

As Passed by the House

133rd General Assembly

Regular Session

2019-2020

Am. Sub. S. B. No. 276

Senators Roegner, Manning

**Cosponsors: Senators Brenner, Hackett, Eklund, Blessing, Burke, Coley, Craig,
Huffman, M., Huffman, S., McColley, O'Brien, Peterson, Rulli, Schaffer, Sykes,
Thomas Representatives Hambley, Seitz, West, Wiggam**

A BILL

To amend sections 111.16, 122.16, 122.173, 127.16, 1
135.14, 135.142, 135.35, 150.05, 169.01, 169.03, 2
169.08, 169.13, 718.01, 1329.01, 1329.02, 3
1701.03, 1701.05, 1701.791, 1702.05, 1702.411, 4
1703.04, 1729.36, 1729.38, 1745.461, 1751.01, 5
1776.69, 1776.82, 1782.02, 1782.432, 1785.09, 6
3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 7
4703.331, 4715.18, 4715.22, 4715.365, 4715.431, 8
4717.06, 4723.16, 4725.33, 4729.161, 4729.541, 9
4731.226, 4731.228, 4732.28, 4733.16, 4734.17, 10
4735.24, 4755.111, 4755.471, 4757.37, 5701.14, 11
5715.19, 5733.04, 5733.33, 5733.42, 5747.01, 12
5751.01, and 5751.012; to enact sections 13
169.052, 1706.01, 1706.02, 1706.03, 1706.04, 14
1706.05, 1706.06, 1706.061, 1706.07, 1706.08, 15
1706.081, 1706.082, 1706.09, 1706.16, 1706.161, 16
1706.17, 1706.171, 1706.172, 1706.173, 1706.174, 17
1706.175, 1706.18, 1706.19, 1706.20, 1706.26, 18
1706.27, 1706.28, 1706.281, 1706.29, 1706.30, 19
1706.31, 1706.311, 1706.32, 1706.33, 1706.331, 20
1706.332, 1706.34, 1706.341, 1706.342, 1706.41, 21
1706.411, 1706.412, 1706.46, 1706.461, 1706.47, 22

1706.471, 1706.472, 1706.473, 1706.474,	23
1706.475, 1706.51, 1706.511, 1706.512, 1706.513,	24
1706.514, 1706.515, 1706.61, 1706.611, 1706.612,	25
1706.613, 1706.614, 1706.615, 1706.616,	26
1706.617, 1706.62, 1706.71, 1706.711, 1706.712,	27
1706.713, 1706.72, 1706.721, 1706.722, 1706.723,	28
1706.73, 1706.74, 1706.76, 1706.761, 1706.762,	29
1706.763, 1706.764, 1706.765, 1706.766,	30
1706.767, 1706.768, 1706.769, 1706.7610,	31
1706.7611, 1706.7612, 1706.7613, 1706.81,	32
1706.82, 1706.83, and 1706.84; and to repeal	33
sections 1705.01, 1705.02, 1705.03, 1705.031,	34
1705.04, 1705.05, 1705.06, 1705.07, 1705.08,	35
1705.081, 1705.09, 1705.10, 1705.11, 1705.12,	36
1705.13, 1705.14, 1705.15, 1705.16, 1705.161,	37
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1705.27, 1705.28, 1705.281, 1705.282, 1705.29,	40
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1705.37, 1705.371, 1705.38, 1705.381, 1705.39,	43
1705.391, 1705.40, 1705.41, 1705.42, 1705.43,	44
1705.44, 1705.45, 1705.46, 1705.47, 1705.48,	45
1705.49, 1705.50, 1705.51, 1705.52, 1705.53,	46
1705.54, 1705.55, 1705.56, 1705.57, 1705.58, and	47
1705.61 of the Revised Code to enact the Ohio	48
Revised Limited Liability Company Act and to	49
make changes to the Unclaimed Funds Law.	50

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

Section 1. That sections 111.16, 122.16, 122.173, 135.14, 51
135.142, 135.35, 150.05, 718.01, 1329.01, 1329.02, 1701.03, 52
1701.05, 1701.791, 1702.05, 1702.411, 1703.04, 1729.36, 1729.38, 53
1745.461, 1751.01, 1776.69, 1776.82, 1782.02, 1782.432, 1785.09, 54
3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 4703.331, 4715.18, 55
4715.22, 4715.365, 4715.431, 4717.06, 4723.16, 4725.33, 56
4729.161, 4729.541, 4731.226, 4731.228, 4732.28, 4733.16, 57
4734.17, 4755.111, 4755.471, 4757.37, 5701.14, 5715.19, 5733.04, 58
5733.33, 5733.42, 5747.01, 5751.01, and 5751.012 be amended and 59
sections 1706.01, 1706.02, 1706.03, 1706.04, 1706.05, 1706.06, 60
1706.061, 1706.07, 1706.08, 1706.081, 1706.082, 1706.09, 61
1706.16, 1706.161, 1706.17, 1706.171, 1706.172, 1706.173, 62
1706.174, 1706.175, 1706.18, 1706.19, 1706.20, 1706.26, 1706.27, 63
1706.28, 1706.281, 1706.29, 1706.30, 1706.31, 1706.311, 1706.32, 64
1706.33, 1706.331, 1706.332, 1706.34, 1706.341, 1706.342, 65
1706.41, 1706.411, 1706.412, 1706.46, 1706.461, 1706.47, 66
1706.471, 1706.472, 1706.473, 1706.474, 1706.475, 1706.51, 67
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1706.611, 1706.612, 1706.613, 1706.614, 1706.615, 1706.616, 69
1706.617, 1706.62, 1706.71, 1706.711, 1706.712, 1706.713, 70
1706.72, 1706.721, 1706.722, 1706.723, 1706.73, 1706.74, 71
1706.76, 1706.761, 1706.762, 1706.763, 1706.764, 1706.765, 72
1706.766, 1706.767, 1706.768, 1706.769, 1706.7610, 1706.7611, 73
1706.7612, 1706.7613, 1706.81, 1706.82, 1706.83, and 1706.84 of 74
the Revised Code be enacted to read as follows: 75

Sec. 111.16. Except as provided in section 1701.041 of the 76
Revised Code, the secretary of state shall charge and collect, 77
for the benefit of the state, the following fees: 78

(A) For filing and recording articles of incorporation of 79
a domestic corporation, including designation of agent: 80

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, ninety-nine dollars;	81 82
(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:	83 84
(a) Ten cents for each share authorized up to and including one thousand shares;	85 86
(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;	87 88
(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;	89 90
(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;	91 92
(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;	93 94 95
(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than ninety-nine dollars or greater than one hundred thousand dollars.	96 97 98 99
(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:	100 101 102 103 104
(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;	105 106
(2) If the domestic corporation is authorized to issue	107

shares of capital stock, fifty dollars, and in case of any 108
increase in the number of shares authorized to be issued, a 109
further sum computed in accordance with the schedule set forth 110
in division (A) (2) of this section less a credit computed in the 111
same manner for the number of shares previously authorized to be 112
issued by the corporation; provided no fee under division (B) (2) 113
of this section shall be greater than one hundred thousand 114
dollars; 115

(3) If the foreign corporation is not authorized to issue 116
any shares of capital stock, fifty dollars; 117

(4) If the foreign corporation is authorized to issue 118
shares of capital stock, fifty dollars. 119

(C) For filing and recording articles of incorporation of 120
a savings and loan association, ninety-nine dollars; and for 121
filing and recording a certificate of amendment to or amended 122
articles of incorporation of a savings and loan association, 123
fifty dollars; 124

(D) For filing and recording a certificate of conversion, 125
including a designation of agent, a certificate of merger, or a 126
certificate of consolidation, ninety-nine dollars and, in the 127
case of any new corporation resulting from a consolidation or 128
any surviving corporation that has an increased number of shares 129
authorized to be issued resulting from a merger, an additional 130
sum computed in accordance with the schedule set forth in 131
division (A) (2) of this section less a credit computed in the 132
same manner for the number of shares previously authorized to be 133
issued or represented in this state by each of the corporations 134
for which a consolidation or merger is effected by the 135
certificate; 136

(E) For filing and recording articles of incorporation of 137
a credit union or the American credit union guaranty 138
association, ninety-nine dollars, and for filing and recording a 139
certificate of increase in capital stock or any other amendment 140
of the articles of incorporation of a credit union or the 141
association, fifty dollars; 142

(F) For filing and recording articles of organization of a 143
limited liability company, for filing and recording an 144
application to become a registered foreign limited liability 145
company, for filing and recording a registration application to 146
become a domestic limited liability partnership, or for filing 147
and recording an application to become a registered foreign 148
limited liability partnership, ninety-nine dollars; 149

(G) For filing and recording a certificate of limited 150
partnership or an application for registration as a foreign 151
limited partnership, or for filing an initial statement of 152
partnership authority pursuant to section 1776.33 of the Revised 153
Code, ninety-nine dollars; 154

(H) For filing a copy of papers evidencing the 155
incorporation of a municipal corporation or of annexation of 156
territory by a municipal corporation, five dollars, to be paid 157
by the municipal corporation, the petitioners therefor, or their 158
agent; 159

(I) For filing and recording any of the following: 160

(1) A license to transact business in this state by a 161
foreign corporation for profit pursuant to section 1703.04 of 162
the Revised Code or a foreign nonprofit corporation pursuant to 163
section 1703.27 of the Revised Code, ninety-nine dollars; 164

(2) A biennial report or biennial statement pursuant to 165

section 1775.63, 1776.83, or 1785.06 of the Revised Code, 166
twenty-five dollars; 167

(3) Except as otherwise provided in this section or any 168
other section of the Revised Code, any other certificate or 169
paper that is required to be filed and recorded or is permitted 170
to be filed and recorded by any provision of the Revised Code 171
with the secretary of state, twenty-five dollars. 172

(J) For filing any certificate or paper not required to be 173
recorded, five dollars; 174

(K) (1) For making copies of any certificate or other paper 175
filed in the office of the secretary of state, a fee not to 176
exceed one dollar per page, except as otherwise provided in the 177
Revised Code, and for creating and affixing the seal of the 178
office of the secretary of state to any good standing or other 179
certificate, five dollars. For copies of certificates or papers 180
required by state officers for official purpose, no charge shall 181
be made. 182

(2) For creating and affixing the seal of the office of 183
the secretary of state to the certificates described in division 184
(E) of section 1701.81, division (E) of section 1701.811, 185
division (E) of section 1705.38, division (E) of section 186
1705.381, division (D) of section 1702.43, division (E) of 187
section 1775.47, division (E) of section 1775.55, division (E) 188
of section 1776.70, division (E) of section 1776.74, division 189
(E) of section 1782.433, or division (E) of section 1782.4310 of 190
the Revised Code, twenty-five dollars. 191

(L) For a minister's license to solemnize marriages, ten 192
dollars; 193

(M) For examining documents to be filed at a later date 194

for the purpose of advising as to the acceptability of the	195
proposed filing, fifty dollars;	196
(N) Fifty dollars for filing and recording any of the	197
following:	198
(1) A certificate of dissolution and accompanying	199
documents, or a certificate of cancellation, under section	200
1701.86, 1702.47, 1705.43, <u>1706.471</u> , 1776.65, or 1782.10 of the	201
Revised Code;	202
(2) A notice of dissolution of a foreign licensed	203
corporation or a certificate of surrender of license by a	204
foreign licensed corporation under section 1703.17 of the	205
Revised Code;	206
(3) The withdrawal of registration of a foreign or	207
domestic limited liability partnership under section 1775.61,	208
1775.64, 1776.81, or 1776.86 of the Revised Code, or the	209
certificate of cancellation of registration of a foreign limited	210
liability company under section 1705.57 <u>or 1706.514</u> of the	211
Revised Code;	212
(4) The filing of a statement of denial under section	213
1776.34 of the Revised Code, a statement of dissociation under	214
section 1776.57 of the Revised Code, a statement of disclaimer	215
of general partner status under Chapter 1782. of the Revised	216
Code, or a cancellation of disclaimer of general partner status	217
under Chapter 1782. of the Revised Code.	218
(O) For filing a statement of continued existence by a	219
nonprofit corporation, twenty-five dollars;	220
(P) For filing a restatement under section 1705.08, <u> </u>	221
<u>1706.161</u> , or 1782.09 of the Revised Code, an amendment to a	222
certificate of cancellation under section 1782.10 of the Revised	223

Code, an amendment under section 1705.08, <u>1706.161</u> , or 1782.09	224
of the Revised Code, or a correction under section 1705.55,	225
<u>1706.173, 1706.511, 1706.513, 1775.61, 1775.64, 1776.12, or</u>	226
1782.52 of the Revised Code, fifty dollars;	227
(Q) For filing for reinstatement of an entity cancelled by	228
operation of law, by the secretary of state, by order of the	229
department of taxation, or by order of a court, twenty-five	230
dollars;	231
(R) For filing and recording any of the following:	232
(1) A change of agent, resignation of agent, or change of	233
agent's address under section 1701.07, 1702.06, 1703.041,	234
1703.27, 1705.06, 1705.55, <u>1706.09</u> , 1746.04, 1747.03, 1776.07,	235
or 1782.04 of the Revised Code, twenty-five dollars;	236
(2) A multiple change of agent name or address,	237
standardization of agent address, or resignation of agent under	238
section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55,	239
<u>1706.09</u> , 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised	240
Code, one hundred twenty-five dollars, plus three dollars per	241
entity record being changed, by the multiple agent update.	242
(S) For filing and recording any of the following:	243
(1) An application for the exclusive right to use a name	244
or an application to reserve a name for future use under section	245
1701.05, 1702.05, 1703.31, 1705.05, <u>1706.07</u> , or 1746.06 of the	246
Revised Code, thirty-nine dollars;	247
(2) A trade name or fictitious name registration or	248
report, thirty-nine dollars;	249
(3) An application to renew any item covered by division	250
(S) (1) or (2) of this section that is permitted to be renewed,	251

twenty-five dollars;	252
(4) An assignment of rights for use of a name covered by	253
division (S)(1), (2), or (3) of this section, the cancellation	254
of a name registration or name reservation that is so covered,	255
or notice of a change of address of the registrant of a name	256
that is so covered, twenty-five dollars.	257
(T) For filing and recording a report to operate a	258
business trust or a real estate investment trust, either foreign	259
or domestic, ninety-nine dollars; and for filing and recording	260
an amendment to a report or associated trust instrument, or a	261
surrender of authority, to operate a business trust or real	262
estate investment trust, fifty dollars;	263
(U)(1) For filing and recording the registration of a	264
trademark, service mark, or mark of ownership, one hundred	265
twenty-five dollars;	266
(2) For filing and recording the change of address of a	267
registrant, the assignment of rights to a registration, a	268
renewal of a registration, or the cancellation of a registration	269
associated with a trademark, service mark, or mark of ownership,	270
twenty-five dollars.	271
(V) For filing a service of process with the secretary of	272
state, five dollars, except as otherwise provided in any section	273
of the Revised Code;	274
(W) For making, recording, and forwarding a commission	275
under section 107.06 of the Revised Code, the applicable fee	276
specified in that section.	277
Fees specified in this section may be paid by cash, check,	278
or money order, by credit card in accordance with section 113.40	279
of the Revised Code, or by an alternative payment program in	280

accordance with division (B) of section 111.18 of the Revised Code. Any credit card number or the expiration date of any credit card is not subject to disclosure under Chapter 149. of the Revised Code.

Sec. 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(c) (i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01

of the Revised Code, and any costs incurred during the 309
qualifying period in performing both a phase I and phase II 310
property assessment, as defined in the rules adopted under 311
section 3746.04 of the Revised Code, provided that the 312
performance of the phase I and phase II property assessment 313
resulted in the implementation of the remedy or remedial 314
activities. 315

(4) "Inner city area" means, in a municipal corporation 316
that has a population of at least one hundred thousand and does 317
not meet the criteria of a labor surplus area or a distressed 318
area, targeted investment areas established by the municipal 319
corporation within its boundaries that are comprised of the most 320
recent census block tracts that individually have at least 321
twenty per cent of their population at or below the state 322
poverty level or other census block tracts contiguous to such 323
census block tracts. 324

(5) "Labor surplus area" means an area designated as a 325
labor surplus area by the United States department of labor. 326

(6) "Official poverty line" has the same meaning as in 327
division (A) of section 3923.51 of the Revised Code. 328

(7) "Partner" includes a member of a limited liability 329
company formed under Chapter 1705. or 1706. of the Revised Code 330
or under the laws of any other state if the limited liability 331
company is not treated as a corporation for purposes of Chapter 332
5733. of the Revised Code and is not classified as an 333
association taxable as a corporation for federal income tax 334
purposes. 335

(8) "Partnership" includes a limited liability company 336
formed under Chapter 1705. or 1706. of the Revised Code or under 337

the laws of any other state if the limited liability company is 338
not treated as a corporation for purposes of Chapter 5733. of 339
the Revised Code and is not classified as an association taxable 340
as a corporation for federal income tax purposes. 341

(9) "Qualifying period" means the period that begins July 342
1, 1996, and ends June 30, 1999. 343

(10) "S corporation" means a corporation that has made an 344
election under subchapter S of chapter one of subtitle A of the 345
Internal Revenue Code for its taxable year under the Internal 346
Revenue Code; 347

(11) "Situational distress area" means a county or a 348
municipal corporation that has experienced or is experiencing a 349
closing or downsizing of a major employer that will adversely 350
affect the economy of the county or municipal corporation. In 351
order for a county or municipal corporation to be designated as 352
a situational distress area, the governing body of the county or 353
municipal corporation shall submit a petition to the director of 354
development in the form prescribed by the director. A county or 355
municipal corporation may be designated as a situational 356
distress area for a period not exceeding thirty-six months. 357

The petition shall include written documentation that 358
demonstrates all of the following: 359

(a) The number of jobs lost by the closing or downsizing; 360

(b) The impact that the job loss has on the unemployment 361
rate of the county or municipal corporation as measured by the 362
director of job and family services; 363

(c) The annual payroll associated with the job loss; 364

(d) The amount of state and local taxes associated with 365

the job loss; 366

(e) The impact that the closing or downsizing has on the 367
suppliers located in the county or municipal corporation. 368

(12) "Voluntary action" has the same meaning as in section 369
3746.01 of the Revised Code. 370

(13) "Taxpayer" means a corporation subject to the tax 371
imposed by section 5733.06 of the Revised Code or any person 372
subject to the tax imposed by section 5747.02 of the Revised 373
Code. 374

(14) "Governing body" means the board of county 375
commissioners of a county, the board of township trustees of a 376
township, or the legislative authority of a municipal 377
corporation. 378

(15) "Eligible site" means property for which a covenant 379
not to sue has been issued under section 3746.12 of the Revised 380
Code. 381

(B) (1) A taxpayer, partnership, or S corporation that has 382
been issued, under section 3746.12 of the Revised Code, a 383
covenant not to sue for a site by the director of environmental 384
protection during the qualifying period may apply to the 385
director of development, in the manner prescribed by the 386
director, to enter into an agreement under which the applicant 387
agrees to economically redevelop the site in a manner that will 388
create employment opportunities and a credit will be granted to 389
the applicant against the tax imposed by section 5733.06 or 390
5747.02 of the Revised Code. The application shall state the 391
eligible costs associated with a voluntary action incurred by 392
the applicant. The application shall be accompanied by proof, in 393
a form prescribed by the director of development, that the 394

covenant not to sue has been issued. 395

The applicant shall request the certified professional 396
that submitted the no further action letter for the eligible 397
site under section 3746.11 of the Revised Code to submit an 398
affidavit to the director of development verifying the eligible 399
costs associated with the voluntary action at that site. 400

The director shall review the applications in the order 401
they are received. If the director determines that the applicant 402
meets the requirements of this section, the director may enter 403
into an agreement granting a credit against the tax imposed by 404
section 5733.06 or 5747.02 of the Revised Code. In making the 405
determination, the director may consider the extent to which 406
political subdivisions and other units of government will 407
cooperate with the applicant to redevelop the eligible site. The 408
agreement shall state the amount of the tax credit and the 409
reporting requirements described in division (F) of this 410
section. 411

(2) The maximum annual amount of credits the director of 412
development may grant under such agreements shall be as follows: 413

1996 \$5,000,000 414

1997 \$10,000,000 415

1998 \$10,000,000 416

1999 \$5,000,000 417

For any year in which the director of development does not 418
grant tax credits under this section equal to the maximum annual 419
amount, the amount not granted for that year shall be added to 420
the maximum annual amount that may be granted for the following 421
year. However, the director shall not grant any tax credits 422

under this section after June 30, 1999. 423

(C) (1) If the covenant not to sue was issued in connection 424
with a site that is not located in an eligible area, the credit 425
amount is equal to the lesser of five hundred thousand dollars 426
or ten per cent of the eligible costs associated with a 427
voluntary action incurred by the taxpayer, partnership, or S 428
corporation. 429

(2) If a covenant not to sue was issued in connection with 430
a site that is located in an eligible area, the credit amount is 431
equal to the lesser of seven hundred fifty thousand dollars or 432
fifteen per cent of the eligible costs associated with a 433
voluntary action incurred by the taxpayer, partnership, or S 434
corporation. 435

(3) A taxpayer, partnership, or S corporation that has 436
been issued covenants not to sue under section 3746.12 of the 437
Revised Code for more than one site may apply to the director of 438
development to enter into more than one agreement granting a 439
credit against the tax imposed by section 5733.06 or 5747.02 of 440
the Revised Code. 441

(4) For each year for which a taxpayer, partnership, or S 442
corporation has been granted a credit under an agreement entered 443
into under this section, the director of development shall issue 444
a certificate to the taxpayer, partnership, or S corporation 445
indicating the amount of the credit the taxpayer, the partners 446
of the partnership, or the shareholders of the S corporation may 447
claim for that year, not including any amount that may be 448
carried forward from previous years under section 5733.34 of the 449
Revised Code. 450

(D) (1) Each agreement entered into under this section 451

shall incorporate a commitment by the taxpayer, partnership, or 452
S corporation not to permit the use of an eligible site to cause 453
the relocation of employment positions to that site from 454
elsewhere in this state, except as otherwise provided in 455
division (D) (2) of this section. The commitment shall be binding 456
on the taxpayer, partnership, or S corporation for the lesser of 457
five years from the date the agreement is entered into or the 458
number of years the taxpayer, partnership, or S corporation is 459
entitled to claim the tax credit under the agreement. 460

(2) An eligible site may be the site of employment 461
positions relocated from elsewhere in this state if the director 462
of development determines both of the following: 463

(a) That the site from which the employment positions 464
would be relocated is inadequate to meet market and industry 465
conditions, expansion plans, consolidation plans, or other 466
business considerations affecting the relocating employer; 467

(b) That the governing body of the county, township, or 468
municipal corporation from which the employment positions would 469
be relocated has been notified of the possible relocation. 470

For purposes of this section, the movement of an 471
employment position from one political subdivision to another 472
political subdivision shall be considered a relocation of an 473
employment position, but the transfer of an individual employee 474
from one political subdivision to another political subdivision 475
shall not be considered a relocation of an employment position 476
as long as the individual's employment position in the first 477
political subdivision is refilled. 478

(E) A taxpayer, partnership, or S corporation that has 479
entered into an agreement granting a credit against the tax 480

imposed by section 5733.06 or 5747.02 of the Revised Code that 481
subsequently recovers in a lawsuit or settlement of a lawsuit at 482
least seventy-five per cent of the eligible costs associated 483
with a voluntary action shall not claim any credit amount 484
remaining, including any amounts carried forward from prior 485
years, beginning with the taxable year in which the judgment in 486
the lawsuit is entered or the settlement is finally agreed to. 487

Any amount of credit that a taxpayer, partnership, or S 488
corporation may not claim by reason of this division shall not 489
be considered to have been granted for the purpose of 490
determining the total amount of credits that may be issued under 491
division (B) (2) of this section. 492

(F) Each year for which a taxpayer, partnership, or S 493
corporation claims a credit under section 5733.34 of the Revised 494
Code, the taxpayer, partnership, or S corporation shall report 495
the following to the director of development: 496

(1) The status of all cost recovery litigation described 497
in division (E) of this section to which it was a party during 498
the previous year; 499

(2) Confirmation that the covenant not to sue has not been 500
revoked or has not been voided; 501

(3) Confirmation that the taxpayer, partnership, or S 502
corporation has not permitted the eligible site to be used in 503
such a manner as to cause the relocation of employment positions 504
from elsewhere in this state in violation of the commitment 505
required under division (D) of this section; 506

(4) Any other information the director of development 507
requires to perform the director's duties under this section. 508

(G) The director of development shall annually certify, by 509

the first day of January of each year during the qualifying 510
period, the eligible areas for the calendar year that includes 511
that first day of January. 512

(H) The director of development, in accordance with 513
Chapter 119. of the Revised Code, shall adopt rules necessary to 514
implement this section, including rules prescribing forms 515
required for administering this section. 516

Sec. 122.173. (A) As used in this section: 517

(1) "Manufacturing machinery and equipment" means engines 518
and machinery, and tools and implements, of every kind used, or 519
designed to be used, in refining and manufacturing. 520
"Manufacturing machinery and equipment" does not include 521
property acquired after December 31, 1999, that is used: 522

(a) For the transmission and distribution of electricity; 523

(b) For the generation of electricity, if fifty per cent 524
or more of the electricity that the property generates is 525
consumed, during the one-hundred-twenty-month period commencing 526
with the date the property is placed in service, by persons that 527
are not related members to the person who generates the 528
electricity. 529

(2) "New manufacturing machinery and equipment" means 530
manufacturing machinery and equipment, the original use in this 531
state of which commences with the taxpayer or with a partnership 532
of which the taxpayer is a partner. "New manufacturing machinery 533
and equipment" does not include property acquired after December 534
31, 1999, that is used: 535

(a) For the transmission and distribution of electricity; 536

(b) For the generation of electricity, if fifty per cent 537

or more of the electricity that the property generates is 538
consumed, during the one-hundred-twenty-month period commencing 539
with the date the property is placed in service, by persons that 540
are not related members to the person who generates the 541
electricity. 542

(3) (a) "Purchase" has the same meaning as in section 543
179(d) (2) of the Internal Revenue Code. 544

(b) For purposes of this section, any property that is not 545
manufactured or assembled primarily by the taxpayer is 546
considered purchased at the time the agreement to acquire the 547
property becomes binding. Any property that is manufactured or 548
assembled primarily by the taxpayer is considered purchased at 549
the time the taxpayer places the property in service in the 550
county for which the taxpayer will calculate the county excess 551
amount. 552

(c) Notwithstanding section 179(d) of the Internal Revenue 553
Code, a taxpayer's direct or indirect acquisition of new 554
manufacturing machinery and equipment is not purchased on or 555
after July 1, 1995, if the taxpayer, or a person whose 556
relationship to the taxpayer is described in subparagraphs (A), 557
(B), or (C) of section 179(d) (2) of the Internal Revenue Code, 558
had directly or indirectly entered into a binding agreement to 559
acquire the property at any time prior to July 1, 1995. 560

(4) "Qualifying period" means the period that begins July 561
1, 1995, and ends June 30, 2005. 562

(5) "County average new manufacturing machinery and 563
equipment investment" means either of the following: 564

(a) The average annual cost of new manufacturing machinery 565
and equipment purchased for use in the county during baseline 566

years, in the case of a taxpayer that was in existence for more than one year during baseline years. (b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years. (6) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. (7) "Partner" includes a member of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. (8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county: (a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period; (b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau; (c) (i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the

most recent census year that is below the official poverty line; 596

(ii) In the case of a county, in intercensal years, the 597
county has a ratio of transfer payment income to total county 598
income equal to or greater than twenty-five per cent. 599

(9) "Eligible area" means a distressed area, a labor 600
surplus area, an inner city area, or a situational distress 601
area. 602

(10) "Inner city area" means, in a municipal corporation 603
that has a population of at least one hundred thousand and does 604
not meet the criteria of a labor surplus area or a distressed 605
area, targeted investment areas established by the municipal 606
corporation within its boundaries that are comprised of the most 607
recent census block tracts that individually have at least 608
twenty per cent of their population at or below the state 609
poverty level or other census block tracts contiguous to such 610
census block tracts. 611

(11) "Labor surplus area" means an area designated as a 612
labor surplus area by the United States department of labor. 613

(12) "Official poverty line" has the same meaning as in 614
division (A) of section 3923.51 of the Revised Code. 615

(13) "Situational distress area" means a county or a 616
municipal corporation that has experienced or is experiencing a 617
closing or downsizing of a major employer that will adversely 618
affect the county's or municipal corporation's economy. In order 619
to be designated as a situational distress area, for a period 620
not to exceed thirty-six months, the county or municipal 621
corporation may petition the director of development. The 622
petition shall include written documentation that demonstrates 623
all of the following adverse effects on the local economy: 624

(a) The number of jobs lost by the closing or downsizing;	625
(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;	626 627 628
(c) The annual payroll associated with the job loss;	629
(d) The amount of state and local taxes associated with the job loss;	630 631
(e) The impact that the closing or downsizing has on suppliers located in the county or municipal corporation.	632 633
(14) "Cost" has the same meaning and limitation as in section 179(d) (3) of the Internal Revenue Code.	634 635
(15) "Baseline years" means:	636
(a) Calendar years 1992, 1993, and 1994, with regard to a grant claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;	637 638 639
(b) Calendar years 1993, 1994, and 1995, with regard to a grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;	640 641 642
(c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;	643 644 645
(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;	646 647 648
(e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	649 650 651

(f) Calendar years 1997, 1998, and 1999, with regard to a 652
grant claimed for the purchase during calendar year 2003 of new 653
manufacturing machinery and equipment; 654

(g) Calendar years 1998, 1999, and 2000, with regard to a 655
grant claimed for the purchase during calendar year 2004 of new 656
manufacturing machinery and equipment; 657

(h) Calendar years 1999, 2000, and 2001, with regard to a 658
grant claimed for the purchase on or after January 1, 2005, and 659
on or before June 30, 2005, of new manufacturing machinery and 660
equipment. 661

(16) "Related member" has the same meaning as in section 662
5733.042 of the Revised Code. 663

(17) "Qualifying controlled group" has the same meaning as 664
in section 5733.04 of the Revised Code. 665

(18) "Tax liability" has the same meaning as in section 666
122.172 of the Revised Code. 667

(B) (1) Subject to divisions (I) and (J) of this section, a 668
grant is allowed against the tax imposed by section 5733.06 or 669
5747.02 of the Revised Code for a taxpayer that purchases new 670
manufacturing machinery and equipment during the qualifying 671
period, provided that the new manufacturing machinery and 672
equipment are installed in this state not later than June 30, 673
2006. 674

(2) (a) Except as otherwise provided in division (B) (2) (b) 675
of this section, a grant may be claimed under this section in 676
excess of one million dollars only if the cost of all 677
manufacturing machinery and equipment owned in this state by the 678
taxpayer claiming the grant on the last day of the calendar year 679
exceeds the cost of all manufacturing machinery and equipment 680

owned in this state by the taxpayer on the first day of that 681
calendar year. 682

As used in division (B) (2) (a) of this section, "calendar 683
year" means the calendar year in which the machinery and 684
equipment for which the grant is claimed was purchased. 685

(b) Division (B) (2) (a) of this section does not apply if 686
the taxpayer claiming the grant applies for and is issued a 687
waiver of the requirement of that division. A taxpayer may apply 688
to the director of development for such a waiver in the manner 689
prescribed by the director, and the director may issue such a 690
waiver if the director determines that granting the grant is 691
necessary to increase or retain employees in this state, and 692
that the grant has not caused relocation of manufacturing 693
machinery and equipment among counties within this state for the 694
primary purpose of qualifying for the grant. 695

(C) (1) Except as otherwise provided in division (C) (2) and 696
division (I) of this section, the grant amount is equal to seven 697
and one-half per cent of the excess of the cost of the new 698
manufacturing machinery and equipment purchased during the 699
calendar year for use in a county over the county average new 700
manufacturing machinery and equipment investment for that 701
county. 702

(2) Subject to division (I) of this section, as used in 703
division (C) (2) of this section, "county excess" means the 704
taxpayer's excess cost for a county as computed under division 705
(C) (1) of this section. 706

Subject to division (I) of this section, a taxpayer with a 707
county excess, whose purchases included purchases for use in any 708
eligible area in the county, the grant amount is equal to 709

thirteen and one-half per cent of the cost of the new 710
manufacturing machinery and equipment purchased during the 711
calendar year for use in the eligible areas in the county, 712
provided that the cost subject to the thirteen and one-half per 713
cent rate shall not exceed the county excess. If the county 714
excess is greater than the cost of the new manufacturing 715
machinery and equipment purchased during the calendar year for 716
use in eligible areas in the county, the grant amount also shall 717
include an amount equal to seven and one-half per cent of the 718
amount of the difference. 719

(3) If a taxpayer is allowed a grant for purchases of new 720
manufacturing machinery and equipment in more than one county or 721
eligible area, it shall aggregate the amount of those grants 722
each year. 723

(4) Except as provided in division (J) of this section, 724
the taxpayer shall claim one-seventh of the grant amount for the 725
taxable year ending in the calendar year in which the new 726
manufacturing machinery and equipment is purchased for use in 727
the county by the taxpayer or partnership. One-seventh of the 728
taxpayer grant amount is allowed for each of the six ensuing 729
taxable years. Except for carried-forward amounts, the taxpayer 730
is not allowed any grant amount remaining if the new 731
manufacturing machinery and equipment is sold by the taxpayer or 732
partnership or is transferred by the taxpayer or partnership out 733
of the county before the end of the seven-year period unless, at 734
the time of the sale or transfer, the new manufacturing 735
machinery and equipment has been fully depreciated for federal 736
income tax purposes. 737

(5) (a) A taxpayer that acquires manufacturing machinery 738
and equipment as a result of a merger with the taxpayer with 739

whom commenced the original use in this state of the 740
manufacturing machinery and equipment, or with a taxpayer that 741
was a partner in a partnership with whom commenced the original 742
use in this state of the manufacturing machinery and equipment, 743
is entitled to any remaining or carried-forward grant amounts to 744
which the taxpayer was entitled. 745

(b) A taxpayer that enters into an agreement under 746
division (C) (3) of section 5709.62 of the Revised Code and that 747
acquires manufacturing machinery or equipment as a result of 748
purchasing a large manufacturing facility, as defined in section 749
5709.61 of the Revised Code, from another taxpayer with whom 750
commenced the original use in this state of the manufacturing 751
machinery or equipment, and that operates the large 752
manufacturing facility so purchased, is entitled to any 753
remaining or carried-forward grant amounts to which the other 754
taxpayer who sold the facility would have been entitled under 755
this section had the other taxpayer not sold the manufacturing 756
facility or equipment. 757

(c) New manufacturing machinery and equipment is not 758
considered sold if a pass-through entity transfers to another 759
pass-through entity substantially all of its assets as part of a 760
plan of reorganization under which substantially all gain and 761
loss is not recognized by the pass-through entity that is 762
transferring the new manufacturing machinery and equipment to 763
the transferee and under which the transferee's basis in the new 764
manufacturing machinery and equipment is determined, in whole or 765
in part, by reference to the basis of the pass-through entity 766
that transferred the new manufacturing machinery and equipment 767
to the transferee. 768

(d) Division (C) (5) of this section applies only if the 769

acquiring taxpayer or transferee does not sell the new 770
manufacturing machinery and equipment or transfer the new 771
manufacturing machinery and equipment out of the county before 772
the end of the seven-year period to which division (C) (4) of 773
this section refers. 774

(e) Division (C) (5) (b) of this section applies only to the 775
extent that the taxpayer that sold the manufacturing machinery 776
or equipment, upon request, timely provides to the tax 777
commissioner any information that the tax commissioner considers 778
to be necessary to ascertain any remaining or carried-forward 779
amounts to which the taxpayer that sold the facility would have 780
been entitled under this section had the taxpayer not sold the 781
manufacturing machinery or equipment. Nothing in division (C) (5) 782
(b) or (e) of this section shall be construed to allow a 783
taxpayer to claim any grant amount with respect to the acquired 784
manufacturing machinery or equipment that is greater than the 785
amount that would have been available to the other taxpayer that 786
sold the manufacturing machinery or equipment had the other 787
taxpayer not sold the manufacturing machinery or equipment. 788

(D) The taxpayer shall claim the grant allowed by this 789
section in the manner provided by section 122.172 of the Revised 790
Code. Any portion of the grant in excess of the taxpayer's tax 791
liability for the taxable year shall not be refundable but may 792
be carried forward for the next three consecutive taxable years. 793

(E) A taxpayer purchasing new manufacturing machinery and 794
equipment and intending to claim the grant shall file, with the 795
director of development, a notice of intent to claim the grant 796
on a form prescribed by the director of development. The 797
director of development shall inform the tax commissioner of the 798
notice of intent to claim the grant. No grant may be claimed 799

under this section for any manufacturing machinery and equipment 800
with respect to which a notice was not filed by the date of a 801
timely filed return, including extensions, for the taxable year 802
that includes September 30, 2005, but a notice filed on or 803
before such date under division (E) of section 5733.33 of the 804
Revised Code of the intent to claim the credit under that 805
section also shall be considered a notice of the intent to claim 806
a grant under this section. 807

(F) The director of development shall annually certify, by 808
the first day of January of each year during the qualifying 809
period, the eligible areas for the tax grant for the calendar 810
year that includes that first day of January. The director shall 811
send a copy of the certification to the tax commissioner. 812

(G) New manufacturing machinery and equipment for which a 813
taxpayer claims the credit under section 5733.31 or 5733.311 of 814
the Revised Code shall not be considered new manufacturing 815
machinery and equipment for purposes of the grant under this 816
section. 817

(H) (1) Notwithstanding sections 5733.11 and 5747.13 of the 818
Revised Code, but subject to division (H) (2) of this section, 819
the tax commissioner may issue an assessment against a person 820
with respect to a grant claimed under this section for new 821
manufacturing machinery and equipment described in division (A) 822
(1) (b) or (2) (b) of this section, if the machinery or equipment 823
subsequently does not qualify for the grant. 824

(2) Division (H) (1) of this section shall not apply after 825
the twenty-fourth month following the last day of the period 826
described in divisions (A) (1) (b) and (2) (b) of this section. 827

(I) Notwithstanding any other provision of this section to 828

the contrary, in the case of a qualifying controlled group, the 829
grant available under this section to a taxpayer or taxpayers in 830
the qualifying controlled group shall be computed as if all 831
corporations in the group were a single corporation. The grant 832
shall be allocated to such a taxpayer or taxpayers in the group 833
in any amount elected for the taxable year by the group. The 834
election shall be revocable and amendable during the period 835
described in division (B) of section 5733.12 of the Revised 836
Code. 837

This division applies to all purchases of new 838
manufacturing machinery and equipment made on or after January 839
1, 2001, and to all baseline years used to compute any grant 840
attributable to such purchases; provided, that this division may 841
be applied solely at the election of the qualifying controlled 842
group with respect to all purchases of new manufacturing 843
machinery and equipment made before that date, and to all 844
baseline years used to compute any grant attributable to such 845
purchases. The qualifying controlled group at any time may elect 846
to apply this division to purchases made prior to January 1, 847
2001, subject to the following: 848

(1) The election is irrevocable; 849

(2) The election need not accompany a timely filed report, 850
but the election may accompany a subsequently filed but timely 851
application for refund, a subsequently filed but timely amended 852
report, or a subsequently filed but timely petition for 853
reassessment. 854

(J) Except as provided in division (B) of section 122.172 855
of the Revised Code, no grant under this section may be claimed 856
for any taxable year for which a credit is allowed under section 857
5733.33 of the Revised Code. If the tax imposed by section 858

5733.06 of the Revised Code for which a grant is allowed under 859
this section has been prorated under division (G) (2) of section 860
5733.01 of the Revised Code, the grant shall be prorated by the 861
same percentage as the tax. 862

Sec. 135.14. (A) As used in this section: 863

(1) "Treasurer" does not include the treasurer of state, 864
and "governing board" does not include the state board of 865
deposit. 866

(2) "Other obligations" includes notes whether or not 867
issued in anticipation of the issuance of bonds. 868

(B) The treasurer or governing board may invest or deposit 869
any part or all of the interim moneys. The following 870
classifications of obligations shall be eligible for such 871
investment or deposit: 872

(1) United States treasury bills, notes, bonds, or any 873
other obligation or security issued by the United States 874
treasury or any other obligation guaranteed as to principal and 875
interest by the United States. 876

Nothing in the classification of eligible obligations set 877
forth in division (B) (1) of this section or in the 878
classifications of eligible obligations set forth in divisions 879
(B) (2) to (7) of this section shall be construed to authorize 880
any investment in stripped principal or interest obligations of 881
such eligible obligations. 882

(2) Bonds, notes, debentures, or any other obligations or 883
securities issued by any federal government agency or 884
instrumentality, including but not limited to, the federal 885
national mortgage association, federal home loan bank, federal 886
farm credit bank, federal home loan mortgage corporation, and 887

government national mortgage association. All federal agency 888
securities shall be direct issuances of federal government 889
agencies or instrumentalities. 890

(3) Interim deposits in the eligible institutions applying 891
for interim moneys as provided in section 135.08 of the Revised 892
Code. The award of interim deposits shall be made in accordance 893
with section 135.09 of the Revised Code and the treasurer or the 894
governing board shall determine the periods for which such 895
interim deposits are to be made and shall award such interim 896
deposits for such periods, provided that any eligible 897
institution receiving an interim deposit award may, upon 898
notification that the award has been made, decline to accept the 899
interim deposit in which event the award shall be made as though 900
the institution had not applied for such interim deposit. 901

(4) Bonds and other obligations of this state, or the 902
political subdivisions of this state, provided that, with 903
respect to bonds or other obligations of political subdivisions, 904
all of the following apply: 905

(a) The bonds or other obligations are payable from 906
general revenues of the political subdivision and backed by the 907
full faith and credit of the political subdivision. 908

(b) The bonds or other obligations are rated at the time 909
of purchase in the three highest classifications established by 910
at least one nationally recognized standard rating service and 911
purchased through a registered securities broker or dealer. 912

(c) The aggregate value of the bonds or other obligations 913
does not exceed twenty per cent of interim moneys available for 914
investment at the time of purchase. 915

(d) The treasurer or governing board is not the sole 916

purchaser of the bonds or other obligations at original	917
issuance.	918
(e) The bonds or other obligations mature within ten years	919
from the date of settlement.	920
No investment shall be made under division (B) (4) of this	921
section unless the treasurer or governing board has completed	922
additional training for making the investments authorized by	923
division (B) (4) of this section. The type and amount of	924
additional training shall be approved by the treasurer of state	925
and may be conducted by or provided under the supervision of the	926
treasurer of state.	927
(5) No-load money market mutual funds consisting	928
exclusively of obligations described in division (B) (1) or (2)	929
of this section and repurchase agreements secured by such	930
obligations, provided that investments in securities described	931
in this division are made only through eligible institutions	932
mentioned in section 135.03 of the Revised Code;	933
(6) The Ohio subdivision's fund as provided in section	934
135.45 of the Revised Code;	935
(7) Up to forty per cent of interim moneys available for	936
investment in either of the following:	937
(a) Commercial paper notes issued by an entity that is	938
defined in division (D) of section 1705.01 <u>or division (E) of</u>	939
<u>section 1706.01</u> of the Revised Code and that has assets	940
exceeding five hundred million dollars, to which notes all of	941
the following apply:	942
(i) The notes are rated at the time of purchase in the	943
highest classification established by at least two nationally	944
recognized standard rating services.	945

(ii) The aggregate value of the notes does not exceed ten 946
per cent of the aggregate value of the outstanding commercial 947
paper of the issuing corporation. 948

(iii) The notes mature not later than two hundred seventy 949
days after purchase. 950

(iv) The investment in commercial paper notes of a single 951
issuer shall not exceed in the aggregate five per cent of 952
interim moneys available for investment at the time of purchase. 953

(b) Bankers acceptances of banks that are insured by the 954
federal deposit insurance corporation and that mature not later 955
than one hundred eighty days after purchase. 956

No investment shall be made pursuant to division (B) (7) of 957
this section unless the treasurer or governing board has 958
completed additional training for making the investments 959
authorized by division (B) (7) of this section. The type and 960
amount of additional training shall be approved by the treasurer 961
of state and may be conducted by or provided under the 962
supervision of the treasurer of state. 963

(C) Nothing in the classifications of eligible obligations 964
set forth in divisions (B) (1) to (7) of this section shall be 965
construed to authorize any investment in a derivative, and no 966
treasurer or governing board shall invest in a derivative. For 967
purposes of this division, "derivative" means a financial 968
instrument or contract or obligation whose value or return is 969
based upon or linked to another asset or index, or both, 970
separate from the financial instrument, contract, or obligation 971
itself. Any security, obligation, trust account, or other 972
instrument that is created from an issue of the United States 973
treasury or is created from an obligation of a federal agency or 974

instrumentality or is created from both is considered a 975
derivative instrument. An eligible investment described in this 976
section with a variable interest rate payment, based upon a 977
single interest payment or single index comprised of other 978
eligible investments provided for in division (B)(1) or (2) of 979
this section, is not a derivative, provided that such variable 980
rate investment has a maximum maturity of two years. 981

(D) Except as provided in division (B)(4) or (E) of this 982
section, any investment made pursuant to this section must 983
mature within five years from the date of settlement, unless the 984
investment is matched to a specific obligation or debt of the 985
subdivision. 986

(E) The treasurer or governing board may also enter into a 987
written repurchase agreement with any eligible institution 988
mentioned in section 135.03 of the Revised Code or any eligible 989
dealer pursuant to division (M) of this section, under the terms 990
of which agreement the treasurer or governing board purchases, 991
and such institution or dealer agrees unconditionally to 992
repurchase any of the securities listed in divisions (D)(1) to 993
(5), except letters of credit described in division (D)(2), of 994
section 135.18 of the Revised Code. The market value of 995
securities subject to an overnight written repurchase agreement 996
must exceed the principal value of the overnight written 997
repurchase agreement by at least two per cent. A written 998
repurchase agreement shall not exceed thirty days and the market 999
value of securities subject to a written repurchase agreement 1000
must exceed the principal value of the written repurchase 1001
agreement by at least two per cent and be marked to market 1002
daily. All securities purchased pursuant to this division shall 1003
be delivered into the custody of the treasurer or governing 1004
board or an agent designated by the treasurer or governing 1005

board. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution or dealer shall provide all of the following information:

(1) The par value of the securities;

(2) The type, rate, and maturity date of the securities;

(3) A numerical identifier generally accepted in the securities industry that designates the securities.

No treasurer or governing board shall enter into a written repurchase agreement under the terms of which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(F) No treasurer or governing board shall make an investment under this section, unless the treasurer or governing board, at the time of making the investment, reasonably expects that the investment can be held until its maturity.

