
during the taxable year, up to seven hundred fifty dollars of 595
contributions the taxpayer makes to a pregnancy resource center 596
that meets the criteria in division (B) of section 5180.71 of 597
the Revised Code. 598

(45) Add any interest deducted in computing federal 599
adjusted gross income pursuant to section 163 of the Internal 600
Revenue Code in connection with a covered property owned by an 601
institutional real estate investor, except with respect to 602
interest paid or accrued in a taxable year in which such covered 603
property is sold to an individual for use as the principal 604
residence of such individual or sold to a nonprofit organization 605
that has as its principal purpose the creation, development, or 606
preservation of affordable housing. For the purpose of this 607

division, any amount of interest that would have been allowed 608
under section 163 of the Internal Revenue Code in connection 609
with a covered property but for an election to treat such 610
interest as chargeable to capital account shall be treated as an 611
amount deducted under that section. 612

(46) (a) Add the entire amount of any depreciation expense 613
allowed by subsection (k) of section 168 of the Internal Revenue 614
Code in connection with a covered property owned by an 615
institutional real estate investor, including the taxpayer's 616
proportionate or distributive share of the amount of 617
depreciation expense allowed by that subsection to a pass- 618
through entity in which the taxpayer has a direct or indirect 619
ownership interest. 620

(b) Add the entire amount of qualifying section 179 621
depreciation expense, as defined in division (A) (17) of this 622
section, allowed in connection with a covered property owned by 623
an institutional real estate investor, including the taxpayer's 624
proportionate or distributive share of the amount of qualifying 625
section 179 depreciation expense allowed to any pass-through 626
entity in which the taxpayer has a direct or indirect ownership 627
interest. 628

(B) "Business income" means income, including gain or 629
loss, arising from transactions, activities, and sources in the 630
regular course of a trade or business and includes income, gain, 631
or loss from real property, tangible property, and intangible 632
property if the acquisition, rental, management, and disposition 633
of the property constitute integral parts of the regular course 634
of a trade or business operation. "Business income" includes 635
income, including gain or loss, from a partial or complete 636
liquidation of a business, including, but not limited to, gain 637

or loss from the sale or other disposition of goodwill or the 638
sale of an equity or ownership interest in a business. 639

As used in this division, the "sale of an equity or 640
ownership interest in a business" means sales to which either or 641
both of the following apply: 642

(1) The sale is treated for federal income tax purposes as 643
the sale of assets. 644

(2) The seller materially participated, as described in 26 645
C.F.R. 1.469-5T, in the activities of the business during the 646
taxable year in which the sale occurs or during any of the five 647
preceding taxable years. 648

(C) "Nonbusiness income" means all income other than 649
business income and may include, but is not limited to, 650
compensation, rents and royalties from real or tangible personal 651
property, capital gains, interest, dividends and distributions, 652
patent or copyright royalties, or lottery winnings, prizes, and 653
awards. 654

(D) "Compensation" means any form of remuneration paid to 655
an employee for personal services. 656

(E) "Fiduciary" means a guardian, trustee, executor, 657
administrator, receiver, conservator, or any other person acting 658
in any fiduciary capacity for any individual, trust, or estate. 659

(F) "Fiscal year" means an accounting period of twelve 660
months ending on the last day of any month other than December. 661

(G) "Individual" means any natural person. 662

(H) "Internal Revenue Code" means the "Internal Revenue 663
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 664

(I) "Resident" means any of the following:

(1) An individual who is domiciled in this state, subject
to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was
domiciled in this state. The domicile tests of section 5747.24
of the Revised Code are not controlling for purposes of division
(I) (2) of this section.

(3) A trust that, in whole or part, resides in this state.
If only part of a trust resides in this state, the trust is a
resident only with respect to that part.

