

As Passed by the House

136th General Assembly

Regular Session

2025-2026

Sub. S. B. No. 101

Senator Blessing

**Cosponsors: Senators Antonio, Blackshear, Cirino, Craig, DeMora, Gavarone,
Hicks-Hudson, Huffman, Ingram, Manning, Patton, Reineke, Schaffer, Smith,
Timken, Wilkin**

**Representatives Mathews, A., Brennan, Hall, D., Klopfenstein, Manning, Odioso,
Oelslager, Robb Blasdel, Schmidt, Swearingen, Synenberg, Thomas, C., Thomas,
J., Williams, Young**

To amend sections 317.08, 3123.67, 4123.78,	1
4141.23, 5301.071, 5301.255, 5301.99, 5719.04,	2
5739.13, 5747.13, and 5749.07 and to enact	3
sections 5301.75, 5301.76, 5301.77, and 5301.78	4
of the Revised Code to require certain liens	5
filed with the county recorder to set forth the	6
last known address of the lien debtor, to	7
require a memorandum of trust or other	8
qualifying instrument concerning real property	9
to be recorded, and to prohibit certain	10
contracts regarding residential real estate.	11

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

Section 1. That sections 317.08, 3123.67, 4123.78,	12
4141.23, 5301.071, 5301.255, 5301.99, 5719.04, 5739.13, 5747.13,	13
and 5749.07 be amended and sections 5301.75, 5301.76, 5301.77,	14
and 5301.78 of the Revised Code be enacted to read as follows:	15

Sec. 317.08. (A) The county recorder shall record all	16
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instruments in one general record series to be known as the 17
"official records." The county recorder shall record in the 18
official records all of the following instruments that are 19
presented for recording, upon payment of the fees prescribed by 20
law: 21

(1) Deeds and other instruments of writing for the 22
absolute and unconditional sale or conveyance of lands, 23
tenements, and hereditaments; 24

(2) Notices as provided in sections 5301.47 to 5301.56 of 25
the Revised Code; 26

(3) Judgments or decrees in actions brought under section 27
5303.01 of the Revised Code; 28

(4) Declarations and bylaws, and all amendments to 29
declarations and bylaws, as provided in Chapter 5311. of the 30
Revised Code; 31

(5) Affidavits as provided in sections 5301.252 and 32
5301.56 of the Revised Code; 33

(6) Certificates as provided in section 5311.17 of the 34
Revised Code; 35

(7) Articles dedicating archaeological preserves accepted 36
by the director of the Ohio history connection under section 37
149.52 of the Revised Code; 38

(8) Articles dedicating nature preserves accepted by the 39
director of natural resources under section 1517.05 of the 40
Revised Code; 41

(9) Conveyances of conservation easements and agricultural 42
easements under section 5301.68 of the Revised Code; 43

(10) Instruments extinguishing agricultural easements	44
under section 901.21 or 5301.691 of the Revised Code or pursuant	45
to the terms of such an easement granted to a charitable	46
organization under section 5301.68 of the Revised Code;	47
(11) Instruments or orders described in division (B) (2) (b)	48
of section 5301.56 of the Revised Code;	49
(12) No further action letters issued under section	50
3746.11 of the Revised Code;	51
(13) Covenants not to sue issued under section 3746.12 of	52
the Revised Code;	53
(14) Restrictions on the use of property contained in a	54
deed or other instrument as provided in division (E) or (F) of	55
section 3737.882 of the Revised Code;	56
(15) Any easement executed or granted under section	57
3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code;	58
(16) Any environmental covenant entered into in accordance	59
with sections 5301.80 to 5301.92 of the Revised Code;	60
(17) Memoranda of trust, as described in division (A) of	61
section 5301.255 of the Revised Code, that describe specific	62
real property;	63
(18) Agreements entered into under section 1506.44 of the	64
Revised Code;	65
(19) Mortgages, including amendments, supplements,	66
modifications, and extensions of mortgages, or other instruments	67
of writing by which lands, tenements, or hereditaments are or	68
may be mortgaged or otherwise conditionally sold, conveyed,	69
affected, or encumbered;	70

(20) Executory installment contracts for the sale of land 71
executed after September 29, 1961, that by their terms are not 72
required to be fully performed by one or more of the parties to 73
them within one year of the date of the contracts; 74

(21) Options to purchase real estate, including 75
supplements, modifications, and amendments of the options, but 76
no option of that nature shall be recorded if it does not state 77
a specific day and year of expiration of its validity; 78

(22) Any tax certificate sold under section 5721.33 of the 79
Revised Code, or memorandum of it, that is presented for filing 80
of record; 81

(23) Powers of attorney, including all memoranda of trust, 82
as described in division (A) of section 5301.255 of the Revised 83
Code, that do not describe specific real property; 84

(24) Plats and maps of town lots, of the subdivision of 85
town lots, and of other divisions or surveys of lands, any 86
center line survey of a highway located within the county, the 87
plat of which shall be furnished by the director of 88
transportation or county engineer, and all drawings and 89
amendments to drawings, as provided in Chapter 5311. of the 90
Revised Code; 91

(25) Leases, memoranda of leases, and supplements, 92
modifications, and amendments of leases and memoranda of leases, 93
including a lease described in section 5301.09 of the Revised 94
Code; 95

(26) Declarations executed pursuant to section 2133.02 of 96
the Revised Code and durable powers of attorney for health care 97
executed pursuant to section 1337.12 of the Revised Code; 98

(27) Unemployment compensation liens, internal revenue tax 99

liens, and other liens in favor of the United States as 100
described in division (A) of section 317.09 of the Revised Code, 101
personal tax liens, mechanic's liens, agricultural product 102
liens, notices of liens, certificates of satisfaction or partial 103
release of estate tax liens, discharges of recognizances, excise 104
and franchise tax liens on corporations, broker's liens, and 105
liens provided for in section 1513.33, 1513.37, 3752.13, 106
4141.23, 5164.56, or 5311.18 of the Revised Code; 107

(28) Corrupt activity lien notices filed pursuant to 108
section 2923.36 of the Revised Code and medicaid fraud lien 109
notices filed pursuant to section 2933.75 of the Revised Code; 110