(G) No treasurer or governing board shall pay interim moneys into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established for the purpose of investing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

(1) The Ohio subdivision's fund pursuant to division (B) of this section;

(2) A fund created solely for the purpose of acquiring,

constructing, owning, leasing, or operating municipal utilities 1034
pursuant to the authority provided under section 715.02 of the 1035
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 1036

For purposes of division (G) of this section, 1037
"subdivision" includes a county. 1038

(H) The use of leverage, in which the treasurer or 1039
governing board uses its current investment assets as collateral 1040
for the purpose of purchasing other assets, is prohibited. The 1041
issuance of taxable notes for the purpose of arbitrage is 1042
prohibited. Contracting to sell securities that have not yet 1043
been acquired by the treasurer or governing board, for the 1044
purpose of purchasing such securities on the speculation that 1045
bond prices will decline, is prohibited. 1046

(I) Whenever, during a period of designation, the 1047
treasurer classifies public moneys as interim moneys, the 1048
treasurer shall notify the governing board of such action. The 1049
notification shall be given within thirty days after such 1050
classification and in the event the governing board does not 1051
concur in such classification or in the investments or deposits 1052
made under this section, the governing board may order the 1053
treasurer to sell or liquidate any of such investments or 1054
deposits, and any such order shall specifically describe the 1055
investments or deposits and fix the date upon which they are to 1056
be sold or liquidated. Investments or deposits so ordered to be 1057
sold or liquidated shall be sold or liquidated for cash by the 1058
treasurer on the date fixed in such order at the then current 1059
market price. Neither the treasurer nor the members of the board 1060
shall be held accountable for any loss occasioned by sales or 1061
liquidations of investments or deposits at prices lower than 1062
their cost. Any loss or expense incurred in making such sales or 1063

liquidations is payable as other expenses of the treasurer's office. 1064
1065

(J) If any investments or deposits purchased under the authority of this section are issuable to a designated payee or to the order of a designated payee, the name of the treasurer and the title of the treasurer's office shall be so designated. 1066
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If any such securities are registrable either as to principal or interest, or both, then such securities shall be registered in the name of the treasurer as such. 1070
1071
1072

(K) The treasurer is responsible for the safekeeping of all documents evidencing a deposit or investment acquired by the treasurer under this section. Any securities may be deposited for safekeeping with a qualified trustee as provided in section 135.18 of the Revised Code, except the delivery of securities acquired under any repurchase agreement under this section shall be made to a qualified trustee, provided, however, that the qualified trustee shall be required to report to the treasurer, governing board, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the subdivision for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the subdivision. Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer and credited by the treasurer to the proper fund of the subdivision. 1073
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Upon the expiration of the term of office of a treasurer 1093

or in the event of a vacancy in the office of treasurer by 1094
reason of death, resignation, removal from office, or otherwise, 1095
the treasurer or the treasurer's legal representative shall 1096
transfer and deliver to the treasurer's successor all documents 1097
evidencing a deposit or investment held by the treasurer. For 1098
the investments and deposits so transferred and delivered, such 1099
treasurer shall be credited with and the treasurer's successor 1100
shall be charged with the amount of money held in such 1101
investments and deposits. 1102

(L) Whenever investments or deposits acquired under this 1103
section mature and become due and payable, the treasurer shall 1104
present them for payment according to their tenor, and shall 1105
collect the moneys payable thereon. The moneys so collected 1106
shall be treated as public moneys subject to sections 135.01 to 1107
135.21 of the Revised Code. 1108

(M) (1) All investments, except for investments in 1109
securities described in divisions (B) (5) and (6) of this section 1110
and for investments by a municipal corporation in the issues of 1111
such municipal corporation, shall be made only through a member 1112
of the financial industry regulatory authority (FINRA), through 1113
a bank, savings bank, or savings and loan association regulated 1114
by the superintendent of financial institutions, or through an 1115
institution regulated by the comptroller of the currency, 1116
federal deposit insurance corporation, or board of governors of 1117
the federal reserve system. 1118

(2) Payment for investments shall be made only upon the 1119
delivery of securities representing such investments to the 1120
treasurer, governing board, or qualified trustee. If the 1121
securities transferred are not represented by a certificate, 1122
payment shall be made only upon receipt of confirmation of 1123

transfer from the custodian by the treasurer, governing board, 1124
or qualified trustee. 1125

(N) In making investments authorized by this section, a 1126
treasurer or governing board may retain the services of an 1127
investment advisor, provided the advisor is licensed by the 1128
division of securities under section 1707.141 of the Revised 1129
Code or is registered with the securities and exchange 1130
commission, and possesses experience in public funds investment 1131
management, specifically in the area of state and local 1132
government investment portfolios, or the advisor is an eligible 1133
institution mentioned in section 135.03 of the Revised Code. 1134

(O) (1) Except as otherwise provided in divisions (O) (2) 1135
and (3) of this section, no treasurer or governing board shall 1136
make an investment or deposit under this section, unless there 1137
is on file with the auditor of state a written investment policy 1138
approved by the treasurer or governing board. The policy shall 1139
require that all entities conducting investment business with 1140
the treasurer or governing board shall sign the investment 1141
policy of that subdivision. All brokers, dealers, and financial 1142
institutions, described in division (M) (1) of this section, 1143
initiating transactions with the treasurer or governing board by 1144
giving advice or making investment recommendations shall sign 1145
the treasurer's or governing board's investment policy thereby 1146
acknowledging their agreement to abide by the policy's contents. 1147
All brokers, dealers, and financial institutions, described in 1148
division (M) (1) of this section, executing transactions 1149
initiated by the treasurer or governing board, having read the 1150
policy's contents, shall sign the investment policy thereby 1151
acknowledging their comprehension and receipt. 1152

(2) If a written investment policy described in division 1153

(O) (1) of this section is not filed on behalf of the subdivision 1154
with the auditor of state, the treasurer or governing board of 1155
that subdivision shall invest the subdivision's interim moneys 1156
only in interim deposits pursuant to division (B) (3) of this 1157
section or interim deposits pursuant to section 135.145 of the 1158
Revised Code and approved by the treasurer of state, no-load 1159
money market mutual funds pursuant to division (B) (5) of this 1160
section, or the Ohio subdivision's fund pursuant to division (B) 1161
(6) of this section. 1162

(3) Divisions (O) (1) and (2) of this section do not apply 1163
to a treasurer or governing board of a subdivision whose average 1164
annual portfolio of investments held pursuant to this section is 1165
one hundred thousand dollars or less, provided that the 1166
treasurer or governing board certifies, on a form prescribed by 1167
the auditor of state, that the treasurer or governing board will 1168
comply and is in compliance with the provisions of sections 1169
135.01 to 135.21 of the Revised Code. 1170

(P) A treasurer or governing board may enter into a 1171
written investment or deposit agreement that includes a 1172
provision under which the parties agree to submit to nonbinding 1173
arbitration to settle any controversy that may arise out of the 1174
agreement, including any controversy pertaining to losses of 1175
public moneys resulting from investment or deposit. The 1176
arbitration provision shall be set forth entirely in the 1177
agreement, and the agreement shall include a conspicuous notice 1178
to the parties that any party to the arbitration may apply to 1179
the court of common pleas of the county in which the arbitration 1180
was held for an order to vacate, modify, or correct the award. 1181
Any such party may also apply to the court for an order to 1182
change venue to a court of common pleas located more than one 1183
hundred miles from the county in which the treasurer or 1184

governing board is located. 1185

For purposes of this division, "investment or deposit 1186
agreement" means any agreement between a treasurer or governing 1187
board and a person, under which agreement the person agrees to 1188
invest, deposit, or otherwise manage a subdivision's interim 1189
moneys on behalf of the treasurer or governing board, or agrees 1190
to provide investment advice to the treasurer or governing 1191
board. 1192

(Q) An investment made by the treasurer or governing board 1193
pursuant to this section prior to September 27, 1996, that was a 1194
legal investment under the law as it existed before September 1195
27, 1996, may be held until maturity. 1196

Sec. 135.142. (A) In addition to the investments 1197
authorized by section 135.14 of the Revised Code, any board of 1198
education, by a two-thirds vote of its members, may authorize 1199
the treasurer of the board of education to invest up to forty 1200
per cent of the interim moneys of the board, available for 1201
investment at any one time, in either of the following: 1202

(1) Commercial paper notes issued by any entity that is 1203
defined in division (D) of section 1705.01 or division (E) of 1204
section 1706.01 of the Revised Code and has assets exceeding 1205
five hundred million dollars, and to which notes all of the 1206
following apply: 1207

(a) The notes are rated at the time of purchase in the 1208
highest classification established by at least two nationally 1209
recognized standard rating services. 1210

(b) The aggregate value of the notes does not exceed ten 1211
per cent of the aggregate value of the outstanding commercial 1212
paper of the issuing corporation. 1213

(c) The notes mature no later than two hundred seventy 1214
days after purchase. 1215

(d) The investment in commercial paper notes of a single 1216
issuer shall not exceed in the aggregate five per cent of 1217
interim moneys of the board available for investment at the time 1218
of purchase. 1219

(2) Bankers' acceptances of banks that are insured by the 1220
federal deposit insurance corporation and that mature no later 1221
than one hundred eighty days after purchase. 1222

(B) No investment authorized pursuant to division (A) of 1223
this section shall be made, whether or not authorized by a board 1224
of education, unless the treasurer of the board of education has 1225
completed additional training for making the types of 1226
investments authorized pursuant to division (A) of this section. 1227
The type and amount of such training shall be approved and may 1228
be conducted by or provided under the supervision of the 1229
treasurer of state. 1230

(C) The treasurer of the board of education shall prepare 1231
annually and submit to the board of education, the 1232
superintendent of public instruction, and the auditor of state, 1233
on or before the thirty-first day of August, a report listing 1234
each investment made pursuant to division (A) of this section 1235
during the preceding fiscal year, income earned from such 1236
investments, fees and commissions paid pursuant to division (D) 1237
of this section, and any other information required by the 1238
board, the superintendent, and the auditor of state. 1239

(D) A board of education may make appropriations and 1240
expenditures for fees and commissions in connection with 1241
investments made pursuant to division (A) of this section. 1242

(E) (1) In addition to the investments authorized by 1243
section 135.14 of the Revised Code and division (A) of this 1244
section, any board of education that is a party to an agreement 1245
with the treasurer of state pursuant to division (G) of section 1246
135.143 of the Revised Code and that has outstanding obligations 1247
issued under authority of section 133.10 or 133.301 of the 1248
Revised Code may authorize the treasurer of the board of 1249
education to invest interim moneys of the board in debt 1250
interests rated in either of the two highest rating 1251
classifications by at least two nationally recognized standard 1252
rating services and issued by entities that are defined in 1253
division (D) of section 1705.01 or division (E) of section 1254
1706.01 of the Revised Code. The debt interests purchased under 1255
authority of division (E) of this section shall mature not later 1256
than the latest maturity date of the outstanding obligations 1257
issued under authority of section 133.10 or 133.301 of the 1258
Revised Code. 1259

(2) If any of the debt interests acquired under division 1260
(E) (1) of this section ceases to be rated as there required, its 1261
issuer shall notify the treasurer of state of this fact within 1262
twenty-four hours. At any time thereafter the treasurer of state 1263
may require collateralization at the rate of one hundred two per 1264
cent of any remaining obligation of the entity, with securities 1265
authorized for investment under section 135.143 of the Revised 1266
Code. The collateral shall be delivered to and held by a 1267
custodian acceptable to the treasurer of state, marked to market 1268
daily, and any default to be cured within twelve hours. 1269
Unlimited substitution shall be allowed of comparable 1270
securities. 1271

Sec. 135.35. (A) The investing authority shall deposit or 1272
invest any part or all of the county's inactive moneys and shall 1273

invest all of the money in the county public library fund when 1274
required by section 135.352 of the Revised Code. The following 1275
classifications of securities and obligations are eligible for 1276
such deposit or investment: 1277

(1) United States treasury bills, notes, bonds, or any 1278
other obligation or security issued by the United States 1279
treasury, any other obligation guaranteed as to principal or 1280
interest by the United States, or any book entry, zero-coupon 1281
United States treasury security that is a direct obligation of 1282
the United States. 1283

Nothing in the classification of eligible securities and 1284
obligations set forth in divisions (A) (2) to (10) of this 1285
section shall be construed to authorize any investment in 1286
stripped principal or interest obligations of such eligible 1287
securities and obligations. 1288

(2) Bonds, notes, debentures, or any other obligations or 1289
securities issued by any federal government agency or 1290
instrumentality, including, but not limited to, the federal 1291
national mortgage association, federal home loan bank, federal 1292
farm credit bank, federal home loan mortgage corporation, and 1293
government national mortgage association. All federal agency 1294
securities shall be direct issuances of federal government 1295
agencies or instrumentalities. 1296

(3) Time certificates of deposit or savings or deposit 1297
accounts, including, but not limited to, passbook accounts, in 1298
any eligible institution mentioned in section 135.32 of the 1299
Revised Code; 1300

(4) Bonds and other obligations of this state or the 1301
political subdivisions of this state, provided the bonds or 1302

other obligations of political subdivisions mature within ten 1303
years from the date of settlement; 1304

(5) No-load money market mutual funds rated in the highest 1305
category at the time of purchase by at least one nationally 1306
recognized standard rating service or consisting exclusively of 1307
obligations described in division (A) (1), (2), or (6) of section 1308
135.143 of the Revised Code and repurchase agreements secured by 1309
such obligations, provided that investments in securities 1310
described in this division are made only through eligible 1311
institutions mentioned in section 135.32 of the Revised Code; 1312

(6) The Ohio subdivision's fund as provided in section 1313
135.45 of the Revised Code; 1314

(7) Securities lending agreements with any eligible 1315
institution mentioned in section 135.32 of the Revised Code that 1316
is a member of the federal reserve system or federal home loan 1317
bank or with any recognized United States government securities 1318
dealer meeting the description in division (J) (1) of this 1319
section, under the terms of which agreements the investing 1320
authority lends securities and the eligible institution or 1321
dealer agrees to simultaneously exchange similar securities or 1322
cash, equal value for equal value. 1323

Securities and cash received as collateral for a 1324
securities lending agreement are not inactive moneys of the 1325
county or moneys of a county public library fund. The investment 1326
of cash collateral received pursuant to a securities lending 1327
agreement may be invested only in instruments specified by the 1328
investing authority in the written investment policy described 1329
in division (K) of this section. 1330

(8) Up to forty per cent of the county's total average 1331

portfolio in either of the following investments: 1332

(a) Commercial paper notes issued by an entity that is 1333
defined in division (D) of section 1705.01 or division (E) of 1334
section 1706.01 of the Revised Code and that has assets 1335
exceeding five hundred million dollars, to which notes all of 1336
the following apply: 1337

(i) The notes are rated at the time of purchase in the 1338
highest classification established by at least two nationally 1339
recognized standard rating services. 1340

(ii) The aggregate value of the notes does not exceed ten 1341
per cent of the aggregate value of the outstanding commercial 1342
paper of the issuing corporation. 1343

(iii) The notes mature not later than two hundred seventy 1344
days after purchase. 1345

(iv) The investment in commercial paper notes of a single 1346
issuer shall not exceed in the aggregate five per cent of 1347
interim moneys available for investment at the time of purchase. 1348

(b) Bankers acceptances of banks that are insured by the 1349
federal deposit insurance corporation and that mature not later 1350
than one hundred eighty days after purchase. 1351

No investment shall be made pursuant to division (A) (8) of 1352
this section unless the investing authority has completed 1353
additional training for making the investments authorized by 1354
division (A) (8) of this section. The type and amount of 1355
additional training shall be approved by the treasurer of state 1356
and may be conducted by or provided under the supervision of the 1357
treasurer of state. 1358

(9) Up to fifteen per cent of the county's total average 1359

portfolio in notes issued by corporations that are incorporated 1360
under the laws of the United States and that are operating 1361
within the United States, or by depository institutions that are 1362
doing business under authority granted by the United States or 1363
any state and that are operating within the United States, 1364
provided both of the following apply: 1365

(a) The notes are rated in the three highest categories by 1366
at least two nationally recognized standard rating services at 1367
the time of purchase. 1368

(b) The notes mature not later than three years after 1369
purchase. 1370

(10) Debt interests rated at the time of purchase in the 1371
three highest categories by two nationally recognized standard 1372
rating services and issued by foreign nations diplomatically 1373
recognized by the United States government. All interest and 1374
principal shall be denominated and payable in United States 1375
funds. The investments made under division (A) (10) of this 1376
section shall not exceed in the aggregate two per cent of a 1377
county's total average portfolio. 1378

The investing authority shall invest under division (A) 1379
(10) of this section in a debt interest issued by a foreign 1380
nation only if the debt interest is backed by the full faith and 1381
credit of that foreign nation, there is no prior history of 1382
default, and the debt interest matures not later than five years 1383
after purchase. For purposes of division (A) (10) of this 1384
section, a debt interest is rated in the three highest 1385
categories by two nationally recognized standard rating services 1386
if either the debt interest itself or the issuer of the debt 1387
interest is rated, or is implicitly rated, at the time of 1388
purchase in the three highest categories by two nationally 1389

recognized standard rating services. 1390

(11) A current unpaid or delinquent tax line of credit 1391
authorized under division (G) of section 135.341 of the Revised 1392
Code, provided that all of the conditions for entering into such 1393
a line of credit under that division are satisfied, or bonds and 1394
other obligations of a county land reutilization corporation 1395
organized under Chapter 1724. of the Revised Code, if the county 1396
land reutilization corporation is located wholly or partly 1397
within the same county as the investing authority. 1398

(B) Nothing in the classifications of eligible obligations 1399
and securities set forth in divisions (A) (1) to (10) of this 1400
section shall be construed to authorize investment in a 1401
derivative, and no investing authority shall invest any county 1402
inactive moneys or any moneys in a county public library fund in 1403
a derivative. For purposes of this division, "derivative" means 1404
a financial instrument or contract or obligation whose value or 1405
return is based upon or linked to another asset or index, or 1406
both, separate from the financial instrument, contract, or 1407
obligation itself. Any security, obligation, trust account, or 1408
other instrument that is created from an issue of the United 1409
States treasury or is created from an obligation of a federal 1410
agency or instrumentality or is created from both is considered 1411
a derivative instrument. An eligible investment described in 1412
this section with a variable interest rate payment, based upon a 1413
single interest payment or single index comprised of other 1414
eligible investments provided for in division (A) (1) or (2) of 1415
this section, is not a derivative, provided that such variable 1416
rate investment has a maximum maturity of two years. A treasury 1417
inflation-protected security shall not be considered a 1418
derivative, provided the security matures not later than five 1419
years after purchase. 1420

(C) Except as provided in division (A) (4) or (D) of this 1421
section, any investment made pursuant to this section must 1422
mature within five years from the date of settlement, unless the 1423
investment is matched to a specific obligation or debt of the 1424
county or to a specific obligation or debt of a political 1425
subdivision of this state, and the investment is specifically 1426
approved by the investment advisory committee. 1427

(D) The investing authority may also enter into a written 1428
repurchase agreement with any eligible institution mentioned in 1429
section 135.32 of the Revised Code or any eligible securities 1430
dealer pursuant to division (J) of this section, under the terms 1431
of which agreement the investing authority purchases and the 1432
eligible institution or dealer agrees unconditionally to 1433
repurchase any of the securities listed in divisions (D) (1) to 1434
(5), except letters of credit described in division (D) (2), of 1435
section 135.18 of the Revised Code. The market value of 1436
securities subject to an overnight written repurchase agreement 1437
must exceed the principal value of the overnight written 1438
repurchase agreement by at least two per cent. A written 1439
repurchase agreement must exceed the principal value of the 1440
overnight written repurchase agreement, by at least two per 1441
cent. A written repurchase agreement shall not exceed thirty 1442
days, and the market value of securities subject to a written 1443
repurchase agreement must exceed the principal value of the 1444
written repurchase agreement by at least two per cent and be 1445
marked to market daily. All securities purchased pursuant to 1446
this division shall be delivered into the custody of the 1447
investing authority or the qualified custodian of the investing 1448
authority or an agent designated by the investing authority. A 1449
written repurchase agreement with an eligible securities dealer 1450
shall be transacted on a delivery versus payment basis. The 1451

agreement shall contain the requirement that for each 1452
transaction pursuant to the agreement the participating 1453
institution shall provide all of the following information: 1454

(1) The par value of the securities; 1455

(2) The type, rate, and maturity date of the securities; 1456

(3) A numerical identifier generally accepted in the 1457
securities industry that designates the securities. 1458

No investing authority shall enter into a written 1459
repurchase agreement under the terms of which the investing 1460
authority agrees to sell securities owned by the county to a 1461
purchaser and agrees with that purchaser to unconditionally 1462
repurchase those securities. 1463

(E) No investing authority shall make an investment under 1464
this section, unless the investing authority, at the time of 1465
making the investment, reasonably expects that the investment 1466
can be held until its maturity. The investing authority's 1467
written investment policy shall specify the conditions under 1468
which an investment may be redeemed or sold prior to maturity. 1469

(F) No investing authority shall pay a county's inactive 1470
moneys or moneys of a county public library fund into a fund 1471
established by another subdivision, treasurer, governing board, 1472
or investing authority, if that fund was established by the 1473
subdivision, treasurer, governing board, or investing authority 1474
for the purpose of investing or depositing the public moneys of 1475
other subdivisions. This division does not apply to the payment 1476
of public moneys into either of the following: 1477

(1) The Ohio subdivision's fund pursuant to division (A) 1478

(6) of this section; 1479

(2) A fund created solely for the purpose of acquiring, 1480
constructing, owning, leasing, or operating municipal utilities 1481
pursuant to the authority provided under section 715.02 of the 1482
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 1483

For purposes of division (F) of this section, 1484
"subdivision" includes a county. 1485

(G) The use of leverage, in which the county uses its 1486
current investment assets as collateral for the purpose of 1487
purchasing other assets, is prohibited. The issuance of taxable 1488
notes for the purpose of arbitrage is prohibited. Contracting to 1489
sell securities not owned by the county, for the purpose of 1490
purchasing such securities on the speculation that bond prices 1491
will decline, is prohibited. 1492

(H) Any securities, certificates of deposit, deposit 1493
accounts, or any other documents evidencing deposits or 1494
investments made under authority of this section shall be issued 1495
in the name of the county with the county treasurer or investing 1496
authority as the designated payee. If any such deposits or 1497
investments are registrable either as to principal or interest, 1498
or both, they shall be registered in the name of the treasurer. 1499

(I) The investing authority shall be responsible for the 1500
safekeeping of all documents evidencing a deposit or investment 1501
acquired under this section, including, but not limited to, 1502
safekeeping receipts evidencing securities deposited with a 1503
qualified trustee, as provided in section 135.37 of the Revised 1504
Code, and documents confirming the purchase of securities under 1505
any repurchase agreement under this section shall be deposited 1506
with a qualified trustee, provided, however, that the qualified 1507
trustee shall be required to report to the investing authority, 1508
auditor of state, or an authorized outside auditor at any time 1509

upon request as to the identity, market value, and location of 1510
the document evidencing each security, and that if the 1511
participating institution is a designated depository of the 1512
county for the current period of designation, the securities 1513
that are the subject of the repurchase agreement may be 1514
delivered to the treasurer or held in trust by the participating 1515
institution on behalf of the investing authority. 1516

Upon the expiration of the term of office of an investing 1517
authority or in the event of a vacancy in the office for any 1518
reason, the officer or the officer's legal representative shall 1519
transfer and deliver to the officer's successor all documents 1520
mentioned in this division for which the officer has been 1521
responsible for safekeeping. For all such documents transferred 1522
and delivered, the officer shall be credited with, and the 1523
officer's successor shall be charged with, the amount of moneys 1524
evidenced by such documents. 1525

(J) (1) All investments, except for investments in 1526
securities described in divisions (A) (5), (6), and (11) of this 1527
section, shall be made only through a member of the financial 1528
industry regulatory authority (FINRA), through a bank, savings 1529
bank, or savings and loan association regulated by the 1530
superintendent of financial institutions, or through an 1531
institution regulated by the comptroller of the currency, 1532
federal deposit insurance corporation, or board of governors of 1533
the federal reserve system. 1534

(2) Payment for investments shall be made only upon the 1535
delivery of securities representing such investments to the 1536
treasurer, investing authority, or qualified trustee. If the 1537
securities transferred are not represented by a certificate, 1538
payment shall be made only upon receipt of confirmation of 1539

transfer from the custodian by the treasurer, governing board, 1540
or qualified trustee. 1541

(K) (1) Except as otherwise provided in division (K) (2) of 1542
this section, no investing authority shall make an investment or 1543
deposit under this section, unless there is on file with the 1544
auditor of state a written investment policy approved by the 1545
investing authority. The policy shall require that all entities 1546
conducting investment business with the investing authority 1547
shall sign the investment policy of that investing authority. 1548
All brokers, dealers, and financial institutions, described in 1549
division (J) (1) of this section, initiating transactions with 1550
the investing authority by giving advice or making investment 1551
recommendations shall sign the investing authority's investment 1552
policy thereby acknowledging their agreement to abide by the 1553
policy's contents. All brokers, dealers, and financial 1554
institutions, described in division (J) (1) of this section, 1555
executing transactions initiated by the investing authority, 1556
having read the policy's contents, shall sign the investment 1557
policy thereby acknowledging their comprehension and receipt. 1558

(2) If a written investment policy described in division 1559
(K) (1) of this section is not filed on behalf of the county with 1560
the auditor of state, the investing authority of that county 1561
shall invest the county's inactive moneys and moneys of the 1562
county public library fund only in time certificates of deposits 1563
or savings or deposit accounts pursuant to division (A) (3) of 1564
this section, no-load money market mutual funds pursuant to 1565
division (A) (5) of this section, or the Ohio subdivision's fund 1566
pursuant to division (A) (6) of this section. 1567

(L) (1) The investing authority shall establish and 1568
maintain an inventory of all obligations and securities acquired 1569

by the investing authority pursuant to this section. The 1570
inventory shall include a description of each obligation or 1571
security, including type, cost, par value, maturity date, 1572
settlement date, and any coupon rate. 1573

(2) The investing authority shall also keep a complete 1574
record of all purchases and sales of the obligations and 1575
securities made pursuant to this section. 1576

(3) The investing authority shall maintain a monthly 1577
portfolio report and issue a copy of the monthly portfolio 1578
report describing such investments to the county investment 1579
advisory committee, detailing the current inventory of all 1580
obligations and securities, all transactions during the month 1581
that affected the inventory, any income received from the 1582
obligations and securities, and any investment expenses paid, 1583
and stating the names of any persons effecting transactions on 1584
behalf of the investing authority. 1585

(4) The monthly portfolio report shall be a public record 1586
and available for inspection under section 149.43 of the Revised 1587
Code. 1588

(5) The inventory and the monthly portfolio report shall 1589
be filed with the board of county commissioners. The monthly 1590
portfolio report also shall be filed with the treasurer of 1591
state. 1592

(M) An investing authority may enter into a written 1593
investment or deposit agreement that includes a provision under 1594
which the parties agree to submit to nonbinding arbitration to 1595
settle any controversy that may arise out of the agreement, 1596
including any controversy pertaining to losses of public moneys 1597
resulting from investment or deposit. The arbitration provision 1598

shall be set forth entirely in the agreement, and the agreement 1599
shall include a conspicuous notice to the parties that any party 1600
to the arbitration may apply to the court of common pleas of the 1601
county in which the arbitration was held for an order to vacate, 1602
modify, or correct the award. Any such party may also apply to 1603
the court for an order to change venue to a court of common 1604
pleas located more than one hundred miles from the county in 1605
which the investing authority is located. 1606

For purposes of this division, "investment or deposit 1607
agreement" means any agreement between an investing authority 1608
and a person, under which agreement the person agrees to invest, 1609
deposit, or otherwise manage, on behalf of the investing 1610
authority, a county's inactive moneys or moneys in a county 1611
public library fund, or agrees to provide investment advice to 1612
the investing authority. 1613

(N) (1) An investment held in the county portfolio on 1614
September 27, 1996, that was a legal investment under the law as 1615
it existed before September 27, 1996, may be held until 1616
maturity. 1617

(2) An investment held in the county portfolio on 1618
September 10, 2012, that was a legal investment under the law as 1619
it existed before September 10, 2012, may be held until 1620
maturity. 1621

Sec. 150.05. (A) The authority shall select, as program 1622
administrators, not more than two private, for-profit investment 1623
funds to acquire loans for the program fund and to invest money 1624
in the program fund as prescribed in the investment policy 1625
established or modified by the authority in accordance with 1626
sections 150.03 and 150.04 of the Revised Code. The authority 1627
shall give equal consideration, in selecting these program 1628

administrators, to minority owned and controlled investment 1629
funds, to funds owned and controlled by women, to ventures 1630
involving minority owned and controlled funds, and to ventures 1631
involving funds owned and controlled by women that otherwise 1632
meet the policies and criteria established by the authority. To 1633
be eligible for selection, an investment fund must be 1634
incorporated or organized under Chapter 1701., 1705., 1706., 1635
1775., 1776., 1782., or 1783. of the Revised Code, must have an 1636
established business presence in this state, and must be 1637
capitalized in accordance with any state and federal laws 1638
applicable to the issuance or sale of securities. 1639

The authority shall select program administrators only 1640
after soliciting and evaluating requests for proposals as 1641
prescribed in this section. The authority shall publish a notice 1642
of a request for proposals in newspapers of general circulation 1643
in this state once each week for two consecutive weeks before a 1644
date specified by the authority as the date on which it will 1645
begin accepting proposals. The notices shall contain a general 1646
description of the subject of the proposed agreement and the 1647
location where the request for proposals may be obtained. The 1648
request for proposals shall include all the following: 1649

(1) Instructions and information to respondents concerning 1650
the submission of proposals, including the name and address of 1651
the office where proposals are to be submitted; 1652

(2) Instructions regarding the manner in which respondents 1653
may communicate with the authority, including the names, titles, 1654
and telephone numbers of the individuals to whom such 1655
communications shall be directed; 1656

(3) Description of the performance criteria that will be 1657
used to evaluate whether a respondent selected by the authority 1658

is satisfying the authority's investment policy; 1659

(4) Description of the factors and criteria to be 1660
considered in evaluating respondents' proposals, the relative 1661
importance of each factor or criterion, and description of the 1662
authority's evaluation procedure; 1663

(5) Description of any documents that may be incorporated 1664
by reference into the request for proposals, provided that the 1665
request specifies where such documents may be obtained and such 1666
documents are readily available to all interested parties. 1667

After the date specified for receiving proposals, the 1668
authority shall evaluate submitted proposals. The authority may 1669
discuss a respondent's proposal with that respondent to clarify 1670
or revise a proposal or the terms of the agreement. 1671

The authority shall choose for review proposals from at 1672
least three respondents the authority considers qualified to 1673
operate the program in the best interests of the investment 1674
policy adopted by the authority. If three or fewer proposals are 1675
submitted, the authority shall review each proposal. The 1676
authority may cancel a request for proposals at any time before 1677
entering into an agreement with a respondent. The authority 1678
shall provide respondents fair and equal opportunity for such 1679
discussions. The authority may terminate discussions with any 1680
respondent upon written notice to the respondent. 1681

(B) After reviewing the chosen proposals, the authority 1682
may select not more than two such respondents and enter into a 1683
written agreement with each of the selected respondents, 1684
provided that at no time shall there be agreements with more 1685
than two persons. 1686

The agreement shall do all of the following: 1687

(1) Specify that borrowing and investing by the program administrator will be budgeted to guarantee that no tax credits will be granted during the first four years of the Ohio venture capital program, and will be structured to ensure that payments of principal, interest, or interest equivalent due in any fiscal year, when added to such payments due from any other program administrator, does not exceed twenty million dollars;

(2) Require investment by the program administrator or the fund manager employed by the program administrator to be in compliance with the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code that is in effect at the time the investment is made, and prohibit the program administrator or fund manager from engaging in any investment activities other than activities to carry out that policy;

(3) Require periodic financial reporting by the program administrator to the authority, which reporting shall include an annual audit by an independent auditor and such other financial reporting as is specified in the agreement or otherwise required by the authority for the purpose of ensuring that the program administrator is carrying out the investment policy;

(4) Specify any like standards or general limitations in addition to or in furtherance of investment standards or limitations that apply pursuant to division (H) of section 150.03 of the Revised Code;

(5) Require the program administrator to apply program fund revenue first to the payment of principal borrowed by the program administrator for investment under the program, then to interest related to that principal, and then to amounts necessary to cover the program administrator's pro rata share

required under division (B) (9) of this section; and require the 1718
program administrator to pay the authority not less than ninety 1719
per cent of the amount by which program fund revenue 1720
attributable to investments under the program administrator's 1721
investment authority exceeds amounts so applied; 1722

(6) Specify the procedures by which the program 1723
administrator shall certify immediately to the authority the 1724
necessity for the authority to issue tax credit certificates 1725
pursuant to contracts entered into under section 150.07 of the 1726
Revised Code; 1727

(7) Specify any general limitations regarding the 1728
employment of a fund manager by the program administrator, in 1729
addition to an express limitation that the fund manager be a 1730
person with demonstrated, substantial, successful experience in 1731
the design and management of seed and venture capital investment 1732
programs and in capital formation. The fund manager may be, but 1733
need not be, an equity owner or affiliate of the program 1734
administrator. 1735

(8) Specify the terms and conditions under which the 1736
authority or the program administrator may terminate the 1737
agreement, including in the circumstance that the program 1738
administrator or fund manager violates the investment policy; 1739

(9) Require the program administrator or fund manager 1740
employed by the program administrator to provide capital in the 1741
form of a loan equal to one per cent of the amount of 1742
outstanding loans by lenders to the program fund. The loan from 1743
the program administrator or fund manager shall be on the same 1744
terms and conditions as loans from other lenders, except that 1745
the loan from the program administrator or fund manager shall 1746
not be secured by the Ohio venture capital fund or tax credits 1747

available to other lenders under division (B) of section 150.04 1748
of the Revised Code. Such capital shall be placed at the same 1749
risk as the proceeds from such loans. The program administrator 1750
shall receive a pro rata share of the net income, including net 1751
loss, from the investment of money from the program fund, but is 1752
not entitled to the security against losses provided under 1753
section 150.04 of the Revised Code. 1754

Sec. 718.01. Any term used in this chapter that is not 1755
otherwise defined in this chapter has the same meaning as when 1756
used in a comparable context in laws of the United States 1757
relating to federal income taxation or in Title LVII of the 1758
Revised Code, unless a different meaning is clearly required. 1759
Except as provided in section 718.81 of the Revised Code, if a 1760
term used in this chapter that is not otherwise defined in this 1761
chapter is used in a comparable context in both the laws of the 1762
United States relating to federal income tax and in Title LVII 1763
of the Revised Code and the use is not consistent, then the use 1764
of the term in the laws of the United States relating to federal 1765
income tax shall control over the use of the term in Title LVII 1766
of the Revised Code. 1767

Except as otherwise provided in section 718.81 of the 1768
Revised Code, as used in this chapter: 1769

(A) (1) "Municipal taxable income" means the following: 1770

(a) For a person other than an individual, income 1771
apportioned or situated to the municipal corporation under 1772
section 718.02 of the Revised Code, as applicable, reduced by 1773
any pre-2017 net operating loss carryforward available to the 1774
person for the municipal corporation. 1775

(b) (i) For an individual who is a resident of a municipal 1776

corporation other than a qualified municipal corporation, income 1777
reduced by exempt income to the extent otherwise included in 1778
income, then reduced as provided in division (A) (2) of this 1779
section, and further reduced by any pre-2017 net operating loss 1780
carryforward available to the individual for the municipal 1781
corporation. 1782

(ii) For an individual who is a resident of a qualified 1783
municipal corporation, Ohio adjusted gross income reduced by 1784
income exempted, and increased by deductions excluded, by the 1785
qualified municipal corporation from the qualified municipal 1786
corporation's tax. If a qualified municipal corporation, on or 1787
before December 31, 2013, exempts income earned by individuals 1788
who are not residents of the qualified municipal corporation and 1789
net profit of persons that are not wholly located within the 1790
qualified municipal corporation, such individual or person shall 1791
have no municipal taxable income for the purposes of the tax 1792
levied by the qualified municipal corporation and may be 1793
exempted by the qualified municipal corporation from the 1794
requirements of section 718.03 of the Revised Code. 1795

(c) For an individual who is a nonresident of a municipal 1796
corporation, income reduced by exempt income to the extent 1797
otherwise included in income and then, as applicable, 1798
apportioned or situated to the municipal corporation under 1799
section 718.02 of the Revised Code, then reduced as provided in 1800
division (A) (2) of this section, and further reduced by any pre- 1801
2017 net operating loss carryforward available to the individual 1802
for the municipal corporation. 1803

(2) In computing the municipal taxable income of a 1804
taxpayer who is an individual, the taxpayer may subtract, as 1805
provided in division (A) (1) (b) (i) or (c) of this section, the 1806

amount of the individual's employee business expenses reported 1807
on the individual's form 2106 that the individual deducted for 1808
federal income tax purposes for the taxable year, subject to the 1809
limitation imposed by section 67 of the Internal Revenue Code. 1810
For the municipal corporation in which the taxpayer is a 1811
resident, the taxpayer may deduct all such expenses allowed for 1812
federal income tax purposes. For a municipal corporation in 1813
which the taxpayer is not a resident, the taxpayer may deduct 1814
such expenses only to the extent the expenses are related to the 1815
taxpayer's performance of personal services in that nonresident 1816
municipal corporation. 1817

(B) "Income" means the following: 1818

(1) (a) For residents, all income, salaries, qualifying 1819
wages, commissions, and other compensation from whatever source 1820
earned or received by the resident, including the resident's 1821
distributive share of the net profit of pass-through entities 1822
owned directly or indirectly by the resident and any net profit 1823
of the resident, except as provided in division (D) (5) of this 1824
section. 1825

(b) For the purposes of division (B) (1) (a) of this 1826
section: 1827

(i) Any net operating loss of the resident incurred in the 1828
taxable year and the resident's distributive share of any net 1829
operating loss generated in the same taxable year and 1830
attributable to the resident's ownership interest in a pass- 1831
through entity shall be allowed as a deduction, for that taxable 1832
year and the following five taxable years, against any other net 1833
profit of the resident or the resident's distributive share of 1834
any net profit attributable to the resident's ownership interest 1835
in a pass-through entity until fully utilized, subject to 1836

division (B) (1) (d) of this section; 1837

(ii) The resident's distributive share of the net profit 1838
of each pass-through entity owned directly or indirectly by the 1839
resident shall be calculated without regard to any net operating 1840
loss that is carried forward by that entity from a prior taxable 1841
year and applied to reduce the entity's net profit for the 1842
current taxable year. 1843

(c) Division (B) (1) (b) of this section does not apply with 1844
respect to any net profit or net operating loss attributable to 1845
an ownership interest in an S corporation unless shareholders' 1846
distributive shares of net profits from S corporations are 1847
subject to tax in the municipal corporation as provided in 1848
division (C) (14) (b) or (c) of this section. 1849

(d) Any amount of a net operating loss used to reduce a 1850
taxpayer's net profit for a taxable year shall reduce the amount 1851
of net operating loss that may be carried forward to any 1852
subsequent year for use by that taxpayer. In no event shall the 1853
cumulative deductions for all taxable years with respect to a 1854
taxpayer's net operating loss exceed the original amount of that 1855
net operating loss available to that taxpayer. 1856

(2) In the case of nonresidents, all income, salaries, 1857
qualifying wages, commissions, and other compensation from 1858
whatever source earned or received by the nonresident for work 1859
done, services performed or rendered, or activities conducted in 1860
the municipal corporation, including any net profit of the 1861
nonresident, but excluding the nonresident's distributive share 1862
of the net profit or loss of only pass-through entities owned 1863
directly or indirectly by the nonresident. 1864

(3) For taxpayers that are not individuals, net profit of 1865

the taxpayer; 1866

(4) Lottery, sweepstakes, gambling and sports winnings, 1867
winnings from games of chance, and prizes and awards. If the 1868
taxpayer is a professional gambler for federal income tax 1869
purposes, the taxpayer may deduct related wagering losses and 1870
expenses to the extent authorized under the Internal Revenue 1871
Code and claimed against such winnings. 1872

(C) "Exempt income" means all of the following: 1873

(1) The military pay or allowances of members of the armed 1874
forces of the United States or members of their reserve 1875
components, including the national guard of any state; 1876

(2) (a) Except as provided in division (C) (2) (b) of this 1877
section, intangible income; 1878

(b) A municipal corporation that taxed any type of 1879
intangible income on March 29, 1988, pursuant to Section 3 of 1880
S.B. 238 of the 116th general assembly, may continue to tax that 1881
type of income if a majority of the electors of the municipal 1882
corporation voting on the question of whether to permit the 1883
taxation of that type of intangible income after 1988 voted in 1884
favor thereof at an election held on November 8, 1988. 1885

(3) Social security benefits, railroad retirement 1886
benefits, unemployment compensation, pensions, retirement 1887
benefit payments, payments from annuities, and similar payments 1888
made to an employee or to the beneficiary of an employee under a 1889
retirement program or plan, disability payments received from 1890
private industry or local, state, or federal governments or from 1891
charitable, religious or educational organizations, and the 1892
proceeds of sickness, accident, or liability insurance policies. 1893
As used in division (C) (3) of this section, "unemployment 1894

compensation" does not include supplemental unemployment 1895
compensation described in section 3402(o)(2) of the Internal 1896
Revenue Code. 1897

(4) The income of religious, fraternal, charitable, 1898
scientific, literary, or educational institutions to the extent 1899
such income is derived from tax-exempt real estate, tax-exempt 1900
tangible or intangible property, or tax-exempt activities. 1901

(5) Compensation paid under section 3501.28 or 3501.36 of 1902
the Revised Code to a person serving as a precinct election 1903
official to the extent that such compensation does not exceed 1904
one thousand dollars for the taxable year. Such compensation in 1905
excess of one thousand dollars for the taxable year may be 1906
subject to taxation by a municipal corporation. A municipal 1907
corporation shall not require the payer of such compensation to 1908
withhold any tax from that compensation. 1909

(6) Dues, contributions, and similar payments received by 1910
charitable, religious, educational, or literary organizations or 1911
labor unions, lodges, and similar organizations; 1912

(7) Alimony and child support received; 1913

(8) Compensation for personal injuries or for damages to 1914
property from insurance proceeds or otherwise, excluding 1915
compensation paid for lost salaries or wages or compensation 1916
from punitive damages; 1917

(9) Income of a public utility when that public utility is 1918
subject to the tax levied under section 5727.24 or 5727.30 of 1919
the Revised Code. Division (C)(9) of this section does not apply 1920
for purposes of Chapter 5745. of the Revised Code. 1921

(10) Gains from involuntary conversions, interest on 1922
federal obligations, items of income subject to a tax levied by 1923

the state and that a municipal corporation is specifically 1924
prohibited by law from taxing, and income of a decedent's estate 1925
during the period of administration except such income from the 1926
operation of a trade or business; 1927

(11) Compensation or allowances excluded from federal 1928
gross income under section 107 of the Internal Revenue Code; 1929

(12) Employee compensation that is not qualifying wages as 1930
defined in division (R) of this section; 1931

(13) Compensation paid to a person employed within the 1932
boundaries of a United States air force base under the 1933
jurisdiction of the United States air force that is used for the 1934
housing of members of the United States air force and is a 1935
center for air force operations, unless the person is subject to 1936
taxation because of residence or domicile. If the compensation 1937
is subject to taxation because of residence or domicile, tax on 1938
such income shall be payable only to the municipal corporation 1939
of residence or domicile. 1940

(14) (a) Except as provided in division (C) (14) (b) or (c) 1941
of this section, an S corporation shareholder's distributive 1942
share of net profits of the S corporation, other than any part 1943
of the distributive share of net profits that represents wages 1944
as defined in section 3121(a) of the Internal Revenue Code or 1945
net earnings from self-employment as defined in section 1402(a) 1946
of the Internal Revenue Code. 1947

(b) If, pursuant to division (H) of former section 718.01 1948
of the Revised Code as it existed before March 11, 2004, a 1949
majority of the electors of a municipal corporation voted in 1950
favor of the question at an election held on November 4, 2003, 1951
the municipal corporation may continue after 2002 to tax an S 1952

corporation shareholder's distributive share of net profits of 1953
an S corporation. 1954

(c) If, on December 6, 2002, a municipal corporation was 1955
imposing, assessing, and collecting a tax on an S corporation 1956
shareholder's distributive share of net profits of the S 1957
corporation to the extent the distributive share would be 1958
allocated or apportioned to this state under divisions (B) (1) 1959
and (2) of section 5733.05 of the Revised Code if the S 1960
corporation were a corporation subject to taxes imposed under 1961
Chapter 5733. of the Revised Code, the municipal corporation may 1962
continue to impose the tax on such distributive shares to the 1963
extent such shares would be so allocated or apportioned to this 1964
state only until December 31, 2004, unless a majority of the 1965
electors of the municipal corporation voting on the question of 1966
continuing to tax such shares after that date voted in favor of 1967
that question at an election held November 2, 2004. If a 1968
majority of those electors voted in favor of the question, the 1969
municipal corporation may continue after December 31, 2004, to 1970
impose the tax on such distributive shares only to the extent 1971
such shares would be so allocated or apportioned to this state. 1972

(d) A municipal corporation shall be deemed to have 1973
elected to tax S corporation shareholders' distributive shares 1974
of net profits of the S corporation in the hands of the 1975
shareholders if a majority of the electors of a municipal 1976
corporation voted in favor of a question at an election held 1977
under division (C) (14) (b) or (c) of this section. The municipal 1978
corporation shall specify by resolution or ordinance that the 1979
tax applies to the distributive share of a shareholder of an S 1980
corporation in the hands of the shareholder of the S 1981
corporation. 1982

(15) To the extent authorized under a resolution or ordinance adopted by a municipal corporation before January 1, 2016, all or a portion of the income of individuals or a class of individuals under eighteen years of age.

(16) (a) Except as provided in divisions (C) (16) (b), (c), and (d) of this section, qualifying wages described in division (B) (1) or (E) of section 718.011 of the Revised Code to the extent the qualifying wages are not subject to withholding for the municipal corporation under either of those divisions.

(b) The exemption provided in division (C) (16) (a) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(c) The exemption provided in division (C) (16) (a) of this section does not apply to qualifying wages that an employer elects to withhold under division (D) (2) of section 718.011 of the Revised Code.

(d) The exemption provided in division (C) (16) (a) of this section does not apply to qualifying wages if both of the following conditions apply:

(i) For qualifying wages described in division (B) (1) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(ii) The employee receives a refund of the tax described 2012
in division (C) (16) (d) (i) of this section on the basis of the 2013
employee not performing services in that municipal corporation. 2014

(17) (a) Except as provided in division (C) (17) (b) or (c) 2015
of this section, compensation that is not qualifying wages paid 2016
to a nonresident individual for personal services performed in 2017
the municipal corporation on not more than twenty days in a 2018
taxable year. 2019

(b) The exemption provided in division (C) (17) (a) of this 2020
section does not apply under either of the following 2021
circumstances: 2022

(i) The individual's base of operation is located in the 2023
municipal corporation. 2024

(ii) The individual is a professional athlete, 2025
professional entertainer, or public figure, and the compensation 2026
is paid for the performance of services in the individual's 2027
capacity as a professional athlete, professional entertainer, or 2028
public figure. For purposes of division (C) (17) (b) (ii) of this 2029
section, "professional athlete," "professional entertainer," and 2030
"public figure" have the same meanings as in section 718.011 of 2031
the Revised Code. 2032

(c) Compensation to which division (C) (17) of this section 2033
applies shall be treated as earned or received at the 2034
individual's base of operation. If the individual does not have 2035
a base of operation, the compensation shall be treated as earned 2036
or received where the individual is domiciled. 2037

(d) For purposes of division (C) (17) of this section, 2038
"base of operation" means the location where an individual owns 2039
or rents an office, storefront, or similar facility to which the 2040

individual regularly reports and at which the individual 2041
regularly performs personal services for compensation. 2042

(18) Compensation paid to a person for personal services 2043
performed for a political subdivision on property owned by the 2044
political subdivision, regardless of whether the compensation is 2045
received by an employee of the subdivision or another person 2046
performing services for the subdivision under a contract with 2047
the subdivision, if the property on which services are performed 2048
is annexed to a municipal corporation pursuant to section 2049
709.023 of the Revised Code on or after March 27, 2013, unless 2050
the person is subject to such taxation because of residence. If 2051
the compensation is subject to taxation because of residence, 2052
municipal income tax shall be payable only to the municipal 2053
corporation of residence. 2054

(19) In the case of a tax administered, collected, and 2055
enforced by a municipal corporation pursuant to an agreement 2056
with the board of directors of a joint economic development 2057
district under section 715.72 of the Revised Code, the net 2058
profits of a business, and the income of the employees of that 2059
business, exempted from the tax under division (Q) of that 2060
section. 2061

(20) All of the following: 2062

(a) Income derived from disaster work conducted in this 2063
state by an out-of-state disaster business during a disaster 2064
response period pursuant to a qualifying solicitation received 2065
by the business; 2066

(b) Income of a qualifying employee described in division 2067
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 2068
such income is derived from disaster work conducted in this 2069

state by the employee during a disaster response period pursuant 2070
to a qualifying solicitation received by the employee's 2071
employer; 2072

(c) Income of a qualifying employee described in division 2073
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 2074
such income is derived from disaster work conducted in this 2075
state by the employee during a disaster response period on 2076
critical infrastructure owned or used by the employee's 2077
employer. 2078

(21) Income the taxation of which is prohibited by the 2079
constitution or laws of the United States. 2080

Any item of income that is exempt income of a pass-through 2081
entity under division (C) of this section is exempt income of 2082
each owner of the pass-through entity to the extent of that 2083
owner's distributive or proportionate share of that item of the 2084
entity's income. 2085

(D) (1) "Net profit" for a person who is an individual 2086
means the individual's net profit required to be reported on 2087
schedule C, schedule E, or schedule F reduced by any net 2088
operating loss carried forward. For the purposes of division (D) 2089
(1) of this section, the net operating loss carried forward 2090
shall be calculated and deducted in the same manner as provided 2091
in division (D) (3) of this section. 2092

(2) "Net profit" for a person other than an individual 2093
means adjusted federal taxable income reduced by any net 2094
operating loss incurred by the person in a taxable year 2095
beginning on or after January 1, 2017, subject to the 2096
limitations of division (D) (3) of this section. 2097

(3) (a) The amount of such net operating loss shall be 2098

deducted from net profit to the extent necessary to reduce 2099
municipal taxable income to zero, with any remaining unused 2100
portion of the net operating loss carried forward to not more 2101
than five consecutive taxable years following the taxable year 2102
in which the loss was incurred, but in no case for more years 2103
than necessary for the deduction to be fully utilized. 2104

(b) No person shall use the deduction allowed by division 2105
(D) (3) of this section to offset qualifying wages. 2106

(c) (i) For taxable years beginning in 2018, 2019, 2020, 2107
2021, or 2022, a person may not deduct, for purposes of an 2108
income tax levied by a municipal corporation that levies an 2109
income tax before January 1, 2016, more than fifty per cent of 2110
the amount of the deduction otherwise allowed by division (D) (3) 2111
of this section. 2112

(ii) For taxable years beginning in 2023 or thereafter, a 2113
person may deduct, for purposes of an income tax levied by a 2114
municipal corporation that levies an income tax before January 2115
1, 2016, the full amount allowed by division (D) (3) of this 2116
section without regard to the limitation of division (D) (3) (b) 2117
(i) of this section. 2118

(d) Any pre-2017 net operating loss carryforward deduction 2119
that is available may be utilized before a taxpayer may deduct 2120
any amount pursuant to division (D) (3) of this section. 2121

(e) Nothing in division (D) (3) (c) (i) of this section 2122
precludes a person from carrying forward, for use with respect 2123
to any return filed for a taxable year beginning after 2018, any 2124
amount of net operating loss that was not fully utilized by 2125
operation of division (D) (3) (c) (i) of this section. To the 2126
extent that an amount of net operating loss that was not fully 2127

utilized in one or more taxable years by operation of division 2128
(D) (3) (c) (i) of this section is carried forward for use with 2129
respect to a return filed for a taxable year beginning in 2019, 2130
2020, 2021, or 2022, the limitation described in division (D) (3) 2131
(c) (i) of this section shall apply to the amount carried 2132
forward. 2133

(4) For the purposes of this chapter, and notwithstanding 2134
division (D) (2) of this section, net profit of a disregarded 2135
entity shall not be taxable as against that disregarded entity, 2136
but shall instead be included in the net profit of the owner of 2137
the disregarded entity. 2138

(5) For the purposes of this chapter, and notwithstanding 2139
any other provision of this chapter, the net profit of a 2140
publicly traded partnership that makes the election described in 2141
division (D) (5) of this section shall be taxed as if the 2142
partnership were a C corporation, and shall not be treated as 2143
the net profit or income of any owner of the partnership. 2144

A publicly traded partnership that is treated as a 2145
partnership for federal income tax purposes and that is subject 2146
to tax on its net profits in one or more municipal corporations 2147
in this state may elect to be treated as a C corporation for 2148
municipal income tax purposes. The publicly traded partnership 2149
shall make the election in every municipal corporation in which 2150
the partnership is subject to taxation on its net profits. The 2151
election shall be made on the annual tax return filed in each 2152
such municipal corporation. The publicly traded partnership 2153
shall not be required to file the election with any municipal 2154
corporation in which the partnership is not subject to taxation 2155
on its net profits, but division (D) (5) of this section applies 2156
to all municipal corporations in which an individual owner of 2157

the partnership resides. 2158

(E) "Adjusted federal taxable income," for a person 2159
required to file as a C corporation, or for a person that has 2160
elected to be taxed as a C corporation under division (D) (5) of 2161
this section, means a C corporation's federal taxable income 2162
before net operating losses and special deductions as determined 2163
under the Internal Revenue Code, adjusted as follows: 2164

(1) Deduct intangible income to the extent included in 2165
federal taxable income. The deduction shall be allowed 2166
regardless of whether the intangible income relates to assets 2167
used in a trade or business or assets held for the production of 2168
income. 2169

(2) Add an amount equal to five per cent of intangible 2170
income deducted under division (E) (1) of this section, but 2171
excluding that portion of intangible income directly related to 2172
the sale, exchange, or other disposition of property described 2173
in section 1221 of the Internal Revenue Code; 2174

(3) Add any losses allowed as a deduction in the 2175
computation of federal taxable income if the losses directly 2176
relate to the sale, exchange, or other disposition of an asset 2177
described in section 1221 or 1231 of the Internal Revenue Code; 2178

(4) (a) Except as provided in division (E) (4) (b) of this 2179
section, deduct income and gain included in federal taxable 2180
income to the extent the income and gain directly relate to the 2181
sale, exchange, or other disposition of an asset described in 2182
section 1221 or 1231 of the Internal Revenue Code; 2183

(b) Division (E) (4) (a) of this section does not apply to 2184
the extent the income or gain is income or gain described in 2185
section 1245 or 1250 of the Internal Revenue Code. 2186