For the purposes of division (I) (3) of this section:

(a) A trust resides in this state for the trust's current
taxable year to the extent, as described in division (I) (3) (d)
of this section, that the trust consists directly or indirectly,
in whole or in part, of assets, net of any related liabilities,
that were transferred, or caused to be transferred, directly or
indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or
instrumentality on account of the death of a decedent, but only
if the trust is described in division (I) (3) (e) (i) or (ii) of
this section;

(ii) A person who was domiciled in this state for the
purposes of this chapter when the person directly or indirectly
transferred assets to an irrevocable trust, but only if at least
one of the trust's qualifying beneficiaries is domiciled in this
state for the purposes of this chapter during all or some
portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the

purposes of this chapter when the trust document or instrument 693
or part of the trust document or instrument became irrevocable, 694
but only if at least one of the trust's qualifying beneficiaries 695
is a resident domiciled in this state for the purposes of this 696
chapter during all or some portion of the trust's current 697
taxable year. If a trust document or instrument became 698
irrevocable upon the death of a person who at the time of death 699
was domiciled in this state for purposes of this chapter, that 700
person is a person described in division (I)(3)(a)(iii) of this 701
section. 702

(b) A trust is irrevocable to the extent that the 703
transferor is not considered to be the owner of the net assets 704
of the trust under sections 671 to 678 of the Internal Revenue 705
Code. 706

(c) With respect to a trust other than a charitable lead 707
trust, "qualifying beneficiary" has the same meaning as 708
"potential current beneficiary" as defined in section 1361(e)(2) 709
of the Internal Revenue Code, and with respect to a charitable 710
lead trust "qualifying beneficiary" is any current, future, or 711
contingent beneficiary, but with respect to any trust 712
"qualifying beneficiary" excludes a person or a governmental 713
entity or instrumentality to any of which a contribution would 714
qualify for the charitable deduction under section 170 of the 715
Internal Revenue Code. 716

(d) For the purposes of division (I)(3)(a) of this 717
section, the extent to which a trust consists directly or 718
indirectly, in whole or in part, of assets, net of any related 719
liabilities, that were transferred directly or indirectly, in 720
whole or part, to the trust by any of the sources enumerated in 721
that division shall be ascertained by multiplying the fair 722

market value of the trust's assets, net of related liabilities, 723
by the qualifying ratio, which shall be computed as follows: 724

(i) The first time the trust receives assets, the 725
numerator of the qualifying ratio is the fair market value of 726
those assets at that time, net of any related liabilities, from 727
sources enumerated in division (I)(3)(a) of this section. The 728
denominator of the qualifying ratio is the fair market value of 729
all the trust's assets at that time, net of any related 730
liabilities. 731

(ii) Each subsequent time the trust receives assets, a 732
revised qualifying ratio shall be computed. The numerator of the 733
revised qualifying ratio is the sum of (1) the fair market value 734
of the trust's assets immediately prior to the subsequent 735
transfer, net of any related liabilities, multiplied by the 736
qualifying ratio last computed without regard to the subsequent 737
transfer, and (2) the fair market value of the subsequently 738
transferred assets at the time transferred, net of any related 739
liabilities, from sources enumerated in division (I)(3)(a) of 740
this section. The denominator of the revised qualifying ratio is 741
the fair market value of all the trust's assets immediately 742
after the subsequent transfer, net of any related liabilities. 743

(iii) Whether a transfer to the trust is by or from any of 744
the sources enumerated in division (I)(3)(a) of this section 745
shall be ascertained without regard to the domicile of the 746
trust's beneficiaries. 747

(e) For the purposes of division (I)(3)(a)(i) of this 748
section: 749

(i) A trust is described in division (I)(3)(e)(i) of this 750
section if the trust is a testamentary trust and the testator of 751

that testamentary trust was domiciled in this state at the time 752
of the testator's death for purposes of the taxes levied under 753
Chapter 5731. of the Revised Code. 754

(ii) A trust is described in division (I)(3)(e)(ii) of 755
this section if the transfer is a qualifying transfer described 756
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 757
trust is an irrevocable inter vivos trust, and at least one of 758
the trust's qualifying beneficiaries is domiciled in this state 759
for purposes of this chapter during all or some portion of the 760
trust's current taxable year. 761