(29) Deeds for the purchase of burial lots or other 111
interment rights under section 517.07 of the Revised Code; 112

(30) Judgments or decrees in actions brought under section 113
5301.78 of the Revised Code. 114

(B) All instruments or memoranda of instruments entitled 115
to record shall be recorded in the order in which they are 116
presented for recording. 117

The recording of an option to purchase real estate, 118
including any supplement, modification, and amendment of the 119
option, under this section shall serve as notice to any 120
purchaser of an interest in the real estate covered by the 121
option only during the period of the validity of the option as 122
stated in the option. 123

(C) In addition to the official records, a county recorder 124
may elect to keep a separate set of records that contain the 125
instruments listed in division (A) (24) of this section. 126

(D) As part of the official records, the county recorder 127
shall keep a separate set of records containing all transfers, 128

conveyances, or assignments of any type of tangible or 129
intangible personal property or any rights or interests in that 130
property if and to the extent that any person wishes to record 131
that personal property transaction and if the applicable 132
instrument is acknowledged before a notary public. If the 133
transferor is a natural person, the notice of personal property 134
transfer shall be recorded in the county in this state in which 135
the transferor maintains the transferor's principal residence. 136
If the transferor is not a natural person, the notice of 137
personal property transfer shall be recorded in the county in 138
this state in which the transferor maintains its principal place 139
of business. If the transferor does not maintain a principal 140
residence or a principal place of business in this state and the 141
transfer is to a trustee of a legacy trust formed pursuant to 142
Chapter 5816. of the Revised Code, the notice of personal 143
property transfer shall be recorded in the county in this state 144
where that trustee maintains a principal residence or principal 145
place of business. In all other instances, the notice of 146
personal property transfer shall be recorded in the county in 147
this state where the property described in the notice is 148
located. 149

Sec. 3123.67. The amount of the arrearage due under the 150
support order determined to be in default pursuant to sections 151
3123.01 to 3123.07 of the Revised Code, and any amounts due for 152
current support that become an arrearage after the date the 153
default determination was made, shall be a lien against all 154
personal property, including after-acquired property, of the 155
obligor that is situated in this state. The lien may be filed 156
with the county recorder in each county of the state in which 157
the personal property is located. The amount of the arrearage 158
due under the support order determined to be in default and any 159

amounts due for current support that become an arrearage after 160
the date the default determination was made, shall be a lien 161
against real property, including after-acquired property, of the 162
obligor after the lien is filed with a county recorder of this 163
state in which the real property is located. A lien may be filed 164
with the county recorder in each county of the state in which 165
real property of the obligor is located. Any lien filed under 166
this section shall include the last known address of the 167
obligor, without further inquiry or investigation, that is not a 168
post office box. In recording the lien, if registered land is 169
involved, the county recorder shall take all necessary action 170
required by Chapter 5309. of the Revised Code. The county 171
recorder may be compensated for liens filed under this section 172
pursuant to the development of unit costs that are reimbursed 173
under the provider contract entered into pursuant to Title IV-D 174
of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 175
651, as amended. 176

Sec. 4123.78. If any employer fails to comply with section 177
4123.35 of the Revised Code in accordance with the rules of the 178
administrator of workers' compensation, the administrator shall 179
file with the county recorder of any counties in which the 180
employer's property is located, ~~its~~ a certificate of ~~containing~~ 181
the employer's name, last known address, and the amount of 182
premium due from the employer, and that amount shall be a lien 183
from the date of filing against the real property and personal 184
property of the employer within the county in which the 185
certificate is filed. The county recorder shall record and index 186
the certificate in the official record. The county recorder 187
shall make no charge for the services provided by this section 188
to be performed by the county recorder. 189

Sec. 4141.23. (A) Contributions shall accrue and become 190

payable by each employer for each calendar year or other period 191
as prescribed by this chapter. Such contributions become due and 192
shall be paid by each employer to the director of job and family 193
services for the unemployment compensation fund in accordance 194
with such regulations as the director prescribes, and shall not 195
be deducted, in whole or in part, from the remuneration of 196
individuals in the employer's employ. 197

In the payment of any contributions, a fractional part of 198
a dollar may be disregarded unless it amounts to fifty cents or 199
more, in which case it may be increased to the next higher 200
dollar. 201

(B) (1) Any contribution, payment in lieu of contribution, 202
interest, forfeiture, or fine due from an employer on or before 203
December 31, 2025, shall, if not paid when due, bear interest at 204
the annual rate of fourteen per cent compounded monthly on the 205
aggregate receivable balance due. In such computation any 206
fraction of a month shall be considered as a full month. 207

(2) Any contribution, payment in lieu of contribution, 208
interest, forfeiture, or fine due from an employer on or after 209
January 1, 2026, shall, if not paid when due, bear interest at 210
the interest rate established by the state tax commissioner 211
pursuant to section 5703.47 of the Revised Code, not exceeding 212
fifteen per cent. In such computation any fraction of a month 213
shall be considered as a full month. 214

(C) The director may waive the interest assessed under 215
division (B) of this section if the employer meets all of the 216
following conditions within thirty days after the date the 217
director mails or delivers the notice of assessment of interest: 218

(1) Provides to the director a written request for a 219

waiver of interest clearly demonstrating that the employer's 220
failure to timely pay contributions, payments in lieu of 221
contributions, interest, forfeiture, and fines was a result of 222
circumstances beyond the control of the employer or the 223
employer's agent, except that negligence on the part of the 224
employer or the employer's agent shall not be considered beyond 225
the control of the employer or the employer's agent; 226

(2) Furnishes to the director all quarterly reports 227
required under section 4141.20 of the Revised Code; 228

(3) Pays in full all contributions, payments in lieu of 229
contributions, interest, forfeiture, and fines for each quarter 230
for which such payments are due. 231

The director shall deny an employer's request for a waiver 232
of interest after finding that the employer's failure to timely 233
furnish reports or make payments as required under this chapter 234
was due to an attempt to evade payment. 235