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;	2187 2188
(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;	2189 2190 2191 2192 2193
(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code;	2194 2195 2196 2197
(8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.	2198 2199 2200
(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E) (3) (b) of section 718.06 of the Revised Code.	2201 2202 2203 2204 2205 2206
(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E) (3) (b) of section 718.06 of the Revised Code.	2207 2208 2209 2210 2211 2212
If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (L) (2) of this section, is not a publicly traded	2213 2214 2215

partnership that has made the election described in division (D) 2216
(5) of this section, and is not an individual, the taxpayer 2217
shall compute adjusted federal taxable income under this section 2218
as if the taxpayer were a C corporation, except guaranteed 2219
payments and other similar amounts paid or accrued to a partner, 2220
former partner, shareholder, former shareholder, member, or 2221
former member shall not be allowed as a deductible expense 2222
unless such payments are in consideration for the use of capital 2223
and treated as payment of interest under section 469 of the 2224
Internal Revenue Code or United States treasury regulations. 2225
Amounts paid or accrued to a qualified self-employed retirement 2226
plan with respect to a partner, former partner, shareholder, 2227
former shareholder, member, or former member of the taxpayer, 2228
amounts paid or accrued to or for health insurance for a 2229
partner, former partner, shareholder, former shareholder, 2230
member, or former member, and amounts paid or accrued to or for 2231
life insurance for a partner, former partner, shareholder, 2232
former shareholder, member, or former member shall not be 2233
allowed as a deduction. 2234

Nothing in division (E) of this section shall be construed 2235
as allowing the taxpayer to add or deduct any amount more than 2236
once or shall be construed as allowing any taxpayer to deduct 2237
any amount paid to or accrued for purposes of federal self- 2238
employment tax. 2239

(F) "Schedule C" means internal revenue service schedule C 2240
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 2241
Code. 2242

(G) "Schedule E" means internal revenue service schedule E 2243
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 2244
Code. 2245

(H) "Schedule F" means internal revenue service schedule F 2246
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 2247
Code. 2248

(I) "Internal Revenue Code" has the same meaning as in 2249
section 5747.01 of the Revised Code. 2250

(J) "Resident" means an individual who is domiciled in the 2251
municipal corporation as determined under section 718.012 of the 2252
Revised Code. 2253

(K) "Nonresident" means an individual that is not a 2254
resident. 2255

(L) (1) "Taxpayer" means a person subject to a tax levied 2256
on income by a municipal corporation in accordance with this 2257
chapter. "Taxpayer" does not include a grantor trust or, except 2258
as provided in division (L) (2) (a) of this section, a disregarded 2259
entity. 2260

(2) (a) A single member limited liability company that is a 2261
disregarded entity for federal tax purposes may be a separate 2262
taxpayer from its single member in all Ohio municipal 2263
corporations in which it either filed as a separate taxpayer or 2264
did not file for its taxable year ending in 2003, if all of the 2265
following conditions are met: 2266

(i) The limited liability company's single member is also 2267
a limited liability company. 2268

(ii) The limited liability company and its single member 2269
were formed and doing business in one or more Ohio municipal 2270
corporations for at least five years before January 1, 2004. 2271

(iii) Not later than December 31, 2004, the limited 2272
liability company and its single member each made an election to 2273

be treated as a separate taxpayer under division (L) of this 2274
section as this section existed on December 31, 2004. 2275

(iv) The limited liability company was not formed for the 2276
purpose of evading or reducing Ohio municipal corporation income 2277
tax liability of the limited liability company or its single 2278
member. 2279

(v) The Ohio municipal corporation that was the primary 2280
place of business of the sole member of the limited liability 2281
company consented to the election. 2282

(b) For purposes of division (L) (2) (a) (v) of this section, 2283
a municipal corporation was the primary place of business of a 2284
limited liability company if, for the limited liability 2285
company's taxable year ending in 2003, its income tax liability 2286
was greater in that municipal corporation than in any other 2287
municipal corporation in Ohio, and that tax liability to that 2288
municipal corporation for its taxable year ending in 2003 was at 2289
least four hundred thousand dollars. 2290

(M) "Person" includes individuals, firms, companies, joint 2291
stock companies, business trusts, estates, trusts, partnerships, 2292
limited liability partnerships, limited liability companies, 2293
associations, C corporations, S corporations, governmental 2294
entities, and any other entity. 2295

(N) "Pass-through entity" means a partnership not treated 2296
as an association taxable as a C corporation for federal income 2297
tax purposes, a limited liability company not treated as an 2298
association taxable as a C corporation for federal income tax 2299
purposes, an S corporation, or any other class of entity from 2300
which the income or profits of the entity are given pass-through 2301
treatment for federal income tax purposes. "Pass-through entity" 2302

does not include a trust, estate, grantor of a grantor trust, or 2303
disregarded entity. 2304

(O) "S corporation" means a person that has made an 2305
election under subchapter S of Chapter 1 of Subtitle A of the 2306
Internal Revenue Code for its taxable year. 2307

(P) "Single member limited liability company" means a 2308
limited liability company that has one direct member. 2309

(Q) "Limited liability company" means a limited liability 2310
company formed under Chapter 1705. or 1706. of the Revised Code 2311
or under the laws of another state. 2312

(R) "Qualifying wages" means wages, as defined in section 2313
3121(a) of the Internal Revenue Code, without regard to any wage 2314
limitations, adjusted as follows: 2315

(1) Deduct the following amounts: 2316

(a) Any amount included in wages if the amount constitutes 2317
compensation attributable to a plan or program described in 2318
section 125 of the Internal Revenue Code. 2319

(b) Any amount included in wages if the amount constitutes 2320
payment on account of a disability related to sickness or an 2321
accident paid by a party unrelated to the employer, agent of an 2322
employer, or other payer. 2323

(c) Any amount attributable to a nonqualified deferred 2324
compensation plan or program described in section 3121(v) (2) (C) 2325
of the Internal Revenue Code if the compensation is included in 2326
wages and the municipal corporation has, by resolution or 2327
ordinance adopted before January 1, 2016, exempted the amount 2328
from withholding and tax. 2329

(d) Any amount included in wages if the amount arises from 2330

the sale, exchange, or other disposition of a stock option, the 2331
exercise of a stock option, or the sale, exchange, or other 2332
disposition of stock purchased under a stock option and the 2333
municipal corporation has, by resolution or ordinance adopted 2334
before January 1, 2016, exempted the amount from withholding and 2335
tax. 2336

(e) Any amount included in wages that is exempt income. 2337

(2) Add the following amounts: 2338

(a) Any amount not included in wages solely because the 2339
employee was employed by the employer before April 1, 1986. 2340

(b) Any amount not included in wages because the amount 2341
arises from the sale, exchange, or other disposition of a stock 2342
option, the exercise of a stock option, or the sale, exchange, 2343
or other disposition of stock purchased under a stock option and 2344
the municipal corporation has not, by resolution or ordinance, 2345
exempted the amount from withholding and tax adopted before 2346
January 1, 2016. Division (R) (2) (b) of this section applies only 2347
to those amounts constituting ordinary income. 2348

(c) Any amount not included in wages if the amount is an 2349
amount described in section 401(k), 403(b), or 457 of the 2350
Internal Revenue Code. Division (R) (2) (c) of this section 2351
applies only to employee contributions and employee deferrals. 2352

(d) Any amount that is supplemental unemployment 2353
compensation benefits described in section 3402(o) (2) of the 2354
Internal Revenue Code and not included in wages. 2355

(e) Any amount received that is treated as self-employment 2356
income for federal tax purposes in accordance with section 2357
1402(a) (8) of the Internal Revenue Code. 2358

(f) Any amount not included in wages if all of the 2359
following apply: 2360

(i) For the taxable year the amount is employee 2361
compensation that is earned outside of the United States and 2362
that either is included in the taxpayer's gross income for 2363
federal income tax purposes or would have been included in the 2364
taxpayer's gross income for such purposes if the taxpayer did 2365
not elect to exclude the income under section 911 of the 2366
Internal Revenue Code; 2367

(ii) For no preceding taxable year did the amount 2368
constitute wages as defined in section 3121(a) of the Internal 2369
Revenue Code; 2370

(iii) For no succeeding taxable year will the amount 2371
constitute wages; and 2372

(iv) For any taxable year the amount has not otherwise 2373
been added to wages pursuant to either division (R) (2) of this 2374
section or section 718.03 of the Revised Code, as that section 2375
existed before the effective date of H.B. 5 of the 130th general 2376
assembly, March 23, 2015. 2377

(S) "Intangible income" means income of any of the 2378
following types: income yield, interest, capital gains, 2379
dividends, or other income arising from the ownership, sale, 2380
exchange, or other disposition of intangible property including, 2381
but not limited to, investments, deposits, money, or credits as 2382
those terms are defined in Chapter 5701. of the Revised Code, 2383
and patents, copyrights, trademarks, tradenames, investments in 2384
real estate investment trusts, investments in regulated 2385
investment companies, and appreciation on deferred compensation. 2386
"Intangible income" does not include prizes, awards, or other 2387

income associated with any lottery winnings, gambling winnings, 2388
or other similar games of chance. 2389

(T) "Taxable year" means the corresponding tax reporting 2390
period as prescribed for the taxpayer under the Internal Revenue 2391
Code. 2392

(U) "Tax administrator" means the individual charged with 2393
direct responsibility for administration of an income tax levied 2394
by a municipal corporation in accordance with this chapter, and 2395
also includes the following: 2396

(1) A municipal corporation acting as the agent of another 2397
municipal corporation; 2398

(2) A person retained by a municipal corporation to 2399
administer a tax levied by the municipal corporation, but only 2400
if the municipal corporation does not compensate the person in 2401
whole or in part on a contingency basis; 2402

(3) The central collection agency or the regional income 2403
tax agency or their successors in interest, or another entity 2404
organized to perform functions similar to those performed by the 2405
central collection agency and the regional income tax agency. 2406

"Tax administrator" does not include the tax commissioner. 2407

(V) "Employer" means a person that is an employer for 2408
federal income tax purposes. 2409

(W) "Employee" means an individual who is an employee for 2410
federal income tax purposes. 2411

(X) "Other payer" means any person, other than an 2412
individual's employer or the employer's agent, that pays an 2413
individual any amount included in the federal gross income of 2414
the individual. "Other payer" includes casino operators and 2415

video lottery terminal sales agents.	2416
(Y) "Calendar quarter" means the three-month period ending	2417
on the last day of March, June, September, or December.	2418
(Z) "Form 2106" means internal revenue service form 2106	2419
filed by a taxpayer pursuant to the Internal Revenue Code.	2420
(AA) "Municipal corporation" includes a joint economic	2421
development district or joint economic development zone that	2422
levies an income tax under section 715.691, 715.70, 715.71, or	2423
715.72 of the Revised Code.	2424
(BB) "Disregarded entity" means a single member limited	2425
liability company, a qualifying subchapter S subsidiary, or	2426
another entity if the company, subsidiary, or entity is a	2427
disregarded entity for federal income tax purposes.	2428
(CC) "Generic form" means an electronic or paper form that	2429
is not prescribed by a particular municipal corporation and that	2430
is designed for reporting taxes withheld by an employer, agent	2431
of an employer, or other payer, estimated municipal income	2432
taxes, or annual municipal income tax liability or for filing a	2433
refund claim.	2434
(DD) "Tax return preparer" means any individual described	2435
in section 7701(a)(36) of the Internal Revenue Code and 26	2436
C.F.R. 301.7701-15.	2437
(EE) "Ohio business gateway" means the online computer	2438
network system, created under section 125.30 of the Revised	2439
Code, that allows persons to electronically file business reply	2440
forms with state agencies and includes any successor electronic	2441
filing and payment system.	2442
(FF) "Local board of tax review" and "board of tax review"	2443

mean the entity created under section 718.11 of the Revised Code. 2444
2445

(GG) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations. 2446
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2449
2450

(HH) "Casino operator" and "casino facility" have the same meanings as in section 3772.01 of the Revised Code. 2451
2452

(II) "Video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code. 2453
2454

(JJ) "Video lottery terminal sales agent" means a lottery sales agent licensed under Chapter 3770. of the Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Revised Code. 2455
2456
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2458

(KK) "Postal service" means the United States postal service. 2459
2460

(LL) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Revised Code. 2461
2462
2463
2464

(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B) (3) of section 5703.056 of the Revised Code. 2465
2466
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2468

(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in 2469
2470
2471

section 1563(b) of the Internal Revenue Code, or a person to or 2472
from whom there is attribution of stock ownership in accordance 2473
with section 1563(e) of the Internal Revenue Code except, for 2474
purposes of determining whether a person is a related member 2475
under this division, "twenty per cent" shall be substituted for 2476
"5 percent" wherever "5 percent" appears in section 1563(e) of 2477
the Internal Revenue Code. 2478

(00) "Related entity" means any of the following: 2479

(1) An individual stockholder, or a member of the 2480
stockholder's family enumerated in section 318 of the Internal 2481
Revenue Code, if the stockholder and the members of the 2482
stockholder's family own directly, indirectly, beneficially, or 2483
constructively, in the aggregate, at least fifty per cent of the 2484
value of the taxpayer's outstanding stock; 2485

(2) A stockholder, or a stockholder's partnership, estate, 2486
trust, or corporation, if the stockholder and the stockholder's 2487
partnerships, estates, trusts, or corporations own directly, 2488
indirectly, beneficially, or constructively, in the aggregate, 2489
at least fifty per cent of the value of the taxpayer's 2490
outstanding stock; 2491

(3) A corporation, or a party related to the corporation 2492
in a manner that would require an attribution of stock from the 2493
corporation to the party or from the party to the corporation 2494
under division (00)(4) of this section, provided the taxpayer 2495
owns directly, indirectly, beneficially, or constructively, at 2496
least fifty per cent of the value of the corporation's 2497
outstanding stock; 2498

(4) The attribution rules described in section 318 of the 2499
Internal Revenue Code apply for the purpose of determining 2500

whether the ownership requirements in divisions (OO) (1) to (3) 2501
of this section have been met. 2502

(PP) (1) "Assessment" means a written finding by the tax 2503
administrator that a person has underpaid municipal income tax, 2504
or owes penalty and interest, or any combination of tax, 2505
penalty, or interest, to the municipal corporation that 2506
commences the person's time limitation for making an appeal to 2507
the local board of tax review pursuant to section 718.11 of the 2508
Revised Code, and has "ASSESSMENT" written in all capital 2509
letters at the top of such finding. 2510

(2) "Assessment" does not include an informal notice 2511
denying a request for refund issued under division (B) (3) of 2512
section 718.19 of the Revised Code, a billing statement 2513
notifying a taxpayer of current or past-due balances owed to the 2514
municipal corporation, a tax administrator's request for 2515
additional information, a notification to the taxpayer of 2516
mathematical errors, or a tax administrator's other written 2517
correspondence to a person or taxpayer that does meet the 2518
criteria prescribed by division (PP) (1) of this section. 2519

(QQ) "Taxpayers' rights and responsibilities" means the 2520
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 2521
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 2522
Revised Code and the responsibilities of taxpayers to file, 2523
report, withhold, remit, and pay municipal income tax and 2524
otherwise comply with Chapter 718. of the Revised Code and 2525
resolutions, ordinances, and rules adopted by a municipal 2526
corporation for the imposition and administration of a municipal 2527
income tax. 2528

(RR) "Qualified municipal corporation" means a municipal 2529
corporation that, by resolution or ordinance adopted on or 2530

before December 31, 2011, adopted Ohio adjusted gross income, as 2531
defined by section 5747.01 of the Revised Code, as the income 2532
subject to tax for the purposes of imposing a municipal income 2533
tax. 2534

(SS) (1) "Pre-2017 net operating loss carryforward" means 2535
any net operating loss incurred in a taxable year beginning 2536
before January 1, 2017, to the extent such loss was permitted, 2537
by a resolution or ordinance of the municipal corporation that 2538
was adopted by the municipal corporation before January 1, 2016, 2539
to be carried forward and utilized to offset income or net 2540
profit generated in such municipal corporation in future taxable 2541
years. 2542

(2) For the purpose of calculating municipal taxable 2543
income, any pre-2017 net operating loss carryforward may be 2544
carried forward to any taxable year, including taxable years 2545
beginning in 2017 or thereafter, for the number of taxable years 2546
provided in the resolution or ordinance or until fully utilized, 2547
whichever is earlier. 2548

(TT) "Small employer" means any employer that had total 2549
revenue of less than five hundred thousand dollars during the 2550
preceding taxable year. For purposes of this division, "total 2551
revenue" means receipts of any type or kind, including, but not 2552
limited to, sales receipts; payments; rents; profits; gains, 2553
dividends, and other investment income; compensation; 2554
commissions; premiums; money; property; grants; contributions; 2555
donations; gifts; program service revenue; patient service 2556
revenue; premiums; fees, including premium fees and service 2557
fees; tuition payments; unrelated business revenue; 2558
reimbursements; any type of payment from a governmental unit, 2559
including grants and other allocations; and any other similar 2560

receipts reported for federal income tax purposes or under 2561
generally accepted accounting principles. "Small employer" does 2562
not include the federal government; any state government, 2563
including any state agency or instrumentality; any political 2564
subdivision; or any entity treated as a government for financial 2565
accounting and reporting purposes. 2566

(UU) "Audit" means the examination of a person or the 2567
inspection of the books, records, memoranda, or accounts of a 2568
person for the purpose of determining liability for a municipal 2569
income tax. 2570

(VV) "Publicly traded partnership" means any partnership, 2571
an interest in which is regularly traded on an established 2572
securities market. A "publicly traded partnership" may have any 2573
number of partners. 2574

(WW) "Tax commissioner" means the tax commissioner 2575
appointed under section 121.03 of the Revised Code. 2576

(XX) "Out-of-state disaster business," "qualifying 2577
solicitation," "qualifying employee," "disaster work," "critical 2578
infrastructure," and "disaster response period" have the same 2579
meanings as in section 5703.94 of the Revised Code. 2580

(YY) "Pension" means a retirement benefit plan, regardless 2581
of whether the plan satisfies the qualifications described under 2582
section 401(a) of the Internal Revenue Code, including amounts 2583
that are taxable under the "Federal Insurance Contributions 2584
Act," Chapter 21 of the Internal Revenue Code, excluding 2585
employee contributions and elective deferrals, and regardless of 2586
whether such amounts are paid in the same taxable year in which 2587
the amounts are included in the employee's wages, as defined by 2588
section 3121(a) of the Internal Revenue Code. 2589

(ZZ) "Retirement benefit plan" means an arrangement 2590
whereby an entity provides benefits to individuals either on or 2591
after their termination of service because of retirement or 2592
disability. "Retirement benefit plan" does not include wage 2593
continuation payments, severance payments, or payments made for 2594
accrued personal or vacation time. 2595

Sec. 1329.01. (A) As used in sections 1329.01 to 1329.10 2596
of the Revised Code: 2597

(1) "Trade name" means a name used in business or trade to 2598
designate the business of the user and to which the user asserts 2599
a right to exclusive use. 2600

(2) "Fictitious name" means a name used in business or 2601
trade that is fictitious and that the user has not registered or 2602
is not entitled to register as a trade name. It does not include 2603
the name of record of any domestic corporation that is formed 2604
under Chapter 1701. or 1702. of the Revised Code, any foreign 2605
corporation that is registered pursuant to Chapter 1703. of the 2606
Revised Code, any domestic or foreign limited liability company 2607
that is formed under or registered pursuant to Chapter 1705. or 2608
1706. of the Revised Code, any domestic or foreign limited 2609
partnership that is formed under or registered pursuant to 2610
Chapter 1782. of the Revised Code, or any domestic or foreign 2611
limited liability partnership that is formed under or registered 2612
pursuant to Chapter 1775. or 1776. of the Revised Code. 2613

(3) "Person" includes any individual, general partnership, 2614
limited partnership, limited liability partnership, corporation, 2615
association, professional association, limited liability 2616
company, society, foundation, federation, or organization formed 2617
under the laws of this state or any other state. 2618

(B) Except as provided in section 1701.041 of the Revised Code and subject to sections 1329.01 to 1329.10 of the Revised Code, any person may register with the secretary of state, on a form prescribed by the secretary of state, any trade name under which the person is operating, setting forth all of the following:

(1) The name and business address of the applicant for registration and any of the following that is applicable:

(a) If the applicant is a general partnership, the name and address of at least one partner or the identifying number the secretary of state assigns to the partnership pursuant to section 1776.05 of the Revised Code;

(b) If the applicant is a limited partnership, a corporation, professional association, limited liability company, or other entity, the form of the entity and the state under the laws of which it was formed.

(2) The trade name to be registered;

(3) The general nature of the business conducted by the applicant;

(4) The length of time during which the trade name has been used by the applicant in business operations in this state.

(C) The trade name application shall be signed by the applicant or by any authorized representative of the applicant.

A single trade name may be registered upon each trade name application submitted under sections 1329.01 to 1329.10 of the Revised Code.

The trade name application shall be accompanied by a filing fee of thirty-nine dollars, payable to the secretary of

state. 2647

(D) Any person who does business under a fictitious name 2648
and who has not registered and does not wish to register the 2649
fictitious name as a trade name or who cannot do so because the 2650
name is not available for registration shall report the use of 2651
the fictitious name to the secretary of state, on a form 2652
prescribed by the secretary of state, setting forth all of the 2653
following: 2654

(1) The name and business address of the user and any of 2655
the following that is applicable: 2656

(a) If the user is a general partnership, the name and 2657
address of at least one partner or the identifying number the 2658
secretary of state assigns to the partnership pursuant to 2659
section 1775.105 of the Revised Code; 2660

(b) If the user is a limited partnership, a corporation, 2661
professional association, limited liability company, or other 2662
entity, the form of the entity and the state under whose laws it 2663
was formed. 2664

(2) The fictitious name being used; 2665

(3) The general nature of the business conducted by the 2666
user. 2667

(E) The report of use of a fictitious name shall be signed 2668
by the user or by any authorized representative of the user. 2669

A single fictitious name may be registered upon each 2670
fictitious name report submitted under sections 1329.01 to 2671
1329.10 of the Revised Code. 2672

The fictitious name report shall be accompanied by a 2673
filing fee of thirty-nine dollars, payable to the secretary of 2674

state. 2675

A report under this division shall be made within thirty 2676
days after the date of the first use of the fictitious name. 2677

Sec. 1329.02. (A) The secretary of state shall not file an 2678
application for the registration of any trade name if the 2679
application indicates or implies that the trade name is 2680
connected with a government agency of this state, another state, 2681
or the United States and the trade name is not so connected or 2682
if the application indicates or implies that the applicant is 2683
incorporated and the application is not incorporated. 2684
Additionally, the secretary of state shall not file an 2685
application for the registration of any trade name if it is not 2686
distinguishable upon the records in the office of the secretary 2687
of state from any other trade name previously registered under 2688
sections 1329.01 to 1329.03 of the Revised Code, any corporate 2689
name, whether nonprofit or for profit and whether that of a 2690
domestic corporation or of a foreign corporation authorized to 2691
do business in this state, the name of any limited liability 2692
company registered in the office of the secretary of state 2693
pursuant to Chapter 1705. or 1706. of the Revised Code, whether 2694
domestic or foreign, the name of any limited liability 2695
partnership registered in the office of the secretary of state 2696
pursuant to Chapter 1775. or 1776. of the Revised Code, whether 2697
domestic or foreign, the name of any limited partnership 2698
registered in the office of the secretary of state pursuant to 2699
Chapter 1782. of the Revised Code, whether domestic or foreign, 2700
or any trademark, or service mark previously filed and recorded 2701
in the office of the secretary of state and not abandoned, 2702
unless the written consent of the corporation, limited liability 2703
company, limited liability partnership, or limited partnership, 2704
or the person to whom is registered the exclusive right to use 2705

the trade name is filed in accordance with division (C) of 2706
section 1701.05 of the Revised Code with the application or the 2707
written consent of the former registrant of the trademark or 2708
service mark is filed with the application. The application for 2709
the registration of a trade name and the consent form shall be 2710
on a form prescribed by the secretary of state. 2711

(B) The secretary of state shall determine for purposes of 2712
this section whether a name is distinguishable from another name 2713
in a manner consistent with the provisions of division (B) of 2714
section 1701.05 of the Revised Code. 2715

Sec. 1701.03. (A) A corporation may be formed under this 2716
chapter for any purpose or combination of purposes for which 2717
individuals lawfully may associate themselves, except that, if 2718
the Revised Code contains special provisions pertaining to the 2719
formation of any designated type of corporation other than a 2720
professional association, as defined in section 1785.01 of the 2721
Revised Code, a corporation of that type shall be formed in 2722
accordance with the special provisions. 2723

(B) On and after July 1, 1994, a corporation may be formed 2724
under this chapter for the purpose of carrying on the practice 2725
of any profession, including, but not limited to, a corporation 2726
for the purpose of providing public accounting or certified 2727
public accounting services, a corporation for the erection, 2728
owning, and conducting of a sanitarium for receiving and caring 2729
for patients, medical and hygienic treatment of patients, and 2730
instruction of nurses in the treatment of disease and in 2731
hygiene, a corporation for the purpose of providing 2732
architectural, landscape architectural, professional 2733
engineering, or surveying services or any combination of those 2734
types of services, and a corporation for the purpose of 2735

providing a combination of the professional services, as defined 2736
in section 1785.01 of the Revised Code, of optometrists 2737
authorized under Chapter 4725. of the Revised Code, 2738
chiropractors authorized under Chapter 4734. of the Revised Code 2739
to practice chiropractic or acupuncture, psychologists 2740
authorized under Chapter 4732. of the Revised Code, registered 2741
or licensed practical nurses authorized under Chapter 4723. of 2742
the Revised Code, pharmacists authorized under Chapter 4729. of 2743
the Revised Code, physical therapists authorized under sections 2744
4755.40 to 4755.56 of the Revised Code, occupational therapists 2745
authorized under sections 4755.04 to 4755.13 of the Revised 2746
Code, mechanotherapists authorized under section 4731.151 of the 2747
Revised Code, doctors of medicine and surgery, osteopathic 2748
medicine and surgery, or podiatric medicine and surgery 2749
authorized under Chapter 4731. of the Revised Code, and licensed 2750
professional clinical counselors, licensed professional 2751
counselors, independent social workers, social workers, 2752
independent marriage and family therapists, or marriage and 2753
family therapists authorized under Chapter 4757. of the Revised 2754
Code. 2755

This chapter does not restrict, limit, or otherwise affect 2756
the authority or responsibilities of any agency, board, 2757
commission, department, office, or other entity to license, 2758
register, and otherwise regulate the professional conduct of 2759
individuals or organizations of any kind rendering professional 2760
services, as defined in section 1785.01 of the Revised Code, in 2761
this state or to regulate the practice of any profession that is 2762
within the jurisdiction of the agency, board, commission, 2763
department, office, or other entity, notwithstanding that an 2764
individual is a director, officer, employee, or other agent of a 2765
corporation formed under this chapter and is rendering 2766

professional services or engaging in the practice of a 2767
profession through a corporation formed under this chapter or 2768
that the organization is a corporation formed under this 2769
chapter. 2770

(C) Nothing in division (A) or (B) of this section 2771
precludes the organization of a professional association in 2772
accordance with this chapter and Chapter 1785. of the Revised 2773
Code or the formation of a limited liability company under 2774
Chapter 1705. or 1706. of the Revised Code with respect to a 2775
~~business, as defined in section 1705.01 of the Revised~~ 2776
~~Code~~ trade, occupation, or profession. 2777

(D) No corporation formed for the purpose of providing a 2778
combination of the professional services, as defined in section 2779
1785.01 of the Revised Code, of optometrists authorized under 2780
Chapter 4725. of the Revised Code, chiropractors authorized 2781
under Chapter 4734. of the Revised Code to practice chiropractic 2782
or acupuncture, psychologists authorized under Chapter 4732. of 2783
the Revised Code, registered or licensed practical nurses 2784
authorized under Chapter 4723. of the Revised Code, pharmacists 2785
authorized under Chapter 4729. of the Revised Code, physical 2786
therapists authorized under sections 4755.40 to 4755.56 of the 2787
Revised Code, occupational therapists authorized under sections 2788
4755.04 to 4755.13 of the Revised Code, mechanotherapists 2789
authorized under section 4731.151 of the Revised Code, doctors 2790
of medicine and surgery, osteopathic medicine and surgery, or 2791
podiatric medicine and surgery authorized under Chapter 4731. of 2792
the Revised Code, and licensed professional clinical counselors, 2793
licensed professional counselors, independent social workers, 2794
social workers, independent marriage and family therapists, or 2795
marriage and family therapists authorized under Chapter 4757. of 2796
the Revised Code shall control the professional clinical 2797

judgment exercised within accepted and prevailing standards of 2798
practice of a licensed, certificated, or otherwise legally 2799
authorized optometrist, chiropractor, chiropractor practicing 2800
acupuncture through the state chiropractic board, psychologist, 2801
nurse, pharmacist, physical therapist, occupational therapist, 2802
mechanotherapist, doctor of medicine and surgery, osteopathic 2803
medicine and surgery, or podiatric medicine and surgery, 2804
licensed professional clinical counselor, licensed professional 2805
counselor, independent social worker, social worker, independent 2806
marriage and family therapist, or marriage and family therapist 2807
in rendering care, treatment, or professional advice to an 2808
individual patient. 2809

This division does not prevent a hospital, as defined in 2810
section 3727.01 of the Revised Code, insurer, as defined in 2811
section 3999.36 of the Revised Code, or intermediary 2812
organization, as defined in section 1751.01 of the Revised Code, 2813
from entering into a contract with a corporation described in 2814
this division that includes a provision requiring utilization 2815
review, quality assurance, peer review, or other performance or 2816
quality standards. Those activities shall not be construed as 2817
controlling the professional clinical judgment of an individual 2818
practitioner listed in this division. 2819

Sec. 1701.05. (A) Except as provided in this section, and 2820
in sections 1701.75, 1701.78, and 1701.82 of the Revised Code, 2821
which sections relate to the reorganization, merger, and 2822
consolidation of corporations, the corporate name of a domestic 2823
corporation shall comply with all of the following: 2824

(1) It shall end with or include the word or abbreviation 2825
"company," "co.," "corporation," "corp.," "incorporated," or 2826
"inc." 2827

(2) It shall be distinguishable upon the records in the office of the secretary of state from all of the following:

(a) The name of any other corporation, whether nonprofit or for profit and whether that of a domestic or of a foreign corporation authorized to do business in this state;

(b) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign;

(c) The name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign;

(d) The name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign;

(e) Any trade name the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

(3) It shall not contain any language that indicates or implies that the corporation is connected with a government agency of this state, another state, or the United States.

(B) The secretary of state shall determine for purposes of this section whether a name is "distinguishable" from another name upon the secretary of state's records. Without excluding other names that may not constitute distinguishable names in this state, a name is not considered distinguishable from another name for purposes of this section solely because it differs from the other name in only one or more of the following manners:

(1) The use of the word "corporation," "company," 2857
"incorporated," "limited," or any abbreviation of any of those 2858
words; 2859

(2) The use of any article, conjunction, contraction, 2860
abbreviation, or punctuation; 2861

(3) The use of a different tense or number of the same 2862
word. 2863

(C) A corporation may apply to the secretary of state for 2864
authorization to use a name that is not distinguishable upon the 2865
secretary of state's records from the name of any other 2866
corporation, limited liability company, limited liability 2867
partnership, or limited partnership, or from a registered trade 2868
name, if there also is filed in the office of the secretary of 2869
state, on a form prescribed by the secretary of state, the 2870
consent of the other entity or, in the case of a registered 2871
trade name, the person in whose name is registered the exclusive 2872
right to use the name, which consent is evidenced in a writing 2873
signed by any authorized officer or any authorized 2874
representative of the other entity or person. 2875

(D) In case of judicial sale or judicial transfer, by sale 2876
or transfer of good will or otherwise, of the right to use the 2877
name of a corporation, whether nonprofit or for profit, and 2878
whether that of a domestic corporation or of a foreign 2879
corporation authorized to exercise its corporate privileges in 2880
this state or to do business in this state, the secretary of 2881
state, at the instance of the purchaser or transferee of such 2882
right, shall accept for filing articles of a corporation with a 2883
name the same as or similar to the name of such other 2884
corporation, if there also is filed in the office of the 2885
secretary of state a certified copy of the decree or order of 2886

court confirming or otherwise evidencing the purchase or 2887
transfer. 2888

(E) Any person who wishes to reserve a name for a proposed 2889
new corporation, or any corporation intending to change its 2890
name, may submit to the secretary of state a written 2891
application, on a form prescribed by the secretary of state, for 2892
the exclusive right to use a specified name as the name of a 2893
corporation. If the secretary of state finds that, under this 2894
section, the specified name is available for such use, the 2895
secretary of state shall file the application and, from the date 2896
of the filing, the applicant shall have the exclusive right for 2897
one hundred eighty days to use the specified name as the name of 2898
a corporation, counting the date of such filing as the first of 2899
one hundred eighty days. The right so obtained may be 2900
transferred by the applicant or other holder thereof by the 2901
filing in the office of the secretary of state of a written 2902
transfer, on a form prescribed by the secretary of state, 2903
stating the name and address of the transferee. 2904

Sec. 1701.791. (A) If the constituent entities in a merger 2905
or consolidation include entities that are not corporations, the 2906
constituent entities may be merged or consolidated into a 2907
surviving or new entity that is not a domestic corporation, as 2908
provided in this section. Pursuant to an agreement of merger or 2909
consolidation between the constituent entities as provided in 2910
this section, a domestic corporation and, if so provided, one or 2911
more additional domestic or foreign entities, may be merged into 2912
a surviving entity other than a domestic corporation, or a 2913
domestic corporation together with one or more additional 2914
domestic or foreign entities may be consolidated into a new 2915
entity other than a domestic corporation, to be formed by such 2916
consolidation. The merger or consolidation must be permitted by 2917

the chapter of the Revised Code under which each domestic 2918
constituent entity exists and by the laws under which each 2919
foreign constituent entity exists. 2920

(B) The agreement of merger or consolidation shall set 2921
forth all of the following: 2922

(1) The name and the form of entity of each constituent 2923
entity and the state under the laws of which each constituent 2924
entity exists; 2925

(2) In the case of a merger, that one or more specified 2926
constituent entities will be merged into a specified surviving 2927
foreign entity or surviving domestic entity other than a 2928
domestic corporation or, in the case of a consolidation, that 2929
the constituent entities will be consolidated into a new foreign 2930
entity or domestic entity other than a corporation. The name of 2931
such a surviving or new entity may be the same as or similar to 2932
that of any constituent corporation or constituent limited 2933
liability company. 2934

(3) The terms of the merger or consolidation, the mode of 2935
carrying them into effect, and the manner and basis of 2936
converting the shares or interests of the constituent entities 2937
into, or substituting the shares or interests of the constituent 2938
entities for, shares, interests, evidences of indebtedness, 2939
other securities, cash, rights, or any other property or any 2940
combination of shares, interests, evidences of indebtedness, 2941
securities, cash, rights, or any other property of the surviving 2942
entity, of the new entity, or of any other entity, including the 2943
parent of any constituent entity, or any other person. No 2944
conversion or substitution shall be effected if there are 2945
reasonable grounds to believe that the surviving or new entity 2946
would be rendered insolvent by the conversion or substitution. 2947

(4) If the surviving or new entity is a foreign corporation, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1701.78 of the Revised Code if the surviving or new corporation were a domestic corporation;

(5) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity in that state;

(6) All statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(7) The consent of the surviving or the new entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any domestic constituent corporation, or to enforce the rights of a dissenting shareholder of any domestic constituent corporation;

(8) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(9) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(10) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state.

(C) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be approved by the directors of each domestic constituent corporation, and adopted by the shareholders of each domestic constituent corporation, in the same manner and with the same notice to and vote of shareholders or of holders of a particular class of shares as is required by section 1701.78 of the Revised Code. The agreement also shall be approved or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(E) At any time before the filing of the certificate of merger or consolidation under section 1701.81 of the Revised

Code, the merger or consolidation may be abandoned by the 3007
directors of any constituent corporation, the general partners 3008
of any constituent partnership, or the comparable 3009
representatives of any other constituent entity if the 3010
directors, general partners, or comparable representatives are 3011
authorized to do so by the agreement of merger or consolidation. 3012

The agreement of merger or consolidation may contain a 3013
provision authorizing the directors of any constituent 3014
corporation, the general partners of any constituent 3015
partnership, or the comparable representatives of any other 3016
constituent entity to amend the agreement of merger or 3017
consolidation at any time before the filing of the certificate 3018
of merger or consolidation, except that, after the adoption of 3019
the agreement by the shareholders of any domestic constituent 3020
corporation, the directors shall not be authorized to amend the 3021
agreement to do any of the following: 3022

(1) Alter or change the amount or kind of shares, 3023
interests, evidences of indebtedness, other securities, cash, 3024
rights, or any other property to be received by shareholders of 3025
the domestic constituent corporation in conversion of, or in 3026
substitution for, their shares; 3027

(2) If the surviving or new entity is a foreign 3028
corporation, alter or change any term of the articles of the 3029
surviving or new foreign corporation, except for alterations or 3030
changes that could otherwise be adopted by the directors of the 3031
surviving or new foreign corporation; 3032

(3) If the surviving or new entity is a partnership or 3033
other entity other than a corporation, alter or change any term 3034
of the partnership agreement or comparable instrument of the 3035
surviving or new partnership or other entity, except for 3036

alterations or changes that otherwise could be adopted by the 3037
general partners or comparable representatives of the surviving 3038
or new partnership or other entity; 3039

(4) Alter or change any other terms and conditions of the 3040
agreement of merger or consolidation if any of the alterations 3041
or changes, alone or in the aggregate, would materially 3042
adversely affect the holders of any class or series of shares of 3043
the domestic constituent corporation. 3044

Sec. 1702.05. (A) Except as provided in this section and 3045
in sections 1702.41 and 1702.411 of the Revised Code, the 3046
secretary of state shall not accept for filing in the secretary 3047
of state's office any articles if the corporate name set forth 3048
in the articles is not distinguishable upon the secretary of 3049
state's records from any of the following: 3050

(1) The name of any other corporation, whether a nonprofit 3051
corporation or a business corporation and whether that of a 3052
domestic or of a foreign corporation authorized to do business 3053
in this state; 3054

(2) The name of any limited liability company registered 3055
in the office of the secretary of state pursuant to Chapter 3056
1705. or 1706. of the Revised Code, whether domestic or foreign; 3057

(3) The name of any limited liability partnership 3058
registered in the office of the secretary of state pursuant to 3059
Chapter 1775. or 1776. of the Revised Code, whether domestic or 3060
foreign; 3061

(4) The name of any limited partnership registered in the 3062
office of the secretary of state pursuant to Chapter 1782. of 3063
the Revised Code, whether domestic or foreign; 3064

(5) Any trade name, the exclusive right to which is at the 3065

time in question registered in the office of the secretary of 3066
state pursuant to Chapter 1329. of the Revised Code. 3067

(B) The secretary of state shall determine for purposes of 3068
this section whether a name is "distinguishable" from another 3069
name upon the secretary of state's records. Without excluding 3070
other names that may not constitute distinguishable names in 3071
this state, a name is not considered distinguishable from 3072
another name for purposes of this section solely because it 3073
differs from the other name in only one or more of the following 3074
manners: 3075

(1) The use of the word "corporation," "company," 3076
"incorporated," "limited," or any abbreviation of any of those 3077
words; 3078

(2) The use of any article, conjunction, contraction, 3079
abbreviation, or punctuation; 3080

(3) The use of a different tense or number of the same 3081
word. 3082

(C) A corporation may apply to the secretary of state for 3083
authorization to use a name that is not distinguishable upon the 3084
secretary of state's records from the name of any other 3085
corporation, any limited liability company, limited liability 3086
partnership, or limited partnership, or from a registered trade 3087
name, if there also is filed in the office of the secretary of 3088
state, on a form prescribed by the secretary of state, the 3089
consent of the other entity, or, in the case of a registered 3090
trade name, the person in whose name is registered the exclusive 3091
right to use the name, which consent is evidenced in a writing 3092
signed by any authorized officer or authorized representative of 3093
the other entity or person. 3094

(D) In case of judicial sale or judicial transfer, by sale 3095
or transfer of good will or otherwise, of the right to use the 3096
name of a nonprofit corporation or business corporation, whether 3097
that of a domestic corporation or of a foreign corporation 3098
authorized to exercise its corporate privileges in this state or 3099
to do business in this state, the secretary of state, at the 3100
instance of the purchaser or transferee of such right, shall 3101
accept for filing articles of a corporation with a name the same 3102
as or similar to the name of such other corporation, if there 3103
also is filed in the office of the secretary of state a 3104
certified copy of the decree or order of court confirming or 3105
otherwise evidencing the purchase or transfer. 3106

(E) Any person who wishes to reserve a name for a proposed 3107
new corporation, or any corporation intending to change its 3108
name, may submit to the secretary of state a written 3109
application, on a form prescribed by the secretary of state, for 3110
the exclusive right to use a specified name as the name of a 3111
corporation. If the secretary of state finds that, under this 3112
section, the specified name is available for such use, the 3113
secretary of state shall file such application, and, from the 3114
date of such filing, such applicant shall have the exclusive 3115
right for one hundred eighty days to use the specified name as 3116
the name of a corporation, counting the date of such filing as 3117
the first of the one hundred eighty days. The right so obtained 3118
may be transferred by the applicant or other holder of the right 3119
by the filing in the office of the secretary of state of a 3120
written transfer, on a form prescribed by the secretary of 3121
state, stating the name and address of the transferee. 3122

Sec. 1702.411. (A) (1) Pursuant to an agreement of merger 3123
between the constituent entities as provided in this section, a 3124
domestic corporation and, if so provided, one or more additional 3125

domestic or foreign entities, may be merged into a surviving 3126
entity other than a domestic corporation. Pursuant to an 3127
agreement of consolidation, a domestic corporation together with 3128
one or more additional domestic or foreign entities may be 3129
consolidated into a new entity other than a domestic 3130
corporation, to be formed by that consolidation. The merger or 3131
consolidation must be permitted by the chapter of the Revised 3132
Code under which each domestic constituent entity exists and by 3133
the laws under which each foreign constituent entity exists. The 3134
name of the surviving or new entity may be the same as or 3135
similar to that of any constituent entity. 3136

(2) To effect a merger or consolidation under this 3137
section, the directors of each constituent domestic corporation 3138
shall approve an agreement of merger or consolidation to be 3139
signed by the chairperson of the board of directors, the 3140
president, or a vice-president and by the secretary or an 3141
assistant secretary. The agreement of merger or consolidation 3142
shall be approved or otherwise authorized by or on behalf of 3143
each other constituent entity in accordance with the laws under 3144
which it exists. 3145

(3) The agreement of merger or consolidation shall set 3146
forth all of the following: 3147

(a) The name and the form of entity of each constituent 3148
entity and the state under the laws of which each constituent 3149
entity exists; 3150

(b) In the case of a merger, that one or more specified 3151
constituent entities will be merged into a specified surviving 3152
foreign entity or surviving domestic entity other than a 3153
domestic corporation or, in the case of a consolidation, that 3154
the constituent entities will be consolidated into a new foreign 3155

entity or domestic entity other than a domestic corporation. 3156

(c) The terms of the merger or consolidation and the mode 3157
of carrying those terms into effect; 3158

(d) If the surviving or new entity is a foreign 3159
corporation, all additional statements and matters, other than 3160
the name and address of the statutory agent, that would be 3161
required by section 1702.41 of the Revised Code if the surviving 3162
or new corporation were a domestic corporation; 3163

(e) The name and the form of entity of the surviving or 3164
new entity, the state under the laws of which the surviving 3165
entity exists or the new entity is to exist, and the location of 3166
the principal office of the surviving or new entity in that 3167
state; 3168

(f) All statements and matters required to be set forth in 3169
an agreement of merger or consolidation by the laws under which 3170
each constituent entity exists and, in the case of a 3171
consolidation, the new entity is to exist; 3172

(g) The consent of the surviving or the new entity to be 3173
sued and served with process in this state and the irrevocable 3174
appointment of the secretary of state as its agent to accept 3175
service of process in any proceeding in this state to enforce 3176
against the surviving or new entity any obligation of any 3177
domestic constituent corporation; 3178

(h) If the surviving or new entity is a foreign 3179
corporation that desires to transact business in this state as a 3180
foreign corporation, a statement to that effect, together with a 3181
statement regarding the appointment of a statutory agent and 3182
service of any process, notice, or demand upon that statutory 3183
agent or the secretary of state, as required when a foreign 3184

corporation applies for a license to transact business in this state; 3185
3186

(i) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state; 3187
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(j) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state; 3193
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(k) If the surviving or new entity is a foreign unincorporated association that desires to transact business in this state as a foreign unincorporated association, a statement to that effect, together with all of the information required under section 1745.461 of the Revised Code when a foreign unincorporated association registers to transact business in this state. 3200
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(4) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist. 3207
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(B) (1) A merger or consolidation in which a domestic public benefit corporation is one of the constituent entities 3212
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shall be approved by the court of common pleas of the county in 3214
this state in which the principal office of the domestic public 3215
benefit corporation is located in a proceeding of which the 3216
attorney general's charitable law section has been given written 3217
notice by certified mail within three days of the initiation of 3218
the proceeding and in which proceeding the attorney general may 3219
intervene as of right. No approval by the court under division 3220
(B) (1) of this section is required if either of the following 3221
applies: 3222

(a) A public benefit entity is the surviving entity in the 3223
case of a merger and continues to be a public benefit entity or 3224
is the new entity in the case of a consolidation and continues 3225
to be a public benefit entity. 3226

(b) A public benefit entity is not the surviving entity in 3227
the case of a merger or is not the new entity in the case of a 3228
consolidation, and all of the following apply: 3229

(i) On or prior to the effective date of the merger or 3230
consolidation, assets with a value equal to the greater of the 3231
fair market value of the net tangible and intangible assets, 3232
including goodwill, of the domestic public benefit corporation 3233
or the fair market value of the domestic public benefit 3234
corporation if it is to be operated as a business concern are 3235
transferred or conveyed to one or more persons that would have 3236
received its assets under section 1702.49 of the Revised Code 3237
had it voluntarily dissolved. 3238

(ii) The domestic public benefit corporation returns, 3239
transfers, or conveys any assets held by it upon a condition 3240
requiring return, transfer, or conveyance, which condition 3241
occurs by reason of the merger or consolidation, in accordance 3242
with that condition. 3243

(iii) The merger or consolidation is approved by a 3244
majority of directors of the domestic public benefit corporation 3245
who will not receive any financial or other benefit, directly or 3246
indirectly, as a result of the merger or consolidation or by 3247
agreement, and who are not and will not as a result of the 3248
merger or consolidation become members, partners, or other 3249
owners, however denominated, of, shareholders in, directors, 3250
officers, managers, employees, agents, or other representatives 3251
of, or consultants to, the surviving or new entity. 3252

(2) At least twenty days before consummation of any merger 3253
or consolidation of a domestic public benefit corporation 3254
pursuant to division (B)(1)(b) of this section, written notice, 3255
including a copy of the proposed plan of merger or 3256
consolidation, shall be delivered to the attorney general's 3257
charitable law section. The attorney general's charitable law 3258
section may review a proposed merger or consolidation of a 3259
domestic public benefit corporation under division (B)(1)(b) of 3260
this section. The attorney general may require pursuant to 3261
section 109.24 of the Revised Code the production of the 3262
documents necessary for review of a proposed merger or 3263
consolidation under division (B)(1)(b) of this section. The 3264
attorney general may retain at the expense of the domestic 3265
public benefit corporation one or more experts, including an 3266
investment banker, actuary, appraiser, certified public 3267
accountant, or other expert, that the attorney general considers 3268
reasonably necessary to provide assistance in reviewing a 3269
proposed merger or consolidation under division (B)(1)(b) of 3270
this section. The attorney general may extend the date of any 3271
merger or consolidation of a domestic public benefit corporation 3272
under division (B)(1)(b) of this section for a period not to 3273
exceed sixty days and shall provide notice of that extension to 3274

the domestic public benefit corporation. The notice shall set 3275
forth the reasons necessitating the extension. 3276

(3) No member, other than a member that is a public 3277
benefit entity, or director of a domestic public benefit 3278
corporation in that person's capacity as a member or director 3279
may receive or keep anything as a result of a merger or 3280
consolidation other than membership or directorship in the 3281
surviving or new public benefit entity without the prior written 3282
consent of the attorney general or of the court of common pleas 3283
of the county in this state in which the principal office of the 3284
domestic public benefit corporation is located that is obtained 3285
in a proceeding in which the attorney general's charitable law 3286
section has been given written notice by certified mail within 3287
three days of the initiation of the proceeding and in which 3288
proceeding the attorney general may intervene as of right. The 3289
court shall approve the transaction if it is in the public 3290
interest. 3291

(4) The attorney general may institute a civil action to 3292
enforce the requirements of divisions (B) (1), (2), and (3) of 3293
this section in the court of common pleas of the county in this 3294
state in which the principal office of the domestic public 3295
benefit corporation is located or in the Franklin county court 3296
of common pleas. In addition to any civil remedies that may 3297
exist under common law or the Revised Code, a court may rescind 3298
the transaction or grant injunctive relief or impose any 3299
combination of these remedies. 3300

Sec. 1703.04. (A) To procure a license to transact 3301
business in this state, a foreign corporation for profit shall 3302
file with the secretary of state a certificate of good standing 3303
or subsistence, dated not earlier than ninety days prior to the 3304

filing of the application, under the seal of the secretary of 3305
state, or other proper official, of the state under the laws of 3306
which said corporation was incorporated, setting forth the exact 3307
corporate title and the fact that the corporation is in good 3308
standing or is a subsisting corporation. 3309

(B) To procure such a license, such corporation also shall 3310
file with the secretary of state an application in such form as 3311
the secretary of state prescribes, verified by the oath of any 3312
authorized officer of such corporation, setting forth, but not 3313
limited to: 3314

(1) The name of the corporation and, if its corporate name 3315
is not available, the trade name under which it will do business 3316
in this state; 3317

(2) The name of the state under the laws of which it was 3318
incorporated; 3319

(3) The location and complete address of its principal 3320
office; 3321

(4) The name of the county and the municipal corporation 3322
or township in which its principal office within this state, if 3323
any, is to be located; 3324

(5) The appointment of a designated agent and the complete 3325
address of such agent; 3326

(6) The irrevocable consent of such corporation to service 3327
of process on such agent so long as the authority of such agent 3328
continues and to service of process upon the secretary of state 3329
in the events provided for in section 1703.19 of the Revised 3330
Code; 3331