(f) For the purposes of division (I)(3)(e)(ii) of this 762
section, a "qualifying transfer" is a transfer of assets, net of 763
any related liabilities, directly or indirectly to a trust, if 764
the transfer is described in any of the following: 765

(i) The transfer is made to a trust, created by the 766
decedent before the decedent's death and while the decedent was 767
domiciled in this state for the purposes of this chapter, and, 768
prior to the death of the decedent, the trust became irrevocable 769
while the decedent was domiciled in this state for the purposes 770
of this chapter. 771

(ii) The transfer is made to a trust to which the 772
decedent, prior to the decedent's death, had directly or 773
indirectly transferred assets, net of any related liabilities, 774
while the decedent was domiciled in this state for the purposes 775
of this chapter, and prior to the death of the decedent the 776
trust became irrevocable while the decedent was domiciled in 777
this state for the purposes of this chapter. 778

(iii) The transfer is made on account of a contractual 779
relationship existing directly or indirectly between the 780

transferor and either the decedent or the estate of the decedent 781
at any time prior to the date of the decedent's death, and the 782
decedent was domiciled in this state at the time of death for 783
purposes of the taxes levied under Chapter 5731. of the Revised 784
Code. 785

(iv) The transfer is made to a trust on account of a 786
contractual relationship existing directly or indirectly between 787
the transferor and another person who at the time of the 788
decedent's death was domiciled in this state for purposes of 789
this chapter. 790

(v) The transfer is made to a trust on account of the will 791
of a testator who was domiciled in this state at the time of the 792
testator's death for purposes of the taxes levied under Chapter 793
5731. of the Revised Code. 794

(vi) The transfer is made to a trust created by or caused 795
to be created by a court, and the trust was directly or 796
indirectly created in connection with or as a result of the 797
death of an individual who, for purposes of the taxes levied 798
under Chapter 5731. of the Revised Code, was domiciled in this 799
state at the time of the individual's death. 800

(g) The tax commissioner may adopt rules to ascertain the 801
part of a trust residing in this state. 802

(J) "Nonresident" means an individual or estate that is 803
not a resident. An individual who is a resident for only part of 804
a taxable year is a nonresident for the remainder of that 805
taxable year. 806

(K) "Pass-through entity" has the same meaning as in 807
section 5733.04 of the Revised Code. 808

(L) "Return" means the notifications and reports required 809

to be filed pursuant to this chapter for the purpose of 810
reporting the tax due and includes declarations of estimated tax 811
when so required. 812

(M) "Taxable year" means the calendar year or the 813
taxpayer's fiscal year ending during the calendar year, or 814
fractional part thereof, upon which the adjusted gross income is 815
calculated pursuant to this chapter. 816

(N) "Taxpayer" means any person subject to the tax imposed 817
by section 5747.02 of the Revised Code or any pass-through 818
entity that makes the election under division (D) of section 819
5747.08 of the Revised Code. 820

(O) "Dependents" means dependents as defined in the 821
Internal Revenue Code. 822

(P) "Principal county of employment" means, in the case of 823
a nonresident, the county within the state in which a taxpayer 824
performs services for an employer or, if those services are 825
performed in more than one county, the county in which the major 826
portion of the services are performed. 827

(Q) As used in sections 5747.50 to 5747.55 of the Revised 828
Code: 829

(1) "Subdivision" means any county, municipal corporation, 830
park district, or township. 831

(2) "Essential local government purposes" includes all 832
functions that any subdivision is required by general law to 833
exercise, including like functions that are exercised under a 834
charter adopted pursuant to the Ohio Constitution. 835

(R) "Overpayment" means any amount already paid that 836
exceeds the figure determined to be the correct amount of the 837

tax. 838

(S) "Taxable income" or "Ohio taxable income" applies only 839
to estates and trusts, and means federal taxable income, as 840
defined and used in the Internal Revenue Code, adjusted as 841
follows: 842