(D) Any contribution, interest, forfeiture, or fine 236
required to be paid under this chapter by any employer shall, if 237
not paid when due, become a lien upon the real and personal 238
property of such employer. Upon failure of such employer to pay 239
the contributions, interest, forfeiture, or fine required to be 240
paid under this chapter, the director shall file notice of such 241
lien, containing the employer's name and last known address, for 242
which there shall be no charge, in the office of the county 243
recorder of the county in which it is ascertained that such 244
employer owns real estate or personal property. The director 245
shall notify the employer by mail of the lien. The absence of 246
proof that the notice was sent does not affect the validity of 247
the lien. Such lien shall not be valid as against the claim of 248
any mortgagee, pledgee, purchaser, judgment creditor, or other 249

lienholder of record at the time such notice is filed. 250

If the employer acquires real or personal property after 251
notice of lien is filed, such lien shall not be valid as against 252
the claim of any mortgagee, pledgee, subsequent bona fide 253
purchaser for value, judgment creditor, or other lienholder of 254
record to such after-acquired property, unless the notice of 255
lien is refiled after such property was acquired by the employer 256
and before the competing lien attached to such after-acquired 257
property or before the conveyance to such subsequent bona fide 258
purchaser for value. 259

Such a notice shall be recorded in the county recorder's 260
official records and indexed in the direct and reverse indexes 261
under the name of the employer. When such unpaid contributions, 262
interest, forfeiture, or fines have been paid, the employer may 263
record with the county recorder of the county in which such 264
notice of lien has been filed and recorded, notice of such 265
payment, and the notice of payment shall be recorded in the 266
county recorder's official records and indexed in the direct and 267
reverse indexes. For recording the notice of payment, the county 268
recorder shall charge and receive from the employer a base fee 269
of two dollars for services and a housing trust fund fee of two 270
dollars pursuant to section 317.36 of the Revised Code. 271

(E) Notwithstanding other provisions in this section, the 272
director may reduce, in whole or in part, the amount of 273
interest, forfeiture, or fines required to be paid under this 274
chapter if the director determines that the reduction is in the 275
best interest of the unemployment compensation fund. 276

(F) Assessment of contributions shall not be made after 277
four years from the date on which such contributions became 278
payable, and no action in court for the collection of 279

contributions without assessment of such contributions shall be 280
begun after the expiration of five years from the date such 281
contributions became payable. In case of a false or fraudulent 282
report or of a willful attempt in any manner to evade 283
contributions, such contributions may be assessed or a 284
proceeding in court for the collection of such contributions may 285
be begun without assessment at any time. When the assessment of 286
contributions has been made within such four-year period 287
provided, action in court to collect such contributions may be 288
begun within, but not later than, six years after such 289
assessment. 290

(G) In the event of a distribution of an employer's 291
assets, pursuant to an order of any court under the law of this 292
state, including any receivership, assignment for benefit of 293
creditors, adjudicated insolvency, or similar proceedings, 294
contributions, interest, forfeiture, or fine then or thereafter 295
due have the same priority as provided by law for the payment of 296
taxes due the state and shall be paid out of the trust fund in 297
the same manner as provided for other claims for unpaid taxes 298
due the state. 299

(H) If the attorney general finds after investigation that 300
any claim for delinquent contributions, interest, forfeitures, 301
or fines owing to the director is uncollectible, in whole or in 302
part, the attorney general shall recommend to the director the 303
cancellation of such claim or any part thereof. The director may 304
thereupon effect such cancellation. 305

Sec. 5301.071. No instrument conveying real property, or 306
any interest in real property, and of record in the office of 307
the county recorder of the county within this state in which 308
that real property is situated shall be considered defective nor 309

shall the validity of that conveyance be affected because of any 310
of the following: 311

(A) The dower interest of the spouse of any grantor was 312
not specifically released, but that spouse executed the 313
instrument in the manner provided in section 5301.01 of the 314
Revised Code. 315

(B) The officer taking the acknowledgment of the 316
instrument having an official seal did not affix that seal to 317
the certificate of acknowledgment. 318

(C) The certificate of acknowledgment is not on the same 319
sheet of paper as the instrument. 320

(D) The executor, administrator, guardian, assignee, 321
attorney in fact, or trustee making the instrument signed or 322
acknowledged the same individually instead of in a 323
representative or official capacity. 324

(E) (1) The grantor or grantee of the instrument is a trust 325
rather than the trustee or trustees of the trust if the trust 326
named as grantor or grantee has been duly created under the laws 327
of the state of its existence at the time of the conveyance and 328
a memorandum of trust that complies with section 5301.255 of the 329
Revised Code and contains a description of the real property 330
conveyed by that instrument is recorded in the office of the 331
county recorder in which the instrument of conveyance is 332
recorded. Upon compliance with division (E) (1) of this section, 333
a conveyance to or from a trust shall be considered to be a 334
conveyance to or from the trustee or trustees of the trust in 335
furtherance of the manifest intention of the parties. 336

(2) Except as otherwise provided in division (E) (2) of 337
this section, division (E) (1) of this section shall be given 338

retroactive effect to the fullest extent permitted under section 339
28 of Article II, Ohio Constitution. Division (E) of this 340
section shall not be given retroactive or curative effect if to 341
do so would invalidate or supersede any instrument that conveys 342
real property, or any interest in the real property, recorded in 343
the office of the county recorder in which that real property is 344
situated prior to the date of recording of a curative memorandum 345
of trust or March 22, 2012, whichever event occurs later. 346

(F) A memorandum of understanding or other instrument 347
complying with division (A) of section 5301.255 of the Revised 348
Code is not recorded as required by that section, so long as the 349
instrument from a trustee or trust as grantor, conveying or 350
encumbering any interest in the real property has been of record 351
for more than four years. 352

Sec. 5301.255. (A) A memorandum of trust or other 353
instrument that satisfies both of the following ~~may~~ shall be 354
~~presented for recordation of record~~ when any interest in real 355
property is conveyed by the trustee of a disclosed trust, and in 356
circumstances other than the conveyance of real property may be 357
presented, in the office of the county recorder of any county in 358
which real property that is subject to the trust is located: 359