(7) A brief summary of the corporate purposes to be 3332

exercised within this state. 3333

(C) (1) No such application for a license shall be accepted 3334
for filing if it appears that the name of the foreign 3335
corporation is prohibited by law or is not distinguishable upon 3336
the records in the office of the secretary of state from the 3337
name of any other corporation, whether nonprofit or for profit 3338
and whether that of a domestic corporation or of a foreign 3339
corporation authorized to transact business in this state, the 3340
name of a limited liability company registered in the office of 3341
the secretary of state pursuant to Chapter 1705. or 1706. of the 3342
Revised Code, whether domestic or foreign, the name of any 3343
limited liability partnership registered in the office of the 3344
secretary of state pursuant to Chapter 1775. or 1776. of the 3345
Revised Code, whether domestic or foreign, the name of any 3346
limited partnership registered in the office of the secretary of 3347
state pursuant to Chapter 1782. of the Revised Code, whether 3348
domestic or foreign, or a trade name to which the exclusive 3349
right at the time in question is registered in the manner 3350
provided in Chapter 1329. of the Revised Code, unless there also 3351
is filed with the secretary of state, on a form prescribed by 3352
the secretary of state, the consent of the other entity or 3353
person to the use of the name, evidenced in a writing signed by 3354
any authorized officer of the other entity or authorized 3355
representative of the other person owning the exclusive right to 3356
the registered trade name. 3357

(2) Notwithstanding division (C) (1) of this section, if an 3358
application for a license is not acceptable for filing solely 3359
because the name of the foreign corporation is not 3360
distinguishable from the name of another entity or registered 3361
trade name, the foreign corporation may be authorized to 3362
transact business in this state by filing with the secretary of 3363

state, in addition to those items otherwise prescribed by this 3364
section, a statement signed by an authorized officer directing 3365
the foreign corporation to make application for a license to 3366
transact business in this state under an assumed business name 3367
or names that comply with the requirements of this division and 3368
stating that the foreign corporation will transact business in 3369
this state only under the assumed name or names. The application 3370
for a license shall be on a form prescribed by the secretary of 3371
state. 3372

Sec. 1706.01. As used in this chapter: 3373

(A) "Articles of organization" means the articles of 3374
organization described in section 1706.16 of the Revised Code, 3375
and those articles of organization as amended or restated. 3376

(B) "Assignment" means a transfer, conveyance, deed, bill 3377
of sale, lease, mortgage, security interest, encumbrance, gift, 3378
or transfer by operation of law. 3379

(C) "Constituent limited liability company" means a 3380
constituent entity that is a limited liability company. 3381

(D) "Constituent entity" means an entity that is party to 3382
a merger. 3383

(E) "Contribution" means anything of value including cash, 3384
property, or services rendered, or a promissory note or other 3385
binding obligation to contribute cash or property or to perform 3386
services, that a person contributes to a limited liability 3387
company, or a series thereof, in the person's capacity as a 3388
member. 3389

(F) "Converted entity" means the entity into which a 3390
converting entity converts pursuant to sections 1706.72 to 3391
1706.723 of the Revised Code. 3392

(G) "Converting limited liability company" means a 3393
converting entity that is a limited liability company. 3394

(H) "Converting entity" means an entity that converts into 3395
a converted entity pursuant to sections 1706.72 to 1706.723 of 3396
the Revised Code. 3397

(I) "Debtor in bankruptcy" means a person who is the 3398
subject of an order for relief under Title 11 of the United 3399
States Code, a comparable order under a successor statute of 3400
general application, or a comparable order under any federal, 3401
state, or foreign law governing insolvency. 3402

(J) "Distribution" means a transfer of money or other 3403
property from a limited liability company, or a series thereof, 3404
to another person on account of a membership interest. 3405

(K) "Entity" means a general partnership, limited 3406
partnership, limited liability partnership, limited liability 3407
company, association, corporation, professional corporation, 3408
professional association, nonprofit corporation, business trust, 3409
real estate investment trust, common law trust, statutory trust, 3410
cooperative association, or any similar organization that has a 3411
governing statute, in each case, whether foreign or domestic. 3412

(L) "Foreign limited liability company" means an entity 3413
that is all of the following: 3414

(1) An unincorporated association; 3415

(2) Organized under the laws of a state other than this 3416
state or under the laws of a foreign country; 3417

(3) Organized under a statute pursuant to which an 3418
association may be formed that affords to each of its members 3419
limited liability with respect to the liabilities of the entity; 3420

- (4) Not required to be registered, qualified, or organized 3421
under any statute of this state other than this chapter. 3422
- (M) "Governing statute" means the law that governs an 3423
entity's internal affairs. 3424
- (N) "Limited liability company," except in the phrase 3425
"foreign limited liability company," means an entity formed or 3426
existing under this chapter. 3427
- (O) "Manager" means any person designated by the limited 3428
liability company or its members with the authority to manage 3429
all or part of the activities or affairs of the limited 3430
liability company on behalf of the limited liability company, 3431
which person has agreed to serve in such capacity, whether such 3432
person is designated as a manager, director, officer, or 3433
otherwise. 3434
- (P) "Member" means a person that has been admitted as a 3435
member of a limited liability company under section 1706.27 of 3436
the Revised Code and that has not dissociated as a member. 3437
- (Q) "Membership interest" means a member's right to 3438
receive distributions from a limited liability company or series 3439
thereof. 3440
- (R) "Operating agreement" means any valid agreement, 3441
written or oral, of the members, or any written declaration of 3442
the sole member, as to the affairs and activities of a limited 3443
liability company and any series thereof. "Operating agreement" 3444
includes any amendments to the operating agreement. 3445
- (S) "Organizational documents" means any of the following: 3446
- (1) For a general partnership or foreign general 3447
partnership, its partnership agreement; 3448

(2) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement; 3449
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(3) For a limited liability limited partnership or foreign limited liability limited partnership, its certificate of limited partnership and partnership agreement; 3452
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(4) For a limited liability company or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute; 3455
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(5) For a business or statutory trust or foreign business or statutory trust, its trust instrument, or comparable records as provided in its governing statute; 3459
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(6) For a for-profit corporation or foreign for-profit corporation, its articles of incorporation, regulations, and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; 3462
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(7) For a nonprofit corporation or foreign nonprofit corporation, its articles of incorporation, regulations, and other agreements that are authorized by its governing statute or comparable records as provided in its governing statute; 3467
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(8) For a professional association, its articles of incorporation, regulations, and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; 3471
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(9) For any other entity, the basic records that create the entity, determine its internal governance, and determine the relations among the persons that own it, are members of it, or 3475
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govern it. 3478

(T) "Organizer" means a person executing the initial 3479
articles of organization filed by the secretary of state in 3480
accordance with section 1706.16 of the Revised Code. 3481

(U) "Person" means an individual, entity, trust, estate, 3482
government, custodian, nominee, trustee, personal 3483
representative, fiduciary, or any other individual, entity, or 3484
series thereof in its own or any representative capacity, in 3485
each case, whether foreign or domestic. As used in this 3486
division, "government" includes a country, state, county, or 3487
other political subdivision, agency, or instrumentality. 3488

(V) "Principal office" means the location specified by a 3489
limited liability company, foreign limited liability company, or 3490
other entity as its principal office in the last filed record in 3491
which the limited liability company, foreign limited liability 3492
company, or other entity specified its principal office on the 3493
records of the secretary of state. If no such location has 3494
previously been specified, then "principal office" means the 3495
location reasonably apparent to an unaffiliated person as the 3496
principal executive office of the limited liability company, 3497
foreign limited liability company, or other entity. 3498

(W) "Record" means information that is inscribed on a 3499
tangible medium or that is stored in an electronic or other 3500
medium and is retrievable in written or paper form through an 3501
automated process. 3502

(X) "Sign" means, with the present intent to authenticate 3503
or adopt a record, either of the following: 3504

(1) To execute or adopt a tangible symbol; 3505

(2) To attach to or logically associate with the record an 3506

electronic symbol, sound, or process. 3507

(Y) "State" means a state of the United States, the 3508
District of Columbia, Puerto Rico, the United States Virgin 3509
Islands, or any territory or insular possession subject to the 3510
jurisdiction of the United States. 3511

(Z) "Surviving entity" means an entity into which one or 3512
more other entities are merged, whether the entity pre-existed 3513
the merger or was created pursuant to the merger. 3514

(AA) "Tribunal" means a court or, if provided in the 3515
operating agreement or otherwise agreed, an arbitrator, 3516
arbitration panel, or other tribunal. 3517

Sec. 1706.02. This chapter may be cited as the "Ohio 3518
Revised Limited Liability Company Act." 3519

Sec. 1706.03. (A) A person knows a fact when either of the 3520
following is met: 3521

(1) The person has actual knowledge of the fact. 3522

(2) The person is deemed to know the fact under law other 3523
than this chapter. 3524

(B) A person has notice of a fact when any of the 3525
following is met: 3526

(1) The person knows of the fact. 3527

(2) The person receives notification of the fact. 3528

(3) The person has reason to know the fact from all the 3529
facts known to the person at the time. 3530

(4) The person is deemed to have notice of the fact under 3531
division (D) of this section. 3532

(C) A person notifies another of a fact by taking steps 3533
reasonably required to inform the other person in ordinary 3534
course, whether or not the other person knows the fact. 3535

(D) A person is deemed to have notice of the following: 3536

(1) The matters included in a limited liability company's 3537
articles of organization under divisions (A) (1) to (3) of 3538
section 1706.16 of the Revised Code, upon the filing of the 3539
articles; 3540

(2) A limited liability company's dissolution, ninety days 3541
after a certificate of dissolution under section 1706.471 of the 3542
Revised Code becomes effective; 3543

(3) A limited liability company's merger or conversion, 3544
ninety days after a certificate of merger under section 1706.712 3545
of the Revised Code or certificate of conversion under section 3546
1706.722 of the Revised Code becomes effective. 3547

(E) A member's knowledge, notice, or receipt of a 3548
notification of a fact relating to the limited liability company 3549
is not knowledge, notice, or receipt of a notification of a fact 3550
by the limited liability company solely by reason of the 3551
member's capacity as a member. 3552

Sec. 1706.04. (A) A limited liability company is a 3553
separate legal entity. A limited liability company's status for 3554
tax purposes shall not affect its status as a separate legal 3555
entity formed under this chapter. 3556

(B) A limited liability company has perpetual duration. 3557

Sec. 1706.05. (A) A limited liability company may carry on 3558
any lawful activity, whether or not for profit. 3559

(B) A limited liability company shall possess and may 3560

exercise all the powers and privileges granted by this chapter 3561
or by any other law or by its operating agreement, together with 3562
any powers incidental thereto, including those powers and 3563
privileges necessary or convenient to the conduct, promotion, or 3564
attainment of the business, purposes, or activities of the 3565
limited liability company. 3566

(C) Without limiting the general powers enumerated in 3567
division (B) of this section, a limited liability company shall 3568
have the power and authority to make contracts of guaranty and 3569
suretyship and enter into interest rate, basis, currency, hedge, 3570
or other swap agreements, or cap, floor, put, call, option, 3571
exchange, or collar agreements, derivative agreements, or other 3572
agreements similar to any of the foregoing. 3573

(D) A series established under this chapter has the power 3574
and capacity, in the series' own name, to do all of the 3575
following: 3576

(1) Sue and be sued; 3577

(2) Contract; 3578

(3) Hold and convey title to assets of the series, 3579
including real property, personal property, and intangible 3580
property; 3581

(4) Grant liens and security interests in assets of the 3582
series. 3583

Sec. 1706.06. (A) This chapter shall be construed to give 3584
maximum effect to the principles of freedom of contract and to 3585
the enforceability of operating agreements. 3586

(B) Unless displaced by particular provisions of this 3587
chapter, principles of law and equity supplement this chapter. 3588

(C) Rules that statutes in derogation of the common law 3589
are to be strictly construed shall have no application to this 3590
chapter. 3591

(D) Sections 1309.406 and 1309.408 of the Revised Code do 3592
not apply to any interest in a limited liability company, 3593
including all rights, powers, and interests arising under an 3594
operating agreement or this chapter. This division prevails over 3595
those sections, and is expressly intended to permit the 3596
enforcement of the provisions of an operating agreement that 3597
would otherwise be ineffective under those sections. 3598

(E) This chapter applies to all limited liability 3599
companies equally regardless of whether the limited liability 3600
company has one or more members or whether it is formed by a 3601
filing under section 1706.16 of the Revised Code or by merger, 3602
consolidation, conversion, or otherwise. 3603

Sec. 1706.061. The law of this state governs all of the 3604
following: 3605

(A) The organization and internal affairs of a limited 3606
liability company; 3607

(B) The liability of a member as a member for the debts, 3608
obligations, or other liabilities of a limited liability 3609
company; 3610

(C) The authority of the members and agents of a limited 3611
liability company; 3612

(D) The availability of the assets of a limited liability 3613
company or series thereof for the obligations of the limited 3614
liability company or another series thereof. 3615

Sec. 1706.07. (A) The name of a limited liability company 3616

shall contain the words "limited liability company" or the 3617
abbreviation "L.L.C.," "LLC," "limited," "ltd.," or "ltd". 3618

(B) Except as provided in this section and in sections 3619
1701.75, 1701.78, 1701.82, 1705.36, and 1705.37 of the Revised 3620
Code, the secretary of state shall not accept for filing in the 3621
secretary of state's office the articles of organization of a 3622
limited liability company if the company name set forth in the 3623
articles is not distinguishable on the records of the secretary 3624
of state from the name of any of the following: 3625

(1) Any other limited liability company, whether the name 3626
is of a domestic limited liability company or of a foreign 3627
limited liability company registered as a foreign limited 3628
liability company under this chapter; 3629

(2) Any corporation, whether the name is of a domestic 3630
corporation or of a foreign corporation holding a license as a 3631
foreign corporation under the laws of this state pursuant to 3632
Chapter 1701., 1702., or 1703. of the Revised Code; 3633

(3) Any limited liability partnership, whether the name is 3634
of a domestic limited liability partnership or a foreign limited 3635
liability partnership registered pursuant to Chapter 1775. or 3636
1776. of the Revised Code; 3637

(4) Any limited partnership, whether the name is of a 3638
domestic limited partnership or a foreign limited partnership 3639
registered pursuant to Chapter 1782. of the Revised Code; 3640

(5) Any trade name to which the exclusive right, at the 3641
time in question, is registered in the office of the secretary 3642
of state pursuant to Chapter 1329. of the Revised Code. 3643

(C) A limited liability company may apply to the secretary 3644
of state for authorization to use a name that is not 3645

distinguishable from the names identified in division (B) of of 3646
this section if there also is filed in the office of the 3647
secretary of state, on a form prescribed by the secretary of 3648
state, the consent of the other person or, in the case of a 3649
registered trade name, the person in whose name is registered 3650
the exclusive right to use the name, which consent is evidenced 3651
in a writing signed by any authorized officer or any authorized 3652
representative of the other person. 3653

(D) If a judicial sale or other transfer by order of a 3654
tribunal involves the right to use the name of a limited 3655
liability company or of a foreign limited liability company, 3656
then division (B) of this section shall not be applicable with 3657
respect to any person that is subject to the order. 3658

(E) Any person that wishes to reserve a name for a 3659
proposed new limited liability company, a limited liability 3660
company that intends to change its name, or an assumed name for 3661
a foreign limited liability company whose name is not available 3662
may submit to the secretary of state, on a form prescribed by 3663
the secretary of state, a written application for the exclusive 3664
right to use a specified name as the name of the company. If the 3665
secretary of state finds, consistent with this section, that the 3666
specified name is available for use, the secretary of state 3667
shall file the application. From the date of the filing, the 3668
applicant has the exclusive right for one hundred eighty days to 3669
use the specified name as the name of the limited liability 3670
company, counting the date of the filing as the first of the one 3671
hundred eighty days. The right so obtained may be transferred by 3672
the applicant or other holder of the right by filing in the 3673
office of the secretary of state a written transfer, on a form 3674
prescribed by the secretary of state, that states the name and 3675
address of the transferee. 3676

Sec. 1706.08. (A) Except as otherwise provided in 3677
divisions (B) and (C) of this section, both of the following 3678
apply: 3679

(1) An operating agreement governs relations among the 3680
members as members and between the members and the limited 3681
liability company. 3682

(2) To the extent that an operating agreement does not 3683
otherwise provide for a matter described in division (A) (1) of 3684
this section, this chapter governs the matter. 3685

(B) (1) To the extent that, at law or in equity, a member, 3686
manager, or other person has duties, including fiduciary duties, 3687
to the limited liability company, or to another member or to 3688
another person that is a party to or is otherwise bound by an 3689
operating agreement, those duties may be expanded or restricted 3690
or eliminated by a written operating agreement. However, an 3691
operating agreement may not eliminate the implied covenant of 3692
good faith and fair dealing. 3693

(2) A written operating agreement may provide for the 3694
limitation or elimination of any and all liabilities for breach 3695
of contract and breach of duties, including breach of fiduciary 3696
duties, of a member, manager, or other person to a limited 3697
liability company or to another member or to another person that 3698
is a party to or is otherwise bound by an operating agreement. 3699
However, an operating agreement may not limit or eliminate 3700
liability for any act or omission that constitutes a bad faith 3701
violation of the implied covenant of good faith and fair 3702
dealing. 3703

(3) A member, manager, or other person shall not be liable 3704
to a limited liability company or to another member or to 3705

another person that is a party to or is otherwise bound by an 3706
operating agreement for breach of fiduciary duty for the 3707
member's or other person's good faith reliance on the operating 3708
agreement. 3709

(4) An operating agreement may provide either or both of 3710
the following: 3711

(a) That, a member or assignee who fails to perform in 3712
accordance with, or to comply with the terms and conditions of, 3713
the operating agreement shall be subject to specified penalties 3714
or specified consequences; 3715

(b) That at the time or upon the happening of events 3716
specified in the operating agreement, a member or assignee may 3717
be subject to specified penalties or consequences. 3718

(5) A penalty or consequence that may be specified under 3719
division (B) (4) of this section may include any of the 3720
following: 3721

(a) Reducing or eliminating the defaulting member's or 3722
assignee's proportionate interest in a limited liability 3723
company; 3724

(b) Subordinating the member's or assignee's membership 3725
interest to that of nondefaulting members or assignees; 3726

(c) Forcing a sale of the member's or assignee's 3727
membership interest; 3728

(d) Forfeiting the defaulting member's or assignee's 3729
membership interest; 3730

(e) The lending by other members or assignees of the 3731
amount necessary to meet the defaulting member's or assignee's 3732
commitment; 3733

<u>(f) A fixing of the value of the defaulting member's or assignee's membership interest by appraisal or by formula and redemption or sale of the membership interest at that value;</u>	3734
	3735
	3736
<u>(g) Any other penalty or consequence.</u>	3737
<u>(C) An operating agreement shall not do any of the following:</u>	3738
	3739
<u>(1) Vary the nature of the limited liability company as a separate legal entity under division (A) of section 1706.04 of the Revised Code;</u>	3740
	3741
	3742
<u>(2) Except as otherwise provided in division (B) of section 1706.082 of the Revised Code, restrict the rights under this chapter of a person other than a member, dissociated member, or assignee;</u>	3743
	3744
	3745
	3746
<u>(3) Vary the power of a court under section 1706.171 of the Revised Code;</u>	3747
	3748
<u>(4) Eliminate the implied covenant of good faith and fair dealing;</u>	3749
	3750
<u>(5) Eliminate or limit the liability of a member or other person for any act or omission that constitutes a bad faith violation of the implied covenant of good faith and fair dealing;</u>	3751
	3752
	3753
	3754
<u>(6) Waive the requirements of division (A) of section 1706.281 of the Revised Code;</u>	3755
	3756
<u>(7) Waive the prohibition on issuance of a certificate of a membership interest in bearer form under division (D) of section 1706.341 of the Revised Code;</u>	3757
	3758
	3759
<u>(8) Waive the requirements of division (B) of section</u>	3760

1706.761 of the Revised Code. 3761

Sec. 1706.081. (A) A limited liability company is bound by 3762
and may enforce its operating agreement, whether or not the 3763
limited liability company has itself manifested assent to its 3764
operating agreement. 3765

(B) A person that is admitted as a member of a limited 3766
liability company becomes a party to and assents to the 3767
operating agreement subject to division (A) of section 1706.281 3768
of the Revised Code. 3769

(C) Two or more persons intending to be the initial 3770
members of a limited liability company may make an agreement 3771
providing that upon the formation of the limited liability 3772
company the agreement will become its operating agreement. One 3773
person intending to be the initial member of a limited liability 3774
company may assent to terms providing that upon the formation of 3775
the limited liability company the terms will become the 3776
operating agreement. 3777

(D) The operating agreement of a limited liability company 3778
having only one member shall not be unenforceable by reason of 3779
there being only one person who is a party to the operating 3780
agreement. 3781

Sec. 1706.082. (A) An operating agreement may be amended 3782
upon the consent of all the members of a limited liability 3783
company or in such other manner authorized by the operating 3784
agreement. If an operating agreement provides for the manner in 3785
which it may be amended, including by requiring the approval of 3786
a person who is not a party to the operating agreement or the 3787
satisfaction of conditions, it may be amended only in that 3788
manner or as otherwise permitted by law; except that the 3789

approval of any person may be waived by that person and any 3790
conditions may be waived by all persons for whose benefit those 3791
conditions were intended. 3792

(B) An operating agreement may provide rights to any 3793
person, including a person who is not a party to the operating 3794
agreement, to the extent set forth in the operating agreement. 3795

(C) The obligations of a limited liability company and its 3796
members to a person in the person's capacity as an assignee or 3797
dissociated member are governed by the operating agreement. An 3798
assignee and dissociated member are bound by the operating 3799
agreement. 3800

Sec. 1706.09. (A) Each limited liability company and 3801
foreign limited liability company that has an effective 3802
registration as a foreign limited liability company under 3803
section 1706.511 of the Revised Code shall maintain continuously 3804
in this state an agent for service of process on the company. 3805
The agent shall be one of the following: 3806

(1) A natural person who is a resident of this state; 3807

(2) A domestic or foreign corporation, nonprofit 3808
corporation, limited liability company, partnership, limited 3809
partnership, limited liability partnership, limited partnership 3810
association, professional association, business trust, or 3811
unincorporated nonprofit association that has a business address 3812
in this state. If the agent is an entity other than a domestic 3813
corporation, the agent shall meet the requirements of Title XVII 3814
of the Revised Code for an entity of the agent's type to 3815
transact business or exercise privileges in this state. 3816

(B) (1) The secretary of state shall not accept original 3817
articles of organization of a limited liability company or an 3818

original registration of a foreign limited liability company for 3819
filing unless both of the following accompany the articles or 3820
registration: 3821

(a) A written appointment of an agent as described in 3822
division (A) of this section that is signed by an authorized 3823
representative of the limited liability company or foreign 3824
limited liability company; 3825

(b) A written acceptance of the appointment that is signed 3826
by the designated agent on a form prescribed by the secretary of 3827
state. 3828

(2) In cases not covered by division (B) (1) of this 3829
section, the company shall appoint the agent described in 3830
division (A) of this section and shall file with the secretary 3831
of state, on a form prescribed by the secretary of state, a 3832
written appointment of that agent that is signed by an 3833
authorized representative of the company and a written 3834
acceptance of the appointment that is signed by the designated 3835
agent. 3836

(C) The written appointment of an agent shall set forth 3837
the name and address in this state of the agent, including the 3838
street and number or other particular description, and shall 3839
otherwise be in such form as the secretary of state prescribes. 3840
The secretary of state shall keep a record of the names of 3841
limited liability companies and foreign limited liability 3842
companies, and the names and addresses of their respective 3843
agents. 3844

(D) If any agent described in division (A) of this section 3845
dies, resigns, or moves outside of this state, the limited 3846
liability company or foreign limited liability company shall 3847

appoint forthwith another agent and file with the secretary of 3848
state, on a form prescribed by the secretary of state, a written 3849
appointment of the agent and acceptance of appointment as 3850
described in division (B) (2) of this section. 3851

(E) If the agent described in division (A) of this section 3852
changes the agent's address from the address stated in the 3853
records of the secretary of state, the agent or the limited 3854
liability company or foreign limited liability company shall 3855
file forthwith with the secretary of state, on a form prescribed 3856
by the secretary of state, a written statement setting forth the 3857
new address. 3858

(F) An agent described in division (A) of this section may 3859
resign by filing with the secretary of state, on a form 3860
prescribed by the secretary of state, a written notice of 3861
resignation that is signed by the agent and by mailing a copy of 3862
that notice to the limited liability company or foreign limited 3863
liability company at the current or last known address of its 3864
principal office. The notice shall be mailed to the company on 3865
or prior to the date that the notice is filed with the secretary 3866
of state and shall set forth the name of the company, the name 3867
and current address of the agent, the current or last known 3868
address, including the street and number or other particular 3869
description, of the company's principal office, a statement of 3870
the resignation of the agent, and a statement that a copy of the 3871
notice has been sent to the company within the time and in the 3872
manner specified in this division. The authority of the 3873
resigning agent terminates thirty days after the filing of the 3874
notice with the secretary of state. 3875

(G) A limited liability company or foreign limited 3876
liability company may revoke the appointment of its agent 3877

described in division (A) of this section by filing with the 3878
secretary of state, on a form prescribed by the secretary of 3879
state, a written appointment of another agent and an acceptance 3880
of appointment in the manner described in division (B) (2) of 3881
this section and a statement indicating that the appointment of 3882
the former agent is revoked. 3883

(H) (1) Any legal process, notice, or demand required or 3884
permitted by law to be served upon a limited liability company 3885
may be served upon the company as follows: 3886

(a) By delivering a copy of the process, notice, or demand 3887
to the address of the agent in this state as contained in the 3888
records of the secretary of state; 3889

(b) If the agent described in division (A) of this section 3890
is a natural person, by delivering a copy of the process, 3891
notice, or demand to the agent. 3892

(2) If the agent described in division (A) of this section 3893
cannot be found or no longer has the address that is stated in 3894
the records of the secretary of state or the limited liability 3895
company or foreign limited liability company has failed to 3896
maintain an agent as required by this section and if the party 3897
or the agent or representative of the party that desires service 3898
of the process, notice, or demand files with the secretary of 3899
state an affidavit that states that one of those circumstances 3900
exists and states the most recent address of the company that 3901
the party who desires service has been able to ascertain after a 3902
diligent search, then the service of the process, notice, or 3903
demand upon the secretary of state as the agent of the company 3904
may be initiated by delivering to the secretary of state four 3905
copies of the process, notice, or demand accompanied by a fee of 3906
five dollars. The secretary of state shall give forthwith notice 3907

of that delivery to the company at either its principal office 3908
as shown upon the secretary of state's records or at any 3909
different address specified in the affidavit of the party 3910
desiring service and shall forward to the company at either 3911
address by certified mail, return receipt requested, a copy of 3912
the process, notice, or demand. Service upon the company is made 3913
when the secretary of state gives the notice and forwards the 3914
process, notice, or demand as set forth in division (H) (2) of 3915
this section. 3916

(I) The secretary of state shall keep a record of each 3917
process, notice, and demand that pertains to a limited liability 3918
company or foreign limited liability company and that is 3919
delivered to the secretary of state's office under this section 3920
or another law of this state that authorizes service upon the 3921
secretary of state in connection with a limited liability 3922
company or foreign limited liability company. In that record, 3923
the secretary of state shall record the time of each delivery of 3924
that type and the secretary of state's subsequent action with 3925
respect to the process, notice, or demand. 3926

(J) This section does not limit or affect the right to 3927
serve any process, notice, or demand upon a limited liability 3928
company or foreign limited liability company in any other manner 3929
permitted by law. 3930

(K) A written appointment of an agent or a written 3931
statement filed by a limited liability company or foreign 3932
limited liability company with the secretary of state shall be 3933
signed by an authorized representative of the company. 3934

(L) Upon the failure of a limited liability company or 3935
foreign limited liability company to continuously maintain a 3936
statutory agent or file a change of name or address of a 3937

statutory agent, the secretary of state shall give notice 3938
thereof by ordinary or electronic mail to the company at the 3939
electronic mail address provided to the secretary of state, or 3940
at the address set forth in the notice of resignation. Unless 3941
the default is cured within thirty days after the mailing by the 3942
secretary of state of the notice or within any further period of 3943
time that the secretary of state grants, upon the expiration of 3944
that period of time from the date of the mailing, the articles 3945
of the limited liability company or the registration of the 3946
foreign limited liability company shall be canceled without 3947
further notice or action by the secretary of state. The 3948
secretary of state shall make a notation of the cancellation on 3949
the secretary of state's records. 3950

A limited liability company or foreign limited liability 3951
company whose articles or registration has been canceled may be 3952
reinstated by filing, on a form prescribed by the secretary of 3953
state, an application for reinstatement and the required 3954
appointment of agent or required statement, and by paying the 3955
filing fee specified in division (Q) of section 111.16 of the 3956
Revised Code. The rights and privileges of a limited liability 3957
company or foreign limited liability company whose articles or 3958
registration has been reinstated are subject to section 1706.46 3959
of the Revised Code. The secretary of state shall furnish the 3960
tax commissioner a monthly list of all limited liability 3961
companies and foreign limited liability companies canceled and 3962
reinstated under this division. 3963

Sec. 1706.16. (A) In order to form a limited liability 3964
company, one or more persons shall execute articles of 3965
organization and deliver the articles to the secretary of state 3966
for filing. The articles of organization shall set forth all of 3967
the following: 3968

<u>(1) The name of the limited liability company;</u>	3969
<u>(2) The name and street address of the limited liability company's statutory agent and a written acceptance of the appointment that is signed by the agent;</u>	3970 3971 3972
<u>(3) If applicable, a statement as provided in division (B) (3) of section 1706.761 of the Revised Code;</u>	3973 3974
<u>(4) Any other matters the organizers or the members determine to include in the articles of organization.</u>	3975 3976
<u>(B) A limited liability company is formed when the articles of organization are filed by the secretary of state or at any later date or time specified in the articles of organization.</u>	3977 3978 3979 3980
<u>(C) The fact that articles of organization are on file in the office of the secretary of state is notice of the matters required to be included by divisions (A) (1) to (3) of this section, but is not notice of any other fact.</u>	3981 3982 3983 3984
<u>(D) An operating agreement may be entered into before, at the time of, or after the filing of the articles of organization. Regardless of when the operating agreement is entered into, it may be made effective as of the filing of the articles of organization or any other time provided in the operating agreement.</u>	3985 3986 3987 3988 3989 3990
<u>Sec. 1706.161.</u> (A) <u>The articles of organization may be amended at any time.</u>	3991 3992
<u>(B) The articles of organization may be restated with or without amendment at any time.</u>	3993 3994
<u>(C) To amend its articles of organization, a limited liability company shall deliver to the secretary of state for</u>	3995 3996

filing, on a form prescribed by the secretary of state, a 3997
certificate of amendment containing both of the following 3998
information: 3999

(1) The name and registration number of the limited 4000
liability company; 4001

(2) The changes the amendment makes to the articles of 4002
organization as most recently amended or restated. 4003

(D) Restated articles of organization shall be delivered 4004
to the secretary of state for filing in the same manner as an 4005
amendment. Restated articles of organization shall be designated 4006
as such in the heading and state in the heading or in an 4007
introductory paragraph the limited liability company's name and 4008
the date of the filing of its articles of organization. Any 4009
amendment or change effected in connection with the restatement 4010
of the articles of organization shall be subject to any other 4011
provision of this chapter, not inconsistent with this section, 4012
which would apply if a separate certificate of amendment were 4013
filed to effect the amendment or change. 4014

(E) The original articles of organization, as amended or 4015
supplemented, shall be superseded by the restated articles of 4016
organization. Thereafter, the articles of organization, 4017
including any further amendment or changes made thereby, shall 4018
be the articles of organization of the limited liability 4019
company, but the original effective date of formation shall 4020
remain unchanged. 4021

Sec. 1706.17. (A) A record delivered to the secretary of 4022
state for filing pursuant to this chapter shall be signed as 4023
provided by this section. 4024

(1) A limited liability company's initial articles of 4025

organization shall be signed by at least one person. 4026

(2) A record signed on behalf of a limited liability company shall be signed by a person authorized by the limited liability company. 4027
4028
4029

(3) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the limited liability company's activities under division (A) of section 1706.472 of the Revised Code or a person appointed under division (B) of section 1706.472 of the Revised Code to wind up those activities. 4030
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4032
4033
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(4) A statement of denial by a person under section 1706.20 of the Revised Code shall be signed by that person. 4036
4037

(5) Any other record shall be signed by the person on whose behalf the record is delivered to the secretary of state. 4038
4039

(B) Any record to be filed under this chapter may be signed by an agent, including an attorney-in-fact. Powers of attorney relating to the signing of the record need not be delivered to the secretary of state. 4040
4041
4042
4043

Sec. 1706.171. (A) If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing under this chapter does not do so, any other person that is aggrieved by that failure to sign may petition the appropriate court to order any of the following: 4044
4045
4046
4047
4048

(1) The person to sign the record; 4049

(2) The person to deliver the record to the secretary of state for filing; 4050
4051

(3) The secretary of state to file the record unsigned. 4052

(B) If a petitioner under division (A) of this section is 4053
not the limited liability company or foreign limited liability 4054
company to whom the record pertains, the petitioner shall make 4055
the limited liability company or foreign limited liability 4056
company a party to the action. A person aggrieved under division 4057
(A) of this section may seek the remedies provided in that 4058
division in a separate action against the person required to 4059
sign the record or as a part of any other action concerning the 4060
limited liability company in which the person required to sign 4061
the record is made a party. 4062

(C) A record filed unsigned pursuant to this section is 4063
effective without being signed. 4064

(D) A court may award reasonable expenses, including 4065
reasonable attorney's fees, to the prevailing party, in whole or 4066
in part, with respect to any claim made under division (A) of 4067
this section. 4068

Sec. 1706.172. (A) Each record authorized or required to 4069
be delivered to the secretary of state for filing under this 4070
chapter shall meet all of the following requirements: 4071

(1) The record shall contain all information required by 4072
the law of this state to be contained in the record but, unless 4073
otherwise provided by law, shall not be required to contain 4074
other information. 4075

(2) The record shall be on or in a medium and in such form 4076
acceptable to the secretary of state and from which the 4077
secretary of state may create a record that contains all of the 4078
information stated in the record. The secretary of state may 4079
require that the record be delivered by any one or more means or 4080
on or in any one or more media acceptable to the secretary of 4081

state. The secretary of state is not required to file a record 4082
that is not delivered by a means and in a medium that complies 4083
with the requirements then established by the secretary of state 4084
for the delivery and filing of records. If the secretary of 4085
state permits a record to be delivered on paper, the record 4086
shall be typewritten or machine printed, and the secretary of 4087
state may impose reasonable requirements upon the dimensions, 4088
legibility, quality, and color of the paper and typewriting or 4089
printing and upon the format and other attributes of any record 4090
that is delivered electronically. The secretary of state shall, 4091
at the earliest practicable time, allow for the delivery of a 4092
record for filing to be accomplished electronically, without the 4093
necessity for the delivery of a physical original record or the 4094
image thereof, if all required information is delivered and is 4095
readily retrievable from the data delivered. If the delivery of 4096
a record for filing is required to be accomplished 4097
electronically, that record shall not be accompanied by any 4098
physical record unless the secretary of state permits that 4099
accompaniment. 4100

(3) The record shall be in English. A person's name set 4101
forth in the record need not be in English if expressed in 4102
English letters or Arabic or Roman numerals. Records of a 4103
foreign person need not be in English if accompanied by a 4104
reasonably authenticated English translation. 4105

(B) Unless the secretary of state determines that a record 4106
does not comply with the filing requirements of this chapter, 4107
the secretary of state shall file the record and send a 4108
certificate and a receipt for the fees to the person who 4109
submitted the record. 4110

(C) Upon request and payment of the requisite fee, the 4111

secretary of state shall furnish to the requester a certified 4112
copy of a requested record. 4113

(D) Except as otherwise provided in division (F) of 4114
section 1706.09 and section 1706.173 of the Revised Code, a 4115
record delivered to the secretary of state for filing under this 4116
chapter may specify an effective time and a delayed effective 4117
date of not more than ninety days following the date of receipt 4118
by the secretary of state. Subject to division (F) of section 4119
1706.09 and section 1706.173 of the Revised Code, a record filed 4120
by the secretary of state is effective as follows: 4121

(1) If the record does not specify an effective time and 4122
does not specify a delayed effective date, on the date the 4123
record is filed as evidenced by the secretary of state's 4124
endorsement of the date on the record; 4125

(2) If the record specifies an effective time but not a 4126
delayed effective date, on the date the record is filed at the 4127
time specified in the record; 4128

(3) If the record specifies a delayed effective date but 4129
not an effective time, at 12:01 a.m. on the earlier of the 4130
following: 4131

(a) The specified date; 4132

(b) The ninetieth day after the record is filed. 4133

(4) If the record specifies an effective time and a 4134
delayed effective date, at the specified time on the earlier of 4135
the following: 4136

(a) The specified date; 4137

(b) The ninetieth day after the record is filed. 4138

Sec. 1706.173. (A) A limited liability company or foreign 4139
limited liability company may deliver to the secretary of state 4140
for filing a certificate of correction to correct a record 4141
previously delivered by the limited liability company or foreign 4142
limited liability company to the secretary of state and filed by 4143
the secretary of state if at the time of filing the record 4144
contained incorrect or inaccurate information or was defectively 4145
signed. 4146

(B) A certificate of correction under division (A) of this 4147
section shall not state a delayed effective date and shall do 4148
all of the following: 4149

(1) Describe the record to be corrected, including its 4150
filing date, or attach a copy of the record as filed; 4151

(2) Specify the inaccurate information or the defect in 4152
the signing; 4153

(3) Correct the incorrect or inaccurate information or 4154
defective signature. 4155

(C) When filed by the secretary of state, a certificate of 4156
correction is effective retroactively as of the effective date 4157
of the record the statement corrects, but the statement is 4158
effective when filed as to persons that previously relied on the 4159
uncorrected record and would be adversely affected by the 4160
correction. 4161

Sec. 1706.174. (A) A person who signs a record authorized 4162
or required to be filed under this chapter thereby affirms under 4163
penalty for falsification as described in section 2921.13 of the 4164
Revised Code that the facts stated in the record are true in all 4165
material respects. 4166

(B) If a record delivered to the secretary of state for 4167

filing under this chapter and filed by the secretary of state 4168
contains incorrect or inaccurate information, a person that 4169
suffers a loss by reasonable reliance on the information may 4170
recover damages for the loss from a person that signed the 4171
record, or caused another to sign it on the person's behalf, and 4172
knew the information to be incorrect or inaccurate at the time 4173
the record was signed. 4174

Sec. 1706.175. (A) The secretary of state, upon request 4175
and payment of the requisite fee, shall furnish to any person a 4176
certificate of full force and effect for a limited liability 4177
company if the records filed in the office of the secretary of 4178
state show that the limited liability company has been formed 4179
under the laws of this state. A certificate of full force and 4180
effect shall state all of the following: 4181

(1) The limited liability company's name; 4182

(2) The limited liability company's date of formation; 4183

(3) That the limited liability company is in full force 4184
and effect on the records of the secretary of state. 4185

(B) The secretary of state, upon request and payment of 4186
the requisite fee, shall furnish to any person a certificate of 4187
registration for a foreign limited liability company if the 4188
records filed in the office of the secretary of state show that 4189
the secretary of state has filed a certificate of registration 4190
for the foreign limited liability company, has not canceled the 4191
certificate of registration for the foreign limited liability 4192
company, and has not filed a statement of cancellation of the 4193
certificate of registration for the foreign limited liability 4194
company. A certificate of registration shall state both of the 4195
following: 4196

<u>(1) The foreign limited liability company's name;</u>	4197
<u>(2) That the foreign limited liability company is</u>	4198
<u>authorized to transact business in this state.</u>	4199
<u>(C) Subject to any qualification stated in the</u>	4200
<u>certificate, a certificate of existence or certificate of</u>	4201
<u>registration issued by the secretary of state is, for a period</u>	4202
<u>of thirty days after the date of such certificate, conclusive</u>	4203
<u>evidence that the limited liability company is in existence or</u>	4204
<u>the foreign limited liability company is authorized to transact</u>	4205
<u>business in this state.</u>	4206
<u>Sec. 1706.18. No person shall have the power to bind the</u>	4207
<u>limited liability company, or a series thereof, except:</u>	4208
<u>(A) To the extent the person is authorized to act as the</u>	4209
<u>agent of the limited liability company or a series thereof under</u>	4210
<u>or pursuant to the operating agreement;</u>	4211
<u>(B) To the extent the person is authorized to act as the</u>	4212
<u>agent of the limited liability company or a series thereof</u>	4213
<u>pursuant to division (A) of section 1706.30 of the Revised Code;</u>	4214
<u>(C) To the extent provided in section 1706.19 of the</u>	4215
<u>Revised Code;</u>	4216
<u>(D) To the extent provided by law other than this chapter.</u>	4217
<u>Sec. 1706.19. (A) A limited liability company, on behalf</u>	4218
<u>of itself or a series thereof, may deliver to the secretary of</u>	4219
<u>state for filing on a form prescribed by the secretary of state</u>	4220
<u>a statement of authority. Such a statement:</u>	4221
<u>(1) Shall include the name and registration number of the</u>	4222
<u>limited liability company;</u>	4223

(2) May state the authority of a specific person, or, with 4224
respect to any position that exists in or with respect to the 4225
limited liability company or series thereof, of all persons 4226
holding the position, to enter into transactions on behalf of 4227
the limited liability company or series thereof. 4228

(B) To amend or cancel a statement of authority filed by 4229
the secretary of state, a limited liability company shall, on 4230
behalf of itself or a series thereof, deliver to the secretary 4231
of state for filing an amendment or cancellation on a form 4232
prescribed by the secretary of state stating all of the 4233
following: 4234

(1) The name and registration number of the limited 4235
liability company; 4236

(2) The date of filing of the statement of authority to 4237
which the amendment or cancellation statement pertains; 4238

(3) The contents of the amendment or a declaration that 4239
the statement to which it pertains is canceled. 4240

(C) An effective statement of authority is conclusive in 4241
favor of a person that gives value in reliance on the statement, 4242
except to the extent that when the person gives value the person 4243
has knowledge to the contrary. 4244

(D) Upon filing, a certificate of dissolution filed 4245
pursuant to division (B)(1) of section 1706.471 of the Revised 4246
Code operates as a cancellation, under division (B) of this 4247
section, of each statement of authority. 4248

(E) After a certificate of dissolution becomes effective, 4249
a limited liability company may, on behalf of itself or a series 4250
thereof, deliver to the secretary of state for filing a 4251
statement of authority that is designated as a post-dissolution 4252

or post-cancellation statement of authority. 4253

(F) Upon filing, a statement of denial filed pursuant to 4254
section 1706.20 of the Revised Code operates as an amendment, 4255
under division (B) of this section, of the statement of 4256
authority to which the statement of denial pertains. 4257

Sec. 1706.20. A person named in a filed statement of 4258
authority may deliver to the secretary of state for filing on a 4259
form prescribed by the secretary of state a statement of denial 4260
that does both of the following: 4261

(A) States the name and registration number of the limited 4262
liability company and the date of filing of the statement of 4263
authority to which the statement of denial pertains; 4264

(B) Denies the person's authority. 4265

Sec. 1706.26. A person who is a member of a limited 4266
liability company is not liable, solely by reason of being a 4267
member, for a debt, obligation, or liability of the limited 4268
liability company or a series thereof, whether arising in 4269
contract, tort, or otherwise; or for the acts or omissions of 4270
any other member, agent, or employee of the limited liability 4271
company or a series thereof. The failure of a limited liability 4272
company or any of its members to observe any formalities 4273
relating to the exercise of the limited liability company's 4274
powers or the management of its activities is not a factor to 4275
consider in, or a ground for, imposing liability on the members 4276
for the debts, obligations, or liability of the limited 4277
liability company. 4278

Sec. 1706.27. (A) In connection with the formation of a 4279
limited liability company, a person is admitted as a member of 4280
the limited liability company upon the occurrence of either of 4281

the following: 4282

(1) If the organizer was authorized by one or more persons 4283
intending to be members of the limited liability company to file 4284
the articles of organization on their behalf, the formation of 4285
the limited liability company; 4286

(2) If the organizer was not authorized by any other 4287
person intending to be members of the limited liability company, 4288
each organizer shall have the authority of a member of the 4289
limited liability company upon the formation of the limited 4290
liability company until the admission of the initial member of 4291
the limited liability company. 4292

(B) After formation of a limited liability company, a 4293
person may be admitted as a member of the limited liability 4294
company in any of the following manners: 4295

(1) As provided in the operating agreement; 4296

(2) As the result of a transaction effective under 4297
sections 1706.71 to 1706.74 of the Revised Code; 4298

(3) With the consent of all the members or in the case of 4299
a limited liability company having only one member, the consent 4300
of the member; 4301

(4) If, within ninety consecutive days after the 4302
occurrence of the dissociation of the last remaining member, 4303
both of the following occur: 4304

(a) All holders of the membership interest last assigned 4305
by the last person to have been a member consent to the 4306
designation of a person to be admitted as a member; 4307

(b) The designated person consents to be admitted as a 4308
member effective as of the date the last person to have been a 4309

member ceased to be a member. 4310

(C) A person may be admitted as a member without acquiring 4311
a membership interest and without making or being obligated to 4312
make a contribution to the limited liability company. A person 4313
may be admitted as the sole member without acquiring a 4314
membership interest and without making or being obligated to 4315
make a contribution to the limited liability company. 4316

Sec. 1706.28. A contribution of a member to a limited 4317
liability company, or a series thereof, may consist of cash, 4318
property, services rendered, or a promissory note or other 4319
binding obligation to contribute cash or property or to perform 4320
services. 4321

Sec. 1706.281. (A) A promise by a member to make a 4322
contribution to a limited liability company, or a series 4323
thereof, is not enforceable unless set forth in a writing signed 4324
by the member. 4325

(B) A member's obligation to make a contribution to a 4326
limited liability company, or a series thereof, is not excused 4327
by the member's death, disability, or other inability to perform 4328
personally. If a member does not make a contribution required by 4329
an enforceable promise, the member or the member's estate is 4330
obligated, at the election of the limited liability company, or 4331
a series thereof, to contribute money equal to the value of the 4332
portion of the contribution that has not been made. The election 4333
shall be in addition to, and not in lieu of, any other rights, 4334
including the right to specific performance, that the limited 4335
liability company, or a series thereof, may have under the 4336
operating agreement or applicable law. 4337

(C) (1) The obligation of a member to make a contribution 4338

to a limited liability company may be compromised only by 4339
consent of all the members. A conditional obligation of a member 4340
to make a contribution to a limited liability company may not be 4341
enforced unless the conditions of the obligation have been 4342
satisfied or waived as to or by that member. Conditional 4343
obligations include contributions payable upon a discretionary 4344
call of a limited liability company before the time the call 4345
occurs. 4346

(2) The obligation of a member associated with a series to 4347
make a contribution to the series may be compromised only by 4348
consent of all the members associated with that series. A 4349
conditional obligation of a member to make a contribution to a 4350
series may not be enforced unless the conditions of the 4351
obligation have been satisfied or waived as to or by that 4352
member. Conditional obligations include contributions payable 4353
upon a discretionary call of that series before the time the 4354
call occurs. 4355

(3) Division (C)(1) of this section shall not apply to a 4356
member's obligation to make a contribution to a series of a 4357
limited liability company. 4358

Sec. 1706.29. (A) (1) All members shall share equally in 4359
any distributions made by a limited liability company before its 4360
dissolution and winding up. 4361

(2) A member has a right to a distribution before the 4362
dissolution and winding up of a limited liability company as 4363
provided in the operating agreement. A decision to make a 4364
distribution before the dissolution and winding up of the 4365
limited liability company is a decision in the ordinary course 4366
of activities of the limited liability company. A member's 4367
dissociation does not entitle the dissociated member to a 4368

distribution. 4369

(3) A member does not have a right to demand and receive a 4370
distribution from a limited liability company in any form other 4371
than money. Except as otherwise provided in division (C) of 4372
section 1706.475 of the Revised Code, a limited liability 4373
company may distribute an asset in kind if each member receives 4374
a percentage of the asset in proportion to the member's share of 4375
contributions. 4376

(4) If a member becomes entitled to receive a 4377
distribution, the member has the status of, and is entitled to 4378
all remedies available to, a creditor of the limited liability 4379
company with respect to the distribution. 4380

(B) (1) All members associated with a series shall share 4381
equally in any distributions made by the series before its 4382
dissolution and winding up. 4383

(2) A member associated with a series has a right to a 4384
distribution before the dissolution and winding up of the series 4385
as provided in the operating agreement. A decision of the series 4386
to make a distribution before the dissolution and winding up of 4387
the series is a decision in the ordinary course of activities of 4388
the series. A member's dissociation from a series with which the 4389
member is associated does not entitle the dissociated member to 4390
a distribution from the series. 4391

(3) A member associated with a series does not have a 4392
right to demand and receive a distribution from the series in 4393
any form other than money. Except as otherwise provided in 4394
division (C) of section 1706.7613 of the Revised Code, a series 4395
may distribute an asset in kind if each member associated with 4396
the series receives a percentage of the asset in proportion to 4397

the member's share of distributions from the series. 4398

(4) If a member associated with a series becomes entitled to receive a distribution from the series, the member has the status of, and is entitled to all remedies available to, a creditor of the series with respect to the distribution. 4399
4400
4401
4402

(C) Division (A) of this section does not apply to a distribution made by a series. 4403
4404

Sec. 1706.30. (A) (1) The activities and affairs of the limited liability company shall be under the direction, and subject to the oversight, of its members. 4405
4406
4407

(2) The activities and affairs of a series shall be under the direction, and subject to the oversight, of the members associated with the series. 4408
4409
4410

(3) Division (A) (1) of this section shall not apply to the activities and affairs of a series. 4411
4412

(B) (1) Except as provided in division (C) of this section, a matter in the ordinary course of activities of the limited liability company may be decided by a majority of the members. 4413
4414
4415

(2) Except as provided in division (C) of this section, a matter in the ordinary course of activities of a series may be decided by a majority of the members associated with the series. 4416
4417
4418

(3) Division (B) (1) of this section shall not apply to matters of a series. 4419
4420

(C) (1) The consent of all members is required to do any of the following: 4421
4422

(a) Amend the operating agreement; 4423

(b) File a petition of the limited liability company for 4424

relief under Title 11 of the United States Code, or a successor 4425
statute of general application, or a comparable federal, state, 4426
or foreign law governing insolvency; 4427

(c) Undertake any act outside the ordinary course of the 4428
limited liability company's activities; 4429

(d) Undertake, authorize, or approve any other act or 4430
matter for which this chapter requires the consent of all 4431
members. 4432

(2) The consent of all members associated with a series is 4433
required to do either of the following: 4434

(a) Undertake any act outside the ordinary course of the 4435
series' activities; 4436

(b) Undertake, authorize, or approve any other act or 4437
matter for which this chapter requires the consent of all the 4438
members associated with a series. 4439

(D) Any matter requiring the consent of members may be 4440
decided without a meeting, and a member may appoint a proxy or 4441
other agent to consent or otherwise act for the member by 4442
signing an appointing record, personally or by the member's 4443
agent. 4444

(E) This chapter does not entitle a member to remuneration 4445
for services performed for a limited liability company. 4446