(1) Add interest or dividends, net of ordinary, necessary, 843
and reasonable expenses not deducted in computing federal 844
taxable income, on obligations or securities of any state or of 845
any political subdivision or authority of any state, other than 846
this state and its subdivisions and authorities, but only to the 847
extent that such net amount is not otherwise includible in Ohio 848
taxable income and is described in either division (S) (1) (a) or 849
(b) of this section: 850

(a) The net amount is not attributable to the S portion of 851
an electing small business trust and has not been distributed to 852
beneficiaries for the taxable year; 853

(b) The net amount is attributable to the S portion of an 854
electing small business trust for the taxable year. 855

(2) Add interest or dividends, net of ordinary, necessary, 856
and reasonable expenses not deducted in computing federal 857
taxable income, on obligations of any authority, commission, 858
instrumentality, territory, or possession of the United States 859
to the extent that the interest or dividends are exempt from 860
federal income taxes but not from state income taxes, but only 861
to the extent that such net amount is not otherwise includible 862
in Ohio taxable income and is described in either division (S) 863
(1) (a) or (b) of this section; 864

(3) Add the amount of personal exemption allowed to the 865
estate pursuant to section 642(b) of the Internal Revenue Code; 866

(4) Deduct interest or dividends, net of related expenses 867
deducted in computing federal taxable income, on obligations of 868
the United States and its territories and possessions or of any 869
authority, commission, or instrumentality of the United States 870
to the extent that the interest or dividends are exempt from 871
state taxes under the laws of the United States, but only to the 872
extent that such amount is included in federal taxable income 873
and is described in either division (S)(1)(a) or (b) of this 874
section; 875

(5) Deduct the amount of wages and salaries, if any, not 876
otherwise allowable as a deduction but that would have been 877
allowable as a deduction in computing federal taxable income for 878
the taxable year, had the work opportunity tax credit allowed 879
under sections 38, 51, and 52 of the Internal Revenue Code not 880
been in effect, but only to the extent such amount relates 881
either to income included in federal taxable income for the 882
taxable year or to income of the S portion of an electing small 883
business trust for the taxable year; 884

(6) Deduct any interest or interest equivalent, net of 885
related expenses deducted in computing federal taxable income, 886
on public obligations and purchase obligations, but only to the 887
extent that such net amount relates either to income included in 888
federal taxable income for the taxable year or to income of the 889
S portion of an electing small business trust for the taxable 890
year; 891

(7) Add any loss or deduct any gain resulting from sale, 892
exchange, or other disposition of public obligations to the 893
extent that such loss has been deducted or such gain has been 894
included in computing either federal taxable income or income of 895
the S portion of an electing small business trust for the 896

taxable year; 897

(8) Except in the case of the final return of an estate, 898
add any amount deducted by the taxpayer on both its Ohio estate 899
tax return pursuant to section 5731.14 of the Revised Code, and 900
on its federal income tax return in determining federal taxable 901
income; 902

(9) (a) Deduct any amount included in federal taxable 903
income solely because the amount represents a reimbursement or 904
refund of expenses that in a previous year the decedent had 905
deducted as an itemized deduction pursuant to section 63 of the 906
Internal Revenue Code and applicable treasury regulations. The 907
deduction otherwise allowed under division (S) (9) (a) of this 908
section shall be reduced to the extent the reimbursement is 909
attributable to an amount the taxpayer or decedent deducted 910
under this section in any taxable year. 911

(b) Add any amount not otherwise included in Ohio taxable 912
income for any taxable year to the extent that the amount is 913
attributable to the recovery during the taxable year of any 914
amount deducted or excluded in computing federal or Ohio taxable 915
income in any taxable year, but only to the extent such amount 916
has not been distributed to beneficiaries for the taxable year. 917

(10) Deduct any portion of the deduction described in 918
section 1341(a) (2) of the Internal Revenue Code, for repaying 919
previously reported income received under a claim of right, that 920
meets both of the following requirements: 921