(1) The ~~memorandum~~ instrument shall be executed by the 360
trustee of the trust and acknowledged by the trustee of the 361
trust in accordance with section 5301.01 of the Revised Code. 362

(2) The ~~memorandum~~ instrument shall state all of the 363
following: 364

(a) The name and address of the trustee of the trust; 365

(b) The date of execution of the trust; 366

(c) The powers specified in the trust relative to the 367

acquisition, sale, or encumbering of real property by the 368
trustee or the conveyance of real property by the trustee, and 369
any restrictions upon those powers. 370

(B) ~~A memorandum of trust~~ An instrument that satisfies 371
divisions (A) (1) and (2) of this section also may set forth the 372
substance or actual text of provisions of the trust that are not 373
described in those divisions. 374

(C) ~~A memorandum of trust~~ An instrument that satisfies 375
divisions (A) (1) and (2) of this section shall constitute notice 376
only of the information contained in it. 377

(D) Upon the presentation for recordation of ~~a memorandum~~ 378
~~of trust~~ an instrument that satisfies divisions (A) (1) and (2) 379
of this section and the payment of the requisite fee prescribed 380
in section 317.32 of the Revised Code, a county recorder shall 381
~~record either:~~ 382

(1) Record the ~~memorandum of trust instrument~~ in the 383
official records described in division (A) (17) of section 317.08 384
of the Revised Code, if the ~~memorandum of trust instrument~~ 385
describes specific real property, ~~or;~~ 386

(2) Record the instrument in the official records 387
described in division (A) (23) of ~~that~~ section 317.08 of the 388
Revised Code, if the ~~memorandum of trust instrument~~ does not 389
describe specific real property. 390

Sec. 5301.75. As used in sections 5301.75 to 5301.78 of 391
the Revised Code: 392

(A) "Consumer" means an individual that receives services 393
from a service provider. 394

(B) "Major home system" includes plumbing, heating, 395

ventilation, air conditioning, and electrical wiring. 396

(C) "Residential real estate" means real property located 397
in this state that is used primarily for personal, family, or 398
household purposes and is improved by one to four dwelling 399
units. 400

(D) "Service agreement" means a contract under which a 401
person agrees to provide services in connection with the 402
maintenance, purchase, or sale of residential real estate. 403

(E) "Service provider" means a person that provides 404
services to another person. 405

(F) "Unfair service agreement" means an agreement that is 406
void and unenforceable under division (B) of section 5301.76 of 407
the Revised Code. 408

Sec. 5301.76. (A) Subject to division (C) of this section, 409
on and after the effective date of this section, no service 410
provider shall enter into, amend, or renew a service agreement 411
with a consumer if both of the following apply: 412

(1) The service subject to the agreement is not to be 413
performed within one year after the date the parties enter into 414
the agreement. 415

(2) The service agreement has any of the following 416
characteristics: 417

(a) The service agreement purports to run with the land or 418
to be binding on future owners of interests in the residential 419
real estate. 420

(b) The service agreement allows for assignment of the 421
right to provide the service subject to the agreement without 422
notice to and consent of the owner of the residential real 423

estate. 424

(c) The service agreement purports to create a lien, 425
encumbrance, or other security interest in the residential real 426
estate. 427

(B) Subject to division (C) of this section, an unfair 428
service agreement described under division (A) of this section 429
that is entered into, amended, or renewed on or after the 430
effective date of this section is void and unenforceable. 431

(C) Sections 5301.75 to 5301.78 of the Revised Code do not 432
apply to any of the following: 433

(1) A home warranty or similar product that covers the 434
cost of maintenance of a major home system for a fixed period; 435

(2) An insurance contract; 436

(3) An option to purchase or right of refusal; 437

(4) A declaration created in the formation of a planned 438
community, as defined in section 5312.01 of the Revised Code, or 439
a condominium development, as defined in section 5311.01 of the 440
Revised Code, or any amendment to such a declaration; 441

(5) A maintenance or repair agreement entered by an owners 442
association, as defined by section 5312.01 of the Revised Code, 443
or a unit owners association, as defined by section 5311.01 of 444
the Revised Code; 445

(6) A mortgage loan or a commitment to make or receive a 446
mortgage loan; 447

(7) A security agreement made pursuant to Chapter 1309. or 448
1310. of the Revised Code relating to the sale or rental of 449
personal property or fixtures; 450

(8) Water, sewer, electrical, telephone, cable, or other 451
regulated utility service providers. 452

(D) A violation of division (A) of this section is an 453
unfair and deceptive act or practice in violation of section 454
1345.02 of the Revised Code. All powers and remedies available 455
to the attorney general to enforce sections 1345.01 to 1345.13 456
of the Revised Code are available to the attorney general to 457
enforce this section. 458

(E) Nothing in this section shall be construed to 459
interfere with any provision of Chapter 1311. of the Revised 460
Code concerning mechanics' liens. 461

Sec. 5301.77. (A) No person shall record or cause to be 462
recorded in this state an unfair service agreement or a notice 463
or memorandum of an unfair service agreement. 464

(B) A county recorder shall not accept for recording an 465
unfair service agreement or a notice or memorandum of an unfair 466
service agreement. 467

(C) If an unfair service agreement or a notice or 468
memorandum of an unfair service agreement is recorded in 469
violation of this section, it does not provide actual or 470
constructive notice against an otherwise bona fide purchaser of 471
the residential real estate or any other individual or entity 472
that may obtain an interest in the residential real estate. 473

Sec. 5301.78. (A) (1) If an unfair service agreement or a 474
notice or memorandum of an unfair service agreement is recorded 475
in this state in violation of section 5301.77 of the Revised 476
Code, any party with an interest in the residential real estate 477
that is the subject of that agreement may commence a civil 478
action in a court of competent jurisdiction in the county in 479

which the agreement, notice, or memorandum is recorded. 480

(2) If the court determines that the recorded instrument 481
is an unfair service agreement or a notice or memorandum of an 482
unfair service agreement, the court shall do both of the 483
following: 484

(a) Issue a judgment declaring the service agreement, 485
notice, or memorandum to be unenforceable; 486