Sec. 1706.31. (A) Unless either a written operating 4447
agreement for the limited liability company or a written 4448
agreement with a member establishes additional fiduciary duties, 4449
in the event that there have been designated one or more 4450
managers to supervise or manage the activities or affairs of the 4451
limited liability company, the only obligation a member owes, in 4452

the member's capacity as a member, to the limited liability 4453
company and the other members is to discharge the member's 4454
duties and obligations under this chapter and the operating 4455
agreement in accordance with division (E) of this section. 4456
Divisions (C) and (D) of this section shall not apply to such a 4457
member. 4458

(B) Unless either a written operating agreement for the 4459
limited liability company or a written agreement with a member 4460
establishes additional fiduciary duties or the duties of the 4461
member have been modified, waived, or eliminated as contemplated 4462
by section 1706.08 of the Revised Code, in the event that there 4463
have not been designated one or more managers to supervise or 4464
manage the activities of the limited liability company, the only 4465
fiduciary duties a member owes to the limited liability company 4466
and the other members is the duty of loyalty and the duty of 4467
care set forth in divisions (C) and (D) of this section. 4468

(C) A member's duty of loyalty to the limited liability 4469
company and the other members is limited to the following: 4470

(1) To account to the limited liability company and hold 4471
for it any property, profit, or benefit derived by the member in 4472
the conduct and winding up of the limited liability company 4473
business or derived from a use by the member of limited 4474
liability company property or from the appropriation of a 4475
limited liability company opportunity; 4476

(2) To refrain from dealing with the limited liability 4477
company in the conduct or winding up of the limited liability 4478
company business as or on behalf of a party having an interest 4479
adverse to the limited liability company. 4480

(D) A member's duty of care to the limited liability 4481

company and the other members in the conduct and winding up of 4482
the limited liability company business is limited to refraining 4483
from engaging in grossly negligent or reckless conduct, 4484
intentional misconduct, or a knowing violation of law. 4485

(E) A member shall discharge the member's duties to the 4486
limited liability company and the other members under this 4487
chapter and under the operating agreement and exercise any 4488
rights consistent with the implied covenant of good faith and 4489
fair dealing. 4490

(F) A member does not violate a duty or obligation under 4491
this chapter or under the operating agreement merely because the 4492
member's conduct furthers the member's own interest. 4493

(G) All the members of a limited liability company may 4494
authorize or ratify, after full disclosure of all material 4495
facts, a specific act or transaction that otherwise would 4496
violate the duty of loyalty. It is a defense to a claim under 4497
division (C) (2) of this section and any comparable claim in 4498
equity or at common law that the transaction was fair to the 4499
limited liability company. If, as permitted, by this division or 4500
the limited liability company's operating agreement, a member 4501
enters into a transaction with a limited liability company that 4502
otherwise would be prohibited by division (C) (2) of this 4503
section, the member's rights and obligations arising from the 4504
transaction are the same as those of a person that is not a 4505
member. 4506

(H) This section applies to a person winding up the 4507
limited liability company business as the personal or legal 4508
representative of the last surviving member as if the person 4509
were a member. 4510

Sec. 1706.311. (A) Unless either a written operating 4511
agreement for the limited liability company or a written 4512
agreement with a manager establishes additional fiduciary duties 4513
or the duties of the manager have been modified, waived, or 4514
eliminated as contemplated by section 1706.08 of the Revised 4515
Code, the only fiduciary duties of a manager to the limited 4516
liability company or its members are the duty of loyalty and the 4517
duty of care set forth in divisions (B) and (C) of this section. 4518

(B) A manager's duty of loyalty to the limited liability 4519
company and its members is limited to the following: 4520

(1) To account to the limited liability company and hold 4521
for it any property, profit, or benefit derived by the manager 4522
in the conduct and winding up of the limited liability company 4523
business or derived from a use by the manager of limited 4524
liability company property or from the appropriation of a 4525
limited liability company opportunity; 4526

(2) To refrain from dealing with the limited liability 4527
company in the conduct or winding up of the limited liability 4528
company business as or on behalf of a party having an interest 4529
adverse to the limited liability company. 4530

(C) A manager's duty of care to the limited liability 4531
company in the conduct and winding up of the limited liability 4532
company activities is limited to acting in good faith, in a 4533
manner the manager reasonably believes to be in or not opposed 4534
to the best interests of the limited liability company. 4535

(D) For purposes of division (C) of this section, both of 4536
the following apply: 4537

(1) A manager of a limited liability company shall not be 4538
determined to have violated the manager's duties under division 4539

(C) of this section unless it is proved that the manager has not 4540
acted in good faith, in a manner the manager reasonably believes 4541
to be in or not opposed to the best interests of the limited 4542
liability company. 4543

(2) A manager shall not be considered to be acting in good 4544
faith if the manager has knowledge concerning the matter in 4545
question that would cause reliance on information, opinions, 4546
reports, or statements that are prepared or presented by any of 4547
the persons described in section 1706.331 of the Revised Code to 4548
be unwarranted. 4549

(E) A manager shall be liable for monetary relief for a 4550
violation of the manager's duties under division (C) of this 4551
section only if it is proved that the manager's action or 4552
failure to act involved an act or omission undertaken with 4553
deliberate intent to cause injury to the limited liability 4554
company or undertaken with reckless disregard for the best 4555
interests of the company. This division does not apply if, and 4556
only to the extent that, at the time of a manager's act or 4557
omission that is the subject of complaint, either of the 4558
following is true: 4559

(1) The articles or the operating agreement of the limited 4560
liability company state by specific reference to division (E) of 4561
this section that the provisions of this division do not apply 4562
to the limited liability company. 4563

(2) A written agreement between the manager and the 4564
limited liability company states by specific reference to 4565
division (E) of this section that the provisions of this 4566
division do not apply to the manager. 4567

(F) All the members of a limited liability company may 4568

authorize or ratify, after full disclosure of all material 4569
facts, a specific act or transaction that would otherwise 4570
violate the duty of loyalty. It is a defense to a claim under 4571
division (B) (2) of this section and any comparable claim in 4572
equity or at common law that the transaction was fair to the 4573
limited liability company. If, as permitted by this division or 4574
the operating agreement, a manager enters into a transaction 4575
with the limited liability company that otherwise would be 4576
prohibited by division (B) (2) of this section, the manager's 4577
rights and obligations arising from the transaction are the same 4578
as those of a person that is not a manager. 4579

(G) A manager shall discharge the duties to the limited 4580
liability company and the members under this chapter and under 4581
the operating agreement and exercise any rights consistently 4582
with the implied covenant of good faith and fair dealing. 4583

(H) Nothing in this section affects the duties of a 4584
manager who acts in any capacity other than the manager's 4585
capacity as a manager. If a manager of a limited liability 4586
company also is a member of the limited liability company, the 4587
actions taken in the capacity as a member of the limited 4588
liability company shall be subject to section 1706.31 of the 4589
Revised Code. Nothing in this section affects any contractual 4590
obligations of a manager to the limited liability company. 4591

Sec. 1706.32. A limited liability company, or a series 4592
thereof, may indemnify and hold harmless a member or other 4593
person, pay in advance or reimburse expenses incurred by a 4594
member or other person, and purchase and maintain insurance on 4595
behalf of a member or other person. 4596

Sec. 1706.33. (A) Upon reasonable notice provided to the 4597
limited liability company, a member may inspect and copy during 4598

regular business hours, at a reasonable location specified by 4599
the limited liability company, any record maintained by the 4600
limited liability company, to the extent the information is 4601
material to the member's rights and duties under the operating 4602
agreement or this chapter. 4603

(B) A limited liability company may charge a person that 4604
makes a demand under this section the reasonable costs of labor 4605
and materials for copying. 4606

(C) A member or dissociated member may exercise rights 4607
under this section through an agent or, in the case of an 4608
individual under legal disability, a legal representative. Any 4609
restriction or condition imposed by the operating agreement or 4610
under division (E) of this section applies both to the agent or 4611
legal representative and the member or dissociated member. 4612

(D) The rights under this section do not extend to an 4613
assignee who is not admitted as a member. 4614

(E) In addition to any restriction or condition stated in 4615
its operating agreement, a limited liability company, as a 4616
matter within the ordinary course of its activities, may do 4617
either of the following: 4618

(1) Impose reasonable restrictions and conditions on 4619
access to and use of information to be furnished under this 4620
section, including designating information confidential and 4621
imposing nondisclosure and safeguarding obligations on the 4622
recipient; 4623

(2) Keep confidential from the members and any other 4624
persons, for such period of time as the limited liability 4625
company deems reasonable, any information that the limited 4626
liability company reasonably believes to be in the nature of 4627

trade secrets or other information the disclosure of which the 4628
limited liability company in good faith believes is not in the 4629
best interest of the limited liability company or could damage 4630
the limited liability company or its activities, or that the 4631
limited liability company is required by law or by agreement 4632
with a third party to keep confidential. 4633

Sec. 1706.331. Each member and agent of a limited 4634
liability company shall be fully protected in relying in good 4635
faith upon the records of the limited liability company and upon 4636
information, opinions, reports, or statements presented by 4637
another member or agent of the limited liability company, or by 4638
any other person as to matters the member or the agent 4639
reasonably believes are within that other person's professional 4640
or expert competence, including information, opinions, reports, 4641
or statements as to any of the following: 4642

(A) The value and amount of the assets, liabilities, 4643
profits, or losses of the limited liability company, or a series 4644
thereof; 4645

(B) The value and amount of assets or reserves or 4646
contracts, agreements, or other undertakings that would be 4647
sufficient to pay claims and obligations of the limited 4648
liability company, or series thereof, or to make reasonable 4649
provision to pay those claims and obligations; 4650

(C) Any other facts pertinent to the existence and amount 4651
of assets from which distributions to members or creditors might 4652
properly be paid. 4653

Sec. 1706.332. If a member dies, the deceased member's 4654
personal representative or other legal representative may, for 4655
purposes of settling the estate, exercise the rights of a 4656

current member under section 1706.33 of the Revised Code. 4657

Sec. 1706.34. The only interest of a member that is 4658
assignable is the member's membership interest. A membership 4659
interest is personal property. 4660

Sec. 1706.341. (A) An assignment, in whole or in part, of 4661
a membership interest: 4662

(1) Is permissible; 4663

(2) (a) Does not by itself cause a member to cease to be a 4664
member of the limited liability company; 4665

(b) Does not by itself cause a member to cease to be 4666
associated with a series of the limited liability company. 4667

(3) Does not by itself cause a dissolution and winding up 4668
of the limited liability company, or a series thereof; 4669

(4) Subject to section 1706.332 of the Revised Code, does 4670
not entitle the assignee to do either of the following: 4671

(a) Participate in the management or conduct of the 4672
activities of the limited liability company, or a series 4673
thereof; 4674

(b) Have access to records or other information concerning 4675
the activities of the limited liability company, or a series 4676
thereof. 4677

(B) An assignee has the right to receive, in accordance 4678
with the assignment, distributions to which the assignor would 4679
otherwise be entitled. 4680

(C) A membership interest may be evidenced by a 4681
certificate of membership interest issued by the limited 4682
liability company, or a series thereof. An operating agreement 4683

may provide for the assignment of the membership interest 4684
represented by the certificate and make other provisions with 4685
respect to the certificate. 4686

(D) A limited liability company, or a series thereof, 4687
shall not issue a certificate of membership interest in bearer 4688
form. 4689

(E) A limited liability company, or a series thereof, need 4690
not give effect to an assignee's rights under this section until 4691
the limited liability company, or a series thereof, has notice 4692
of the assignment. 4693

(F) Except as otherwise provided in division (J) of 4694
section 1706.411 of the Revised Code, when a member assigns a 4695
membership interest, the assignor retains the rights of a member 4696
other than the right to distributions assigned and retains all 4697
duties and obligations of a member. 4698

(G) When a member assigns a membership interest to a 4699
person that is admitted as a member with respect to the assigned 4700
interest, the assignee is only liable for the member's 4701
obligations under section 1706.281 of the Revised Code to the 4702
extent that the obligations are known to the assignee when the 4703
assignee voluntarily accepts admission as a member. 4704

Sec. 1706.342. (A) On application to a court of competent 4705
jurisdiction by any judgment creditor of a member or assignee, 4706
the court may charge the membership interest of the judgment 4707
debtor with payment of the unsatisfied amount of the judgment 4708
with interest. To the extent so charged and after the limited 4709
liability company has been served with the charging order, the 4710
judgment creditor has only the right to receive any distribution 4711
or distributions to which the judgment debtor would otherwise be 4712

entitled in respect of the membership interest. 4713

(B) After the limited liability company is served with a 4714
charging order, the limited liability company or any member 4715
shall be entitled to pay to or deposit with the clerk of the 4716
court so issuing the charging order any distribution or 4717
distributions to which the judgment debtor would otherwise be 4718
entitled in respect of the charged membership interest, and the 4719
payment or deposit shall discharge the limited liability company 4720
and the judgment debtor from liability for the amount so paid or 4721
deposited and any interest that might accrue thereon. Upon 4722
receipt of the payment or deposit, the clerk of the court shall 4723
notify the judgment creditor of the receipt of the payment or 4724
deposit. The judgment creditor shall, after any payment or 4725
deposit into the court, petition the court for payment of so 4726
much of the amount paid or deposited as may be necessary to pay 4727
the judgment creditor's judgment. To the extent the court has 4728
excess amounts paid or deposited on hand after the payment to 4729
the judgment creditor, the excess amounts paid or deposited 4730
shall be distributed to the judgment debtor, and the charging 4731
order shall be extinguished. The court may, in its discretion, 4732
order the clerk to deposit, pending the judgment creditor's 4733
petition, any money paid or deposited with the clerk, in an 4734
interest bearing account at a bank authorized to receive 4735
deposits of public funds. 4736

(C) A charging order constitutes a lien on the judgment 4737
debtor's membership interest. 4738

(D) Subject to division (C) of this section, both of the 4739
following apply: 4740

(1) A judgment debtor that is a member retains the rights 4741
of a member and remains subject to all duties and obligations of 4742

a member. 4743

(2) A judgment debtor that is an assignee retains the 4744
rights of an assignee and remains subject to all duties and 4745
obligations of an assignee. 4746

(E) This chapter does not deprive any member or assignee 4747
of the benefit of any exemption laws applicable to the member's 4748
or assignee's membership interest. 4749

(F) This section provides the sole and exclusive remedy by 4750
which a judgment creditor of a member or assignee may satisfy a 4751
judgment out of the judgment debtor's membership interest, and 4752
the judgment creditor shall have no right to foreclose, under 4753
this chapter or any other law, upon the charging order, the 4754
charging order lien, or the judgment debtor's membership 4755
interest. A judgment creditor of a member or assignee has no 4756
right to obtain possession of, or otherwise exercise legal or 4757
equitable remedies with respect to, the judgment debtor's 4758
membership interest or the property of a limited liability 4759
company. Court orders for actions or requests for accounts and 4760
inquiries that the judgment debtor might have made to the 4761
limited liability company are not available to a judgment 4762
creditor attempting to satisfy the judgment out of the judgment 4763
debtor's membership interest and may not be ordered by a court. 4764

Sec. 1706.41. (A) A person shall not voluntarily 4765
dissociate from a limited liability company. 4766

(B) A person's dissociation from a limited liability 4767
company is wrongful only if one of the following applies: 4768

(1) The dissociation is in breach of an express provision 4769
of the operating agreement. 4770

(2) The person is expelled as a member by a determination 4771

of a tribunal under division (D) of section 1706.411 of the 4772
Revised Code. 4773

(3) The person is dissociated by becoming a debtor in 4774
bankruptcy or making a general assignment for the benefit of 4775
creditors. 4776

(C) A person that wrongfully dissociates as a member is 4777
liable to the limited liability company and, subject to section 4778
1706.61 of the Revised Code, to the other members for damages 4779
caused by the dissociation. The liability is in addition to any 4780
other debt, obligation, or liability of the member to the 4781
limited liability company or the other members. 4782

Sec. 1706.411. A person is dissociated as a member from a 4783
limited liability company in any of the following circumstances: 4784

(A) An event stated in the operating agreement as causing 4785
the person's dissociation occurs. 4786

(B) The person is expelled as a member pursuant to the 4787
operating agreement. 4788

(C) The person is expelled as a member by the unanimous 4789
consent of the other members if any of the following apply: 4790

(1) It is unlawful to carry on the limited liability 4791
company's activities with the person as a member. 4792

(2) The person is an entity and, within ninety days after 4793
the limited liability company notifies the person that it will 4794
be expelled as a member because the person has filed a statement 4795
of dissolution or the equivalent, or its right to transact 4796
business has been suspended by its jurisdiction of formation, 4797
the statement of dissolution or the equivalent has not been 4798
revoked or its right to transact business has not been 4799

reinstated. 4800

(3) The person is an entity and, within ninety days after 4801
the limited liability company notifies the person that it will 4802
be expelled as a member because the person has been dissolved 4803
and its activities are being wound up, the entity has not been 4804
reinstated or the dissolution and winding up have not been 4805
revoked or canceled. 4806

(D) On application by the limited liability company, the 4807
person is expelled as a member by tribunal order for any of the 4808
following reasons: 4809

(1) The person has engaged, or is engaging, in wrongful 4810
conduct that has adversely and materially affected, or will 4811
adversely and materially affect, the limited liability company's 4812
activities. 4813

(2) The person has willfully or persistently committed, or 4814
is willfully or persistently committing, a material breach of 4815
the operating agreement or the person's duties or obligations 4816
under this chapter or other applicable law. 4817

(3) The person has engaged, or is engaging, in conduct 4818
relating to the limited liability company's activities that 4819
makes it not reasonably practicable to carry on the activities 4820
with the person as a member. 4821

(E) In the case of a person who is an individual, the 4822
person dies, a guardian or general conservator is appointed for 4823
the person, or a tribunal determines that the person has 4824
otherwise become incapable of performing the person's duties as 4825
a member under this chapter or the operating agreement. 4826

(F) The person becomes a debtor in bankruptcy, executes an 4827
assignment for the benefit of creditors, or seeks, consents, or 4828

acquiesces to the appointment of a trustee, receiver, or 4829
liquidator of the person or of all or substantially all of the 4830
person's property. This division shall not apply to a person who 4831
is the sole remaining member of a limited liability company. 4832

(G) In the case of a person that is a trust or is acting 4833
as a member by virtue of being a trustee of a trust, the trust's 4834
entire membership interest in the limited liability company is 4835
distributed, but not solely by reason of the substitution of a 4836
successor trustee. 4837

(H) In the case of a person that is an estate or is acting 4838
as a member by virtue of being a personal representative of an 4839
estate, the estate's entire membership interest in the limited 4840
liability company is distributed, but not solely by reason of 4841
the substitution of a successor personal representative. 4842

(I) In the case of a member that is not an individual, the 4843
legal existence of the person otherwise terminates. 4844

(J) There has been an assignment of all of the person's 4845
membership interest other than an assignment for security 4846
purposes. 4847

Sec. 1706.412. (A) A person who has dissociated as a 4848
member shall have no right to participate as a member in the 4849
activities and affairs of the limited liability company and is 4850
entitled only to receive the distributions to which that member 4851
would have been entitled if the member had not dissociated. 4852

(B) Upon a person's dissociation, the member's duty of 4853
loyalty and duty of care under divisions (C) and (D) of section 4854
1706.31 of the Revised Code continue only with regard to matters 4855
arising and events occurring before the member's dissociation, 4856
unless the member participates in winding up the limited 4857

liability company's business pursuant to section 1706.472 of the 4858
Revised Code. 4859

(C) A person's dissociation as a member does not of itself 4860
discharge the person from any debt, obligation, or liability to 4861
a limited liability company or the other members that the person 4862
incurred while a member. 4863

Sec. 1706.46. (A) Except as otherwise provided in this 4864
division, upon reinstatement of a limited liability company's 4865
articles or a foreign limited liability company's registration 4866
in accordance with section 1706.09 of the Revised Code, the 4867
rights and privileges, including all real or personal property 4868
rights and credits and all contract and other rights, of the 4869
company existing at the time its articles or registration were 4870
canceled shall be fully vested in the company as if its articles 4871
or registration had not been canceled, and the company shall 4872
again be entitled to exercise the rights and privileges 4873
authorized by its articles. The name of a company whose articles 4874
have been canceled shall be reserved for a period of one year 4875
after the date of cancellation. If the reinstatement is not made 4876
within one year after the date of the cancellation of its 4877
articles and it appears that a corporate name, limited liability 4878
company name, limited liability partnership name, limited 4879
partnership name, trade name, or assumed name has been filed, 4880
the name of which is not distinguishable upon the record as 4881
provided in section 1706.07 of the Revised Code, the secretary 4882
of state shall require the applicant for reinstatement, as a 4883
condition prerequisite to such reinstatement, to amend its 4884
articles or registration by changing its name. 4885

(B) Upon reinstatement in accordance with section 1706.09 4886
of the Revised Code, both of the following apply to the exercise 4887

of or an attempt to exercise any rights or privileges, including 4888
entering into or performing any contracts, on behalf of the 4889
company by an officer, agent, or employee of the company, after 4890
cancellation and prior to reinstatement of the articles or 4891
registration: 4892

(1) The exercise of or an attempt to exercise any rights 4893
or privileges on behalf of the company by the officer, agent, or 4894
employee of the company has the same force and effect that the 4895
exercise of or an attempt to exercise the right or privilege 4896
would have had if the company's articles or registration had not 4897
been canceled, if both of the following apply: 4898

(a) The exercise of or an attempt to exercise the right or 4899
privilege was within the scope of the company's articles that 4900
existed prior to cancellation; 4901

(b) The officer, agent, or employee had no knowledge that 4902
the company's articles or registration had been canceled. 4903

(2) The company is liable exclusively for the exercise of 4904
or an attempt to exercise any rights or privileges on behalf of 4905
the company by an officer, agent, or employee of the company, if 4906
the conditions set forth in divisions (B)(1)(a) and (b) of this 4907
section are met. 4908

(C) Upon reinstatement of a company's articles or 4909
registration in accordance with section 1706.09 of the Revised 4910
Code, the exercise of or an attempt to exercise any rights or 4911
privileges on behalf of the company by an officer, agent, or 4912
employee of the company, after cancellation and prior to 4913
reinstatement of the articles or registration, does not 4914
constitute a violation of section 1706.09 of the Revised Code, 4915
if the conditions set forth in divisions (B)(1)(a) and (b) of 4916

this section are met. 4917

(D) This section is remedial in nature and is to be 4918
construed liberally to accomplish the purpose of providing full 4919
reinstatement of a limited liability company's articles of 4920
organization or a foreign limited liability company's 4921
registration, in accordance with this section, to the time of 4922
the cancellation of the articles or registration. 4923

Sec. 1706.461. (A) (1) A limited liability company or 4924
foreign limited liability company may appeal a cancellation 4925
under division (L) of section 1706.09 of the Revised Code within 4926
thirty days after the effective date of the cancellation. The 4927
appeal shall be made to one of the following: 4928

(a) The court of common pleas of the county in which the 4929
street address of the limited liability company or foreign 4930
limited liability company's principal office is located; 4931

(b) If the limited liability company or foreign limited 4932
liability company has no principal office in this state, to the 4933
court of common pleas of the county in which the street address 4934
of its statutory agent is located; 4935

(c) If the limited liability company or foreign limited 4936
liability company has no statutory agent, to the Franklin county 4937
court of common pleas. 4938

(2) The limited liability company or foreign limited 4939
liability company shall commence its appeal by petitioning the 4940
appropriate court to set aside the cancellation or to determine 4941
that the limited liability company or foreign limited liability 4942
company has cured the grounds for cancellation and attaching to 4943
the petition copies of those records of the secretary of state 4944
as may be relevant. 4945

(B) The appropriate court may take, or may summarily order 4946
the secretary of state to take, whatever action the court 4947
considers appropriate. 4948

(C) The appropriate court's order or decision may be 4949
appealed as in any other civil proceeding. 4950

Sec. 1706.47. A limited liability company is dissolved, 4951
and its activities shall be wound up, upon the occurrence of any 4952
of the following: 4953

(A) An event or circumstance that the operating agreement 4954
states causes dissolution; 4955

(B) The consent of all the members; 4956

(C) A limited liability company with canceled articles has 4957
failed to cure the grounds for cancellation for three years or 4958
more and any member or person authorized pursuant to section 4959
1706.18 of the Revised Code consents to the dissolution; 4960

(D) The passage of ninety consecutive days after the 4961
occurrence of the dissociation of the last remaining member; 4962
provided that upon dissociation of the last remaining member 4963
pursuant to division (E) of section 1706.411 of the Revised 4964
Code, the limited liability company shall not be dissolved if 4965
either of the following applies: 4966

(1) The operating agreement provides for the admission of 4967
a substitute member effective prior to the passage of such time 4968
period; 4969

(2) A substitute member has been admitted, as evidenced by 4970
a written record, prior to the passage of such time period, 4971
which admission is to be effective as of the date of such 4972
dissociation. 4973

(E) On application by a member, the entry by the 4974
appropriate court of an order dissolving the limited liability 4975
company on the grounds that it is not reasonably practicable to 4976
carry on the limited liability company's activities in 4977
conformity with the operating agreement. 4978

Sec. 1706.471. (A) A dissolved limited liability company 4979
continues its existence as a limited liability company but may 4980
not carry on any activities except as is appropriate to wind up 4981
and liquidate its activities and affairs. Appropriate activities 4982
include all of the following: 4983

(1) Collecting its assets; 4984

(2) Disposing of its properties that will not be 4985
distributed in kind to persons owning membership interests; 4986

(3) Discharging or making provisions for discharging its 4987
liabilities; 4988

(4) Distributing its remaining property in accordance with 4989
section 1706.475 of the Revised Code; 4990

(5) Doing every other act necessary to wind up and 4991
liquidate its activities and affairs. 4992

(B) In winding up its activities, a limited liability 4993
company may do any of the following: 4994

(1) Deliver to the secretary of state for filing, on a 4995
form prescribed by the secretary of state, a certificate of 4996
dissolution setting forth all of the following: 4997

(a) The name and registration number of the limited 4998
liability company; 4999

(b) That the limited liability company has dissolved; 5000

<u>(c) The effective date of the certificate of dissolution</u>	5001
<u>if it is not to be effective upon the filing. Such an effective</u>	5002
<u>date shall be a date certain and shall not be a date prior to</u>	5003
<u>the date of filing.</u>	5004
<u>(d) A copy of the notice it will publish pursuant to</u>	5005
<u>division (A) of section 1706.474 of the Revised Code.</u>	5006
<u>(e) Any other information the limited liability company</u>	5007
<u>considers proper.</u>	5008
<u>(2) Preserve the limited liability company's activities</u>	5009
<u>and property as a going concern for a reasonable time;</u>	5010
<u>(3) Prosecute, defend, or settle actions or proceedings</u>	5011
<u>whether civil, criminal, or administrative;</u>	5012
<u>(4) Make an assignment of the limited liability company's</u>	5013
<u>property;</u>	5014
<u>(5) Resolve disputes by mediation or arbitration;</u>	5015
<u>(6) Merge or convert in accordance with sections 1706.71</u>	5016
<u>to 1706.74 of the Revised Code.</u>	5017
<u>(C) A limited liability company's dissolution, in itself:</u>	5018
<u>(1) Is not an assignment of the limited liability</u>	5019
<u>company's property;</u>	5020
<u>(2) Does not prevent the commencement of a proceeding by</u>	5021
<u>or against the limited liability company in its limited</u>	5022
<u>liability company name;</u>	5023
<u>(3) Does not abate or suspend a proceeding pending by or</u>	5024
<u>against the limited liability company on the effective date of</u>	5025
<u>dissolution;</u>	5026
<u>(4) Does not terminate the authority of its statutory</u>	5027

agent; 5028

(5) Does not abate, suspend, or otherwise alter the 5029
application of section 1706.26 of the Revised Code. 5030

Sec. 1706.472. (A) Subject to division (C) (5) of section 5031
1706.471 of the Revised Code, after dissolution, the remaining 5032
members, if any, and if none, a person appointed by all holders 5033
of the membership interest last assigned by the last person to 5034
have been a member, may wind up the limited liability company's 5035
activities. 5036

(B) The appropriate tribunal may order supervision of the 5037
winding up of a dissolved limited liability company, including 5038
the appointment of a person to wind up the limited liability 5039
company's activities as follows: 5040

(1) On application of a member, if the applicant 5041
establishes good cause; 5042

(2) On application of an assignee, if both of the 5043
following apply: 5044

(a) The limited liability company does not have any 5045
members; 5046

(b) Within a reasonable time following the dissolution, a 5047
person has not been appointed pursuant to division (A) of this 5048
section. 5049

(3) In connection with a proceeding under division (E) of 5050
section 1706.47 of the Revised Code. 5051

Sec. 1706.473. (A) A dissolved limited liability company 5052
may dispose of any known claims against it by following the 5053
procedures described in division (B) of this section at any time 5054
after the effective date of the dissolution of the limited 5055

liability company. 5056

(B) A dissolved limited liability company may give notice 5057
of its dissolution in a record to the holder of any known claim. 5058
The notice shall do all of the following: 5059

(1) Identify the dissolved limited liability company; 5060

(2) Describe the information required to be included in a 5061
claim; 5062

(3) Provide a mailing address to which the claim is to be 5063
sent; 5064

(4) State the deadline, by which the dissolved limited 5065
liability company must receive the claim. The deadline shall not 5066
be sooner than ninety days from the effective date of the 5067
notice. 5068

(5) State that if not sooner barred, the claim will be 5069
barred if not received by the deadline. 5070

(C) Unless sooner barred by any other statute limiting 5071
actions, a claim against a dissolved limited liability company 5072
is barred in either of the following circumstances: 5073

(1) A claimant who was given notice under division (B) of 5074
this section does not deliver the claim to the dissolved limited 5075
liability company by the deadline. 5076

(2) A claimant whose claim was rejected by the dissolved 5077
limited liability company does not commence a proceeding to 5078
enforce the claim within ninety days from the effective date of 5079
the rejected notice. 5080

(D) For purposes of this section, "claim" includes an 5081
unliquidated claim, but does not include either of the 5082

following: 5083

(1) A contingent liability that has not matured so that 5084
there is no immediate right to bring suit; 5085

(2) A claim based on an event occurring after the 5086
effective date of dissolution. 5087

(E) Nothing in this section shall be construed to extend 5088
any otherwise applicable statute or period of limitations. 5089

Sec. 1706.474. (A) A dissolved limited liability company 5090
may publish notice of its dissolution and request that persons 5091
with claims against the dissolved limited liability company 5092
present them in accordance with the notice. 5093

(B) The notice described in division (A) of this section 5094
shall meet all of the following requirements: 5095

(1) It shall be posted prominently on the principal web 5096
site then maintained by the limited liability company, if any, 5097
and provided to the secretary of state to be posted on the web 5098
site maintained by the secretary of state in accordance with 5099
division (J) of this section. The notice shall be considered 5100
published when posted on both web sites or, if the limited 5101
liability company does not then maintain a web site, when posted 5102
on the web site maintained by the secretary of state. 5103

(2) It shall describe the information that must be 5104
included in a claim and provide a mailing address to which the 5105
claim must be sent. 5106

(3) It shall state that if not sooner barred, a claim 5107
against the dissolved limited liability company will be barred 5108
unless a proceeding to enforce the claim is commenced within two 5109
years after the publication of the notice. 5110

(C) If a dissolved limited liability company publishes a notice in accordance with division (B) of this section, unless sooner barred by any other statute limiting actions, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within two years after the publication of the notice: 5111
5112
5113
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5116
5117

(1) A claimant who was not given notice under division (B) of section 1706.473 of the Revised Code; 5118
5119

(2) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on by the dissolved limited liability company; 5120
5121
5122

(3) A claimant whose claim is contingent at the effective date of the dissolution of the limited liability company, or is based on an event occurring after the effective date of the dissolution of the limited liability company. 5123
5124
5125
5126

(D) A claim that is not barred under this section, any other statute limiting actions, or section 1706.473 of the Revised Code may be enforced as follows: 5127
5128
5129

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; 5130
5131

(2) Except as provided in division (H) of this section, if the assets of a dissolved limited liability company have been distributed after dissolution, against a member or assignee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or assignee after dissolution, whichever is less. A person's total liability for all claims under division (D) of this section may not exceed the total amount of assets distributed to the person after 5132
5133
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dissolution of the limited liability company. 5140

(E) A dissolved limited liability company that published a 5141
notice under this section may file an application with the 5142
appropriate court in the county in which the dissolved limited 5143
liability company's principal office is located or, if it has 5144
none in this state, in the county in which the dissolved limited 5145
liability company's statutory agent is or was last located, for 5146
a determination of the amount and form of security to be 5147
provided for payment of the following claims: 5148

(1) Claims that are contingent; 5149

(2) Claims that have not been made known to the dissolved 5150
limited liability company; 5151

(3) Claims that are based on an event occurring after the 5152
effective date of the dissolution of the limited liability 5153
company but that, based on the facts known to the dissolved 5154
limited liability company, are reasonably estimated to arise 5155
after the effective date of the dissolution of the limited 5156
liability company. 5157

Provision need not be made for any claim that is or is 5158
reasonably anticipated to be barred under division (C) of this 5159
section. 5160

(F) Within ten days after the filing of the application 5161
provided for in division (E) of this section, notice of the 5162
proceeding shall be given by the dissolved limited liability 5163
company to each potential claimant as described in division (E) 5164
of this section. 5165

(G) The appropriate court may appoint a guardian ad litem 5166
to represent all claimants whose identities are unknown in any 5167
proceeding brought under this section. The reasonable fees and 5168

expenses of the guardian, including all reasonable expert 5169
witness fees, shall be paid by the dissolved limited liability 5170
company. 5171

(H) Provision by the dissolved limited liability company 5172
for security in the amount and the form ordered by the 5173
appropriate court under division (E) of this section shall 5174
satisfy the dissolved limited liability company's obligation 5175
with respect to claims that are contingent, have not been made 5176
known to the dissolved limited liability company, or are based 5177
on an event occurring after the effective date of the 5178
dissolution of the limited liability company. Such claims shall 5179
not be enforced against a person owning a membership interest to 5180
whom assets have been distributed by the dissolved limited 5181
liability company after the effective date of the dissolution of 5182
the limited liability company. 5183

(I) Nothing in this section shall be construed to extend 5184
any otherwise applicable statute of limitations. 5185

(J) (1) Except as provided in division (J) (2) of this 5186
section, the secretary of state shall make both of the following 5187
available to the public in a format that is searchable, 5188
viewable, and accessible through the internet: 5189

(a) A list of all limited liability companies that have 5190
filed certificates of dissolution; 5191

(b) For each dissolved limited liability company on the 5192
list described in division (J) (1) (a) of this section, a copy of 5193
both the certificate of dissolution and the notice delivered 5194
under division (B) of this section. 5195

(2) After the materials relating to any dissolved limited 5196
liability company have been posted for five years, the secretary 5197

of state may remove from the web site the information that the 5198
secretary posted pursuant to division (J) (1) of this section 5199
that relates to that dissolved company. 5200

Sec. 1706.475. (A) Upon the winding up of a limited 5201
liability company, payment or adequate provision for payment, 5202
shall be made to creditors, including members who are creditors, 5203
in satisfaction of liabilities of the limited liability company. 5204

(B) After a limited liability company complies with 5205
division (A) of this section, any surplus shall be distributed 5206
as follows: 5207

(1) First, to each person owning a membership interest 5208
that reflects contributions made on account of the membership 5209
interest and not previously returned, an amount equal to the 5210
value of the person's unreturned contributions; 5211

(2) Then to each person owning a membership interest in 5212
the proportions in which the owners of membership interests 5213
share in distributions before dissolution. 5214

(C) If the limited liability company does not have 5215
sufficient surplus to comply with division (B) (1) of this 5216
section, any surplus shall be distributed among the owners of 5217
membership interests in proportion to the value of their 5218
respective unreturned contributions. 5219

Sec. 1706.51. (A) The law of the state or other 5220
jurisdiction under which a foreign limited liability company is 5221
formed governs all of the following: 5222

(1) The organization and internal affairs of the foreign 5223
limited liability company; 5224

(2) The liability of a member as a member for the debts, 5225

<u>obligations, or other liabilities of the foreign limited</u>	5226
<u>liability company or a series thereof;</u>	5227
<u>(3) The authority of the members and agents of a foreign</u>	5228
<u>limited liability company or a series thereof;</u>	5229
<u>(4) The liability of the following for the obligations of</u>	5230
<u>another series or the foreign limited liability company:</u>	5231
<u>(a) The assets of the foreign limited liability company;</u>	5232
<u>(b) The assets of a series thereof.</u>	5233
<u>(B) A foreign limited liability company's application for</u>	5234
<u>registration as a foreign limited liability company may not be</u>	5235
<u>denied by reason of any difference between the laws of the</u>	5236
<u>jurisdiction under which the limited liability company is formed</u>	5237
<u>and the laws of this state.</u>	5238
<u>(C) A foreign limited liability company, including a</u>	5239
<u>foreign limited liability company that has filed a registration</u>	5240
<u>as a foreign limited liability company, may not engage in any</u>	5241
<u>activities in this state that a limited liability company is</u>	5242
<u>forbidden to engage in by the laws of this state.</u>	5243
<u>(D) A foreign limited liability company that has filed a</u>	5244
<u>registration as a foreign limited liability company shall in</u>	5245
<u>this state:</u>	5246
<u>(1) Have the same but no greater rights than a limited</u>	5247
<u>liability company;</u>	5248
<u>(2) Have the same but no greater privileges than a limited</u>	5249
<u>liability company;</u>	5250
<u>(3) Except as otherwise provided by this chapter, be</u>	5251
<u>subject to the same duties, restrictions, penalties, and</u>	5252

liabilities now or later imposed on a limited liability company. 5253

Sec. 1706.511. (A) In order for a foreign limited 5254
liability company or any one or more of its series to transact 5255
business in this state, the foreign limited liability company 5256
shall register with the secretary of state. Neither a foreign 5257
limited liability company nor any one or more of its series may 5258
transact business in this state until the registration has been 5259
approved by the secretary of state and the foreign limited 5260
liability company or series is otherwise in compliance with 5261
sections 1706.51 to 1706.515 of the Revised Code. 5262

(B) The registration as a foreign limited liability 5263
company shall state all of the following: 5264

(1) The name of the foreign limited liability company and, 5265
if the name does not comply with section 1706.07 of the Revised 5266
Code, the assumed name adopted pursuant to division (A) of 5267
section 1706.513 of the Revised Code; 5268

(2) The foreign limited liability company's jurisdiction 5269
of formation; 5270

(3) The name and street address of the foreign limited 5271
liability company's statutory agent and a written acceptance of 5272
the appointment that is signed by the agent; 5273

(4) That the foreign limited liability company is a 5274
foreign limited liability company; 5275

(5) The information required by division (C) of this 5276
section, if applicable. 5277

(C) If a foreign limited liability company establishes or 5278
provides for the establishment of one or more series of assets, 5279
it shall state all of the following in the registration as a 5280

<u>foreign limited liability company:</u>	5281
<u>(1) The fact that it provides for the establishment of one</u>	5282
<u>or more series of assets;</u>	5283
<u>(2) Whether the debts, liabilities, and obligations</u>	5284
<u>incurred, contracted for, or otherwise existing with respect to</u>	5285
<u>a particular series, if any, shall be enforceable against the</u>	5286
<u>assets of that series only, and not against the assets of the</u>	5287
<u>foreign limited liability company generally or any other series</u>	5288
<u>thereof;</u>	5289
<u>(3) Whether any of the debts, liabilities, obligations,</u>	5290
<u>and expenses incurred, contracted for, or otherwise existing</u>	5291
<u>with respect to the foreign limited liability company generally</u>	5292
<u>or any other series thereof shall be enforceable against the</u>	5293
<u>assets of that series.</u>	5294
<u>(D) Upon any change in circumstances that makes any</u>	5295
<u>statement contained in its filed registration as a foreign</u>	5296
<u>limited liability company no longer true, a foreign limited</u>	5297
<u>liability company authorized to transact business in this state</u>	5298
<u>shall deliver to the secretary of state for filing an</u>	5299
<u>appropriate certificate of correction, on a form as prescribed</u>	5300
<u>by the secretary of state, so that its statement of foreign</u>	5301
<u>qualification is in all respects true.</u>	5302
<u>(E) A foreign limited liability company is authorized to</u>	5303
<u>transact business in this state from the effective date of its</u>	5304
<u>registration as a foreign limited liability company until the</u>	5305
<u>earlier of the effective date of its cancellation of foreign</u>	5306
<u>limited liability company or the effective date of the secretary</u>	5307
<u>of state's cancellation of the registration as a foreign limited</u>	5308
<u>liability company in accordance with section 1706.09 of the</u>	5309

Revised Code. 5310

Sec. 1706.512. (A) A foreign limited liability company 5311
shall not be considered to be transacting business in this state 5312
within the meaning of sections 1706.51 to 1706.515 of the 5313
Revised Code by reason of its or any one or more of its series' 5314
carrying on in this state any of the following actions: 5315

(1) Maintaining, defending, or settling in its own behalf 5316
any proceeding or dispute; 5317

(2) Holding meetings or carrying on any other activities 5318
concerning its internal affairs; 5319

(3) Maintaining accounts in financial institutions; 5320

(4) Maintaining offices or agencies for the assignment, 5321
exchange, and registration of the foreign limited liability 5322
company's or its series' own securities or interests or 5323
maintaining trustees or depositories with respect to those 5324
securities or interests; 5325

(5) Selling through independent contractors; 5326

(6) Soliciting or obtaining orders, whether by mail or 5327
electronic means or through employees or agents or otherwise, if 5328
the orders require acceptance outside this state before they 5329
become contracts; 5330

(7) Creating, as borrower or lender, or acquiring 5331
indebtedness, mortgages, or security interests in real or 5332
personal property; 5333

(8) Securing or collecting debts in its own behalf or 5334
enforcing mortgages or other security interests in real or 5335
personal property securing those debts, and holding, protecting, 5336
and maintaining property so acquired; 5337

<u>(9) Owning real or personal property;</u>	5338
<u>(10) Conducting an isolated transaction that is not one in the course of repeated transactions of a like nature;</u>	5339 5340
<u>(11) Transacting business in interstate commerce.</u>	5341
<u>(B) A foreign limited liability company shall not be considered to be transacting business in this state solely because it or any one or more of its series:</u>	5342 5343 5344
<u>(1) Owns a controlling interest in an entity that is transacting business in this state;</u>	5345 5346
<u>(2) Is a limited partner of a limited partnership or foreign limited partnership that is transacting business in this state;</u>	5347 5348 5349
<u>(3) Is a member of a limited liability company or foreign limited liability company that is transacting business in this state.</u>	5350 5351 5352
<u>(C) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company, or a series thereof, to service of process, taxation, or regulation under laws of this state other than this chapter.</u>	5353 5354 5355 5356 5357
<u>(D) Nothing in this section shall limit or affect the right to subject a foreign limited liability company, or a series thereof, to the jurisdiction of the courts of this state or to serve upon any foreign limited liability company, or series thereof, any process, notice, or demand required or permitted by law to be served upon a foreign limited liability company, or series thereof, pursuant to any other provision of law or pursuant to the applicable rules of civil procedure.</u>	5358 5359 5360 5361 5362 5363 5364 5365

Sec. 1706.513. (A) A foreign limited liability company 5366
whose name does not comply with section 1706.07 of the Revised 5367
Code may not file a registration as a foreign limited liability 5368
company until it adopts, for the purpose of transacting business 5369
in this state, an assumed name that complies with section 5370
1706.07 of the Revised Code. A foreign limited liability company 5371
that adopts an assumed name under this division and then files a 5372
registration as a foreign limited liability company under that 5373
assumed name need not file a name registration when transacting 5374
business under that assumed name. After filing the registration 5375
as a foreign limited liability company under an assumed name, a 5376
foreign limited liability company shall transact business in 5377
this state under the assumed name unless the foreign limited 5378
liability company has filed a name registration under another 5379
name and is authorized to transact business in this state under 5380
such name. 5381

(B) If a foreign limited liability company to which a 5382
registration as a foreign limited liability company has been 5383
filed changes its name to one that does not comply with section 5384
1706.07 of the Revised Code, it may not thereafter transact 5385
business in this state until it complies with division (A) of 5386
this section by filing a certificate of correction. 5387

Sec. 1706.514. (A) A foreign limited liability company 5388
that has a registration as a foreign limited liability company 5389
in the records of the secretary of state may cancel its 5390
registration as a limited liability company by delivering for 5391
filing a certificate of cancellation of registration of a 5392
foreign limited liability company to the secretary of state. 5393

(B) A certificate of cancellation of registration of a 5394
foreign limited liability company shall set forth all of the 5395

following: 5396

(1) The name and registration number of the foreign limited liability company, any assumed name adopted for use in this state, and the name of the jurisdiction under whose law it is organized; 5397
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(2) The name and street address of the statutory agent, or if a statutory agent is no longer to be maintained, a statement that the foreign limited liability company will not maintain a statutory agent, and the street address to which service of process may be mailed pursuant to section 1706.09 of the Revised Code; 5401
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(3) That the foreign limited liability company, and all series thereof, will no longer transact business in this state and that it relinquishes its authority to transact business in this state; 5407
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(4) That the foreign limited liability company is canceling its registration as a foreign limited liability company; 5411
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(5) That any statement of assumed name it has on file in the records of the secretary of state and any assumed name with respect to the foreign limited liability company, are withdrawn upon the effective date of the cancellation of registration of a foreign limited liability company. 5414
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(C) The cancellation of registration of a foreign limited liability company shall be effective upon filing by the secretary of state, whereupon the registration as a foreign limited liability company shall be canceled and the foreign limited liability company, and all series thereof, shall be without authority to transact business in this state. 5419
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(D) Cancellation of a registration as a foreign limited liability company shall not terminate the authority of any statutory agent appointed by the foreign limited liability company. 5425
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Sec. 1706.515. (A) No foreign limited liability company, or a series thereof, transacting business in this state, nor anyone on its behalf, shall be permitted to maintain a proceeding in any court in this state for the collection of its debts unless an effective registration as a limited liability company for the foreign limited liability company is on file in the records of the secretary of state. 5429
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(B) A court may stay a proceeding commenced by a foreign limited liability company, or series thereof, until it determines whether the foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state. If the court determines that the foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state, the court may further stay the proceeding until there is an effective registration as a limited liability company on file in the records of the secretary of state with respect to the foreign limited liability company. If a court determines that a foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state, and the foreign limited liability company subsequently delivers for filing to the secretary of state a registration as a limited liability company, no proceeding in any court in this state to which the foreign limited liability company, or a series thereof, is a party shall, after the effective date of the registration as a foreign limited liability company, be 5436
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dismissed by reason of the foreign limited liability company's 5456
prior noncompliance with section 1706.511 of the Revised Code. 5457

(C) If a foreign limited liability company, or a series 5458
thereof, conducts activities in this state without having on 5459
file in the records of the secretary of state a registration as 5460
a foreign limited liability company, the foreign limited 5461
liability company shall be liable to this state for an amount 5462
equal to the fee as prescribed by the secretary of state from 5463
time to time. 5464

No registration as a foreign limited liability company 5465
shall be filed until payment of the amounts due under this 5466
division is made. 5467

(D) The amounts due to this state under division (C) of 5468
this section may be recovered in an action brought by the 5469
attorney general. Upon a finding by the court that a foreign 5470
limited liability company, or series thereof, has conducted 5471
activities in this state in violation of sections 1706.51 to 5472
1706.515 of the Revised Code, the court may issue, in addition 5473
to or in lieu of the imposition of a civil penalty, an 5474
injunction restraining the further conducting of activities by 5475
the foreign limited liability company and all of its series, and 5476
the further exercise of any rights and privileges of a foreign 5477
limited liability company in this state until all amounts plus 5478
any interest and court costs that the court may assess have been 5479
paid, and until the foreign limited liability company has 5480
otherwise complied with sections 1706.51 to 1706.515 of the 5481
Revised Code. 5482

(E) Notwithstanding divisions (A) and (B) of this section, 5483
the conducting of activities in this state by a foreign limited 5484
liability company, or a series thereof, without having a 5485

registration as a foreign limited liability company on file in 5486
the records of the secretary of state does not impair the 5487
validity of the acts of the foreign limited liability company, 5488
or a series thereof, or prevent the foreign limited liability 5489
company, or a series thereof, from defending any proceeding in 5490
this state. 5491

(F) Neither a member nor agent of a foreign limited 5492
liability company nor a member associated with a series or agent 5493
of a series, is liable for the debts, obligations, or other 5494
liabilities of the foreign limited liability company, or a 5495
series thereof, solely because the foreign limited liability 5496
company, or a series thereof, conducted activities in this state 5497
without a registration as a foreign limited liability company 5498
being on file in the records of the secretary of state. 5499

Sec. 1706.61. (A) A member may commence or maintain a 5500
derivative action in the right of a limited liability company to 5501
recover a judgment in favor of the limited liability company by 5502
complying with sections 1706.61 to 1706.617 of the Revised Code. 5503

(B) A member associated with a series of a limited 5504
liability company may commence or maintain a derivative action 5505
in the right of the series to recover a judgment in favor of the 5506
series by complying with sections 1706.61 to 1706.617 of the 5507
Revised Code. 5508

Sec. 1706.611. (A) A member may commence or maintain a 5509
derivative action in the right of the limited liability company 5510
only if the member meets both of the following conditions: 5511

(1) The member fairly and adequately represents the 5512
interests of the limited liability company in enforcing the 5513
right of the limited liability company. 5514

<u>(2) The member either:</u>	5515
<u>(a) Was a member of the limited liability company at the time of the act or omission of which the member complains;</u>	5516 5517
<u>(b) Acquired a membership interest through assignment by operation of law from a person who was a member at the time of the act or omission of which the member complains.</u>	5518 5519 5520
<u>(B) A member associated with a series of a limited liability company may commence or maintain a derivative action in the right of the series only if the member meets both of the following conditions:</u>	5521 5522 5523 5524
<u>(1) The member fairly and adequately represents the interests of the series in enforcing the right of the series.</u>	5525 5526
<u>(2) The member either:</u>	5527
<u>(a) Was associated with the series at the time of the act or omission of which the member complains;</u>	5528 5529
<u>(b) Acquired a membership interest through assignment by operation of law from a person who was a member associated with the series at the time of the act or omission of which the member complains.</u>	5530 5531 5532 5533
<u>Sec. 1706.612. A member may not commence a derivative action in the right of the limited liability company, or a series thereof, until both of the following occur:</u>	5534 5535 5536
<u>(A) A written demand has been made upon the limited liability company or the series to take suitable action.</u>	5537 5538
<u>(B) Ninety days have expired from the date the demand was made unless either of the following applies:</u>	5539 5540
<u>(1) The member has earlier been notified that the demand</u>	5541

has been rejected by the limited liability company or the 5542
series; 5543

(2) Irreparable injury to the limited liability company or 5544
the series would result by waiting for the expiration of the 5545
ninety-day period. 5546