(a) It is allowable for repayment of an item that was 922
included in the taxpayer's taxable income or the decedent's 923
adjusted gross income for a prior taxable year and did not 924
qualify for a credit under division (A) or (B) of section 925

5747.05 of the Revised Code for that year. 926

(b) It does not otherwise reduce the taxpayer's taxable 927
income or the decedent's adjusted gross income for the current 928
or any other taxable year. 929

(11) Add any amount claimed as a credit under section 930
5747.059 of the Revised Code to the extent that the amount 931
satisfies either of the following: 932

(a) The amount was deducted or excluded from the 933
computation of the taxpayer's federal taxable income as required 934
to be reported for the taxpayer's taxable year under the 935
Internal Revenue Code; 936

(b) The amount resulted in a reduction in the taxpayer's 937
federal taxable income as required to be reported for any of the 938
taxpayer's taxable years under the Internal Revenue Code. 939

(12) Deduct any amount, net of related expenses deducted 940
in computing federal taxable income, that a trust is required to 941
report as farm income on its federal income tax return, but only 942
if the assets of the trust include at least ten acres of land 943
satisfying the definition of "land devoted exclusively to 944
agricultural use" under section 5713.30 of the Revised Code, 945
regardless of whether the land is valued for tax purposes as 946
such land under sections 5713.30 to 5713.38 of the Revised Code. 947
If the trust is a pass-through entity investor, section 5747.231 948
of the Revised Code applies in ascertaining if the trust is 949
eligible to claim the deduction provided by division (S)(12) of 950
this section in connection with the pass-through entity's farm 951
income. 952

Except for farm income attributable to the S portion of an 953
electing small business trust, the deduction provided by 954

division (S) (12) of this section is allowed only to the extent 955
that the trust has not distributed such farm income. 956

(13) Add the net amount of income described in section 957
641(c) of the Internal Revenue Code to the extent that amount is 958
not included in federal taxable income. 959

(14) Add or deduct the amount the taxpayer would be 960
required to add or deduct under division (A) (17) or (18) of this 961
section if the taxpayer's Ohio taxable income was computed in 962
the same manner as an individual's Ohio adjusted gross income is 963
computed under this section. 964

(15) Add, to the extent not otherwise included in 965
computing taxable income or Ohio taxable income for any taxable 966
year, the taxpayer's proportionate share of the amount of the 967
tax levied under section 5747.38 of the Revised Code and paid by 968
an electing pass-through entity for the taxable year. 969

(16) Add any income taxes deducted in computing federal 970
taxable income or Ohio taxable income to the extent the income 971
taxes were derived from income subject to a tax levied in 972
another state or the District of Columbia when such tax was 973
enacted for purposes of complying with internal revenue service 974
notice 2020-75. 975

(T) "School district income" and "school district income 976
tax" have the same meanings as in section 5748.01 of the Revised 977
Code. 978

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 979
(7) of this section, "public obligations," "purchase 980
obligations," and "interest or interest equivalent" have the 981
same meanings as in section 5709.76 of the Revised Code. 982

(V) "Limited liability company" means any limited 983

liability company formed under former Chapter 1705. of the 984
Revised Code as that chapter existed prior to February 11, 2022, 985
Chapter 1706. of the Revised Code, or the laws of any other 986
state. 987

(W) "Pass-through entity investor" means any person who, 988
during any portion of a taxable year of a pass-through entity, 989
is a partner, member, shareholder, or equity investor in that 990
pass-through entity. 991

(X) "Banking day" has the same meaning as in section 992
1304.01 of the Revised Code. 993

(Y) "Month" means a calendar month. 994

(Z) "Quarter" means the first three months, the second 995
three months, the third three months, or the last three months 996
of the taxpayer's taxable year. 997

(AA) (1) "Modified business income" means the business 998
income included in a trust's Ohio taxable income after such 999
taxable income is first reduced by the qualifying trust amount, 1000
if any. 1001