(b) Award to any party with an interest in the residential 487
real estate that is the subject of that agreement all of the 488
following: 489

(i) Actual economic damages; 490

(ii) Court costs and fees; 491

(iii) Reasonable attorney's fees. 492

(B) When an unfair service agreement or notice or 493
memorandum of an unfair service agreement is declared 494
unenforceable by a judgment under division (A) (2) (a) of this 495
section, any party with an interest in the residential real 496
estate may obtain a certified copy of the judgment declaring the 497
service agreement, notice, or memorandum to be unenforceable and 498
present the certified copy of the judgment to the county 499
recorder's office for recording within the chain of title to the 500
property. 501

Sec. 5301.99. (A) Any individual, corporation, or other 502
business entity that violates section 5301.254 of the Revised 503
Code shall be fined not less than five thousand dollars nor more 504
than an amount equal to twenty-five percent of the market value 505
of the real property or mineral or mining rights about which 506
information must be filed with the secretary of state pursuant 507

to section 5301.254 of the Revised Code. 508

(B) Whoever violates section 5301.61 of the Revised Code 509
is guilty of a misdemeanor of the first degree. 510

(C) Whoever violates division (A) of section 5301.77 of 511
the Revised Code is guilty of a misdemeanor of the second 512
degree. 513

Sec. 5719.04. (A) Immediately after each settlement 514
required by division (D) of section 321.24 of the Revised Code, 515
the county auditor shall make a tax list and duplicates thereof 516
of all general personal and classified property taxes remaining 517
unpaid, as shown by the county treasurer's books and the list of 518
taxes returned as delinquent by the treasurer to the auditor at 519
such settlement. The county auditor shall also include in such 520
list all taxes assessed by the tax commissioner pursuant to law 521
which were not charged upon the tax lists and duplicates on 522
which such settlements were made nor previously charged upon a 523
delinquent tax list and duplicates pursuant to this section, but 524
the auditor shall not include taxes specifically excepted from 525
collection pursuant to section 5711.32 of the Revised Code. Such 526
tax list and duplicates shall contain the name of the person 527
charged, the last known address of the person charged, and the 528
amount of such taxes, and the penalty, due and unpaid, and shall 529
set forth separately the amount charged or chargeable on the 530
general and on the classified list and duplicate. The auditor 531
shall deliver one such duplicate to the treasurer on the first 532
day of December, annually. Upon receipt of the duplicate the 533
treasurer may prepare and mail tax bills to all persons charged 534
with such delinquent taxes. Each bill shall include a notice 535
that the interest charge prescribed by section 5719.041 of the 536
Revised Code has begun to accrue. 537

The auditor shall cause a copy of the delinquent personal 538
and classified property tax list and duplicate provided for in 539
this division to be published twice within sixty days after 540
delivery of such duplicate to the treasurer in a newspaper of 541
general circulation in the county. The newspaper shall meet the 542
requirements of section 7.12 of the Revised Code. The auditor 543
may publish the tax list on a preprinted insert in the 544
newspaper. The cost of the second publication of the list shall 545
not exceed three-fourths of the cost of the first publication of 546
the list. 547

Before such publication, the auditor shall cause a display 548
notice of the forthcoming publication of such delinquent 549
personal and classified property tax list to be inserted once a 550
week for two consecutive weeks in a newspaper of general 551
circulation in the county. Copy for such display notice shall be 552
furnished by the auditor to the newspaper selected to publish 553
such delinquent tax lists simultaneously with the delivery of 554
the duplicate to the treasurer. Publication of the delinquent 555
lists may be made by a newspaper in installments, provided that 556
complete publication thereof is made twice during said sixty-day 557
period. 558

The office of the county treasurer shall be kept open to 559
receive the payment of delinquent general and classified 560
property taxes from the day of delivery of the duplicate thereof 561
until the final publication of the delinquent tax list. The name 562
of any taxpayer who, prior to seven days before either the first 563
or second publication of said list, pays such taxes in full or 564
enters into a delinquent tax contract to pay such taxes in 565
installments pursuant to section 5719.05 of the Revised Code 566
shall be stricken from such list, and the taxpayer's name shall 567
not be included in the list for that publication. 568

The other such duplicate, from which shall first be 569
eliminated the names of persons whose total liability for taxes 570
and penalty is less than one hundred dollars, shall be filed by 571
the auditor on the first day of December, annually, in the 572
office of the county recorder, and the same shall constitute a 573
notice of lien and operate as of the date of delivery as a lien 574
on the lands and tenements, vested legal interests therein, and 575
permanent leasehold estates of each person named therein having 576
such real estate in such county. Such notice of lien and such 577
lien shall not be valid as against any mortgagee, pledgee, 578
purchaser, or judgment creditor whose rights have attached prior 579
to the date of such delivery. Such duplicate shall be kept by 580
the county recorder in the official records, and indexed under 581
the name of the person charged with such tax. No fee shall be 582
charged by the county recorder for the services required under 583
this section. 584

The auditor shall add to the tax list made pursuant to 585
this section all such taxes omitted in a previous year when 586
assessed by the auditor or finally assessed by the tax 587
commissioner pursuant to law, and by proper certificates cause 588
the same to be added to the treasurer's delinquent tax duplicate 589
provided for in this section, and, in proper cases, file notice 590
of the lien with the recorder, as provided in this section. 591

If the authority making any assessment believes that the 592
collection of such taxes will be jeopardized by delay, such 593
assessing authority shall so certify on the assessment 594
certificate thereof, and the auditor shall include a certificate 595
of such jeopardy in the certificate given by the auditor to the 596
treasurer. In such event, the treasurer shall proceed 597
immediately to collect such taxes, and to enforce the collection 598
thereof by any means provided by law, and the treasurer may not 599

accept a tender of any part of such taxes; but the person or the 600
representatives of the person against whom such assessment is 601
made may, in the event of an appeal to the tax commissioner 602
therefrom, obtain a stay of collection of the whole or any part 603
of the amount of such assessment by filing with the treasurer a 604
bond in an amount not exceeding double the amount as to which 605
the stay is desired, with such surety as the treasurer deems 606
necessary, conditioned upon the payment of the amount determined 607
to be due by the decision of the commissioner which has become 608
final, and further conditioned that if an appeal is not filed 609
within the period provided by law, the amount of collection 610
which is stayed by the bond will be paid on notice and demand of 611
the treasurer at any time after the expiration of such period. 612
The taxpayer may waive such stay as to the whole or any part of 613
the amount covered by the bond, and if as the result of such 614
waiver any part of the amount covered by the bond is paid, then 615
the bond shall be proportionately reduced on the request of the 616
taxpayer. 617