Sec. 1706.613. For the purpose of allowing the limited 5547
liability company or the series thereof time to undertake an 5548
inquiry into the allegations made in the demand or complaint 5549
commenced pursuant to sections 1706.61 to 1706.617 of the 5550
Revised Code, the court may stay any derivative action for the 5551
period the court deems appropriate. 5552

Sec. 1706.614. (A) (1) A derivative action in the right of 5553
a limited liability company shall be dismissed by the court on 5554
motion by the limited liability company if one of the groups 5555
specified in division (A) (2) of this section has determined in 5556
good faith, after conducting a reasonable inquiry upon which its 5557
conclusions are based, that the maintenance of the derivative 5558
action is not in the best interests of the limited liability 5559
company. 5560

(2) Subject to the requirements of division (A) (3) of this 5561
section, the determination of whether the maintenance of a 5562
derivative action in the right of a limited liability company is 5563
in the best interests of the limited liability company shall be 5564
made by a majority vote of either of the following: 5565

(a) The independent members of the limited liability 5566
company; 5567

(b) The committee members of a committee consisting of 5568
independent members appointed by a majority of the independent 5569
members. 5570

(3) If the determination is not made pursuant to division 5571
(A) (1) of this section, the determination shall be made by the 5572
person, or, in the case of more than one person, by a majority 5573
of the persons, sitting upon a panel of one or more persons 5574
appointed by a court upon motion filed with the court by the 5575
limited liability company for those purposes. 5576

(B) (1) A derivative action in the right of a series of a 5577
limited liability company shall be dismissed on motion by the 5578
series if one of the groups specified in division (B) (2) of this 5579
section has determined in good faith, after conducting a 5580
reasonable inquiry upon which its conclusions are based that the 5581
maintenance of the derivative action is not in the best 5582
interests of the series. 5583

(2) Subject to the requirements of division (B) (3) of this 5584
section, the determination whether the maintenance of a 5585
derivative action on behalf of a series of a limited liability 5586
company is in the best interests of the series shall be made by 5587
a majority vote of either of the following: 5588

(a) The independent members associated with the series; 5589

(b) The committee members of a committee consisting of 5590
independent members associated with the series appointed by a 5591
majority of the independent members associated with the series. 5592

(3) If the determination is not made pursuant to division 5593
(B) (1) of this section, the determination shall be made by the 5594
person, or, in the case of more than one person, by a majority 5595
of the persons, sitting upon a panel of one or more persons 5596
appointed by a court upon motion filed with the court by the 5597
series for those purposes. 5598

(C) The court shall appoint only independent persons to 5599

the panel described in divisions (A) (3) and (B) (3) of this 5600
section. 5601

(D) The presence of one or more of the following 5602
circumstances, without more, shall not prevent a person from 5603
being considered independent for purposes of this section: 5604

(1) The naming of the person as a defendant in the 5605
derivative action or as a person against whom action is 5606
demand; 5607

(2) The approval by that person of the act being 5608
challenged in the derivative action or demand where the act did 5609
not result in personal benefit to that person; 5610

(3) The making of the demand pursuant to section 1706.612 5611
of the Revised Code or the commencement of the derivative action 5612
pursuant to sections 1706.61 to 1706.617 of the Revised Code. 5613

(E) Subject to section 1706.615 of the Revised Code, a 5614
panel appointed by the court pursuant to division (A) (3) or (B) 5615
(3) of this section shall have the authority to continue, 5616
settle, or discontinue the derivative proceeding as the court 5617
may confer upon the panel. 5618

(F) The plaintiff in the derivative action shall have the 5619
burden of proving that any of the requirements of division (A) 5620
or (B) of this section have not been met. 5621

Sec. 1706.615. A derivative action may not be discontinued 5622
or settled without the court's approval. If the court determines 5623
that a proposed discontinuance or settlement will substantially 5624
affect the interests of members of the limited liability 5625
company, or the interests of members associated with a series of 5626
the limited liability company, the court shall direct that 5627
notice be given to the members affected. 5628

Sec. 1706.616. On termination of the derivative action the 5629
court may do any of the following: 5630

(A) Order the limited liability company to pay the 5631
plaintiff's reasonable expenses, including attorney fees, 5632
incurred by the plaintiff in the derivative action if the court 5633
finds that the derivative action has resulted in a substantial 5634
benefit to the limited liability company; 5635

(B) Order a series to pay the plaintiff's reasonable 5636
expenses, including attorney fees, incurred by the plaintiff in 5637
the derivative action if the court finds that the derivative 5638
action has resulted in a substantial benefit to the series; 5639

(C) Order the plaintiff to pay any defendant's reasonable 5640
expenses, including attorney fees, incurred by the defendant in 5641
defending the derivative action if it finds that the derivative 5642
action was commenced or maintained without reasonable cause or 5643
for an improper purpose; 5644

(D) Order a party to pay an opposing party's expenses 5645
incurred because of the filing of a pleading, motion, or other 5646
paper, if it finds both of the following: 5647

(1) That the pleading, motion, or other paper was not well 5648
grounded in fact, after reasonable inquiry, or not warranted by 5649
existing law or a good faith argument for the extension, 5650
modification, or reversal of existing law. 5651

(2) That the pleading, motion, or other paper was 5652
interposed for an improper purpose, such as to harass or cause 5653
unnecessary delay or needless increase in the cost of 5654
litigation. 5655

Sec. 1706.617. In any derivative action in the right of a 5656
foreign limited liability company, or a series thereof, the 5657

right of a person to commence or maintain a derivative action in 5658
the right of a foreign limited liability company, or a series 5659
thereof, and any matters raised in the action covered by 5660
sections 1706.61 to 1706.616 of the Revised Code shall be 5661
governed by the law of the jurisdiction under which the foreign 5662
limited liability company was formed; except that any matters 5663
raised in the action covered by sections 1706.613, 1706.615, and 5664
1706.616 of the Revised Code shall be governed by the law of 5665
this state. 5666

Sec. 1706.62. (A) Subject to division (B) of this section, 5667
a member may maintain a direct action against another member or 5668
members or the limited liability company, or a series thereof, 5669
to enforce the member's rights and otherwise protect the 5670
member's interests, including rights and interests under the 5671
operating agreement or this chapter or arising independently of 5672
the membership relationship. 5673

(B) A member maintaining a direct action under division 5674
(A) of this section must plead and prove an actual or threatened 5675
injury that is not solely the result of an injury suffered or 5676
threatened to be suffered by the limited liability company, or 5677
series thereof. 5678

(C) (1) A member may maintain a direct action to enforce a 5679
right of a limited liability company if all members at the time 5680
of suit are parties to the action. 5681

(2) A member associated with a series may maintain a 5682
direct action to enforce a right of the series if all members 5683
associated with the series at the time of suit are parties to 5684
the action. 5685

Sec. 1706.71. (A) A limited liability company may merge 5686

with one or more other constituent entities pursuant to sections 5687
1706.71 to 1706.713 of the Revised Code and to an agreement of 5688
merger if all of the following conditions are met: 5689

(1) The governing statute of each of the other entities 5690
authorizes the merger. 5691

(2) The merger is not prohibited by the law of a 5692
jurisdiction that enacted any of the governing statutes. 5693

(3) Each of the other entities complies with its governing 5694
statute in effecting the merger. 5695

(B) An agreement of merger shall be in a record and shall 5696
include all of the following: 5697

(1) The name and form of each constituent entity; 5698

(2) The name and form of the surviving entity and, if the 5699
surviving entity is to be created pursuant to the merger, a 5700
statement to that effect; 5701

(3) The terms and conditions of the merger, including the 5702
manner and basis for converting the interests in each 5703
constituent entity into any combination of money, interests in 5704
the surviving entity, and other consideration as permitted under 5705
division (C) of this section; 5706

(4) If the surviving entity is to be created pursuant to 5707
the merger, the surviving entity's organizational documents that 5708
are proposed to be in a record; 5709

(5) If the surviving entity is not to be created pursuant 5710
to the merger, any amendments to be made by the merger to the 5711
surviving entity's organizational documents that are, or are 5712
proposed to be, in a record. 5713

(C) In connection with a merger, rights or securities of 5714
or interests in the constituent entity may be any of the 5715
following: 5716

(1) Exchanged for or converted into cash, property, or 5717
rights or securities of or interests in the surviving entity; 5718

(2) In addition to or in lieu of division (C) (1) of this 5719
section, exchanged for or converted into cash, property, or 5720
rights or securities of or interests in another entity; 5721

(3) Canceled. 5722

Sec. 1706.711. (A) To be effective, an agreement of merger 5723
shall be consented to by all the members of a constituent 5724
limited liability company. 5725

(B) After the agreement of merger is approved, and at any 5726
time before a certificate of merger is delivered to the 5727
secretary of state for filing under section 1706.712 of the 5728
Revised Code, a constituent limited liability company may amend 5729
the agreement or abandon the merger: 5730

(1) As provided in the agreement; or 5731

(2) Except as otherwise prohibited in the agreement, with 5732
the same consent as was required to approve the agreement. 5733

Sec. 1706.712. (A) After each constituent entity has 5734
approved the agreement of merger, a certificate of merger shall 5735
be signed on behalf of both of the following: 5736

(1) Each constituent limited liability company, as 5737
provided in division (A) of section 1706.17 of the Revised Code; 5738

(2) Each other constituent entity, as provided in its 5739
governing statute. 5740

(B) A certificate of merger under this section shall 5741
include all of the following: 5742

(1) The name and form of each constituent entity, the 5743
jurisdiction of its governing statute, and its registration 5744
number, if any, as it appears on the records of the secretary of 5745
state; 5746

(2) The name and form of the surviving entity, the 5747
jurisdiction of its governing statute, and, if the surviving 5748
entity is created pursuant to the merger, a statement to that 5749
effect; 5750

(3) The date the merger is effective under the governing 5751
statute of the surviving entity; 5752

(4) If the surviving entity is to be created pursuant to 5753
the merger: 5754

(a) If it will be a limited liability company, the limited 5755
liability company's articles of organization; 5756

(b) If it will be an entity other than a limited liability 5757
company, any organizational document that creates the entity 5758
that is required to be in a public record. 5759

(5) If the surviving entity exists before the merger, any 5760
amendments provided for in the agreement of merger for the 5761
organizational document that created the entity that are in a 5762
public record; 5763

(6) A statement as to each constituent entity that the 5764
merger was approved as required by the entity's governing 5765
statute; 5766

(7) If the surviving entity is a foreign entity not 5767
authorized to transact business in this state, the street 5768

<u>address of its statutory agent;</u>	5769
<u>(8) Any additional information required by the governing statute of any constituent entity.</u>	5770 5771
<u>(C) Each constituent limited liability company shall deliver the certificate of merger for filing in the office of the secretary of state.</u>	5772 5773 5774
<u>(D) A merger becomes effective under sections 1706.71 to 1706.74 of the Revised Code as follows:</u>	5775 5776
<u>(1) If the surviving entity is a limited liability company, upon the later of the following:</u>	5777 5778
<u>(a) Compliance with division (C) of this section;</u>	5779
<u>(b) As specified in the certificate of merger.</u>	5780
<u>(2) If the surviving entity is not a limited liability company, as provided by the governing statute of the surviving entity.</u>	5781 5782 5783
<u>Sec. 1706.713. (A) When a merger becomes effective, all of the following apply:</u>	5784 5785
<u>(1) The surviving entity continues or comes into existence.</u>	5786 5787
<u>(2) Each constituent entity that merges into the surviving entity ceases to exist as a separate entity.</u>	5788 5789
<u>(3) All property owned by each constituent entity, or series thereof, that ceases to exist vests in the surviving entity without reservation or impairment.</u>	5790 5791 5792
<u>(4) All debts, obligations, or other liabilities of each constituent entity, or series thereof, that ceases to exist continue as debts, obligations, or other liabilities of the</u>	5793 5794 5795

<u>surviving entity.</u>	5796
<u>(5) An action or proceeding pending by or against any</u>	5797
<u>constituent entity, or series thereof, that ceases to exist</u>	5798
<u>continues as if the merger had not occurred.</u>	5799
<u>(6) Except as prohibited by other law, all of the rights,</u>	5800
<u>privileges, immunities, powers, and purposes of each constituent</u>	5801
<u>entity, or series thereof, that ceases to exist vest in the</u>	5802
<u>surviving entity.</u>	5803
<u>(7) Except as otherwise provided in the agreement of</u>	5804
<u>merger, the terms and conditions of the agreement of merger take</u>	5805
<u>effect.</u>	5806
<u>(8) Except as otherwise agreed, if a constituent limited</u>	5807
<u>liability company ceases to exist, the merger does not dissolve</u>	5808
<u>the limited liability company for the purposes of sections</u>	5809
<u>1706.47 to 1706.475 of the Revised Code and does not dissolve a</u>	5810
<u>series for purposes of sections 1706.76 to 1706.7613 of the</u>	5811
<u>Revised Code.</u>	5812
<u>(9) If the surviving entity is created pursuant to the</u>	5813
<u>merger:</u>	5814
<u>(a) If it is a limited liability company, the articles of</u>	5815
<u>organization become effective;</u>	5816
<u>(b) If it is an entity other than a limited liability</u>	5817
<u>company, the organizational document that creates the entity</u>	5818
<u>becomes effective.</u>	5819
<u>(10) If the surviving entity existed before the merger,</u>	5820
<u>any amendments provided for in the certificate of merger for the</u>	5821
<u>organizational document that created the entity become</u>	5822
<u>effective.</u>	5823

(B) A surviving entity that is a foreign entity consents 5824
to the jurisdiction of the courts of this state to enforce any 5825
debt, obligation, or other liability owed by a constituent 5826
entity, if before the merger the constituent entity was subject 5827
to suit in this state on the debt, obligation, or other 5828
liability. Service of process on a surviving entity that is a 5829
foreign entity and not authorized to transact business in this 5830
state for the purposes of enforcing a debt, obligation, or other 5831
liability may be made in the same manner and has the same 5832
consequences as provided in section 1706.09 of the Revised Code 5833
as if the surviving entity was a foreign limited liability 5834
company. 5835

Sec. 1706.72. (A) An entity other than a limited liability 5836
company may convert to a limited liability company, and a 5837
limited liability company may convert to an entity other than a 5838
limited liability company pursuant to sections 1706.72 to 5839
1706.723 of the Revised Code and a written declaration of 5840
conversion if all of the following apply: 5841

(1) The governing statute of the entity that is not a 5842
limited liability company authorizes the conversion; 5843

(2) The law of the jurisdiction governing the converting 5844
entity and the converted entity does not prohibit the 5845
conversion; 5846

(3) The converting entity and the converted entity comply 5847
with their respective governing statutes and organizational 5848
documents in effecting the conversion. 5849

(B) A written declaration of conversion shall be in a 5850
record and include all of the following: 5851

(1) The name and form of the converting entity before 5852

<u>conversion;</u>	5853
<u>(2) The name and form of the converted entity after</u>	5854
<u>conversion;</u>	5855
<u>(3) The terms and conditions of the conversion, including</u>	5856
<u>the manner and basis for converting interests in the converting</u>	5857
<u>entity into any combination of money, interests in the converted</u>	5858
<u>entity, and other consideration allowed under division (C) of</u>	5859
<u>this section.</u>	5860
<u>(4) The organizational documents of the converted entity</u>	5861
<u>that are, or are proposed to be, in a record.</u>	5862
<u>(C) In connection with a conversion, rights or securities</u>	5863
<u>of or interests in the converting entity may be any of the</u>	5864
<u>following:</u>	5865
<u>(1) Exchanged for or converted into cash, property, or</u>	5866
<u>rights or securities of or interests in the converted entity;</u>	5867
<u>(2) In addition to or in lieu of division (C)(1) of this</u>	5868
<u>section, exchanged for or converted into cash, property, or</u>	5869
<u>rights or securities of or interests in another entity;</u>	5870
<u>(3) Canceled.</u>	5871
<u>Sec. 1706.721. (A) A declaration of conversion must be</u>	5872
<u>consented to by all the members of a converting limited</u>	5873
<u>liability company.</u>	5874
<u>(B) After a conversion is approved, and at any time before</u>	5875
<u>the certificate of conversion is delivered to the secretary of</u>	5876
<u>state for filing under section 1706.722 of the Revised Code, a</u>	5877
<u>converting limited liability company may amend the declaration</u>	5878
<u>or abandon the conversion:</u>	5879

<u>(1) As provided in the declaration; or</u>	5880
<u>(2) Except as otherwise prohibited in the declaration, by</u>	5881
<u>the same consent as was required to approve the declaration.</u>	5882
<u>Sec. 1706.722. (A) After a declaration of conversion is</u>	5883
<u>approved, both of the following apply:</u>	5884
<u>(1) A converting limited liability company shall deliver</u>	5885
<u>to the secretary of state for filing a certificate of</u>	5886
<u>conversion. The certificate of conversion shall be signed as</u>	5887
<u>provided in division (A) of section 1706.17 of the Revised Code</u>	5888
<u>and shall include all of the following:</u>	5889
<u>(a) A statement that the converting limited liability</u>	5890
<u>company has been converted into the converted entity;</u>	5891
<u>(b) The name and form of the converted entity and the</u>	5892
<u>jurisdiction of its governing statute;</u>	5893
<u>(c) The date the conversion is effective under the</u>	5894
<u>governing statute of the converted entity;</u>	5895
<u>(d) A statement that the conversion was approved as</u>	5896
<u>required by this chapter;</u>	5897
<u>(e) A statement that the conversion was approved as</u>	5898
<u>required by the governing statute of the converted entity;</u>	5899
<u>(f) If the converted entity is a foreign entity not</u>	5900
<u>authorized to transact business in this state, the street</u>	5901
<u>address of its statutory agent for the purposes of division (B)</u>	5902
<u>of section 1706.723 of the Revised Code.</u>	5903
<u>(2) If the converted entity is a limited liability</u>	5904
<u>company, the converting entity shall deliver to the secretary of</u>	5905
<u>state for filing articles of organization which shall include,</u>	5906

in addition to the information required by division (A) of 5907
section 1706.16 of the Revised Code, all of the following: 5908

(a) A statement that the converted entity was converted 5909
from the converting entity; 5910

(b) The name and form of the converting entity and the 5911
jurisdiction of the converting entity's governing statute; 5912

(c) A statement that the conversion was approved as 5913
required by the governing statute of the converting entity. 5914

(B) A conversion shall become effective as follows: 5915

(1) If the converted entity is a limited liability 5916
company, when the articles of organization take effect; 5917

(2) If the converted entity is not a limited liability 5918
company, as provided by the governing statute of the converted 5919
entity. 5920

Sec. 1706.723. (A) When a conversion takes effect, all of 5921
the following apply: 5922

(1) All property owned by the converting entity, or series 5923
thereof, remains vested in the converted entity. 5924

(2) All debts, obligations, or other liabilities of the 5925
converting entity, or series thereof, continue as debts, 5926
obligations, or other liabilities of the converted entity. 5927

(3) An action or proceeding pending by or against the 5928
converting entity, or series thereof, continues as if the 5929
conversion had not occurred. 5930

(4) Except as prohibited by law other than this chapter, 5931
all of the rights, privileges, immunities, powers, and purposes 5932
of the converting entity, or series thereof, remain vested in 5933

the converted entity. 5934

(5) Except as otherwise provided in the plan of 5935
conversion, the terms and conditions of the declaration of 5936
conversion take effect. 5937

(6) Except as otherwise agreed, for all purposes of the 5938
laws of this state, the converting entity, and any series 5939
thereof, shall not be required to wind up its affairs or pay its 5940
liabilities and distribute its assets, and the conversion shall 5941
not be deemed to constitute a dissolution of the converting 5942
entity, or series thereof. 5943

(7) For all purposes of the laws of this state, the 5944
rights, privileges, powers, and interests in property of the 5945
converting entity, and all series thereof, as well as the debts, 5946
liabilities, and duties of the converting entity, and all series 5947
thereof, shall not be deemed to have been assigned to the 5948
converted entity as a consequence of the conversion. 5949

(8) If the converted entity is a limited liability 5950
company, for all purposes of the laws of this state, the limited 5951
liability company shall be deemed to be the same entity as the 5952
converting entity, and the conversion shall constitute a 5953
continuation of the existence of the converting entity in the 5954
form of a limited liability company. 5955

(9) If the converted entity is a limited liability 5956
company, the existence of the limited liability company shall be 5957
deemed to have commenced on the date the converting entity 5958
commenced its existence in the jurisdiction in which the 5959
converting entity was first created, formed, organized, 5960
incorporated, or otherwise came into being. 5961

(B) A converted entity that is a foreign entity consents 5962

to the jurisdiction of the courts of this state to enforce any 5963
debt, obligation, or other liability for which the converting 5964
limited liability company, or series thereof, is liable if, 5965
before the conversion, the converting limited liability company, 5966
or series thereof, was subject to suit in this state on the 5967
debt, obligation, or other liability. Service of process on a 5968
converted entity that is a foreign entity and not authorized to 5969
transact business in this state for purposes of enforcing a 5970
debt, obligation, or other liability under this division may be 5971
made in the same manner and has the same consequences as 5972
provided in section 1706.09 of the Revised Code, as if the 5973
converted entity were a foreign limited liability company. 5974

Sec. 1706.73. (A) If a member of a constituent or 5975
converting limited liability company will have personal 5976
liability with respect to a surviving or converted entity, 5977
approval or amendment of a plan of merger or a declaration of 5978
conversion are ineffective without the consent of the member, 5979
unless both of the following conditions are met: 5980

(1) The limited liability company's operating agreement 5981
provides for approval of a merger or conversion with the consent 5982
of fewer than all the members. 5983

(2) The member has consented to the provision of the 5984
operating agreement described in division (A)(1) of this 5985
section. 5986

(B) A member does not give the consent required by 5987
division (A) of this section merely by consenting to a provision 5988
of the operating agreement that permits the operating agreement 5989
to be amended with the consent of fewer than all the members. 5990

Sec. 1706.74. Sections 1706.71 to 1706.74 of the Revised 5991

Code do not preclude an entity from being merged or converted 5992
under law other than this chapter. 5993

Sec. 1706.76. (A) An operating agreement may establish or 5994
provide for the establishment of one or more designated series 5995
of assets that has both of the following: 5996

(1) Either or both of the following: 5997

(a) Separate rights, powers, or duties with respect to 5998
specified property or obligations of the limited liability 5999
company or profits and losses associated with specified property 6000
or obligations; 6001

(b) A separate purpose or investment objective. 6002

(2) At least one member associated with each series. 6003

(B) A series established in accordance with division (A) 6004
of this section may carry on any activity, whether or not for 6005
profit. 6006

Sec. 1706.761. (A) Subject to division (B) of this 6007
section, both of the following apply: 6008

(1) The debts, liabilities, obligations, and expenses 6009
incurred, contracted for, or otherwise existing with respect to 6010
a series shall be enforceable against the assets of that series 6011
only, and shall not be enforceable against the assets of the 6012
limited liability company generally or any other series thereof. 6013

(2) None of the debts, liabilities, obligations, and 6014
expenses incurred, contracted for, or otherwise existing with 6015
respect to the limited liability company generally or any other 6016
series thereof shall be enforceable against the assets of a 6017
series. 6018

(B) Division (A) of this section applies only if all of 6019
the following conditions are met: 6020

(1) The records maintained for that series account for the 6021
assets of that series separately from the other assets of the 6022
company or any other series. 6023

(2) The operating agreement contains a statement to the 6024
effect of the limitations provided in division (A) of this 6025
section. 6026

(3) The limited liability company's articles of 6027
organization contains a statement that the limited liability 6028
company may have one or more series of assets subject to the 6029
limitations provided in division (A) of this section. 6030

Sec. 1706.762. (A) Assets of a series may be held directly 6031
or indirectly, including in the name of the series, in the name 6032
of the limited liability company, through a nominee, or 6033
otherwise. 6034

(B) If the records of a series are maintained in a manner 6035
so that the assets of the series can be reasonably identified by 6036
specific listing, category, type, quantity, or computational or 6037
allocational formula or procedure, including a percentage or 6038
share of any assets, or by any other method in which the 6039
identity of the assets can be objectively determined, the 6040
records are considered to satisfy the requirement of division 6041
(B) (1) of section 1706.761 of the Revised Code. 6042

Sec. 1706.763. The statement of limitation on liabilities 6043
of a series required by division (B) (3) of section 1706.761 of 6044
the Revised Code is sufficient regardless of whether either of 6045
the following applies: 6046

(A) The limited liability company has established any 6047

series under this chapter when the statement of limitations is 6048
contained in the articles of organization; 6049

(B) The statement of limitations makes reference to a 6050
specific series of the limited liability company. 6051

Sec. 1706.764. (A) A person shall not voluntarily 6052
dissociate as a member associated with a series. 6053

(B) A person's dissociation from a series is wrongful only 6054
if one of the following applies: 6055

(1) The person's dissociation is in breach of an express 6056
provision of the operating agreement. 6057

(2) The person is expelled as a member associated with the 6058
series by determination of a tribunal under division (E) of 6059
section 1706.765 of the Revised Code. 6060

(3) The person is dissociated as a member associated with 6061
a series by becoming a debtor in bankruptcy or making a general 6062
assignment for the benefit of creditors. 6063

(C) A person that wrongfully dissociates as a member 6064
associated with a series is liable to the series and, subject to 6065
section 1706.61 of the Revised Code, to the other members 6066
associated with that series for damages caused by the 6067
dissociation. The liability is in addition to any other debt, 6068
obligation, or liability of the member associated with a series 6069
to the series or the other members associated with that series. 6070

Sec. 1706.765. A person is dissociated as a member 6071
associated with a series when any of the following occurs: 6072

(A) An event stated in the operating agreement as causing 6073
the person's dissociation from the series occurs. 6074

(B) The person is dissociated as a member of the limited liability company pursuant to section 1706.411 of the Revised Code. 6075
6076
6077

(C) The person is expelled as a member associated with that series pursuant to the operating agreement. 6078
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(D) The person is expelled as a member associated with the series by the unanimous consent of the other members associated with that series and if any of the following applies: 6080
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6082

(1) It is unlawful to carry on the series' activities with the person as a member associated with that series. 6083
6084

(2) The person is an entity and, within ninety days after the series notifies the person that it will be expelled as a member associated with that series because the person has filed a certificate of dissolution or the equivalent, or its right to transact business has been suspended by its jurisdiction of formation, the certificate of dissolution or the equivalent has not been revoked or its right to transact business has not been reinstated. 6085
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(3) The person is an entity and, within ninety days after the series notifies the person that it will be expelled as a member associated with that series because the person has been dissolved and its activities are being wound up, the entity has not been reinstated or the dissolution and winding up have not been revoked or canceled. 6093
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(E) On application by the series, the person is expelled as a member associated with that series by tribunal order for any of the following reasons: 6099
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(1) The person has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will 6102
6103

adversely and materially affect, that series' activities. 6104

(2) The person has willfully or persistently committed, or
is willfully or persistently committing, a material breach of
the operating agreement or the person's duties or obligations
under this chapter or other applicable law. 6105
6106
6107
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(3) The person has engaged, or is engaging, in conduct
relating to that series' activities that makes it not reasonably
practicable to carry on the activities with the person as a
member associated with that series. 6109
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(F) In the case of a person who is an individual, the
person dies, a guardian or general conservator is appointed for
the person, or a tribunal determines that the person has
otherwise become incapable of performing the person's duties as
a member associated with a series under this chapter or the
operating agreement. 6113
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(G) The person becomes a debtor in bankruptcy, executes an
assignment for the benefit of creditors, or seeks, consents, or
acquiesces to the appointment of a trustee, receiver, or
liquidator of the person or of all or substantially all of the
person's property. This division shall not apply to a person who
is the sole remaining member associated with a series. 6119
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(H) In the case of a person that is a trust or is acting
as a member associated with a series by virtue of being a
trustee of a trust, the trust's entire membership interest
associated with the series is distributed, but not solely by
reason of the substitution of a successor trustee. 6125
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(I) In the case of a person that is an estate or is acting
as a member associated with a series by virtue of being a
personal representative of an estate, the estate's entire 6130
6131
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membership interest associated with the series is distributed, 6133
but not solely by reason of the substitution of a successor 6134
personal representative. 6135

(J) In the case of a member associated with a series that 6136
is not an individual, the legal existence of the person 6137
otherwise terminates. 6138

Sec. 1706.766. (A) A person who has dissociated as a 6139
member associated with a series shall have no right to 6140
participate in the activities and affairs of that series and is 6141
entitled only to receive the distributions to which that member 6142
would have been entitled if the member had not dissociated from 6143
that series. 6144

(B) A person's dissociation as a member associated with a 6145
series does not of itself discharge the person from any debt, 6146
obligation, or liability to that series, the limited liability 6147
company, or the other members that the person incurred while a 6148
member associated with that series. 6149

(C) A member's dissociation from a series does not, in 6150
itself, cause the member to dissociate from any other series or 6151
require the winding up of the series. 6152

(D) A member's dissociation from a series does not, in 6153
itself, cause the member to dissociate from the limited 6154
liability company. 6155

Sec. 1706.767. A series may be dissolved and its 6156
activities and affairs may be wound up without causing the 6157
dissolution of the limited liability company. The dissolution 6158
and winding up of a series does not abate, suspend, or otherwise 6159
affect the limitation on liabilities of the series provided by 6160
section 1706.761 of the Revised Code. 6161

Sec. 1706.768. A series is dissolved and its activities 6162
and affairs shall be wound up upon the first to occur of the 6163
following: 6164

(A) The dissolution of the limited liability company under 6165
section 1706.47 of the Revised Code; 6166

(B) An event or circumstance that the operating agreement 6167
states causes dissolution of the series; 6168

(C) The consent of all of the members associated with the 6169
series; 6170

(D) The passage of ninety days after the occurrence of the 6171
dissociation of the last remaining member associated with the 6172
series; 6173

(E) On application by a member associated with the series, 6174
the entry by the appropriate court of an order dissolving the 6175
series on the grounds that it is not reasonably practicable to 6176
carry on the series' activities in conformity with the operating 6177
agreement. 6178

Sec. 1706.769. (A) A dissolved series continues its 6179
existence as a series but shall not carry on any activities 6180
except as is appropriate to wind up and liquidate its activities 6181
and affairs. Appropriate activities include all of the 6182
following: 6183

(1) Collecting the assets of the series; 6184

(2) Disposing of the properties of the series that will 6185
not be distributed in kind to persons owning membership 6186
interests associated with the series; 6187

(3) Discharging or making provisions for discharging the 6188
liabilities of the series; 6189

<u>(4) Distributing the remaining property of the series in</u>	6190
<u>accordance with section 1706.7613 of the Revised Code;</u>	6191
<u>(5) Doing any other act necessary to wind up and liquidate</u>	6192
<u>the series' activities and affairs.</u>	6193
<u>(B) In winding up a series' activities, a series may do</u>	6194
<u>any of the following:</u>	6195
<u>(1) Preserve the series' activities and property as a</u>	6196
<u>going concern for a reasonable time;</u>	6197
<u>(2) Prosecute, defend, or settle actions or proceedings</u>	6198
<u>whether civil, criminal, or administrative;</u>	6199
<u>(3) Make an assignment of the series' property;</u>	6200
<u>(4) Resolve disputes by mediation or arbitration.</u>	6201
<u>(C) A series' dissolution, in itself:</u>	6202
<u>(1) Is not an assignment of the series' property;</u>	6203
<u>(2) Does not prevent the commencement of a proceeding by</u>	6204
<u>or against the series in the series' name;</u>	6205
<u>(3) Does not abate or suspend a proceeding pending by or</u>	6206
<u>against the series on the effective date of dissolution;</u>	6207
<u>(4) Does not abate, suspend, or otherwise alter the</u>	6208
<u>application of section 1706.7613 of the Revised Code.</u>	6209
<u>Sec. 1706.7610. (A) Subject to division (C) of section</u>	6210
<u>1706.769 of the Revised Code, after dissolution of a series, the</u>	6211
<u>remaining members associated with the series, if any, and if</u>	6212
<u>none, a person appointed by all holders of the membership</u>	6213
<u>interest last assigned by the last person to have been a member</u>	6214
<u>associated with the series, may wind up the series' activities.</u>	6215

(B) The appropriate tribunal may order supervision of the winding up of a dissolved series, including the appointment of a person to wind up the series' activities for any of the following reasons: 6216
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(1) On application of a member associated with the series, if the applicant establishes good cause; 6220
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(2) On application of an assignee associated with a series, if both of the following apply: 6222
6223

(a) There are no members associated with the series. 6224

(b) Within a reasonable time following the dissolution a person has not been appointed pursuant to division (A) of this section. 6225
6226
6227

(3) In connection with a proceeding under division (E) of section 1706.768 of the Revised Code. 6228
6229

Sec. 1706.7611. (A) A dissolved series may dispose of any known claims against it by following the procedures described in division (B) of this section, at any time after the effective date of the dissolution of the series. 6230
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(B) A dissolved series may give notice of the dissolution in a record to the holder of any known claim. The notice shall do all of the following: 6234
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(1) Identify the limited liability company and the dissolved series; 6237
6238

(2) Describe the information required to be included in a claim; 6239
6240

(3) Provide a mailing address to which the claim is to be sent; 6241
6242

(4) State the deadline by which the dissolved series must receive the claim. The deadline shall not be sooner than one hundred twenty days from the effective date of the notice. 6243
6244
6245

(5) State that if not sooner barred, the claim will be barred if not received by the deadline. 6246
6247

(C) Unless sooner barred by any other statute limiting actions, a claim against a dissolved series is barred in either of the following circumstances: 6248
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(1) If a claimant who was given notice under division (B) of this section does not deliver the claim to the dissolved series by the deadline; 6251
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(2) If a claimant whose claim was rejected by the dissolved series does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejected notice. 6254
6255
6256
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(D) For purposes of this section, "claim" includes an unliquidated claim, but does not include a contingent liability that has not matured so that there is no immediate right to bring suit or a claim based on an event occurring after the effective date of dissolution. 6258
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(E) Nothing in this section shall be construed to extend any otherwise applicable statute of limitations. 6263
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Sec. 1706.7612. (A) A dissolved series may publish notice of its dissolution and request that persons with claims against the dissolved series present them in accordance with the notice. 6265
6266
6267

(B) The notice authorized by division (A) of this section shall meet all of the following criteria: 6268
6269

(1) It shall be posted prominently on the principal web 6270

site then maintained by the limited liability company, if any, 6271
and provided to the secretary of state to be posted on the web 6272
site maintained by the secretary of state in accordance with 6273
division (J) of section 1706.474 of the Revised Code. The notice 6274
shall be considered published when posted on the secretary of 6275
state's web site. 6276

(2) It shall describe the information that must be 6277
included in a claim and provide a mailing address to which the 6278
claim must be sent. 6279

(3) It shall state that if not sooner barred, a claim 6280
against the dissolved series will be barred unless a proceeding 6281
to enforce the claim is commenced within two years following the 6282
publication of the notice. 6283

(C) If a dissolved series publishes a notice in accordance 6284
with division (B) of this section, unless sooner barred by any 6285
other statute limiting actions, the claim of each of the 6286
following claimants is barred unless the claimant commences a 6287
proceeding to enforce the claim against the dissolved series 6288
within two years after the publication date of the notice: 6289

(1) A claimant who was not given notice under division (B) 6290
of section 1706.7611 of the Revised Code; 6291

(2) A claimant whose claim was timely sent to the 6292
dissolved series but not acted on by the dissolved series; 6293

(3) A claimant whose claim is contingent at the effective 6294
date of the dissolution of the series, or is based on an event 6295
occurring after the effective date of the dissolution of the 6296
series. 6297

(D) A claim that is not barred under this section, any 6298
other statute limiting actions, or section 1706.7611 of the 6299

Revised Code may be enforced against either of the following: 6300

(1) A dissolved series, to the extent of its undistributed 6301
assets associated with the series; 6302

(2) A member or assignee associated with the series to the 6303
extent of that person's proportionate share of the claim or of 6304
the assets of the series distributed to the member or assignee 6305
after dissolution, whichever is less, except as provided in 6306
division (H) of this section and only if the assets of a 6307
dissolved series have been distributed after dissolution. A 6308
person's total liability for all claims under division (D) of 6309
this section shall not exceed the total amount of assets of the 6310
series distributed to the person after dissolution of the 6311
series. 6312

(E) A dissolved series that published a notice under this 6313
section may file an application with the appropriate court in 6314
the county in which the limited liability company's principal 6315
office is located or, if it has none in this state, in the 6316
county in which the limited liability company's statutory agent 6317
is or was last located. The application shall be for a 6318
determination of the amount and form of security to be provided 6319
for payment of claims that are contingent or have not been made 6320
known to the dissolved series or that are based on an event 6321
occurring after the effective date of the dissolution of the 6322
series but that, based on the facts known to the dissolved 6323
series, are reasonably estimated to arise after the effective 6324
date of the dissolution of the series. Provision need not be 6325
made for any claim that is or is reasonably anticipated to be 6326
barred under division (C) of this section. 6327

(F) Within ten days after the filing of the application 6328
provided for in division (E) of this section, notice of the 6329

proceeding shall be given by the dissolved series to each 6330
potential claimant as described in that division. 6331

(G) The appropriate court may appoint a guardian ad litem 6332
to represent all claimants whose identities are unknown in any 6333
proceeding brought under this section. The reasonable fees and 6334
expenses of the guardian, including all reasonable expert 6335
witness fees, shall be paid by the dissolved series. 6336

(H) Provision by the dissolved series for security in the 6337
amount and the form ordered by the appropriate court under 6338
division (E) of this section shall satisfy the dissolved series' 6339
obligation with respect to claims that are contingent, have not 6340
been made known to the dissolved series, or are based on an 6341
event occurring after the effective date of the dissolution of 6342
the series. Those claims may not be enforced against a person 6343
owning a membership interest to whom assets have been 6344
distributed by the dissolved series after the effective date of 6345
the dissolution of the series. 6346

(I) Nothing in this section shall be construed to extend 6347
any otherwise applicable statute of limitations. 6348

Sec. 1706.7613. (A) Upon the winding up of a series, 6349
payment or adequate provision for payment shall be made to 6350
creditors of the series, including, to the extent permitted by 6351
law, members who are associated with the series and who are also 6352
creditors of the series, in satisfaction of liabilities of the 6353
series. 6354

(B) After a series complies with division (A) of this 6355
section, any surplus shall be distributed as follows: 6356

(1) First, to each person owning a membership interest 6357
associated with the series that reflects contributions made on 6358

account of that membership interest and not previously returned, 6359
an amount equal to the value of the person's unreturned 6360
contributions; 6361

(2) Then to each person owning a membership interest 6362
associated with the series in the proportions in which the 6363
owners of membership interests associated with the series share 6364
in distributions prior to dissolution of the series. 6365

(C) If the series does not have sufficient surplus to 6366
comply with division (B)(1) of this section, any surplus shall 6367
be distributed among the owners of membership interests 6368
associated with the series in proportion to the value of their 6369
respective unreturned contributions. 6370

Sec. 1706.81. This chapter modifies, limits, and 6371
supersedes the federal "Electronic Signatures in Global and 6372
National Commerce Act," 15 U.S.C. 7001 et seq., but does not 6373
modify, limit, or supersede 15 U.S.C. 7001(c) or authorize 6374
electronic delivery of any of the notices described in 15 U.S.C. 6375
7003(b). 6376

Sec. 1706.82. A limited liability company formed and 6377
existing under this chapter may conduct its activities and 6378
affairs, carry on its operations, and have and exercise the 6379
powers granted by this chapter in any state, foreign country, or 6380
other jurisdiction. 6381

Sec. 1706.83. On and after January 1, 2022, this chapter 6382
shall govern all limited liability companies, including every 6383
foreign limited liability company that files an application for 6384
registration as a foreign limited liability company on or after 6385
January 1, 2022, every foreign limited liability company that 6386
registers a name in this state on or after January 1, 2022, 6387

every foreign limited liability company that has registered a 6388
name in this state prior to January 1, 2022, and every foreign 6389
limited liability company that has filed an application for 6390
registration as a foreign limited liability company prior to 6391
January 1, 2022, pursuant to Chapter 1705. of the Revised Code. 6392

Sec. 1706.84. Unless expressly stated to the contrary in 6393
this chapter, all amendments of this chapter shall apply to 6394
limited liability companies and members and agents whether or 6395
not existing as such at the time of the enactment of any such 6396
amendment. 6397

Sec. 1729.36. (A) An association may merge or consolidate 6398
with one or more entities, if such merger or consolidation is 6399
permitted by the laws under which each constituent entity exists 6400
and the association complies with this section. 6401

(B) Each constituent association shall comply with section 6402
1729.35 of the Revised Code with respect to form and approval of 6403
an agreement of merger or consolidation, and each constituent 6404
entity shall comply with the applicable provisions of the laws 6405
under which it exists, except that the agreement of merger or 6406
consolidation, by whatever name designated, shall comply with 6407
divisions (C) and (D) of this section. 6408

(C) The agreement of merger or consolidation shall set 6409
forth all of the following: 6410

(1) The names of the states and the laws under which each 6411
constituent entity exists; 6412

(2) All statements and matters required to be set forth in 6413
agreements of merger or consolidation by the laws under which 6414
any constituent entity exists; 6415

(3) A statement that the surviving or new entity is to be 6416

an association, a foreign association, a corporation other than 6417
a cooperative, or a limited liability company; 6418

(4) If the surviving or new entity is to be a foreign 6419
entity: 6420

(a) The place where the principal office of the surviving 6421
or new entity is to be located in the state in which the 6422
surviving or new entity is to exist; 6423

(b) The consent by the surviving or new entity that it may 6424
be sued and served with process in this state in any proceeding 6425
for the enforcement of any obligation of any constituent 6426
association or domestic entity; 6427

(c) The consent by the surviving or new entity that it 6428
shall be subject to the applicable provisions of Chapter 1703. 6429
of the Revised Code, if it is a foreign corporation or foreign 6430
association, or to sections 1705.53 to 1705.58 or 1706.51 to 6431
1706.515 of the Revised Code, if it is a foreign limited 6432
liability company; 6433

(d) If it is desired that the surviving or new entity 6434
exercise its corporate privileges in this state as a foreign 6435
entity. 6436

(D) The agreement also may set forth other provisions 6437
permitted by the laws of any state in which any constituent 6438
entity exists. 6439

(E) If the surviving or new entity is an association, the 6440
merger or consolidation shall take effect in accordance with 6441
sections 1729.37 and 1729.38 of the Revised Code. 6442

(F) If the surviving or new entity is an entity other than 6443
an association, the merger or consolidation shall take effect in 6444

accordance with the applicable provisions of the laws under 6445
which it exists. 6446

Sec. 1729.38. (A) (1) Upon adoption of an agreement of 6447
merger or consolidation under section 1729.35 or 1729.36 of the 6448
Revised Code, a certificate, signed by any authorized officer or 6449
representative of each constituent association or entity, shall 6450
be filed with the secretary of state on a form prescribed by the 6451
secretary of state that sets forth the following: 6452

(a) The name and form of each constituent association or 6453
entity and the state law under which each constituent entity 6454
exists; 6455

(b) A statement that each constituent association or 6456
entity has adopted the agreement of merger or consolidation, the 6457
manner of adoption, and that the agreement was adopted in 6458
compliance with the laws applicable to each constituent 6459
association or entity; 6460

(c) The effective date of the merger or consolidation, 6461
which date may be on or after the date of filing of the 6462
certificate; 6463

(d) In the case of a merger, a statement that one or more 6464
specified constituent associations or entities will be merged 6465
into a specified surviving association or entity or, in the case 6466
of a consolidation, a statement that the constituent 6467
associations or entities will be consolidated into a new 6468
association or entity; 6469

(e) The name and address of the statutory agent upon whom 6470
any process, notice, or demand against any constituent 6471
association or entity, or the surviving or new association or 6472
entity, may be served. 6473

(2) In the case of a merger into an association or 6474
domestic entity, any amendments to the articles of incorporation 6475
or the articles of organization of the surviving association or 6476
entity shall be filed with the certificate. 6477

(3) In the case of a consolidation to form a new domestic 6478
association or entity, the articles of incorporation or the 6479
articles of organization of the new association or entity shall 6480
be filed with the certificate. 6481

(4) If the surviving or new entity is a foreign entity 6482
that desires to transact business in this state as a foreign 6483
entity, the certificate shall be accompanied by the information 6484
required for qualification of a foreign entity in this state by 6485
Chapter 1703. of the Revised Code, in the case of a foreign 6486
corporation or foreign cooperative, or by sections 1705.53 and 6487
1705.54 or 1706.511 of the Revised Code, in the case of a 6488
foreign limited liability company. 6489

(B) A copy of the certificate of merger or consolidation, 6490
certified by the secretary of state, may be filed for record in 6491
the office of the county recorder of any county in this state. 6492
For such recording, the county recorder shall charge and collect 6493
the same fee as in the case of deeds. The certified copy of the 6494
certificate of merger or consolidation shall be recorded in the 6495
official records of the county recorder. 6496

(C) For purposes of this section, "domestic entity" means 6497
a corporation other than an association or a limited liability 6498
company organized under the laws of this state. 6499

Sec. 1745.461. (A) (1) Pursuant to an agreement of merger 6500
between the constituent entities as provided in this section, a 6501
domestic unincorporated nonprofit association and, if so 6502

provided, one or more additional domestic or foreign entities 6503
may be merged into a surviving entity other than a domestic 6504
unincorporated nonprofit association. Pursuant to an agreement 6505
of consolidation, a domestic unincorporated nonprofit 6506
association together with one or more additional domestic or 6507
foreign entities may be consolidated into a new entity other 6508
than a domestic unincorporated nonprofit association to be 6509
formed by that consolidation. The merger or consolidation must 6510
be permitted by the chapter of the Revised Code under which each 6511
domestic constituent entity exists and by the laws under which 6512
each foreign constituent entity exists. 6513

(2) To effect a merger or consolidation under this 6514
section, the manager or managers of each constituent 6515
unincorporated nonprofit association shall approve an agreement 6516
of merger or consolidation to be signed by the manager, the 6517
chairperson, the president, or a vice-president and by the 6518
secretary or an assistant secretary or, if there are no 6519
officers, by an authorized manager. The agreement of merger or 6520
consolidation shall be approved or otherwise authorized by or on 6521
behalf of each other constituent entity in accordance with the 6522
laws under which it exists. 6523

(3) The agreement of merger or consolidation shall set 6524
forth all of the following: 6525

(a) The name and the form of entity of each constituent 6526
entity and the state under the laws of which each constituent 6527
entity exists; 6528

(b) In the case of a merger, that one or more specified 6529
constituent entities will be merged into a specified surviving 6530
foreign entity or surviving domestic entity other than a 6531
domestic unincorporated nonprofit association or, in the case of 6532

a consolidation, that the constituent entities will be 6533
consolidated into a new foreign entity or domestic entity other 6534
than a domestic unincorporated nonprofit association. The name 6535
of the surviving or new entity may be the same as or similar to 6536
that of any constituent entity. 6537

(c) The terms of the merger or consolidation and the mode 6538
of carrying those terms into effect; 6539

(d) If the surviving or new entity is a foreign 6540
unincorporated nonprofit association, all additional statements 6541
and matters, other than the name and address of the statutory 6542
agent, that would be required by section 1745.46 of the Revised 6543
Code if the surviving or new unincorporated nonprofit 6544
association were a domestic unincorporated nonprofit 6545
association; 6546

(e) The name and the form of entity of the surviving or 6547
new entity, the state under the laws of which the surviving 6548
entity exists or the new entity is to exist, and the location of 6549
the principal office of the surviving or new entity in that 6550
state; 6551

(f) All statements and matters required to be set forth in 6552
an agreement of merger or consolidation by the laws under which 6553
each constituent entity exists and, in the case of a 6554
consolidation, the new entity is to exist; 6555

(g) The consent of the surviving or the new entity to be 6556
sued and served with process in this state and the irrevocable 6557
appointment of the secretary of state as its agent to accept 6558
service of process in any proceeding in this state to enforce 6559
against the surviving or new entity any obligation of any 6560
domestic constituent unincorporated nonprofit association. Such 6561

service shall be made upon the secretary of state by leaving 6562
duplicate copies of such process, together with an affidavit of 6563
the plaintiff or one of the plaintiff's attorneys, showing the 6564
last known address of such association, and a fee of up to five 6565
dollars that shall be included as taxable costs in the case of 6566
judicial proceedings. Upon receipt of such process, affidavit, 6567
and fee, the secretary of state shall immediately give notice to 6568
the association at the address specified in the affidavit and 6569
forward to such address by certified mail, with a request for 6570
return receipt, a copy of such process. 6571

(h) If the surviving or new entity is a foreign 6572
unincorporated nonprofit association that desires to transact 6573
business in this state as a foreign unincorporated nonprofit 6574
association, a statement to that effect, together with a 6575
statement regarding the appointment of a statutory agent and 6576
service of any process, notice, or demand upon that statutory 6577
agent or the secretary of state; 6578

(i) If the surviving or new entity is a foreign limited 6579
partnership that desires to transact business in this state as a 6580
foreign limited partnership, a statement to that effect, 6581
together with all of the information required under section 6582
1782.49 of the Revised Code when a foreign limited partnership 6583
registers to transact business in this state; 6584

(j) If the surviving or new entity is a foreign limited 6585
liability company that desires to transact business in this 6586
state as a foreign limited liability company, a statement to 6587
that effect, together with all of the information required under 6588
section 1705.54 or 1706.511 of the Revised Code when a foreign 6589
limited liability company registers to transact business in this 6590
state; 6591

(k) If the surviving or new entity is a foreign unincorporated association that desires to transact business in this state as a foreign unincorporated association, a statement to that effect, together with all of the information, if any, required by the secretary of state when a foreign unincorporated association registers to transact business in this state.

(4) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(B) A merger or consolidation pursuant to this section in which a public benefit association is one of the constituent entities shall be subject to, and shall comply with, the provisions of divisions (B) (1) (b), (2), (3), and (4) of section 1745.46 of the Revised Code.