(2) "Qualifying trust amount" of a trust means capital 1002
gains and losses from the sale, exchange, or other disposition 1003
of equity or ownership interests in, or debt obligations of, a 1004
qualifying investee to the extent included in the trust's Ohio 1005
taxable income, but only if the following requirements are 1006
satisfied: 1007

(a) The book value of the qualifying investee's physical 1008
assets in this state and everywhere, as of the last day of the 1009
qualifying investee's fiscal or calendar year ending immediately 1010
prior to the date on which the trust recognizes the gain or 1011
loss, is available to the trust. 1012

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (AA) (4) (a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the

qualifying trust amount, and the denominator of which is the sum 1042
of the book value of the qualifying investee's total physical 1043
assets everywhere on the last day of the qualifying investee's 1044
fiscal or calendar year ending immediately prior to the day on 1045
which the trust recognizes the qualifying trust amount. If, for 1046
a taxable year, the trust recognizes a qualifying trust amount 1047
with respect to more than one qualifying investee, the amount 1048
described in division (AA) (4) (b) of this section shall equal the 1049
sum of the products so computed for each such qualifying 1050
investee. 1051

(c) (i) With respect to a trust or portion of a trust that 1052
is a resident as ascertained in accordance with division (I) (3) 1053
(d) of this section, its modified nonbusiness income. 1054

(ii) With respect to a trust or portion of a trust that is 1055
not a resident as ascertained in accordance with division (I) (3) 1056
(d) of this section, the amount of its modified nonbusiness 1057
income satisfying the descriptions in divisions (B) (2) to (5) of 1058
section 5747.20 of the Revised Code, except as otherwise 1059
provided in division (AA) (4) (c) (ii) of this section. With 1060
respect to a trust or portion of a trust that is not a resident 1061
as ascertained in accordance with division (I) (3) (d) of this 1062
section, the trust's portion of modified nonbusiness income 1063
recognized from the sale, exchange, or other disposition of a 1064
debt interest in or equity interest in a section 5747.212 1065
entity, as defined in section 5747.212 of the Revised Code, 1066
without regard to division (A) of that section, shall not be 1067
allocated to this state in accordance with section 5747.20 of 1068
the Revised Code but shall be apportioned to this state in 1069
accordance with division (B) of section 5747.212 of the Revised 1070
Code without regard to division (A) of that section. 1071

If the allocation and apportionment of a trust's income 1072
under divisions (AA) (4) (a) and (c) of this section do not fairly 1073
represent the modified Ohio taxable income of the trust in this 1074
state, the alternative methods described in division (C) of 1075
section 5747.21 of the Revised Code may be applied in the manner 1076
and to the same extent provided in that section. 1077

(5) (a) Except as set forth in division (AA) (5) (b) of this 1078
section, "qualifying investee" means a person in which a trust 1079
has an equity or ownership interest, or a person or unit of 1080
government the debt obligations of either of which are owned by 1081
a trust. For the purposes of division (AA) (2) (a) of this section 1082
and for the purpose of computing the fraction described in 1083
division (AA) (4) (b) of this section, all of the following apply: 1084

(i) If the qualifying investee is a member of a qualifying 1085
controlled group on the last day of the qualifying investee's 1086
fiscal or calendar year ending immediately prior to the date on 1087
which the trust recognizes the gain or loss, then "qualifying 1088
investee" includes all persons in the qualifying controlled 1089
group on such last day. 1090

(ii) If the qualifying investee, or if the qualifying 1091
investee and any members of the qualifying controlled group of 1092
which the qualifying investee is a member on the last day of the 1093
qualifying investee's fiscal or calendar year ending immediately 1094
prior to the date on which the trust recognizes the gain or 1095
loss, separately or cumulatively own, directly or indirectly, on 1096
the last day of the qualifying investee's fiscal or calendar 1097
year ending immediately prior to the date on which the trust 1098
recognizes the qualifying trust amount, more than fifty per cent 1099
of the equity of a pass-through entity, then the qualifying 1100
investee and the other members are deemed to own the 1101

proportionate share of the pass-through entity's physical assets 1102
which the pass-through entity directly or indirectly owns on the 1103
last day of the pass-through entity's calendar or fiscal year 1104
ending within or with the last day of the qualifying investee's 1105
fiscal or calendar year ending immediately prior to the date on 1106
which the trust recognizes the qualifying trust amount. 1107