(B) Immediately after each settlement required by division 618
(D) of section 321.24 of the Revised Code, the auditor shall 619
make a separate list and duplicate, prepared as prescribed in 620
division (A) of this section, of all general personal and 621
classified property taxes that remain unpaid but are excepted 622
from collection pursuant to section 5711.32 of the Revised Code. 623
The duplicate of such list shall be delivered to the treasurer 624
at the time of delivery of the delinquent personal and 625
classified property tax duplicate. 626

Sec. 5739.13. (A) If any vendor collects the tax imposed 627
by or pursuant to section 5739.02, 5739.021, 5739.023, or 628
5739.026 of the Revised Code, and fails to remit the tax to the 629
state as prescribed, or on the sale of a motor vehicle, 630

watercraft, or outboard motor required to be titled, fails to 631
remit payment to a clerk of a court of common pleas as provided 632
in section 1548.06 or 4505.06 of the Revised Code, the vendor 633
shall be personally liable for any tax collected and not 634
remitted. The tax commissioner may make an assessment against 635
such vendor based upon any information in the commissioner's 636
possession. 637

If any vendor fails to collect the tax or any consumer 638
fails to pay the tax imposed by or pursuant to section 5739.02, 639
5739.021, 5739.023, or 5739.026 of the Revised Code, on any 640
transaction subject to the tax, the vendor or consumer shall be 641
personally liable for the amount of the tax applicable to the 642
transaction. The commissioner may make an assessment against 643
either the vendor or consumer, as the facts may require, based 644
upon any information in the commissioner's possession. 645

An assessment against a vendor when the tax imposed by or 646
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 647
the Revised Code has not been collected or paid, shall not 648
discharge the purchaser's or consumer's liability to reimburse 649
the vendor for the tax applicable to such transaction. 650

An assessment issued against either, pursuant to this 651
section, shall not be considered an election of remedies, nor a 652
bar to an assessment against the other for the tax applicable to 653
the same transaction, provided that no assessment shall be 654
issued against any person for the tax due on a particular 655
transaction if the tax on that transaction actually has been 656
paid by another. 657

The commissioner may make an assessment against any vendor 658
who fails to file a return or remit the proper amount of tax 659
required by this chapter, or against any consumer who fails to 660

pay the proper amount of tax required by this chapter. When 661
information in the possession of the commissioner indicates that 662
the amount required to be collected or paid under this chapter 663
is greater than the amount remitted by the vendor or paid by the 664
consumer, the commissioner may audit a sample of the vendor's 665
sales or the consumer's purchases for a representative period, 666
to ascertain the per cent of exempt or taxable transactions or 667
the effective tax rate and may issue an assessment based on the 668
audit. The commissioner shall make a good faith effort to reach 669
agreement with the vendor or consumer in selecting a 670
representative sample. 671

The commissioner may make an assessment, based on any 672
information in the commissioner's possession, against any person 673
who fails to file a return or remit the proper amount of tax 674
required by section 5739.102 of the Revised Code. 675

The commissioner may issue an assessment on any 676
transaction for which any tax imposed under this chapter or 677
Chapter 5741. of the Revised Code was due and unpaid on the date 678
the vendor or consumer was informed by an agent of the tax 679
commissioner of an investigation or audit. If the vendor or 680
consumer remits any payment of the tax for the period covered by 681
the assessment after the vendor or consumer was informed of the 682
investigation or audit, the payment shall be credited against 683
the amount of the assessment. 684

The commissioner shall give the party assessed written 685
notice of the assessment in the manner provided in section 686
5703.37 of the Revised Code. With the notice, the commissioner 687
shall provide instructions on how to petition for reassessment 688
and request a hearing on the petition. 689

(B) Unless the party assessed files with the commissioner 690

within sixty days after service of the notice of assessment a 691
written petition for reassessment, signed by the party assessed 692
or that party's authorized agent having knowledge of the facts, 693
the assessment becomes final and the amount of the assessment is 694
due from the party assessed and payable to the treasurer of 695
state and remitted to the tax commissioner. The petition shall 696
indicate the objections of the party assessed, but additional 697
objections may be raised in writing if received by the 698
commissioner prior to the date shown on the final determination. 699
If the petition has been properly filed, the commissioner shall 700
proceed under section 5703.60 of the Revised Code. 701

(C) After an assessment becomes final, if any portion of 702
the assessment remains unpaid, including accrued interest, a 703
certified copy of the commissioner's entry making the assessment 704
final may be filed in the office of the clerk of the court of 705
common pleas in the county in which the place of business of the 706
party assessed is located or the county in which the party 707
assessed resides. Such filing shall include the party's name and 708
last known address. If the party assessed maintains no place of 709
business in this state and is not a resident of this state, the 710
certified copy of the entry may be filed in the office of the 711
clerk of the court of common pleas of Franklin county. 712

Immediately upon the filing of the entry, the clerk shall 713
enter a judgment for the state against the party assessed in the 714
amount shown on the entry. The judgment may be filed by the 715
clerk in a loose-leaf book entitled "special judgments for 716
state, county, and transit authority retail sales tax" or, if 717
appropriate, "special judgments for resort area excise tax," and 718
shall have the same effect as other judgments. Execution shall 719
issue upon the judgment upon the request of the tax 720
commissioner, and all laws applicable to sales on execution 721

shall apply to sales made under the judgment except as otherwise 722
provided in this chapter. 723