Sec. 1751.01. As used in this chapter:

(A) (1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than 6619
prescription drug services, for biologically based mental 6620
illnesses; 6621

(h) Preventive health care services, including, but not 6622
limited to, voluntary family planning services, infertility 6623
services, periodic physical examinations, prenatal obstetrical 6624
care, and well-child care; 6625

(i) Routine patient care for patients enrolled in an 6626
eligible cancer clinical trial pursuant to section 3923.80 of 6627
the Revised Code. 6628

"Basic health care services" does not include experimental 6629
procedures. 6630

Except as provided by divisions (A) (2) and (3) of this 6631
section in connection with the offering of coverage for 6632
diagnostic and treatment services for biologically based mental 6633
illnesses, a health insuring corporation shall not offer 6634
coverage for a health care service, defined as a basic health 6635
care service by this division, unless it offers coverage for all 6636
listed basic health care services. However, this requirement 6637
does not apply to the coverage of beneficiaries enrolled in 6638
medicare pursuant to a medicare contract, or to the coverage of 6639
beneficiaries enrolled in the federal employee health benefits 6640
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 6641
medicaid recipients, or to the coverage of beneficiaries under 6642
any federal health care program regulated by a federal 6643
regulatory body, or to the coverage of beneficiaries under any 6644
contract covering officers or employees of the state that has 6645
been entered into by the department of administrative services. 6646

(2) A health insuring corporation may offer coverage for 6647

diagnostic and treatment services for biologically based mental 6648
illnesses without offering coverage for all other basic health 6649
care services. A health insuring corporation may offer coverage 6650
for diagnostic and treatment services for biologically based 6651
mental illnesses alone or in combination with one or more 6652
supplemental health care services. However, a health insuring 6653
corporation that offers coverage for any other basic health care 6654
service shall offer coverage for diagnostic and treatment 6655
services for biologically based mental illnesses in combination 6656
with the offer of coverage for all other listed basic health 6657
care services. 6658

(3) A health insuring corporation that offers coverage for 6659
basic health care services is not required to offer coverage for 6660
diagnostic and treatment services for biologically based mental 6661
illnesses in combination with the offer of coverage for all 6662
other listed basic health care services if all of the following 6663
apply: 6664

(a) The health insuring corporation submits documentation 6665
certified by an independent member of the American academy of 6666
actuaries to the superintendent of insurance showing that 6667
incurred claims for diagnostic and treatment services for 6668
biologically based mental illnesses for a period of at least six 6669
months independently caused the health insuring corporation's 6670
costs for claims and administrative expenses for the coverage of 6671
basic health care services to increase by more than one per cent 6672
per year. 6673

(b) The health insuring corporation submits a signed 6674
letter from an independent member of the American academy of 6675
actuaries to the superintendent of insurance opining that the 6676
increase in costs described in division (A) (3) (a) of this 6677

section could reasonably justify an increase of more than one 6678
per cent in the annual premiums or rates charged by the health 6679
insuring corporation for the coverage of basic health care 6680
services. 6681

(c) The superintendent of insurance makes the following 6682
determinations from the documentation and opinion submitted 6683
pursuant to divisions (A) (3) (a) and (b) of this section: 6684

(i) Incurred claims for diagnostic and treatment services 6685
for biologically based mental illnesses for a period of at least 6686
six months independently caused the health insuring 6687
corporation's costs for claims and administrative expenses for 6688
the coverage of basic health care services to increase by more 6689
than one per cent per year. 6690

(ii) The increase in costs reasonably justifies an 6691
increase of more than one per cent in the annual premiums or 6692
rates charged by the health insuring corporation for the 6693
coverage of basic health care services. 6694

Any determination made by the superintendent under this 6695
division is subject to Chapter 119. of the Revised Code. 6696

(B) (1) "Supplemental health care services" means any 6697
health care services other than basic health care services that 6698
a health insuring corporation may offer, alone or in combination 6699
with either basic health care services or other supplemental 6700
health care services, and includes: 6701

(a) Services of facilities for intermediate or long-term 6702
care, or both; 6703

(b) Dental care services; 6704

(c) Vision care and optometric services including lenses 6705

and frames;	6706
(d) Podiatric care or foot care services;	6707
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	6708 6709
(f) Short-term outpatient evaluative and crisis- intervention mental health services;	6710 6711
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	6712 6713
(h) Home health services;	6714
(i) Prescription drug services;	6715
(j) Nursing services;	6716
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	6717 6718
(l) Physical therapy services;	6719
(m) Chiropractic services;	6720
(n) Any other category of services approved by the superintendent of insurance.	6721 6722
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	6723 6724 6725 6726 6727
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other	6728 6729 6730 6731

supplemental health care services. 6732

(D) "Biologically based mental illnesses" means 6733
schizophrenia, schizoaffective disorder, major depressive 6734
disorder, bipolar disorder, paranoia and other psychotic 6735
disorders, obsessive-compulsive disorder, and panic disorder, as 6736
these terms are defined in the most recent edition of the 6737
diagnostic and statistical manual of mental disorders published 6738
by the American psychiatric association. 6739

(E) "Closed panel plan" means a health care plan that 6740
requires enrollees to use participating providers. 6741

(F) "Compensation" means remuneration for the provision of 6742
health care services, determined on other than a fee-for-service 6743
or discounted-fee-for-service basis. 6744

(G) "Contractual periodic prepayment" means the formula 6745
for determining the premium rate for all subscribers of a health 6746
insuring corporation. 6747

(H) "Corporation" means a corporation formed under Chapter 6748
1701. or 1702. of the Revised Code or the similar laws of 6749
another state. 6750

(I) "Emergency health services" means those health care 6751
services that must be available on a seven-days-per-week, 6752
twenty-four-hours-per-day basis in order to prevent jeopardy to 6753
an enrollee's health status that would occur if such services 6754
were not received as soon as possible, and includes, where 6755
appropriate, provisions for transportation and indemnity 6756
payments or service agreements for out-of-area coverage. 6757

(J) "Enrollee" means any natural person who is entitled to 6758
receive health care benefits provided by a health insuring 6759
corporation. 6760

(K) "Evidence of coverage" means any certificate, 6761
agreement, policy, or contract issued to a subscriber that sets 6762
out the coverage and other rights to which such person is 6763
entitled under a health care plan. 6764

(L) "Health care facility" means any facility, except a 6765
health care practitioner's office, that provides preventive, 6766
diagnostic, therapeutic, acute convalescent, rehabilitation, 6767
mental health, intellectual disability, intermediate care, or 6768
skilled nursing services. 6769

(M) "Health care services" means basic, supplemental, and 6770
specialty health care services. 6771

(N) "Health delivery network" means any group of providers 6772
or health care facilities, or both, or any representative 6773
thereof, that have entered into an agreement to offer health 6774
care services in a panel rather than on an individual basis. 6775

(O) "Health insuring corporation" means a corporation, as 6776
defined in division (H) of this section, that, pursuant to a 6777
policy, contract, certificate, or agreement, pays for, 6778
reimburses, or provides, delivers, arranges for, or otherwise 6779
makes available, basic health care services, supplemental health 6780
care services, or specialty health care services, or a 6781
combination of basic health care services and either 6782
supplemental health care services or specialty health care 6783
services, through either an open panel plan or a closed panel 6784
plan. 6785

"Health insuring corporation" does not include a limited 6786
liability company formed pursuant to Chapter 1705. or 1706. of 6787
the Revised Code, an insurer licensed under Title XXXIX of the 6788
Revised Code if that insurer offers only open panel plans under 6789

which all providers and health care facilities participating 6790
receive their compensation directly from the insurer, a 6791
corporation formed by or on behalf of a political subdivision or 6792
a department, office, or institution of the state, or a public 6793
entity formed by or on behalf of a board of county 6794
commissioners, a county board of developmental disabilities, an 6795
alcohol and drug addiction services board, a board of alcohol, 6796
drug addiction, and mental health services, or a community 6797
mental health board, as those terms are used in Chapters 340. 6798
and 5126. of the Revised Code. Except as provided by division 6799
(D) of section 1751.02 of the Revised Code, or as otherwise 6800
provided by law, no board, commission, agency, or other entity 6801
under the control of a political subdivision may accept 6802
insurance risk in providing for health care services. However, 6803
nothing in this division shall be construed as prohibiting such 6804
entities from purchasing the services of a health insuring 6805
corporation or a third-party administrator licensed under 6806
Chapter 3959. of the Revised Code. 6807

(P) "Intermediary organization" means a health delivery 6808
network or other entity that contracts with licensed health 6809
insuring corporations or self-insured employers, or both, to 6810
provide health care services, and that enters into contractual 6811
arrangements with other entities for the provision of health 6812
care services for the purpose of fulfilling the terms of its 6813
contracts with the health insuring corporations and self-insured 6814
employers. 6815

(Q) "Intermediate care" means residential care above the 6816
level of room and board for patients who require personal 6817
assistance and health-related services, but who do not require 6818
skilled nursing care. 6819

(R) "Medical record" means the personal information that 6820
relates to an individual's physical or mental condition, medical 6821
history, or medical treatment. 6822

(S) (1) "Open panel plan" means a health care plan that 6823
provides incentives for enrollees to use participating providers 6824
and that also allows enrollees to use providers that are not 6825
participating providers. 6826

(2) No health insuring corporation may offer an open panel 6827
plan, unless the health insuring corporation is also licensed as 6828
an insurer under Title XXXIX of the Revised Code, the health 6829
insuring corporation, on June 4, 1997, holds a certificate of 6830
authority or license to operate under Chapter 1736. or 1740. of 6831
the Revised Code, or an insurer licensed under Title XXXIX of 6832
the Revised Code is responsible for the out-of-network risk as 6833
evidenced by both an evidence of coverage filing under section 6834
1751.11 of the Revised Code and a policy and certificate filing 6835
under section 3923.02 of the Revised Code. 6836

(T) "Osteopathic hospital" means a hospital registered 6837
under section 3701.07 of the Revised Code that advocates 6838
osteopathic principles and the practice and perpetuation of 6839
osteopathic medicine by doing any of the following: 6840

(1) Maintaining a department or service of osteopathic 6841
medicine or a committee on the utilization of osteopathic 6842
principles and methods, under the supervision of an osteopathic 6843
physician; 6844

(2) Maintaining an active medical staff, the majority of 6845
which is comprised of osteopathic physicians; 6846

(3) Maintaining a medical staff executive committee that 6847
has osteopathic physicians as a majority of its members. 6848

(U) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

(V) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

(W) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

(X) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee.

(Y) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to

preclude a health insuring corporation, health care 6879
practitioner, or organized health care group associated with a 6880
health insuring corporation from employing certified nurse 6881
practitioners, certified nurse anesthetists, clinical nurse 6882
specialists, certified nurse-midwives, pharmacists, dietitians, 6883
physician assistants, dental assistants, dental hygienists, 6884
optometric technicians, or other allied health personnel who are 6885
licensed, certified, accredited, or otherwise authorized in this 6886
state to furnish health care services. 6887

(Z) "Provider sponsored organization" means a corporation, 6888
as defined in division (H) of this section, that is at least 6889
eighty per cent owned or controlled by one or more hospitals, as 6890
defined in section 3727.01 of the Revised Code, or one or more 6891
physicians licensed to practice medicine or surgery or 6892
osteopathic medicine and surgery under Chapter 4731. of the 6893
Revised Code, or any combination of such physicians and 6894
hospitals. Such control is presumed to exist if at least eighty 6895
per cent of the voting rights or governance rights of a provider 6896
sponsored organization are directly or indirectly owned, 6897
controlled, or otherwise held by any combination of the 6898
physicians and hospitals described in this division. 6899

(AA) "Solicitation document" means the written materials 6900
provided to prospective subscribers or enrollees, or both, and 6901
used for advertising and marketing to induce enrollment in the 6902
health care plans of a health insuring corporation. 6903

(BB) "Subscriber" means a person who is responsible for 6904
making payments to a health insuring corporation for 6905
participation in a health care plan, or an enrollee whose 6906
employment or other status is the basis of eligibility for 6907
enrollment in a health insuring corporation. 6908

(CC) "Urgent care services" means those health care 6909
services that are appropriately provided for an unforeseen 6910
condition of a kind that usually requires medical attention 6911
without delay but that does not pose a threat to the life, limb, 6912
or permanent health of the injured or ill person, and may 6913
include such health care services provided out of the health 6914
insuring corporation's approved service area pursuant to 6915
indemnity payments or service agreements. 6916

Sec. 1776.69. (A) Pursuant to a written agreement of 6917
merger or consolidation between the constituent entities as this 6918
section provides, a domestic partnership and one or more 6919
additional domestic or foreign entities may merge into a 6920
surviving entity other than a domestic partnership, or a 6921
domestic partnership together with one or more additional 6922
domestic or foreign entities may consolidate into a new entity, 6923
other than a domestic partnership, that is formed by the 6924
consolidation. No merger or consolidation may be carried out 6925
pursuant to this section unless it is permitted by the Revised 6926
Code chapter under which each domestic constituent entity exists 6927
and by the laws under which each foreign constituent entity 6928
exists. 6929

(B) Any written agreement of any merger or consolidation 6930
shall set forth all of the following: 6931

(1) The name and the form of entity of each constituent 6932
entity and the state under the laws of which each constituent 6933
entity exists; 6934

(2) In the case of a merger, that one or more specified 6935
constituent domestic partnerships and other specified 6936
constituent entities will be merged into a specified surviving 6937
foreign entity or surviving domestic entity other than a 6938

domestic partnership, or, in the case of a consolidation, that 6939
the constituent entities will be consolidated into a new foreign 6940
entity or a new domestic entity other than a domestic 6941
partnership; 6942

(3) If the surviving or new entity is a foreign 6943
partnership, all statements and matters that section 1776.68 of 6944
the Revised Code would require if the surviving or new entity 6945
were a domestic partnership; 6946

(4) The name and the form of entity of the surviving or 6947
new entity, the state under the laws of which the surviving 6948
entity exists or the new entity is to exist, and the location of 6949
the principal office of the surviving or new entity; 6950

(5) Any additional statements and matters required to be 6951
set forth in an agreement of merger or consolidation by the laws 6952
under which each constituent entity exists and, in the case of a 6953
consolidation, the new entity is to exist; 6954

(6) If the surviving or new entity is a foreign entity, 6955
the consent of the surviving or new foreign entity to be sued 6956
and served with process in this state and the irrevocable 6957
appointment of the secretary of state as its agent to accept 6958
service of process in any proceeding in this state to enforce 6959
against the surviving or new foreign entity any obligation of 6960
any constituent domestic partnership or to enforce the rights of 6961
a dissenting partner of any constituent domestic partnership; 6962

(7) If the surviving or new entity is a foreign 6963
corporation that desires to transact business in this state as a 6964
foreign corporation, a statement to that effect, together with a 6965
statement regarding the appointment of a statutory agent and 6966
service of any process, notice, or demand upon that statutory 6967

agent or the secretary of state, as required when a foreign 6968
corporation applies for a license to transact business in this 6969
state; 6970

(8) If the surviving or new entity is a foreign limited 6971
partnership that desires to transact business in this state as a 6972
foreign limited partnership, a statement to that effect, 6973
together with all of the information required under section 6974
1782.49 of the Revised Code when a foreign limited partnership 6975
registers to transact business in this state; 6976

(9) If the surviving or new entity is a foreign limited 6977
liability company that desires to transact business in this 6978
state as a foreign limited liability company, a statement to 6979
that effect, together with all of the information required under 6980
section 1705.54 or 1706.511 of the Revised Code when a foreign 6981
limited liability company registers to transact business in this 6982
state; 6983

(10) If the surviving or new entity is a foreign limited 6984
liability partnership that desires to transact business in this 6985
state as a foreign limited liability partnership, a statement to 6986
that effect, together with all of the information required under 6987
section 1776.86 of the Revised Code when a foreign limited 6988
liability partnership registers to transact business in this 6989
state. 6990

(C) The written agreement of merger or consolidation also 6991
may set forth any additional provision permitted by the laws of 6992
any state under the laws of which any constituent entity exists, 6993
consistent with the laws under which the surviving entity exists 6994
or the new entity is to exist. 6995

(D) To effect the merger or consolidation, the partners of 6996

each constituent domestic partnership shall adopt an agreement 6997
of merger or consolidation in the same manner and with the same 6998
notice to and vote or action of partners or of a particular 6999
class or group of partners as section 1776.68 of the Revised 7000
Code requires. The agreement of merger or consolidation also 7001
shall be approved or otherwise authorized by or on behalf of 7002
each constituent entity in accordance with the laws under which 7003
it exists. An agreement of merger or consolidation is not 7004
effective against a person who would continue to be or who would 7005
become a general partner of an entity that is the surviving or 7006
new entity in a merger or consolidation unless that person 7007
specifically agrees in writing either to continue or to become, 7008
as the case may be, a general partner of the surviving or new 7009
entity. 7010

(E) (1) At any time before filing the certificate of merger 7011
or consolidation pursuant to section 1776.70 of the Revised 7012
Code, if the agreement of merger or consolidation permits, the 7013
partners of any constituent partnership, the directors of any 7014
constituent corporation, or the comparable representatives of 7015
any other constituent entity may abandon the merger or 7016
consolidation. 7017

(2) The agreement of merger or consolidation may authorize 7018
less than all of the partners of any constituent partnership, 7019
the directors of any constituent corporation, or the comparable 7020
representatives of any other constituent entity to amend the 7021
agreement of merger or consolidation at any time before the 7022
filing of the certificate of merger or consolidation, except 7023
that, after the adoption of the agreement of merger or 7024
consolidation by the partners of any constituent domestic 7025
partnership, only with the approval of all the partners may any 7026
agreement of merger or consolidation be amended to do any of the 7027

following: 7028

(a) Alter or change the amount or kind of interests, 7029
shares, evidences of indebtedness, other securities, cash, 7030
rights, or any other property to be received by partners of the 7031
constituent domestic partnership in conversion of or in exchange 7032
for their interests; 7033

(b) If the surviving or new entity is a partnership, alter 7034
or change any term of the partnership agreement of the surviving 7035
or new partnership, except for alterations or changes that could 7036
be adopted by those partners by the terms of the partnership 7037
agreement of the surviving or new partnership as would be in 7038
effect after the merger or consolidation; 7039

(c) If the surviving or new entity is a corporation or any 7040
other entity other than a partnership, alter or change any term 7041
of the articles or comparable instrument of the surviving or new 7042
corporation or entity, except for alterations or changes that 7043
otherwise could be adopted by the directors or comparable 7044
representatives of the surviving or new corporation or entity; 7045

(d) Alter or change any other terms and conditions of the 7046
agreement of merger or consolidation if any of the alterations 7047
or changes, alone or in the aggregate, would materially 7048
adversely affect the partners or any class or group of partners 7049
of the constituent domestic partnership. 7050

Sec. 1776.82. (A) The name of a limited liability 7051
partnership shall contain "registered limited liability 7052
partnership," "registered partnership having limited liability," 7053
"limited liability partnership," "R.L.L.P.," "P.L.L.," "L.L.P.," 7054
"RLLP," "PLL," or "LLP." 7055

(B) The name of a domestic registered limited liability 7056

partnership or foreign limited liability partnership shall be 7057
distinguishable upon the records in the office of the secretary 7058
of state from all of the following: 7059

(1) The name of any other limited liability partnership 7060
registered in the office of the secretary of state pursuant to 7061
this chapter or Chapter 1775. of the Revised Code, whether 7062
domestic or foreign; 7063

(2) The name of any domestic corporation that is formed 7064
under Chapter 1701. or 1702. of the Revised Code or any foreign 7065
corporation that is registered pursuant to Chapter 1703. of the 7066
Revised Code; 7067

(3) The name of any limited liability company registered 7068
in the office of the secretary of state pursuant to Chapter 7069
1705. or 1706. of the Revised Code, whether domestic or foreign; 7070

(4) The name of any limited partnership registered in the 7071
office of the secretary of state pursuant to Chapter 1782. of 7072
the Revised Code, whether domestic or foreign; 7073

(5) Any trade name the exclusive right to which is at the 7074
time in question registered in the office of the secretary of 7075
state pursuant to Chapter 1329. of the Revised Code. 7076

Sec. 1782.02. (A) The name of any limited partnership, as 7077
set forth in its certificate of limited partnership, shall 7078
include "Limited Partnership," "L.P.," "Limited," or "Ltd." and 7079
shall not contain the name of a limited partner unless either of 7080
the following are true: 7081

(1) It is also the name of a general partner; 7082

(2) The business of the limited partnership had been 7083
carried on under that name before the admission of that limited 7084

partner. 7085

(B) The name of a limited partnership shall be 7086
distinguishable upon the records in the office of the secretary 7087
of state from all of the following: 7088

(1) The name of any other limited partnership registered 7089
in the office of the secretary of state pursuant to this 7090
chapter, whether domestic or foreign; 7091

(2) The name of any domestic corporation that is formed 7092
under Chapter 1701. or 1702. of the Revised Code or any foreign 7093
corporation that is registered pursuant to Chapter 1703. of the 7094
Revised Code; 7095

(3) The name of any limited liability company registered 7096
in the office of the secretary of state pursuant to Chapter 7097
1705. or 1706. of the Revised Code, whether domestic or foreign; 7098

(4) The name of any limited liability partnership 7099
registered in the office of the secretary of state pursuant to 7100
Chapter 1775. or 1776. of the Revised Code, whether domestic or 7101
foreign; 7102

(5) Any trade name the exclusive right to which is at the 7103
time in question registered in the office of the secretary of 7104
state pursuant to Chapter 1329. of the Revised Code. 7105

Sec. 1782.432. (A) Pursuant to an agreement of merger or 7106
consolidation between the constituent entities as provided in 7107
this section, a domestic limited partnership and one or more 7108
additional domestic or foreign entities may be merged into a 7109
surviving entity other than a domestic limited partnership, or a 7110
domestic limited partnership together with one or more 7111
additional domestic or foreign entities may be consolidated into 7112
a new entity other than a domestic limited partnership to be 7113

formed by such consolidation. The merger or consolidation must 7114
be permitted by the chapter of the Revised Code under which each 7115
domestic constituent entity exists and by the laws under which 7116
each foreign constituent entity exists. 7117

(B) The agreement of merger or consolidation shall set 7118
forth all of the following: 7119

(1) The name and the form of entity of each constituent 7120
entity and the state under the laws of which each constituent 7121
entity exists; 7122

(2) In the case of a merger, that one or more specified 7123
constituent domestic limited partnerships and other specified 7124
constituent entities will be merged into a specified surviving 7125
foreign entity or surviving domestic entity other than a 7126
domestic limited partnership, or, in the case of a 7127
consolidation, that the constituent entities will be 7128
consolidated into a new foreign entity or a new domestic entity 7129
other than a domestic limited partnership; 7130

(3) If the surviving or new entity is a foreign limited 7131
partnership, all additional statements and matters, other than 7132
the name and address of the statutory agent, that would be 7133
required by section 1782.431 of the Revised Code if the 7134
surviving or new entity were a domestic limited partnership; 7135

(4) The name and the form of entity of the surviving or 7136
new entity, the state under the laws of which the surviving 7137
entity exists or the new entity is to exist, and the location of 7138
the principal office of the surviving or new entity; 7139

(5) All additional statements and matters required to be 7140
set forth in such an agreement of merger or consolidation by the 7141
laws under which each constituent entity exists and, in the case 7142

of a consolidation, the new entity is to exist; 7143

(6) The consent of the surviving or new entity to be sued 7144
and served with process in this state and the irrevocable 7145
appointment of the secretary of state as its agent to accept 7146
service of process in any proceeding in this state to enforce 7147
against the surviving or new entity any obligation of any 7148
constituent domestic limited partnership or to enforce the 7149
rights of a dissenting partner of any constituent domestic 7150
limited partnership; 7151

(7) If the surviving or new entity is a foreign 7152
corporation that desires to transact business in this state as a 7153
foreign corporation, a statement to that effect, together with a 7154
statement regarding the appointment of a statutory agent and 7155
service of any process, notice, or demand upon that statutory 7156
agent or the secretary of state, as required when a foreign 7157
corporation applies for a license to transact business in this 7158
state; 7159

(8) If the surviving or new entity is a foreign limited 7160
partnership that desires to transact business in this state as a 7161
foreign limited partnership, a statement to that effect, 7162
together with all of the information required under section 7163
1782.49 of the Revised Code when a foreign limited partnership 7164
registers to transact business in this state; 7165

(9) If the surviving or new entity is a foreign limited 7166
liability company that desires to transact business in this 7167
state as a foreign limited liability company, a statement to 7168
that effect, together with all of the information required under 7169
section 1705.54 or 1706.511 of the Revised Code when a foreign 7170
limited liability company registers to transact business in this 7171
state. 7172

(C) The agreement of merger or consolidation also may set 7173
forth any additional provision permitted by the laws of any 7174
state under the laws of which any constituent entity exists, 7175
consistent with the laws under which the surviving entity exists 7176
or the new entity is to exist. 7177

(D) To effect the merger or consolidation, the agreement 7178
of merger or consolidation shall be adopted by the general 7179
partners of each constituent domestic limited partnership, in 7180
the same manner and with the same notice to and vote or action 7181
of partners or of a particular class or group of partners as is 7182
required by section 1782.431 of the Revised Code. The agreement 7183
of merger or consolidation also shall be approved or otherwise 7184
authorized by or on behalf of each constituent entity in 7185
accordance with the laws under which it exists. Each person who 7186
will continue to be or who will become a general partner of a 7187
partnership that is the surviving or new entity in a merger or 7188
consolidation shall specifically agree to continue or to become, 7189
as the case may be, a general partner of the surviving or new 7190
entity. 7191

(E) At any time before the filing of the certificate of 7192
merger or consolidation pursuant to section 1782.433 of the 7193
Revised Code, the merger or consolidation may be abandoned by 7194
the general partners of any constituent partnership, the 7195
directors of any constituent corporation, or the comparable 7196
representatives of any other constituent entity if the general 7197
partners, directors, or comparable representatives are 7198
authorized to do so by the agreement of merger or consolidation. 7199
The agreement of merger or consolidation may contain a provision 7200
authorizing the general partners of any constituent partnership, 7201
the directors of any constituent corporation, or the comparable 7202
representatives of any other constituent entity to amend the 7203

agreement of merger or consolidation at any time before the 7204
filing of the certificate of merger or consolidation, except 7205
that after the adoption of the agreement of merger or 7206
consolidation by the limited partners of any constituent 7207
domestic limited partnership, the general partners shall not be 7208
authorized to amend the agreement of merger or consolidation to 7209
do any of the following: 7210

(1) Alter or change the amount or kind of interests, 7211
shares, evidences of indebtedness, other securities, cash, 7212
rights, or any other property to be received by limited partners 7213
of the constituent domestic limited partnership in conversion of 7214
or in substitution for their interests; 7215

(2) If the surviving or new entity is a partnership, alter 7216
or change any term of the partnership agreement of the surviving 7217
or new partnership, except for alterations or changes that 7218
otherwise could be adopted by the general partners of the 7219
surviving or new partnership; 7220

(3) If the surviving or new entity is a corporation or any 7221
other entity other than a partnership, alter or change any term 7222
of the articles or comparable instrument of the surviving or new 7223
corporation or entity, except for alterations or changes that 7224
otherwise could be adopted by the directors or comparable 7225
representatives of the surviving or new corporation or entity; 7226

(4) Alter or change any other terms and conditions of the 7227
agreement of merger or consolidation if any of the alterations 7228
or changes, alone or in the aggregate, would materially 7229
adversely affect the limited partners or any class or group of 7230
limited partners of the constituent domestic limited 7231
partnership. 7232

Sec. 1785.09. This chapter does not preclude the rendering 7233
of a professional service within this state by a corporation 7234
formed under division (B) of section 1701.03 of the Revised 7235
Code, a limited liability company formed under Chapter 1705. or 7236
1706. of the Revised Code, or a foreign limited liability 7237
company registered with the secretary of state and transacting 7238
business in this state in accordance with sections 1705.53 to 7239
1705.58 or 1706.51 to 1706.515 of the Revised Code. 7240

Sec. 3345.203. (A) As used in this section: 7241

(1) "Claims expenses" means payment of judgments, 7242
settlement of claims, expense, loss, and damage. 7243

(2) "State university or college" has the same meaning as 7244
in section 3345.12 of the Revised Code. 7245

(B) Regardless of whether a state university or college 7246
secures insurance coverages under division (B) (1), (2), or (3) 7247
of section 3345.202 of the Revised Code, the board of trustees 7248
of the state university or college may join with other state 7249
universities or colleges in establishing and maintaining a joint 7250
self-insurance pool to do both of the following: 7251

(1) Provide for payment of claims expenses that arise, or 7252
are claimed to have arisen, from an act or omission of the state 7253
university or college or any of its employees or other persons 7254
authorized by the board while doing either of the following: 7255

(a) Acting in the scope of their employment or official 7256
responsibilities; 7257

(b) Being engaged in activities undertaken at the request 7258
or direction, or for the benefit, of the state university or 7259
college. 7260

(2) Indemnify or hold harmless the state university's or 7261
college's employees against such loss or damage. 7262

The joint self-insurance pool shall be pursuant to a 7263
written agreement and to the extent that the board considers the 7264
pool to be necessary. 7265

(C) All of the following apply to a joint self-insurance 7266
pool under this section: 7267

(1) The funds shall be reserved as are necessary, in the 7268
exercise of sound and prudent actuarial judgment, to cover 7269
potential state university or college and employee liabilities, 7270
loss, and damage. A report of aggregate amounts so reserved and 7271
aggregate disbursements made from such funds shall be prepared 7272
and maintained in the office of the pool administrator described 7273
in division (C) (2) of this section. The report shall be prepared 7274
and maintained not later than ninety days after the close of the 7275
pool's fiscal year. 7276

The report required by this division shall include, but 7277
not be limited to, the aggregate of disbursements made for the 7278
administration of the pool, including claims paid, costs of the 7279
legal representation of state universities or colleges and 7280
employees, and fees paid to consultants. The report also shall 7281
be accompanied by a written report of a member of the American 7282
academy of actuaries certifying whether the amounts reserved 7283
conform to the requirements of this division, are computed in 7284
accordance with accepted loss reserving standards, and are 7285
fairly stated in accordance with sound loss reserving 7286
principles. 7287

The pool administrator described in division (C) (2) of 7288
this section shall make the report required by this division 7289

available for inspection by any person at all reasonable times 7290
during regular business hours. Upon the request of such person, 7291
the pool administrator shall make copies of the report available 7292
at cost within a reasonable period of time. The pool 7293
administrator also shall submit a copy of the report to the 7294
auditor of state. The report required by this division is in 7295
lieu of the records required by division (A) of section 149.431 7296
of the Revised Code. 7297

(2) The board of trustees establishing a joint self- 7298
insurance pool may award a contract, without the necessity of 7299
competitive bidding, to a pool administrator for purposes of 7300
administration of the joint self-insurance pool. A "pool 7301
administrator" may be any person, political subdivision, limited 7302
liability company organized under Chapter 1705. or 1706. of the 7303
Revised Code, nonprofit corporation organized under Chapter 7304
1702. of the Revised Code, or regional council of governments 7305
created under Chapter 167. of the Revised Code. The board shall 7306
not enter into such a contract without full, prior, public 7307
disclosure of all terms and conditions. The disclosure shall 7308
include, at a minimum, a statement listing all representations 7309
made in connection with any possible savings and losses 7310
resulting from the contract, and potential liability of any 7311
state university or college or employee. The proposed contract 7312
and statement shall be disclosed and presented at a meeting of 7313
the board of trustees of the state university or college prior 7314
to the meeting at which the board of trustees of the state 7315
university or college authorizes the contract. 7316

(3) A joint self-insurance pool shall include a contract 7317
with a member of the American academy of actuaries for the 7318
preparation of the written evaluation of the reserve funds 7319
required under division (C) (1) of this section. 7320

(4) A joint self-insurance pool may allocate the costs of 7321
funding the pool among the funds or accounts in the treasuries 7322
of the state universities or colleges on the basis of their 7323
relative exposure and loss experience. A joint self-insurance 7324
program may require any deductible under the program to be paid 7325
from funds or accounts in the treasury of the state university 7326
or college from which a loss was directly attributable. 7327

(D) Two or more state universities or colleges may also 7328
authorize the establishment and maintenance of a joint risk- 7329
management program, including but not limited to the employment 7330
of risk managers and consultants, for the purpose of preventing 7331
and reducing the risks covered by insurance, self-insurance, or 7332
joint self-insurance programs. A joint risk-management program 7333
shall not include fidelity, surety, or guarantee bonding. 7334

(E) A state university or college is not liable under a 7335
joint self-insurance pool for any amount in excess of amounts 7336
payable pursuant to the written agreement for the participation 7337
of the state university or college in the joint self-insurance 7338
pool. Under a joint self-insurance pool agreement a state 7339
university or college may, to the extent permitted under the 7340
written agreement, assume the risks of any other state 7341
university or college, including the indemnification of its 7342
employees. A joint self-insurance pool, established under this 7343
section, is deemed a separate legal entity for the public 7344
purpose of enabling the members of the joint self-insurance pool 7345
to obtain insurance or to provide for a formalized, jointly 7346
administered self-insurance fund for its members. An entity 7347
created pursuant to this section is exempt from all state and 7348
local taxes. 7349

(F) (1) In the manner provided by and subject to the 7350

applicable provisions of section 3345.12 of the Revised Code, 7351
any state university or college may issue obligations and may 7352
also issue notes in anticipation of such obligations, pursuant 7353
to a resolution of its board of trustees or other governing body 7354
for the purpose of providing funds to do both of the following: 7355

(a) Pay claims expenses, whether by way of a reserve or 7356
otherwise; 7357

(b) Pay the state university or college's portion of the 7358
cost of establishing and maintaining a joint self-insurance pool 7359
or to provide for the reserve in a special fund authorized by 7360
division (C) (1) of this section. 7361

(2) Sections 9.98 to 9.983 of the Revised Code apply to 7362
bonds or notes authorized under this section. 7363

(G) (1) A joint self-insurance pool, in addition to its 7364
powers to provide self-insurance against any and all liabilities 7365
under this chapter, may also include any one or more of the 7366
following forms of property or casualty self-insurance for the 7367
purpose of covering any other liabilities or risks of the 7368
members of the pool: 7369

(a) Public general liability, professional liability, or 7370
employee liability; 7371

(b) Individual or fleet motor vehicle or automobile 7372
liability and protection against other liability and loss 7373
associated with the ownership, maintenance, and use of motor 7374
vehicles; 7375

(c) Aircraft liability and protection against other 7376
liability and loss associated with the ownership, maintenance, 7377
and use of aircraft; 7378

(d) Loss or damage to property and loss of use and 7379
occupancy of property by fire, lightning, hail, tempest, flood, 7380
earthquake, or snow, explosion, accident, or other risk; 7381

(e) Marine, inland transportation and navigation, boiler, 7382
containers, pipes, engines, flywheels, elevators, and machinery; 7383

(f) Environmental impairment; 7384

(g) Loss or damage by any hazard upon any other risk to 7385
which state universities or colleges are subject, which is not 7386
prohibited by statute or at common law from being the subject of 7387
casualty or property insurance. 7388

(2) A joint self-insurance pool is not an insurance 7389
company. Its operation does not constitute doing an insurance 7390
business and is not subject to the insurance laws of this state. 7391

(H) A public official or employee of a state university or 7392
college who is or becomes a member of the governing body of a 7393
joint self-insurance pool in which the state university or 7394
college participates is not in violation of any of the following 7395
as a result of the state university or college entering into the 7396
written agreement to participate in the pool or into any 7397
contract with the pool: 7398

(1) Division (D) or (E) of section 102.03 of the Revised 7399
Code; 7400

(2) Division (C) of section 102.04 of the Revised Code; 7401

(3) Section 2921.42 of the Revised Code. 7402

(I) This section shall not be construed to affect the 7403
ability of any state university or college to self-insure under 7404
the authority conferred by any other section of the Revised 7405
Code. 7406

(J) The establishment or participation in a joint self-insurance pool under this section shall not constitute a waiver of any immunity or defense available to the member state university or college or to any covered entity.

(K) (1) Both of the following shall be determined in the court of claims pursuant to section 2743.02 of the Revised Code:

(a) Any claims or litigation relating to the administration of a joint self-insurance pool created pursuant to this section, including any immunities or defenses;

(b) Any claims relating to the scope of or denial of coverage under that pool or its administration.

(2) The pool administrator described in division (C) (2) of this section and its employees, while in the course of administering a joint self-insurance pool under this section, shall:

(a) Be deemed to be an instrumentality of the state for the purposes of Chapter 2743. of the Revised Code;

(b) Be deemed to be performing a public duty, as defined in section 2743.01 of the Revised Code; and

(c) Have the defenses to, and immunities from, civil liability provided in section 2743.02 of the Revised Code.

Sec. 3964.03. (A) A captive insurance company shall be organized under Chapter 1701., 1702., ~~or 1705.~~ or 1706. of the Revised Code.

(B) A captive insurance company shall not operate in this state unless all of the following are met:

(1) The captive insurance company obtains from the

superintendent a license to do the business of captive insurance 7434
in this state. 7435

(2) The captive insurance company's board of directors 7436
holds at least one meeting each year in this state. 7437

(3) The captive insurance company maintains its principal 7438
place of business in this state. 7439

(4) The person managing the captive insurance company is a 7440
resident of this state. 7441

(5) The captive insurance company appoints a registered 7442
agent to accept service of process and act on its behalf in this 7443
state. 7444

(C) Whenever an agent required under division (B) (5) of 7445
this section cannot, with reasonable diligence, be found at the 7446
registered office of the captive insurance company, the 7447
superintendent shall be an agent of such a captive insurance 7448
company upon whom any process, notice, or demand may be served. 7449

(D) A captive insurance company seeking a license to be a 7450
captive insurance company in this state shall file an 7451
application with the superintendent and shall submit all of the 7452
following along with the application: 7453

(1) A certified copy of its articles of incorporation, 7454
bylaws, or other organizational document and code of 7455
regulations; 7456

(2) A statement, made under oath by the president and 7457
secretary, in a form prescribed by the superintendent, showing 7458
the captive insurance company's financial condition; 7459

(3) A statement of the captive insurance company's assets 7460
relative to its risks, detailing the amount of assets and their 7461

liquidity;	7462
(4) An account of the adequacy of the expertise,	7463
experience, and character of the person or persons who will	7464
manage the captive insurance company;	7465
(5) An account of the loss prevention programs of the	7466
persons that the captive insurance company insures;	7467
(6) Actuarial assumptions and methodologies that will be	7468
utilized in calculating reserves;	7469
(7) Any other information considered necessary by the	7470
superintendent to determine whether the proposed captive	7471
insurance company will be able to meet its obligations.	7472
(E) (1) A special purpose financial captive insurance	7473
company shall follow the national association of insurance	7474
commissioner's accounting practices and procedures manual.	7475
(2) (a) Upon request, the superintendent may allow a	7476
special purpose financial captive insurance company to use a	7477
reserve basis other than that found in the national association	7478
of insurance commissioner's accounting practices and procedures	7479
manual.	7480
(b) The superintendent, in accordance with Chapter 119. of	7481
the Revised Code, shall adopt rules that define acceptable	7482
alternative reserve bases.	7483
(c) Such rules shall be adopted prior to availability for	7484
use of any such alternative reserve basis and shall ensure that	7485
the resulting reserves meet all of the following conditions:	7486
(i) Quantify the benefits and guarantees, and the funding,	7487
associated with the contracts and their risks at a level of	7488
conservatism that reflects conditions that include unfavorable	7489

events that have a reasonable probability of occurring during 7490
the lifetime of the contracts. For policies or contracts with 7491
significant tail risk, reflects conditions appropriately adverse 7492
to quantify the tail risk. 7493

(ii) Incorporate assumptions, risk analysis methods, and 7494
financial models and management techniques that are consistent 7495
with, but not necessarily identical to, those utilized within 7496
the company's overall risk assessment process, while recognizing 7497
potential differences in financial reporting structures and any 7498
prescribed assumptions or methods; 7499

(iii) Provide margins for uncertainty including adverse 7500
deviation and estimation error, such that the greater the 7501
uncertainty the larger the margin and resulting reserve. 7502

(d) An alternative basis for calculating a reserve 7503
approved by the superintendent shall be treated as a public 7504
document after the date the alternative basis for calculating 7505
the reserve has been approved, regardless of the application of 7506
the uniform trade secrets act set forth in sections 1333.61 to 7507
1333.69 of the Revised Code. 7508

(3) The special purpose financial captive insurance 7509
company shall submit a request for an alternative reserve basis 7510
in writing, and affirmed by the company's appointed actuary, 7511
that includes, at a minimum, the following information for the 7512
superintendent to consider in evaluating the request: 7513

(a) The reserves based on the national association of 7514
insurance commissioner's accounting practices and procedures 7515
manual and the reserves based on the proposed alternative method 7516
for calculation and the difference between these two 7517
calculations; 7518

(b) A detailed analysis of the proposed alternative method 7519
explaining why the use of an alternative basis for calculating 7520
the reserve is appropriate; 7521

(c) All assumptions utilized within the proposed 7522
alternative method, together with the source of the assumptions, 7523
as well as information, satisfactory to the superintendent, 7524
supporting the appropriateness of the assumptions and analysis 7525
and identifying the assumptions that result in the greatest 7526
variability in the reserve and how that analysis was used in 7527
setting those assumptions; 7528

(d) A detailed overview of the corporate governance and 7529
oversight of the actuarial valuation function; 7530

(e) Any other information the superintendent may require 7531
to assess the proposed alternative method for approval or 7532
disapproval. 7533

(4) At the expense of the special purpose financial 7534
captive insurance company, the superintendent may require the 7535
company to secure the affirmation of an independent qualified 7536
actuary in support of any alternative basis for calculating the 7537
reserve that is requested pursuant to this section or to assist 7538
the superintendent in the review of said request. 7539

(5) If the superintendent approves the use of an 7540
alternative basis for calculating a reserve, the special purpose 7541
financial captive insurance company, and the ceding insurer 7542
shall each include a note in its financial statements disclosing 7543
the use of a basis other than the national association of 7544
insurance commissioner's accounting practices and procedures 7545
manual and the difference between the reserve amount determined 7546
under the alternative basis and the reserve amount that would 7547

have been determined had the company utilized the national 7548
association of insurance commissioner's accounting practices and 7549
procedures manual. 7550

(6) (a) The superintendent shall establish an acceptable 7551
total capital and surplus requirement for each insurance company 7552
that will cede risks and obligations to a special purpose 7553
financial captive insurance company. The total capital and 7554
surplus requirement must be met at the time the special purpose 7555
financial captive insurance company applies for a license to do 7556
the business of captive insurance. The total capital and surplus 7557
requirement shall be determined in accordance with a minimum 7558
required total capital and surplus methodology that meets both 7559
of the following requirements: 7560

(i) Is consistent with current risk-based capital 7561
principles; 7562

(ii) Takes into account all material risks and 7563
obligations, as well as the assets, of the insurance company. 7564

(b) An insurance company ceding risks and obligations to a 7565
special purpose financial captive insurance company shall fully 7566
disclose all material risks and obligations, as well as its 7567
assets and all affiliated captive insurance company risks. The 7568
ceding insurance company shall advise the superintendent 7569
whenever there is a material change to such risks, obligations, 7570
or assets. 7571

(F) In determining whether to approve an application for a 7572
license, the superintendent shall consider all of the following: 7573

(1) The character, reputation, financial standing, and 7574
purposes of the incorporators, or other founders, of the captive 7575
insurance company; 7576

(2) The character, reputation, financial responsibility, 7577
experience relating to insurance, and business qualifications of 7578
the officers and directors of the captive insurance company; 7579

(3) The amount of liquidity and assets of the captive 7580
insurance company relative to the risks to be assumed; 7581

(4) The adequacy of the expertise, experience, and 7582
character of the person or persons who will manage the captive 7583
insurance company; 7584

(5) The overall soundness of the plan of operation; 7585

(6) The adequacy of the loss prevention programs of the 7586
persons that the captive insurance company insures. 7587

(G) (1) Each captive insurance company that offers direct 7588
insurance to its parent shall submit to the superintendent for 7589
approval a detailed description of the coverages, deductibles, 7590
coverage limits, proposed rates or rating plans, documentation 7591
from a qualified actuary that demonstrates the actuarial 7592
soundness of the proposed rates or rating plans, and other such 7593
additional information as the superintendent may require. 7594

(2) (a) Any captive insurance company licensed under the 7595
provisions of this chapter that seeks to make any material 7596
change to any item described in division (G) (1) of this section 7597
shall submit to the superintendent for approval a detailed 7598
description of the revision, documentation from a qualified 7599
actuary that demonstrates the actuarial soundness of the revised 7600
rates or rating plans, and other such additional information as 7601
the superintendent may require. 7602

(b) Each filing under division (G) (2) (a) of this section 7603
is deemed approved thirty days after the filing is received by 7604
the superintendent of insurance, unless the filing is 7605

disapproved by the superintendent during that thirty-day period. 7606

(c) If at any time subsequent to the thirty-day review 7607
period the superintendent finds that a filing does not 7608
demonstrate actuarial soundness, the superintendent shall hold a 7609
hearing requiring the captive insurance company to show cause 7610
why an order should not be made by the superintendent to 7611
disapprove the revised rates or rating plans. 7612

(d) If, upon such a hearing, the superintendent finds that 7613
the captive insurance company failed to demonstrate the 7614
actuarial soundness of the rates or rating plans, the 7615
superintendent shall issue an order directing the captive 7616
insurance company to cease and desist from using the revised 7617
rates or rating plans and to use rates or rating plans as 7618
determined appropriate by the superintendent. 7619

(H) Except as otherwise provided in this division, 7620
documents and information submitted by a captive insurance 7621
company pursuant to this section are not subject to section 7622
149.43 of the Revised Code, and are confidential, and may not be 7623
disclosed by the superintendent or any employee of the 7624
department of insurance without the written consent of the 7625
company. 7626

(1) Such documents and information may be discoverable in 7627
a civil action in which the captive insurance company filing the 7628
material is a party upon a finding by a court of competent 7629
jurisdiction that the information sought is relevant and 7630
necessary to the case and the information sought is unavailable 7631
from other, nonconfidential sources. 7632

(2) The superintendent may, at the superintendent's sole 7633
discretion, share documents required under this section with the 7634

chief deputy rehabilitator, the chief deputy liquidator, other 7635
deputy rehabilitators and liquidators, and any other person 7636
employed by, or acting on behalf of the superintendent pursuant 7637
to Chapter 3901. or 3903. of the Revised Code, with other local, 7638
state, federal, and international regulatory and law enforcement 7639
agencies, with local, state, and federal prosecutors, and with 7640
the national association of insurance commissioners and its 7641
affiliates and subsidiaries provided that the recipient agrees 7642
to maintain the confidential or privileged status of the 7643
documents and has authority to do so. 7644

(I) (1) Each applicant for a license to do the business of 7645
a captive insurance company in this state shall pay to the 7646
superintendent a nonrefundable fee of five hundred dollars for 7647
processing its application for a license. The superintendent is 7648
authorized to retain legal, financial, and examination services 7649
from outside the department, at the expense of the applicant. 7650
Each captive insurance company shall annually pay a license 7651
renewal fee of five hundred dollars. 7652

(2) The fees collected pursuant to division (I) (1) of this 7653
section shall be deposited into the state treasury to the credit 7654
of the captive insurance regulation and supervision fund created 7655
under section 3964.15 of the Revised Code. 7656

Sec. 3964.17. (A) As used in sections 3964.17 to 3964.1710 7657
of the Revised Code: 7658

(1) "Protected cell" means an incorporated cell that is 7659
organized pursuant to Chapter 1701., 1702., ~~or 1705.~~, or 1706. 7660
of the Revised Code and that has a separate legal identity from 7661
the protected cell captive insurance company of which it is a 7662
part. 7663

(2) "Protected cell captive insurance company" means a captive insurance company that meets all of the following requirements:

(a) Is formed and licensed under the provisions of this chapter;

(b) Insures or reinsures the risks of separate participants through a participant contract;

(c) Segregates each participant's liability into a protected cell.

(3) "Participant" means an individual, company, corporation, partnership, limited liability company, and their affiliated entities that insure or reinsure with a protected cell. "Participant" includes an insurance agent licensed in this state that accepts a stated percentage of risk on a pro rata basis within a defined category of business underwritten by a licensed insurance company that is domiciled in this state and that is affiliated with a protected cell captive insurance company.

(4) "Participant contract" means a contract by which a protected cell insures or reinsures the risks of a participant.

(a) A participant that is not an insurance agent licensed in this state shall insure or reinsure only its own risks through a protected cell.

(b) If the participant is an insurance agent licensed in this state, the participant contract must define each risk covered by the contract with fixed and certain terms.