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1108
section, "upper level pass-through entity" means a pass-through 1109
entity directly or indirectly owning any equity of another pass- 1110
through entity, and "lower level pass-through entity" means that 1111
other pass-through entity. 1112

An upper level pass-through entity, whether or not it is 1113
also a qualifying investee, is deemed to own, on the last day of 1114
the upper level pass-through entity's calendar or fiscal year, 1115
the proportionate share of the lower level pass-through entity's 1116
physical assets that the lower level pass-through entity 1117
directly or indirectly owns on the last day of the lower level 1118
pass-through entity's calendar or fiscal year ending within or 1119
with the last day of the upper level pass-through entity's 1120
fiscal or calendar year. If the upper level pass-through entity 1121
directly and indirectly owns less than fifty per cent of the 1122
equity of the lower level pass-through entity on each day of the 1123
upper level pass-through entity's calendar or fiscal year in 1124
which or with which ends the calendar or fiscal year of the 1125
lower level pass-through entity and if, based upon clear and 1126
convincing evidence, complete information about the location and 1127
cost of the physical assets of the lower pass-through entity is 1128
not available to the upper level pass-through entity, then 1129
solely for purposes of ascertaining if a gain or loss 1130
constitutes a qualifying trust amount, the upper level pass- 1131
through entity shall be deemed as owning no equity of the lower 1132

level pass-through entity for each day during the upper level 1133
pass-through entity's calendar or fiscal year in which or with 1134
which ends the lower level pass-through entity's calendar or 1135
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1136
shall be construed to provide for any deduction or exclusion in 1137
computing any trust's Ohio taxable income. 1138

(b) With respect to a trust that is not a resident for the 1139
taxable year and with respect to a part of a trust that is not a 1140
resident for the taxable year, "qualifying investee" for that 1141
taxable year does not include a C corporation if both of the 1142
following apply: 1143

(i) During the taxable year the trust or part of the trust 1144
recognizes a gain or loss from the sale, exchange, or other 1145
disposition of equity or ownership interests in, or debt 1146
obligations of, the C corporation. 1147

(ii) Such gain or loss constitutes nonbusiness income. 1148

(6) "Available" means information is such that a person is 1149
able to learn of the information by the due date plus 1150
extensions, if any, for filing the return for the taxable year 1151
in which the trust recognizes the gain or loss. 1152

(BB) "Qualifying controlled group" has the same meaning as 1153
in section 5733.04 of the Revised Code. 1154

(CC) "Related member" has the same meaning as in section 1155
5733.042 of the Revised Code. 1156

(DD) (1) For the purposes of division (DD) of this section: 1157

(a) "Qualifying person" means any person other than a 1158
qualifying corporation. 1159

(b) "Qualifying corporation" means any person classified 1160

for federal income tax purposes as an association taxable as a 1161
corporation, except either of the following: 1162

(i) A corporation that has made an election under 1163
subchapter S, chapter one, subtitle A, of the Internal Revenue 1164
Code for its taxable year ending within, or on the last day of, 1165
the investor's taxable year; 1166

(ii) A subsidiary that is wholly owned by any corporation 1167
that has made an election under subchapter S, chapter one, 1168
subtitle A of the Internal Revenue Code for its taxable year 1169
ending within, or on the last day of, the investor's taxable 1170
year. 1171

(2) For the purposes of this chapter, unless expressly 1172
stated otherwise, no qualifying person indirectly owns any asset 1173
directly or indirectly owned by any qualifying corporation. 1174

(EE) For purposes of this chapter and Chapter 5751. of the 1175
Revised Code: 1176

(1) "Trust" does not include a qualified pre-income tax 1177
trust. 1178

(2) A "qualified pre-income tax trust" is any pre-income 1179
tax trust that makes a qualifying pre-income tax trust election 1180
as described in division (EE) (3) of this section. 1181