If the assessment is not paid in its entirety within sixty 724
days after the date the assessment was issued, the portion of 725
the assessment consisting of tax due shall bear interest at the 726
rate per annum prescribed by section 5703.47 of the Revised Code 727
from the day the tax commissioner issues the assessment until 728
the assessment is paid or until it is certified to the attorney 729
general for collection under section 131.02 of the Revised Code, 730
whichever comes first. If the unpaid portion of the assessment 731
is certified to the attorney general for collection, the entire 732
unpaid portion of the assessment shall bear interest at the rate 733
per annum prescribed by section 5703.47 of the Revised Code from 734
the date of certification until the date it is paid in its 735
entirety. Interest shall be paid in the same manner as the tax 736
and may be collected by issuing an assessment under this 737
section. 738

(D) All money collected by the tax commissioner under this 739
section shall be paid to the treasurer of state, and when paid 740
shall be considered as revenue arising from the taxes imposed by 741
or pursuant to sections 5739.01 to 5739.31 of the Revised Code. 742

Sec. 5747.13. (A) If any employer collects the tax imposed 743
by section 5747.02 or under Chapter 5748. of the Revised Code 744
and fails to remit the tax as required by law, or fails to 745
collect the tax, the employer is personally liable for any 746
amount collected that the employer fails to remit, or any amount 747
that the employer fails to collect. If any taxpayer fails to 748
file a return or fails to pay the tax imposed by section 5747.02 749
or under Chapter 5748. of the Revised Code, the taxpayer is 750
personally liable for the amount of the tax. 751

If any employer, taxpayer, qualifying entity, or electing
pass-through entity required to file a return under this chapter
fails to file the return within the time prescribed, files an
incorrect return, fails to remit the full amount of the taxes
due for the period covered by the return, or fails to remit any
additional tax due as a result of a reduction in the amount of
the credit allowed under division (B) of section 5747.05 of the
Revised Code together with interest on the additional tax within
the time prescribed by that division, the tax commissioner may
make an assessment against any person liable for any deficiency
for the period for which the return is or taxes are due, based
upon any information in the commissioner's possession.

An assessment issued against either the employer or the
taxpayer pursuant to this section shall not be considered an
election of remedies or a bar to an assessment against the other
for failure to report or pay the same tax. No assessment shall
be issued against any person if the tax actually has been paid
by another.

No assessment shall be made or issued against an employer,
a taxpayer, a qualifying entity, or an electing pass-through
entity more than four years after the final date the return
subject to assessment was required to be filed or the date the
return was filed, whichever is later. However, the commissioner
may assess any balance due as the result of a reduction in the
credit allowed under division (B) of section 5747.05 of the
Revised Code, including applicable penalty and interest, within
four years of the date on which the taxpayer reports a change in
either the portion of the taxpayer's adjusted gross income
subjected to an income tax or tax measured by income in another
state or the District of Columbia, or the amount of liability
for an income tax or tax measured by income to another state or

the District of Columbia, as required by division (B) (4) of 783
section 5747.05 of the Revised Code. Such time limits may be 784
extended if both the employer, taxpayer, qualifying entity, or 785
electing pass-through entity and the commissioner consent in 786
writing to the extension or if an agreement waiving or extending 787
the time limits has been entered into pursuant to section 788
122.171 of the Revised Code. Any such extension shall extend the 789
four-year time limit in division (B) of section 5747.11 of the 790
Revised Code for the same period of time. There shall be no bar 791
or limit to an assessment against an employer for taxes withheld 792
from employees and not remitted to the state, against an 793
employer, a taxpayer, a qualifying entity, or an electing pass- 794
through entity that fails to file a return subject to assessment 795
as required by this chapter, or against an employer, a taxpayer, 796
a qualifying entity, or an electing pass-through entity that 797
files a fraudulent return. 798

The commissioner shall give the party assessed written 799
notice of the assessment in the manner provided in section 800
5703.37 of the Revised Code. With the notice, the commissioner 801
shall provide instructions on how to petition for reassessment 802
and request a hearing on the petition. 803

(B) Unless the party assessed files with the tax 804
commissioner within sixty days after service of the notice of 805
assessment a written petition for reassessment, signed by the 806
party assessed or that party's authorized agent having knowledge 807
of the facts, the assessment becomes final, and the amount of 808
the assessment is due and payable from the party assessed to the 809
commissioner with remittance made payable to the treasurer of 810
state. The petition shall indicate the objections of the party 811
assessed, but additional objections may be raised in writing if 812
received by the commissioner prior to the date shown on the 813

final determination. If the petition has been properly filed, 814
the commissioner shall proceed under section 5703.60 of the 815
Revised Code. 816

(C) After an assessment becomes final, if any portion of 817
the assessment remains unpaid, including accrued interest, a 818
certified copy of the tax commissioner's entry making the 819
assessment final may be filed in the office of the clerk of the 820
court of common pleas in the county in which the employer's, 821
taxpayer's, qualifying entity's, or electing pass-through 822
entity's place of business is located or the county in which the 823
party assessed resides. Such filing shall include the party's 824
name and last known address. If the party assessed is not a 825
resident of this state, the certified copy of the entry may be 826
filed in the office of the clerk of the court of common pleas of 827
Franklin county. 828

Immediately upon the filing of the entry, the clerk shall 829
enter a judgment against the party assessed in the amount shown 830
on the entry. The judgment shall be filed by the clerk in one of 831
two loose-leaf books, one entitled "special judgments for state 832
and school district income taxes," and the other entitled 833
"special judgments for qualifying entity and electing pass- 834
through entity taxes." The judgment shall have the same effect 835
as other judgments. Execution shall issue upon the judgment upon 836
the request of the tax commissioner, and all laws applicable to 837
sales on execution shall apply to sales made under the judgment. 838

If the assessment is not paid in its entirety within sixty 839
days after the assessment was issued, the portion of the 840
assessment consisting of tax due shall bear interest at the rate 841
per annum prescribed by section 5703.47 of the Revised Code from 842
the day the tax commissioner issues the assessment until it is 843

paid or until it is certified to the attorney general for 844
collection under section 131.02 of the Revised Code, whichever 845
comes first. If the unpaid portion of the assessment is 846
certified to the attorney general for collection, the entire 847
unpaid portion of the assessment shall bear interest at the rate 848
per annum prescribed by section 5703.47 of the Revised Code from 849
the date of certification until the date it is paid in its 850
entirety. Interest shall be paid in the same manner as the tax 851
and may be collected by the issuance of an assessment under this 852
section. 853