(3) A "qualifying pre-income tax trust election" is an 1182
election by a pre-income tax trust to subject to the tax imposed 1183
by section 5751.02 of the Revised Code the pre-income tax trust 1184
and all pass-through entities of which the trust owns or 1185
controls, directly, indirectly, or constructively through 1186
related interests, five per cent or more of the ownership or 1187
equity interests. The trustee shall notify the tax commissioner 1188
in writing of the election on or before April 15, 2006. The 1189

election, if timely made, shall be effective on and after 1190
January 1, 2006, and shall apply for all tax periods and tax 1191
years until revoked by the trustee of the trust. 1192

(4) A "pre-income tax trust" is a trust that satisfies all 1193
of the following requirements: 1194

(a) The document or instrument creating the trust was 1195
executed by the grantor before January 1, 1972; 1196

(b) The trust became irrevocable upon the creation of the 1197
trust; and 1198

(c) The grantor was domiciled in this state at the time 1199
the trust was created. 1200

(FF) "Uniformed services" means all of the following: 1201

(1) "Armed forces of the United States" as defined in 1202
section 5907.01 of the Revised Code; 1203

(2) The commissioned corps of the national oceanic and 1204
atmospheric administration; 1205

(3) The commissioned corps of the public health service. 1206

(GG) "Taxable business income" means the amount by which 1207
an individual's business income that is included in federal 1208
adjusted gross income exceeds the amount of business income the 1209
individual is authorized to deduct under division (A) (28) of 1210
this section for the taxable year. 1211

(HH) "Employer" does not include a franchisor with respect 1212
to the franchisor's relationship with a franchisee or an 1213
employee of a franchisee, unless the franchisor agrees to assume 1214
that role in writing or a court of competent jurisdiction 1215
determines that the franchisor exercises a type or degree of 1216

control over the franchisee or the franchisee's employees that 1217
is not customarily exercised by a franchisor for the purpose of 1218
protecting the franchisor's trademark, brand, or both. For 1219
purposes of this division, "franchisor" and "franchisee" have 1220
the same meanings as in 16 C.F.R. 436.1. 1221

(II) "Modified adjusted gross income" means Ohio adjusted 1222
gross income plus any amount deducted under divisions (A) (28) 1223
and (34) of this section for the taxable year. 1224

(JJ) "Qualifying Ohio educator" means an individual who, 1225
for a taxable year, qualifies as an eligible educator, as that 1226
term is defined in section 62 of the Internal Revenue Code, and 1227
who holds a certificate, license, or permit described in Chapter 1228
3319. or section 3301.071 of the Revised Code. 1229

(KK) "Professional employer organization," "professional 1230
employer organization agreement," and "professional employer 1231
organization reporting entity" have the same meanings as in 1232
section 4125.01 of the Revised Code. 1233

(LL) "Alternate employer organization" and "alternate 1234
employer organization agreement" have the same meanings as in 1235
section 4133.01 of the Revised Code. 1236

(MM) "Casino gaming" has the same meaning as in section 1237
3772.01 of the Revised Code, "lottery sports gaming" has the 1238
same meaning as in section 3770.23 of the Revised Code, "sports 1239
gaming" has the same meaning as in section 3775.01 of the 1240
Revised Code, and "video lottery terminal" has the same meaning 1241
as in section 3770.21 of the Revised Code. 1242

(NN) "Institutional real estate investor" has the same 1243
meaning as in section 1749.01 of the Revised Code. 1244

(OO) "Covered property" means a single-family or two- 1245

family dwelling. 1246

Section 2. That existing section 5747.01 of the Revised 1247
Code is hereby repealed. 1248

Section 3. The amendment by this act of section 5747.01 of 1249
the Revised Code applies to taxable years ending on or after the 1250
effective date of this section. 1251

Section 4. This act shall be known as the Neighborhood 1252
Protection Act. 1253