(D) All money collected under this section shall be 854
considered as revenue arising from the taxes imposed by this 855
chapter or Chapter 5733. or 5748. of the Revised Code, as 856
appropriate. 857

(E) If the party assessed files a petition for 858
reassessment under division (B) of this section, the person, on 859
or before the last day the petition may be filed, shall pay the 860
assessed amount, including assessed interest and assessed 861
penalties, if any of the following conditions exists: 862

(1) The person files a tax return reporting Ohio adjusted 863
gross income, less the exemptions allowed by section 5747.025 of 864
the Revised Code, in an amount less than one cent, and the 865
reported amount is not based on the computations required under 866
division (A) of section 5747.01 or section 5747.025 of the 867
Revised Code. 868

(2) The person files a tax return that the tax 869
commissioner determines to be incomplete, false, fraudulent, or 870
frivolous. 871

(3) The person fails to file a tax return, and the basis 872

for this failure is not either of the following: 873

(a) An assertion that the person has no nexus with this 874
state; 875

(b) The computations required under division (A) of 876
section 5747.01 of the Revised Code or the application of 877
credits allowed under this chapter has the result that the 878
person's tax liability is less than one dollar and one cent. 879

(F) Notwithstanding the fact that a petition for 880
reassessment is pending, the petitioner may pay all or a portion 881
of the assessment that is the subject of the petition. The 882
acceptance of a payment by the treasurer of state does not 883
prejudice any claim for refund upon final determination of the 884
petition. 885

If upon final determination of the petition an error in 886
the assessment is corrected by the tax commissioner, upon 887
petition so filed or pursuant to a decision of the board of tax 888
appeals or any court to which the determination or decision has 889
been appealed, so that the amount due from the party assessed 890
under the corrected assessment is less than the portion paid, 891
there shall be issued to the petitioner or to the petitioner's 892
assigns or legal representative a refund in the amount of the 893
overpayment as provided by section 5747.11 of the Revised Code, 894
with interest on that amount as provided by such section, 895
subject to section 5747.12 of the Revised Code. 896

Sec. 5749.07. (A) If any severer required by this chapter 897
to make and file returns and pay the tax levied by section 898
5749.02 of the Revised Code, or any severer or owner liable for 899
the amounts due under section 1509.50 of the Revised Code, fails 900
to make such return or pay such tax or amounts, the tax 901

commissioner may make an assessment against the severer or owner 902
based upon any information in the commissioner's possession. 903

No assessment shall be made or issued against any severer 904
for any tax imposed by section 5749.02 of the Revised Code or 905
against any severer or owner for any amount due under section 906
1509.50 of the Revised Code more than four years after the 907
return was due or was filed, whichever is later. This section 908
does not bar an assessment against a severer or owner who fails 909
to file a return as required by this chapter, or who files a 910
fraudulent return. 911

The commissioner shall give the party assessed written 912
notice of such assessment in the manner provided in section 913
5703.37 of the Revised Code. With the notice, the commissioner 914
shall provide instructions on how to petition for reassessment 915
and request a hearing on the petition. 916

(B) Unless the party assessed files with the commissioner 917
within sixty days after service of the notice of assessment a 918
written petition for reassessment signed by the party assessed 919
or that party's authorized agent having knowledge of the facts, 920
the assessment becomes final and the amount of the assessment is 921
due and payable from the party assessed to the treasurer of 922
state. The petition shall indicate the objections of the party 923
assessed, but additional objections may be raised in writing if 924
received by the commissioner prior to the date shown on the 925
final determination. If the petition has been properly filed, 926
the commissioner shall proceed under section 5703.60 of the 927
Revised Code. 928

(C) After an assessment becomes final, if any portion of 929
the assessment remains unpaid, including accrued interest, a 930
certified copy of the commissioner's entry making the assessment 931

final may be filed in the office of the clerk of the court of 932
common pleas in the county in which the party assessed resides 933
or in which the party's business is conducted. Such filing shall 934
include the debtor's name and last known address. If the party 935
assessed maintains no place of business in this state and is not 936
a resident of this state, the certified copy of the entry may be 937
filed in the office of the clerk of the court of common pleas of 938
Franklin county. 939

Immediately upon the filing of such entry, the clerk shall 940
enter a judgment for the state against the party assessed in the 941
amount shown on the entry. The judgment may be filed by the 942
clerk in a loose-leaf book entitled "special judgments for state 943
severance tax," and shall have the same effect as other 944
judgments. Execution shall issue upon the judgment upon the 945
request of the commissioner, and all laws applicable to sales on 946
execution shall apply to sales made under the judgment. 947

If the assessment is not paid in its entirety within sixty 948
days after the day the assessment is issued, the portion of the 949
assessment consisting of tax due or amounts due under section 950
1509.50 of the Revised Code shall bear interest at the rate per 951
annum prescribed by section 5703.47 of the Revised Code from the 952
day the commissioner issues the assessment until it is paid or 953
until it is certified to the attorney general for collection 954
under section 131.02 of the Revised Code, whichever comes first. 955
If the unpaid portion of the assessment is certified to the 956
attorney general for collection, the entire unpaid portion of 957
the assessment shall bear interest at the rate per annum 958
prescribed by section 5703.47 of the Revised Code from the date 959
of certification until the date it is paid in its entirety. 960
Interest shall be paid in the same manner as the tax and may be 961
collected by the issuance of an assessment under this section. 962

(D) All money collected by the commissioner under this 963
section shall be paid to the treasurer of state, and when paid 964
shall be considered as revenue arising from the tax imposed by 965
section 5749.02 of the Revised Code and the amount due under 966
section 1509.50 of the Revised Code, as applicable. 967

Section 2. That existing sections 317.08, 3123.67, 968
4123.78, 4141.23, 5301.071, 5301.255, 5301.99, 5719.04, 5739.13, 969
5747.13, and 5749.07 of the Revised Code are hereby repealed. 970