(B) A captive insurance company may be organized as a protected cell captive insurance company and shall be permitted

to form one or more protected cells under this section to insure 7692
or reinsure risks of one or more participants. 7693

(C) The assets and liabilities of each protected cell 7694
shall be held separately from the assets and liabilities of all 7695
other protected cells. 7696

(D) A protected cell of a protected cell captive insurance 7697
company shall be organized pursuant to Chapter 1701., 1702., ~~or~~ 7698
1705., or 1706. of the Revised Code. 7699

(E) A protected cell captive insurance company shall, at 7700
the time of paying the annual fee required under section 3964.13 7701
of the Revised Code, pay an additional annual fee for each 7702
protected cell in an amount to be established by the 7703
superintendent. 7704

(F) Each protected cell of a protected cell captive 7705
insurance company shall be treated as a captive insurance 7706
company for purposes of this chapter. 7707

(G) Unless otherwise permitted by the articles of 7708
incorporation, bylaws, code of regulations, or other 7709
organizational document of a protected cell captive insurance 7710
company, each protected cell of the protected cell captive 7711
insurance company shall have the same directors, secretary, and 7712
registered office as the protected cell captive insurance 7713
company. 7714

(H) A protected cell captive insurance company may provide 7715
in its articles of incorporation, bylaws, code of regulations, 7716
or other organizational documents that a protected cell it 7717
creates shall be wound up and dissolved upon any of the 7718
following: 7719

(1) The bankruptcy, death, expulsion, insanity, 7720

resignation, or retirement of any participant of the protected cell; 7721
7722

(2) The happening of some event that is not the expiration of a fixed period of time; 7723
7724

(3) The expiration of a fixed period of time. 7725

(I) (1) The articles of incorporation, bylaws, code of regulations, or other organizational documents, of a protected cell captive insurance company shall provide that a protected cell shall not own shares or membership interests in the protected cell captive insurance company of which it is a part. 7726
7727
7728
7729
7730

(2) Such a document may provide that a protected cell may own shares or membership interests in any other protected cell of the protected cell captive insurance company of which it is a part. 7731
7732
7733
7734

(J) The name of a protected cell captive insurance company shall include the words "protected cell captive" or the abbreviation "PCC." 7735
7736
7737

(K) A protected cell captive insurance company shall assign a distinctive name to each of its protected cells that meets all of the following: 7738
7739
7740

(1) The name identifies the protected cell as being part of the protected cell captive insurance company. 7741
7742

(2) The name distinguishes the protected cell from any other protected cell of the protected cell captive insurance company. 7743
7744
7745

(3) The name includes the words "protected cell" or the abbreviation "PC." 7746
7747

(L) A protected cell may enter into an agreement with its 7748
protected cell captive insurance company or with another 7749
protected cell of the same protected cell captive insurance 7750
company. 7751

(M) (1) The assets of a protected cell captive insurance 7752
company shall be either cell assets or general assets. 7753

(2) The cell assets comprise the assets of the protected 7754
cell captive insurance company that are held within or on behalf 7755
of its protected cells. 7756

(3) The general assets of a protected cell captive 7757
insurance company comprise the assets of the protected cell 7758
captive insurance company that are not cell assets. 7759

(N) (1) The liabilities of a protected cell captive 7760
insurance company shall be either cell liabilities or general 7761
liabilities. 7762

(2) The cell liabilities comprise the obligations of the 7763
protected cell captive insurance company attributable to its 7764
protected cells. 7765

(3) The general liabilities of a protected cell captive 7766
insurance company comprise the obligations of the protected cell 7767
captive insurance company that are not cell liabilities. 7768

(O) Each protected cell insurance company shall account 7769
separately on its books and records for each of its protected 7770
cells to reflect the financial condition and results of 7771
operations of the protected cell, including net income or loss, 7772
dividends or other distributions to participants, and such other 7773
factors as may be provided by participant contracts or required 7774
by the superintendent. 7775

(P) Each protected cell captive insurance company shall 7776
annually file with the superintendent such financial reports as 7777
the superintendent requires, which shall include financial 7778
statements detailing the financial experience of each protected 7779
cell and a statement regarding the adequacy of reserves kept to 7780
make full provision for the liabilities insured by each 7781
protected cell. 7782

(Q) An officer or manager of a protected cell captive 7783
insurance company shall immediately notify the superintendent if 7784
any protected cell of the protected cell captive insurance 7785
company or the protected cell captive insurance company itself 7786
is trending toward reserves that are inadequate, or if a 7787
protected cell or the protected cell captive insurance company 7788
becomes insolvent or is otherwise unable to meet its claims or 7789
other obligations. 7790

(R) The duties of a director of a protected cell captive 7791
insurance company under this chapter shall be in addition to, 7792
and not in lieu of, those under other applicable law. 7793

Sec. 4701.14. (A) Except as permitted by rules adopted by 7794
the accountancy board, no individual shall assume or use the 7795
title or designation "certified public accountant," "certified 7796
accountant," "chartered accountant," "enrolled accountant," 7797
"licensed accountant," or "registered accountant," or any other 7798
title or designation likely to be confused with "certified 7799
public accountant," or any of the abbreviations "CPA," "PA," 7800
"CA," "EA," "LA," or "RA," or similar abbreviations likely to be 7801
confused with "CPA," or any other title, designation, words, 7802
letters, abbreviation, sign, card, or device tending to indicate 7803
that the individual is a certified public accountant, unless the 7804
individual holds a CPA certificate and holds an Ohio permit. 7805

However, an individual who possesses a foreign certificate, has 7806
registered under section 4701.09 of the Revised Code, and holds 7807
an Ohio permit may use the title permitted under the laws of the 7808
individual's other licensing jurisdiction, followed by the name 7809
of the jurisdiction. 7810

(B) Except as permitted by rules adopted by the board, no 7811
individual shall assume or use the title or designation "public 7812
accountant," "certified public accountant," "certified 7813
accountant," "chartered accountant," "enrolled accountant," 7814
"registered accountant," or "licensed accountant," or any other 7815
title or designation likely to be confused with "public 7816
accountant," or any of the abbreviations "PA," "CPA," "CA," 7817
"EA," "LA," or "RA," or similar abbreviations likely to be 7818
confused with "PA," or any other title, designation, words, 7819
letters, abbreviation, sign, card, or device tending to indicate 7820
that the individual is a public accountant, unless the 7821
individual holds a PA registration and holds an Ohio permit, or 7822
unless the individual holds a CPA certificate. An individual who 7823
holds a PA registration and an Ohio permit may hold self out to 7824
the public as an "accountant" or "auditor." 7825

(C) Except as provided in divisions (C)(1), (2), (3), and 7826
(4) of this section, no partnership, professional association, 7827
corporation-for-profit, limited liability company, or other 7828
business organization not addressed in this section that is 7829
practicing public accounting in this state shall assume or use 7830
the title or designation "certified public accountant," "public 7831
accountant," "certified accountant," "chartered accountant," 7832
"enrolled accountant," "licensed accountant," "registered 7833
accountant," or any other title or designation likely to be 7834
confused with "certified public accountant" or "public 7835
accountant," or any of the abbreviations "CPA," "PA," "CA," 7836

"EA," "RA," or "LA," or similar abbreviations likely to be 7837
confused with "CPA" or "PA," or any other title, designation, 7838
words, letters, abbreviation, sign, card, or device tending to 7839
indicate that the business organization is a public accounting 7840
firm. 7841

(1) (a) A partnership may assume or use the title or 7842
designation "certified public accountant," the abbreviation 7843
"CPA," or any other title, designation, words, letters, 7844
abbreviation, sign, card, or device tending to indicate that the 7845
partnership is composed of certified public accountants if it is 7846
a registered firm, if a majority of its partners who are 7847
individuals hold a CPA certificate or a foreign certificate, and 7848
if a majority of the owners of any qualified firm that is a 7849
partner hold a CPA certificate or a foreign certificate. 7850

(b) A partnership may assume or use the title or 7851
designation "public accountant," the abbreviation "PA," or any 7852
other title, designation, words, letters, abbreviation, sign, 7853
card, or device tending to indicate that the partnership is 7854
composed of public accountants if it is a registered firm, if a 7855
majority of its partners who are individuals hold a PA 7856
registration, a CPA certificate, or a foreign certificate, and 7857
if a majority of the owners of any qualified firm that is a 7858
partner hold a PA registration, a CPA certificate, or a foreign 7859
certificate. 7860

(2) (a) A professional association incorporated under 7861
Chapter 1785. of the Revised Code may assume or use the title or 7862
designation "certified public accountant," the abbreviation 7863
"CPA," or any other title, designation, words, letters, 7864
abbreviation, sign, card, or device tending to indicate that the 7865
professional association is composed of certified public 7866

accountants if it is a registered firm, if a majority of its 7867
shareholders who are individuals hold a CPA certificate or a 7868
foreign certificate, and if a majority of the owners of any 7869
qualified firm that is a shareholder hold a CPA certificate or a 7870
foreign certificate. 7871

(b) A professional association incorporated under Chapter 7872
1785. of the Revised Code may assume or use the title or 7873
designation "public accountant," the abbreviation "PA," or any 7874
other title, designation, words, letters, abbreviation, sign, 7875
card, or device tending to indicate that the professional 7876
association is composed of public accountants if it is a 7877
registered firm, if a majority of its shareholders who are 7878
individuals hold a PA registration, a CPA certificate, or a 7879
foreign certificate, and if a majority of the owners of any 7880
qualified firm that is a shareholder hold a PA registration, a 7881
CPA certificate, or a foreign certificate. 7882

(3) (a) A corporation-for-profit incorporated under Chapter 7883
1701. of the Revised Code may assume or use the title or 7884
designation "certified public accountant," the abbreviation 7885
"CPA," or any other title, designation, words, letters, 7886
abbreviation, sign, card, or device tending to indicate that the 7887
corporation is composed of certified public accountants if it is 7888
a registered firm, if a majority of its shareholders who are 7889
individuals hold a CPA certificate or a foreign certificate, and 7890
if a majority of the owners of any qualified firm that is a 7891
shareholder hold a CPA certificate or a foreign certificate. 7892

(b) A corporation incorporated under Chapter 1701. of the 7893
Revised Code may assume or use the title or designation "public 7894
accountant," the abbreviation "PA," or any other title, 7895
designation, words, letters, abbreviation, sign, card, or device 7896

tending to indicate that the corporation is composed of public 7897
accountants if it is a registered firm, if a majority of the 7898
shareholders who are individuals hold a PA registration, a CPA 7899
certificate, or a foreign certificate, and if a majority of the 7900
owners of any qualified firm that is a shareholder hold a PA 7901
registration, a CPA certificate, or a foreign certificate. 7902

(4) (a) A limited liability company organized under Chapter 7903
1705. or 1706. of the Revised Code may assume or use the title 7904
or designation "certified public accountant," the abbreviation 7905
"CPA," or any other title, designation, words, letters, 7906
abbreviation, sign, card, or device tending to indicate that the 7907
limited liability company is composed of certified public 7908
accountants if it is a registered firm, if a majority of its 7909
members who are individuals hold a CPA certificate or a foreign 7910
certificate, and if a majority of the owners of any qualified 7911
firm that is a member hold a CPA certificate or a foreign 7912
certificate. 7913

(b) A limited liability company organized under Chapter 7914
1705. or 1706. of the Revised Code may assume or use the title 7915
or designation "public accountant," the abbreviation "PA," or 7916
any other title, designation, words, letters, abbreviation, 7917
sign, card, or device tending to indicate that the limited 7918
liability company is composed of public accountants if it is a 7919
registered firm, if a majority of the members who are 7920
individuals hold a PA registration, CPA certificate, or a 7921
foreign certificate, and if a majority of the owners of any 7922
qualified firm that is a member hold a PA registration, a CPA 7923
certificate, or a foreign certificate. 7924

(D) No individual shall sign, affix, or associate the 7925
individual's name or any trade or assumed name used by the 7926

individual in the individual's profession or business to any 7927
attest report with any wording indicating that the individual is 7928
an accountant or auditor, or with any wording accompanying or 7929
contained in the attest report that indicates that the 7930
individual has expert knowledge in accounting or auditing or 7931
expert knowledge regarding compliance with conditions 7932
established by law or contract, including, but not limited to, 7933
statutes, ordinances, regulations, grants, loans, and 7934
appropriations, unless the individual holds an Ohio permit. 7935
However, this division does not prohibit any officer, employee, 7936
partner, or principal of any organization from affixing the 7937
officer's, employee's, partner's, or principal's signature to 7938
any statement or report in reference to the financial affairs of 7939
that organization with any wording designating the position, 7940
title, or office that the individual holds in that organization. 7941
This division also does not prohibit any act of a public 7942
official or public employee in the performance of the public 7943
official's or public employee's duties. 7944

(E) No person shall sign, affix, or associate the name of 7945
a partnership, limited liability company, professional 7946
association, corporation-for-profit, or other business 7947
organization not addressed in this section to any attest report 7948
with any wording accompanying or contained in the attest report 7949
that indicates that the partnership, limited liability company, 7950
professional association, corporation-for-profit, or other 7951
business organization is composed of or employs accountants or 7952
auditors or persons having expert knowledge in accounting or 7953
auditing or expert knowledge regarding compliance with 7954
conditions established by law or contract, including, but not 7955
limited to, statutes, ordinances, regulations, grants, loans, 7956
and appropriations, unless the partnership, limited liability 7957

company, professional association, corporation-for-profit, or 7958
other business organization is a registered firm. 7959

(F) No individual who does not hold an Ohio permit shall 7960
hold self out to the public as an "accountant" or "auditor" by 7961
use of either or both of those words on any sign, card, or 7962
letterhead, in any advertisement or directory, or otherwise, 7963
without indicating on the sign, card, or letterhead, in the 7964
advertisement or directory, or in the other manner of holding 7965
out that the person does not hold an Ohio permit. An individual 7966
who holds a CPA certificate and an Ohio permit may hold self out 7967
to the public as an "accountant" or "auditor." However, this 7968
division does not prohibit any officer, employee, partner, or 7969
principal of any organization from describing self by the 7970
position, title, or office the person holds in that 7971
organization. This division also does not prohibit any act of a 7972
public official or public employee in the performance of the 7973
public official's or public employee's duties. 7974

(G) No partnership, professional association, corporation- 7975
for-profit, limited liability company, or other business 7976
organization not addressed in this section that is not entitled 7977
to assume or use the title "certified public accountant" or 7978
"public accountant" under division (C) of this section shall 7979
hold itself out to the public as a partnership, professional 7980
association, corporation-for-profit, limited liability company, 7981
or other business organization not addressed in this section as 7982
being composed of or employing "accountants" or "auditors" by 7983
use of either or both of those words on any sign, card, or 7984
letterhead, in any advertisement or directory, or otherwise, 7985
without indicating on the sign, card, or letterhead, in the 7986
advertisement or directory, or in the other manner of holding 7987
out that the partnership, professional association, corporation- 7988

for-profit, limited liability company, or other business 7989
organization is not a registered firm and is not permitted by 7990
law to practice as a public accounting firm. 7991

(H) No person shall assume or use the title or designation 7992
"certified public accountant" or "public accountant" in 7993
conjunction with names indicating or implying that there is a 7994
partnership or in conjunction with the designation "and Company" 7995
or "and Co." or a similar designation if, in any of those cases, 7996
there is in fact no bona fide partnership entitled to designate 7997
itself as a partnership of certified public accountants under 7998
division (C) (1) (a) of this section or as a partnership of public 7999
accountants under division (C) (1) (b) of this section. However, a 8000
sole proprietor or partnership that was on October 22, 1959, or 8001
a corporation that on or after September 30, 1974, has been, 8002
lawfully using a title or designation of those types in 8003
conjunction with names or designations of those types, may 8004
continue to do so if the sole proprietor, partnership, or 8005
corporation otherwise complies with this section. 8006

(I) (1) Notwithstanding any other provision of this 8007
chapter, an individual whose principal place of business is not 8008
in this state and who holds a valid foreign certificate as a 8009
certified public accountant shall be presumed to have 8010
qualifications substantially equivalent to this state's CPA 8011
requirements and shall have all of the privileges of a holder of 8012
a CPA certificate and an Ohio permit without the need to obtain 8013
a CPA certificate and an Ohio permit if the accountancy board 8014
has found and has specified in its rules adopted pursuant to 8015
division (A) of section 4701.03 of the Revised Code that the CPA 8016
requirements of the state that issued the individual's foreign 8017
certificate are substantially equivalent to this state's CPA 8018
requirements. 8019

(2) Any individual exercising the privilege afforded under 8020
division (I)(1) of this section hereby consents and is subject, 8021
as a condition of the grant of the privilege, to all of the 8022
following: 8023

(a) The personal and subject matter jurisdiction of the 8024
accountancy board; 8025

(b) All practice and disciplinary provisions of this 8026
chapter and the accountancy board's rules; 8027

(c) The appointment of the board that issued the 8028
individual's foreign certificate as the individual's agent upon 8029
whom process may be served in any action or proceeding by the 8030
accountancy board against the individual. 8031

(3) The holder of a CPA certificate and an Ohio permit who 8032
offers or renders attest services or uses the holder's CPA title 8033
in another state shall be subject to disciplinary action in this 8034
state for an act committed in the other state for which the 8035
holder of a foreign certificate issued by the other state would 8036
be subject to discipline in the other state. 8037

(4) The holder of a foreign certificate who offers or 8038
renders attest services or uses a CPA title or designation in 8039
this state pursuant to the privilege afforded by division (I)(1) 8040
of this section shall be subject to disciplinary action in this 8041
state for any act that would subject the holder of a CPA 8042
certificate and an Ohio permit to disciplinary action in this 8043
state. 8044

Sec. 4703.18. (A) No person shall enter upon the practice 8045
of architecture or hold forth as an architect or registered 8046
architect, unless the person has complied with sections 4703.01 8047
to 4703.19 of the Revised Code and is the holder of a 8048

certificate of qualification to practice architecture issued or 8049
renewed and registered under those sections. 8050

(B) Sections 4703.01 to 4703.19 of the Revised Code do not 8051
prevent persons other than architects from filing applications 8052
for building permits or obtaining those permits. 8053

(C) Sections 4703.01 to 4703.19 of the Revised Code do not 8054
prevent persons other than architects from preparing plans, 8055
drawings, specifications, or data, filing applications for 8056
building permits, or obtaining those permits for residential 8057
buildings, as defined by section 3781.06 of the Revised Code, or 8058
buildings erected as industrialized one-, two-, or three-family 8059
units or structures within the meaning of the term 8060
"industrialized unit" as provided in section 3781.06 of the 8061
Revised Code. 8062

(D) Sections 4703.01 to 4703.19 of the Revised Code do not 8063
prevent persons other than architects from preparing drawings or 8064
data, from filing applications for building permits, or from 8065
obtaining those permits for the installation of replacement 8066
equipment or systems that are similar in type or capacity to the 8067
equipment or systems being replaced, and for any improvement, 8068
alteration, repair, painting, decorating, or other modification 8069
of any buildings or structures subject to sections 3781.06 to 8070
3781.18 and 3791.04 of the Revised Code where the building 8071
official determines that no plans or specifications are required 8072
for approval. 8073

(E) Sections 4703.01 to 4703.19 of the Revised Code do not 8074
exclude a registered professional engineer from architectural 8075
practice that may be incident to the practice of engineering or 8076
exclude a registered architect from engineering practice that 8077
may be incident to the practice of architecture. 8078

(F) Sections 4703.01 to 4703.19 of the Revised Code do not 8079
prevent a firm, partnership, association, limited liability 8080
company, or corporation of architects registered under those 8081
sections from providing architectural services and do not 8082
prevent an individual registered as a landscape architect under 8083
sections 4703.30 to 4703.49 of the Revised Code or as a 8084
professional engineer under Chapter 4733. of the Revised Code 8085
from being a member or trustee of a firm, partnership, 8086
association, limited liability company, or corporation of that 8087
type, but a member or trustee of that type shall not engage in 8088
the practice of architecture or hold forth as an architect 8089
contrary to sections 4703.01 to 4703.19 of the Revised Code and 8090
shall not practice a profession in which the person is not 8091
licensed. 8092

(G) A firm, partnership, association, limited liability 8093
company, or corporation may provide architectural services in 8094
this state as long as the services are provided only through 8095
natural persons registered to provide those services in this 8096
state, subject to the exemptions in section 4703.17 of the 8097
Revised Code and subject otherwise to the requirements of 8098
sections 4703.01 to 4703.19 of the Revised Code. 8099

(H) No firm, partnership, association, limited liability 8100
company, or corporation shall provide architectural services, 8101
hold itself out to the public as providing architectural 8102
services, or use a name including the word "architect" or any 8103
modification or derivation of the word, unless the firm, 8104
partnership, association, limited liability company, or 8105
corporation files all information required to be filed under 8106
this section with the architects board and otherwise complies 8107
with all requirements of sections 4703.01 to 4703.19 of the 8108
Revised Code. A nonprofit membership corporation may use a name 8109

including the word "architect" or any modification or derivation 8110
of the word without complying with this section. 8111

(I) A corporation may be organized under Chapter 1701. of 8112
the Revised Code, a professional association may be organized 8113
under Chapter 1785. of the Revised Code, or a limited liability 8114
company may be formed under Chapter 1705. or 1706. of the 8115
Revised Code for the purpose of providing professional 8116
engineering, surveying, architectural, or landscape 8117
architectural services, or any combination of those services. A 8118
corporation organized under Chapter 1701. of the Revised Code 8119
for the purpose of providing those services also may be 8120
organized for any other purpose in accordance with that chapter. 8121

(J) No firm, partnership, association, limited liability 8122
company, or corporation shall provide or offer to provide 8123
architectural services in this state unless more than fifty per 8124
cent of the partners, members, or shareholders, more than fifty 8125
per cent of the directors in the case of a corporation or 8126
professional association, more than fifty per cent of the 8127
managers in the case of a limited liability company the 8128
management of which is not reserved to its members, and more 8129
than fifty per cent of the trustees in the case of an employee 8130
stock ownership plan, are professional engineers, surveyors, 8131
architects, or landscape architects or a combination of those 8132
professions, who are registered in this or any other state and 8133
who own more than fifty per cent of the interests in the firm, 8134
partnership, association, limited liability company, or 8135
corporation; unless the requirements of this division and of 8136
section 1785.02 of the Revised Code are satisfied with respect 8137
to any professional association organized under Chapter 1785. of 8138
the Revised Code; or unless the requirements of this division 8139
and of Chapter 1705. or 1706. of the Revised Code are satisfied 8140

with respect to a limited liability company formed under that 8141
chapter. 8142

A corporation is exempt from the requirements of division 8143
(J) of this section if the corporation was granted a charter 8144
prior to August 7, 1943, to engage in providing architectural 8145
services or was otherwise lawfully providing architectural 8146
services prior to November 15, 1982, in this state. 8147

(K) Each firm, partnership, association, limited liability 8148
company, or corporation through which architectural services are 8149
offered or provided in this state shall designate one or more 8150
trustees, partners, managers, members, officers, or directors as 8151
being in responsible charge of the professional architectural 8152
activities and decisions, and those designated persons shall be 8153
registered in this state. In the case of a corporation holding a 8154
certificate of authorization provided for in division (L) of 8155
this section, at least one of the persons so designated shall be 8156
a director of the corporation. Each firm, partnership, 8157
association, limited liability company, or corporation of that 8158
type shall annually file with the architects board the name and 8159
address of each trustee, partner, manager, officer, director, 8160
member, or shareholder, and each firm, partnership, association, 8161
limited liability company, or corporation of that type shall 8162
annually file with the board the name and address of all persons 8163
designated as being in responsible charge of the professional 8164
architectural activities and decisions and any other information 8165
the board may require. If there is a change in any such person 8166
in the interval between filings, the change shall be filed with 8167
the board in the manner and within the time that the board 8168
determines. 8169

(L) No corporation organized under Chapter 1701. of the 8170

Revised Code shall engage in providing architectural services in 8171
this state without obtaining a certificate of authorization from 8172
the architects board. A corporation desiring a certificate of 8173
authorization shall file with the board a copy of its articles 8174
of incorporation and a listing on the form that the board 8175
directs of the names and addresses of all trustees, officers, 8176
directors, and shareholders of the corporation, the names and 8177
addresses of any individuals providing professional services on 8178
behalf of the corporation who are registered to practice 8179
architecture in this state, and any other information the board 8180
requires. If all requirements of sections 4703.01 to 4703.19 of 8181
the Revised Code are met, the board may issue a certificate of 8182
authorization to the corporation. Except for a corporation that 8183
was granted a charter prior to August 7, 1943, to engage in 8184
providing architectural services or that was otherwise lawfully 8185
providing architectural services prior to November 15, 1982, no 8186
certificate of authorization shall be issued unless persons 8187
owning more than fifty per cent of the corporation's shares and 8188
more than fifty per cent of the interests in the corporation are 8189
professional engineers, surveyors, architects, or landscape 8190
architects, or a combination of those professions, who are 8191
registered in this or any other state. Any corporation that 8192
holds a certificate of authorization under this section and 8193
otherwise meets the requirements of sections 4703.01 to 4703.19 8194
of the Revised Code may be organized for any purposes for which 8195
corporations may be organized under Chapter 1701. of the Revised 8196
Code and shall not be limited to the purposes of providing 8197
professional engineering, surveying, architectural, or landscape 8198
architectural services or any combination of those professions. 8199
The board, by rules adopted in accordance with Chapter 119. of 8200
the Revised Code, may require any firm, partnership, 8201
association, or limited liability company not organized under 8202

Chapter 1701. of the Revised Code that provides architectural 8203
services to obtain a certificate of authorization. If the board 8204
so requires, no firm, partnership, association, or limited 8205
liability company shall engage in providing architectural 8206
services without obtaining the certificate and complying with 8207
the rules. 8208

(M) This section does not modify any law applicable to the 8209
relationship between a person furnishing a professional service 8210
and a person receiving that service, including liability arising 8211
out of that service. 8212

(N) Nothing in this section restricts or limits in any 8213
manner the authority or duty of the architects board with 8214
respect to natural persons providing professional services or 8215
any law or rule pertaining to standards of professional conduct. 8216

Sec. 4703.331. (A) A firm, partnership, association, 8217
limited liability company, or corporation may provide landscape 8218
architectural services in this state as long as the services are 8219
provided only through natural persons registered to provide 8220
those services in this state and subject to the requirements of 8221
this chapter. 8222

(B) No firm, partnership, association, limited liability 8223
company, or corporation shall provide landscape architectural 8224
services, hold itself out to the public as providing landscape 8225
architectural services, or use a name including the word 8226
"landscape architect," "professional landscape architect," or 8227
"registered landscape architect" or any modification or 8228
derivation of those words, unless the firm, partnership, 8229
association, limited liability company, or corporation files all 8230
information required to be filed under this section with the 8231
Ohio landscape architects board and otherwise complies with all 8232

requirements of this chapter. A nonprofit membership corporation 8233
may use a name including the word "landscape architect," 8234
"professional landscape architect," or "registered landscape 8235
architect" or any modification or derivation of those words 8236
without complying with this section. 8237

(C) A corporation may be organized under Chapter 1701. of 8238
the Revised Code, a professional association may be organized 8239
under Chapter 1785. of the Revised Code, or a limited liability 8240
company may be formed under Chapter 1705. or 1706. of the 8241
Revised Code for the purpose of providing professional 8242
engineering, surveying, architectural, or landscape 8243
architectural services, or any combination of those services. A 8244
corporation organized under Chapter 1701. of the Revised Code 8245
for the purpose of providing those services also may be 8246
organized for any other purpose in accordance with that chapter. 8247

(D) No firm, partnership, association, limited liability 8248
company, or corporation shall provide or offer to provide 8249
landscape architectural services in this state unless more than 8250
fifty per cent of the partners, members, or shareholders, more 8251
than fifty per cent of the directors in the case of a 8252
corporation or professional association, more than fifty per 8253
cent of the managers in the case of a limited liability company 8254
the management of which is not reserved to its members, and more 8255
than fifty per cent of the trustees in the case of an employee 8256
stock ownership plan, are professional engineers, surveyors, 8257
architects, or landscape architects or a combination of those 8258
professions, who are registered in this or any other state and 8259
who own more than fifty per cent of the interests in the firm, 8260
partnership, association, limited liability company, or 8261
corporation; unless the requirements of this division and of 8262
section 1785.02 of the Revised Code are satisfied with respect 8263

to any professional association organized under Chapter 1785. of 8264
the Revised Code; or unless the requirements of this division 8265
and of Chapter 1705. or 1706. of the Revised Code are satisfied 8266
with respect to a limited liability company formed under that 8267
chapter. 8268

(E) Each firm, partnership, association, limited liability 8269
company, or corporation through which landscape architectural 8270
services are offered or provided in this state shall designate 8271
one or more trustees, partners, managers, members, officers, or 8272
directors as being in responsible charge of the professional 8273
landscape architectural activities and decisions, and those 8274
designated persons shall be registered in this state. Each firm, 8275
partnership, association, limited liability company, or 8276
corporation of that type shall annually file with the board the 8277
name and address of each trustees, partner, manager, officer, 8278
director, member, or shareholder, and each firm, partnership, 8279
association, limited liability company, or corporation of that 8280
type shall annually file with the board the name and address of 8281
all persons designated as being in responsible charge of the 8282
professional landscape architectural activities and decisions 8283
and any other information the board may require. If there is a 8284
change in any such person in the interval between filings, the 8285
change shall be filed with the board in the manner and within 8286
the time that the board determines. 8287

(F) No corporation organized under Chapter 1701. of the 8288
Revised Code shall engage in providing landscape architectural 8289
services in this state without obtaining a certificate of 8290
authorization from the board. A corporation desiring a 8291
certificate of authorization shall file with the board a copy of 8292
its articles of incorporation and a listing on the form that the 8293
board directs of the names and addresses of all trustees, 8294

officers, directors, and shareholders of the corporation, the 8295
names and addresses of any individuals providing professional 8296
services on behalf of the corporation who are registered to 8297
practice landscape architecture in this state, and any other 8298
information the board requires. If all requirements of this 8299
chapter are met, the board may issue a certificate of 8300
authorization to the corporation. No certificate of 8301
authorization shall be issued unless persons owning more than 8302
fifty per cent of the corporation's shares and more than fifty 8303
per cent of the interests in the corporation are professional 8304
engineers, surveyors, architects, or landscape architects, or a 8305
combination of those professions, who are registered in this or 8306
any other state. Any corporation that holds a certificate of 8307
authorization under this section and otherwise meets the 8308
requirements of this chapter may be organized for any purposes 8309
for which corporations may be organized under Chapter 1701. of 8310
the Revised Code and shall not be limited to the purposes of 8311
providing professional engineering, surveying, architectural, or 8312
landscape architectural services or any combination of those 8313
services. The board, by rules adopted in accordance with Chapter 8314
119. of the Revised Code, may require any firm, partnership, 8315
association, or limited liability company not organized under 8316
Chapter 1701. of the Revised Code that provides landscape 8317
architectural services to obtain a certificate of authorization. 8318
If the board so requires, no firm, partnership, association, or 8319
limited liability company shall engage in providing landscape 8320
architectural services without obtaining the certificate and 8321
complying with the rules. 8322

(G) This section does not modify any law applicable to the 8323
relationship between a person furnishing a professional service 8324
and a person receiving that service, including liability arising 8325

out of that service. 8326

(H) Nothing in this section shall restrict or limit in any 8327
manner the authority or duty of the board with respect to 8328
natural persons providing professional services or any law or 8329
rule pertaining to standards of professional conduct. 8330

Sec. 4715.18. (A) No person shall practice or offer to 8331
practice dentistry or dental surgery under the name of any 8332
company, association, corporation, or other entity other than 8333
one of the following: 8334

(1) A corporation-for-profit formed under Chapter 1701. of 8335
the Revised Code; 8336

(2) A professional association established under Chapter 8337
1785. of the Revised Code; 8338

(3) A limited liability company formed under Chapter 1705. 8339
or 1706. of the Revised Code; 8340

(4) A federally qualified health center, federally 8341
qualified health center look-alike, free clinic, nonprofit 8342
shelter or health care facility, or nonprofit clinic that 8343
provides health care services or dental services to indigent and 8344
uninsured persons. 8345

(B) Any person practicing or offering to practice 8346
dentistry or dental surgery shall do so under the person's name, 8347
the name of a professional association, professional 8348
partnership, corporation-for-profit, or limited liability 8349
company that includes the person's name, or the name of an 8350
organization specified in division (A) (4) of this section. 8351

(C) As used in this section: 8352

(1) "Federally qualified health center" and "federally 8353

qualified health center look-alike" have the same meanings as in 8354
section 3701.047 of the Revised Code. 8355

(2) "Free clinic" and "nonprofit shelter or health care 8356
facility" have the same meanings as in section 3701.071 of the 8357
Revised Code. 8358

(3) "Nonprofit clinic" has the same meaning as in section 8359
3715.87 of the Revised Code. 8360

(4) "Indigent and uninsured person" has the same meaning 8361
as in section 2305.234 of the Revised Code. 8362

Sec. 4715.22. (A) (1) This section applies only when a 8363
licensed dental hygienist is not practicing in accordance with 8364
either of the following: 8365

(a) A permit issued pursuant to section 4715.363 of the 8366
Revised Code authorizing practice under the oral health access 8367
supervision of a dentist; 8368

(b) Section 4715.431 of the Revised Code. 8369

(2) As used in this section, "health care facility" means 8370
either of the following: 8371

(a) A hospital registered under section 3701.07 of the 8372
Revised Code; 8373

(b) A home, as defined in section 3721.01 of the Revised 8374
Code. 8375

(B) A licensed dental hygienist shall practice under the 8376
supervision, order, control, and full responsibility of a 8377
dentist licensed under this chapter. A dental hygienist may 8378
practice in a dental office, public or private school, health 8379
care facility, dispensary, or public institution. Except as 8380

provided in divisions (C) to (E) of this section, a dental 8381
hygienist may not provide dental hygiene services to a patient 8382
when the supervising dentist is not physically present at the 8383
location where the dental hygienist is practicing. 8384

(C) A dental hygienist may provide, for not more than 8385
fifteen consecutive business days, dental hygiene services to a 8386
patient when the supervising dentist is not physically present 8387
at the location where the services are provided if all of the 8388
following requirements are met: 8389

(1) The dental hygienist has at least one year and a 8390
minimum of one thousand five hundred hours of experience in the 8391
practice of dental hygiene. 8392

(2) The dental hygienist has successfully completed a 8393
course approved by the state dental board in the identification 8394
and prevention of potential medical emergencies. 8395

(3) The dental hygienist does not perform, while the 8396
supervising dentist is absent from the location, procedures 8397
while the patient is anesthetized, definitive root planing, 8398
definitive subgingival curettage, or other procedures identified 8399
in rules the state dental board adopts. 8400

(4) The supervising dentist has evaluated the dental 8401
hygienist's skills. 8402

(5) The supervising dentist examined the patient not more 8403
than one year prior to the date the dental hygienist provides 8404
the dental hygiene services to the patient. 8405

(6) The dental hygienist complies with written protocols 8406
or written standing orders that the supervising dentist 8407
establishes, including those established for emergencies. 8408

(7) The supervising dentist completed and evaluated a 8409
medical and dental history of the patient not more than one year 8410
prior to the date the dental hygienist provides dental hygiene 8411
services to the patient and, except when the dental hygiene 8412
services are provided in a health care facility, the supervising 8413
dentist determines that the patient is in a medically stable 8414
condition. 8415

(8) If the dental hygiene services are provided in a 8416
health care facility, a doctor of medicine and surgery or 8417
osteopathic medicine and surgery licensed under Chapter 4731. of 8418
the Revised Code or a registered nurse licensed under Chapter 8419
4723. of the Revised Code is present in the health care facility 8420
when the services are provided. 8421

(9) In advance of the appointment for dental hygiene 8422
services, the patient is notified that the supervising dentist 8423
will be absent from the location and that the dental hygienist 8424
cannot diagnose the patient's dental health care status. 8425

(10) The dental hygienist is employed by, or under 8426
contract with, one of the following: 8427

(a) The supervising dentist; 8428

(b) A dentist licensed under this chapter who is one of 8429
the following: 8430

(i) The employer of the supervising dentist; 8431

(ii) A shareholder in a professional association formed 8432
under Chapter 1785. of the Revised Code of which the supervising 8433
dentist is a shareholder; 8434

(iii) A member or manager of a limited liability company 8435
formed under Chapter 1705. or 1706. of the Revised Code of which 8436

the supervising dentist is a member or manager; 8437

(iv) A shareholder in a corporation formed under division 8438
(B) of section 1701.03 of the Revised Code of which the 8439
supervising dentist is a shareholder; 8440

(v) A partner or employee of a partnership or a limited 8441
liability partnership formed under Chapter 1775. or 1776. of the 8442
Revised Code of which the supervising dentist is a partner or 8443
employee. 8444

(c) A government entity that employs the dental hygienist 8445
to provide dental hygiene services in a public school or in 8446
connection with other programs the government entity 8447
administers. 8448

(D) A dental hygienist may provide dental hygiene services 8449
to a patient when the supervising dentist is not physically 8450
present at the location where the services are provided if the 8451
services are provided as part of a dental hygiene program that 8452
is approved by the state dental board and all of the following 8453
requirements are met: 8454

(1) The program is operated through a school district 8455
board of education or the governing board of an educational 8456
service center; the board of health of a city or general health 8457
district or the authority having the duties of a board of health 8458
under section 3709.05 of the Revised Code; a national, state, 8459
district, or local dental association; or any other public or 8460
private entity recognized by the state dental board. 8461

(2) The supervising dentist is employed by or a volunteer 8462
for, and the patients are referred by, the entity through which 8463
the program is operated. 8464

(3) (a) Except as provided in division (D) (3) (b) of this 8465

section, the services are performed after examination and 8466
diagnosis by the dentist and in accordance with the dentist's 8467
written treatment plan. 8468

(b) The requirement in division (D) (3) (a) of this section 8469
does not apply when the only services to be provided by the 8470
dental hygienist are the placement of pit and fissure sealants 8471
and the application of fluoride varnish. 8472

(E) A dental hygienist may do any of the following when 8473
the supervising dentist is not physically present at the 8474
location where the services are provided, regardless of whether 8475
the dentist has examined the patient, if the dental hygienist is 8476
employed by, or under contract with, the supervising dentist or 8477
another person or government entity specified in division (C) 8478
(10) (b) or (c) of this section: 8479

(1) Apply fluoride varnish; 8480

(2) Apply desensitizing agents, excluding silver diamine 8481
fluoride; 8482

(3) Apply disclosing solutions; 8483

(4) Apply pit and fissure sealants; 8484

(5) Recement temporary crowns or recement crowns with 8485
temporary cement; 8486

(6) Conduct caries susceptibility testing; 8487

(7) Provide instruction on oral hygiene home care, 8488
including the use of toothbrushes and dental floss; 8489

(8) Discuss general nonmedical nutrition information for 8490
the purpose of maintaining good oral health. 8491

As used in division (E) (8) of this section, "general 8492

nonmedical nutrition information" means information on the 8493
following: principles of good nutrition and food preparation, 8494
food to be included in the normal daily diet, the essential 8495
nutrients needed by the body, recommended amounts of the 8496
essential nutrients, the actions of nutrients on the body, the 8497
effects of deficiencies or excesses of nutrients, or food and 8498
supplements that are good sources of essential nutrients. 8499

(F) No person shall do either of the following: 8500

(1) Practice dental hygiene in a manner that is separate 8501
or otherwise independent from the dental practice of a 8502
supervising dentist; 8503

(2) Establish or maintain an office or practice that is 8504
primarily devoted to the provision of dental hygiene services. 8505

(G) The state dental board shall adopt rules under 8506
division (C) of section 4715.03 of the Revised Code identifying 8507
procedures a dental hygienist may not perform when practicing in 8508
the absence of the supervising dentist pursuant to division (C) 8509
or (D) of this section. 8510

Sec. 4715.365. (A) A dentist who holds a current, valid 8511
oral health access supervision permit issued under section 8512
4715.362 of the Revised Code may authorize a dental hygienist 8513
who holds a current, valid permit issued under section 4715.363 8514
of the Revised Code to perform dental hygiene services at a 8515
facility when no dentist is physically present if all of the 8516
following conditions are met: 8517

(1) The authorizing dentist's authorization is in writing 8518
and includes, at a minimum, all of the following: 8519

(a) The authorizing dentist's name and permit number; 8520

- (b) The dental hygienist's name and permit number; 8521
- (c) The patient's name; 8522
- (d) The name and address of the location where the dental hygiene services are to be provided; 8523
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- (e) The date of authorization; 8525
- (f) A statement, signed by the dental hygienist, that the hygienist agrees to comply with section 4715.366 of the Revised Code. 8526
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- (2) The authorizing dentist has personally evaluated the dental hygienist's skills prior to authorizing the dental hygienist to provide the dental hygiene services. 8529
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- (3) Prior to authorizing the dental hygienist to perform the dental hygiene services, the patient's medical and dental history is made available to the authorizing dentist and the authorizing dentist reviews and evaluates the history and determines that the patient may safely receive dental hygiene services. 8532
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- (4) Immediately prior to the provision of dental hygiene services, the patient or patient's representative verifies, by the signature or mark of the patient or representative, that no medically significant changes to the patient's medical or dental history have occurred since the authorizing dentist most recently reviewed and evaluated the history and determined that the patient could safely receive dental hygiene services. The signature or mark may be provided through reasonable accommodation, including the use of assistive technology or augmentative devices. 8538
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- (5) Prior to receiving dental hygiene services, the 8548

patient and the operator of the facility where the dental 8549
hygiene services are to be provided are notified that no dentist 8550
will be present at the location and that the dental hygienist is 8551
prohibited from doing either of the following: 8552

(a) Diagnosing the patient's oral health care status; 8553

(b) Providing dental hygiene services to the same patient 8554
on a subsequent occasion until the patient has received a 8555
clinical evaluation performed by a dentist, except in instances 8556
described in division (D) (2) of this section. 8557

(6) The dental hygienist is employed by, or under contract 8558
with, one of the following: 8559

(a) The authorizing dentist; 8560

(b) A dentist who is any of the following: 8561

(i) The authorizing dentist's employer; 8562

(ii) A shareholder in a professional association, formed 8563
under Chapter 1785. of the Revised Code, of which the 8564
authorizing dentist is a shareholder; 8565

(iii) A member or manager of a limited liability company, 8566
formed under Chapter 1705. or 1706. of the Revised Code, of 8567
which the authorizing dentist is a member or manager; 8568

(iv) A shareholder in a corporation, formed under division 8569
(B) of section 1701.03 of the Revised Code, of which the 8570
authorizing dentist is a shareholder; 8571

(v) A partner or employee of a partnership, formed under 8572
Chapter 1775. of the Revised Code, of which the authorizing 8573
dentist is a partner or employee; 8574

(vi) A partner or employee of a limited liability 8575

partnership, formed under Chapter 1775. of the Revised Code, of 8576
which the authorizing dentist is a partner or employee. 8577

(c) A government entity that employs the dental hygienist 8578
to provide dental hygiene services; 8579

(d) An entity that employs the authorizing dentist so long 8580
as the dentist's practice is not in violation of section 4715.18 8581
of the Revised Code. 8582

(7) If the patient to whom the services are to be provided 8583
previously received dental hygiene services under this section, 8584
there is written evidence that the patient received a clinical 8585
evaluation after the most recent provision of those services. 8586

(B) No dentist shall authorize a dental hygienist to 8587
perform, and no dental hygienist shall perform, dental hygiene 8588
services on a patient under this section unless all of the 8589
conditions in division (A) of this section are met. 8590

(C) If a patient or patient's representative indicates, 8591
under division (A) (4) of this section, that a medically 8592
significant change has occurred in the patient's medical or 8593
dental history since the authorizing dentist's most recent 8594
review and evaluation of the medical and dental history required 8595
by division (A) (3) of this section, no dental hygiene services 8596
shall be provided under this section until the authorizing 8597
dentist completes another review and evaluation of the patient's 8598
medical and dental history. The authorizing dentist may complete 8599
the subsequent review and evaluation of the patient's medical 8600
and dental history by telephone, facsimile, electronic mail, 8601
video, or any other means of electronic communication. 8602

(D) (1) Except as provided in division (D) (2) of this 8603
section, no dentist shall authorize a dental hygienist to 8604

provide, and no dental hygienist shall provide, dental hygiene 8605
services under this section to the same patient on a subsequent 8606
occasion until the patient has received a clinical evaluation 8607
performed by a dentist. 8608

(2) Division (D)(1) of this section does not apply if the 8609
patient requires multiple visits to complete one or more 8610
procedures that could not be completed during the visit in which 8611
dental hygiene services were commenced. If the patient requires 8612
multiple visits to complete the one or more procedures that 8613
could not be completed during the visit in which dental hygiene 8614
services were commenced, the one or more procedures shall be 8615
completed not later than eight weeks after the visit in which 8616
the dental hygiene services were commenced. 8617

(E) No authorizing dentist shall authorize a dental 8618
hygienist to diagnose a patient's oral health care status. No 8619
dental hygienist practicing under a permit issued under section 8620
4715.363 of the Revised Code to practice under the oral health 8621
access supervision of a dentist shall diagnose a patient's oral 8622
health care status. 8623

Sec. 4715.431. (A) If all of the conditions in division 8624
(B) of this section are met, an authorizing dentist may do 8625
either of the following under a teledentistry permit without 8626
examining a patient in person: 8627

(1) Authorize a dental hygienist or expanded function 8628
dental auxiliary to perform services as set forth in division 8629
(E) or (F) of this section, as applicable, at a location where 8630
no dentist is physically present; 8631

(2) Prescribe a drug that is not a controlled substance 8632
for a patient who is at a location where no dentist is 8633

physically present. 8634

(B) The conditions that must be met under division (A) of 8635
this section are the following: 8636

(1) The authorizing dentist must prepare a written 8637
authorization that includes all of the following: 8638

(a) The authorizing dentist's name and permit number; 8639

(b) The name of the dental hygienist or expanded function 8640
dental auxiliary; 8641

(c) The patient's name; 8642

(d) The name and address of the location where the 8643
services are to be provided; 8644

(e) The date of the authorization; 8645

(f) A statement signed by the dental hygienist or expanded 8646
function dental auxiliary agreeing to comply with the written 8647
protocols or written standing orders the authorizing dentist 8648
establishes, including those for dealing with emergencies; 8649

(g) Any other information the dentist considers 8650
appropriate. 8651

(2) Before any dental services are provided all of the 8652
following must occur: 8653

(a) The patient is notified that an authorizing dentist 8654
will perform a clinical evaluation through teledentistry. 8655

(b) The patient is given an explanation of alternatives 8656
to, and the capabilities and limitations of, teledentistry. 8657

(c) (i) Subject to division (B) (2) (c) (ii) of this section, 8658
the patient consents to the provision of services through 8659

teledentistry and the consent is documented in the patient's 8660
record. 8661

(ii) If the services to be provided are the placement of 8662
interim therapeutic restorations or the application of silver 8663
diamine fluoride, the requirements for informed consent in rules 8664
adopted under division (C) of section 4715.436 of the Revised 8665
Code have been met. 8666

(3) The authorizing dentist establishes the patient's 8667
identity and physical location through synchronous, real-time 8668
communication. 8669

(4) The authorizing dentist provides dental services 8670
through teledentistry only as is appropriate for the patient and 8671
in accordance with appropriate standards of care. 8672

(5) The authorizing dentist establishes a diagnosis and 8673
treatment plan and documents it in the patient's record. 8674

(6) The authorizing dentist specifies the services the 8675
dental hygienist or expanded function dental auxiliary is 8676
authorized to provide to the patient. 8677

(7) The dental hygienist or expanded function dental 8678
auxiliary is employed by, or under contract with, one of the 8679
following: 8680

(a) The authorizing dentist; 8681

(b) A dentist who is any of the following: 8682

(i) The authorizing dentist's employer; 8683

(ii) A shareholder in a professional association formed 8684
under Chapter 1785. of the Revised Code of which the authorizing 8685
dentist is a shareholder; 8686

(iii) A member or manager of a limited liability company 8687
formed under Chapter 1705. or 1706. of the Revised Code of which 8688
the authorizing dentist is a member or manager; 8689

(iv) A shareholder in a corporation formed under division 8690
(B) of section 1701.03 of the Revised Code of which the 8691
authorizing dentist is a shareholder; 8692

(v) A partner or employee of a partnership, formed under 8693
Chapter 1775. of the Revised Code, of which the authorizing 8694
dentist is a partner or employee; 8695

(vi) A partner or employee of a limited liability 8696
partnership, formed under Chapter 1775. of the Revised Code, of 8697
which the authorizing dentist is a partner or employee. 8698

(C) A dentist retains responsibility for ensuring the 8699
safety and quality of services provided to patients through 8700
teledentistry. Services delivered through teledentistry must be 8701
consistent with in-person services. Persons involved with 8702
providing services through teledentistry must abide by laws 8703
addressing the privacy and security of the patient's dental and 8704
medical information. 8705

(D) An authorizing dentist may not have more than a total 8706
of three dental hygienists and expanded ~~dental~~-function dental 8707
auxiliaries working under the dentist's authorization pursuant 8708
to this section at any time. 8709

(E) (1) If authorized to do so by an authorizing dentist in 8710
accordance with this section, a dental hygienist may provide 8711
dental hygiene services at a location where no dentist is 8712
physically present if all of the following requirements are met: 8713

(a) The dental hygienist has at least one year and a 8714
minimum of one thousand five hundred hours of experience in the 8715

practice of dental hygiene. 8716

(b) The dental hygienist has completed a course described 8717
in division (C) (2) of section 4715.22 of the Revised Code on the 8718
identification and prevention of potential medical emergencies. 8719

(c) The authorizing dentist has evaluated the dental 8720
hygienist's skills. 8721

(d) The dental hygienist complies with written protocols 8722
or written standing orders established by the authorizing 8723
dentist, including written protocols established for 8724
emergencies. 8725

(2) If authorized to do so by an authorizing dentist in 8726
accordance with this section, a dental hygienist may place 8727
interim therapeutic restorations when a dentist is not 8728
physically present at the location where the dental hygienist is 8729
practicing if the requirements of division (E) (1) of this 8730
section are met and the dental hygienist has successfully 8731
completed a state dental board-approved course in the proper 8732
placement of interim therapeutic restorations. 8733

(3) If authorized to do so by an authorizing dentist in 8734
accordance with this section, a dental hygienist may apply 8735
silver diamine fluoride when a dentist is not physically present 8736
at the location where the dental hygienist is practicing if the 8737
requirements of division (E) (1) of this section are met and the 8738
dental hygienist has successfully completed a state dental 8739
board-approved course in the application of silver diamine 8740
fluoride. 8741

(F) (1) If authorized to do so by an authorizing dentist in 8742
accordance with this section, an expanded function dental 8743
auxiliary may provide the services listed in divisions (A) (2) to 8744

(10) of section 4715.64 of the Revised Code, and any additional 8745
procedures authorized pursuant to division (A)(11) of that 8746
section, when a dentist is not physically present at the 8747
location where the expanded function dental auxiliary is 8748
practicing if all of the following requirements are met: 8749

(a) The expanded function dental auxiliary has at least 8750
one year and a minimum of one thousand five hundred hours of 8751
experience practicing as an expanded function dental auxiliary. 8752

(b) The expanded function dental auxiliary has completed a 8753
course described in division (C)(2) of section 4715.64 of the 8754
Revised Code on the identification and prevention of potential 8755
medical emergencies. 8756

(c) The authorizing dentist has evaluated the expanded 8757
function dental auxiliary's skills. 8758

(d) The expanded function dental auxiliary complies with 8759
written protocols or written standing orders established by the 8760
authorizing dentist, including written protocols for 8761
emergencies. 8762

(2) If authorized to do so by an authorizing dentist in 8763
accordance with this section, an expanded function dental 8764
auxiliary who meets the requirements of division (F)(1) of this 8765
section and has successfully completed a state dental board- 8766
approved course in the proper placement of interim therapeutic 8767
restorations may place interim therapeutic restorations when a 8768
dentist is not physically present at the location where the 8769
expanded function dental auxiliary is practicing. 8770

(3) If authorized to do so by an authorizing dentist in 8771
accordance with this section, an expanded function dental 8772
auxiliary who meets the requirements of division (F)(1) of this 8773

section and has successfully completed a state dental board- 8774
approved course in the application of silver diamine fluoride 8775
may apply silver diamine fluoride when a dentist is not 8776
physically present at the location where the expanded function 8777
dental auxiliary is practicing. 8778

(4) If authorized to do so by an authorizing dentist in 8779
accordance with this section, an expanded function dental 8780
auxiliary who meets the requirements of division (F) (1) of this 8781
section and holds a current, valid dental x-ray machine operator 8782
certificate issued by the board pursuant to section 4715.53 of 8783
the Revised Code may perform, for the purpose of contributing to 8784
the provision of dental care to a dental patient, standard, 8785
diagnostic radiologic procedures when a dentist is not 8786
physically present at the location where the expanded function 8787
dental auxiliary is practicing. 8788

Sec. 4717.06. (A) (1) A licensed funeral director who 8789
desires to obtain a license to operate a funeral home, a 8790
licensed embalmer who desires to obtain a license to operate an 8791
embalming facility, or a holder of a crematory operator permit 8792
who desires to obtain a license to operate a crematory facility 8793
shall apply to the board of embalmers and funeral directors on a 8794
form prescribed by the board. The application shall include the 8795
initial license application fee set forth in section 4717.07 of 8796
the Revised Code and proof satisfactory to the board that the 8797
funeral home, embalming facility, or crematory facility is in 8798
compliance with rules adopted by the board under section 4717.04 8799
of the Revised Code, rules adopted by the board of building 8800
standards under Chapter 3781. of the Revised Code, and all other 8801
federal, state, and local requirements relating to the safety of 8802
the premises. 8803

(2) If the funeral home, embalming facility, or crematory facility to which the license application pertains is owned by a corporation or limited liability company, the application shall include the name and address of the corporation's or limited liability company's statutory agent appointed under section 1701.07~~or, 1705.06, or 1706.09~~ of the Revised Code or, in the case of a foreign corporation, the corporation's designated agent appointed under section 1703.041 of the Revised Code. If the funeral home, embalming facility, or crematory facility to which the application pertains is owned by a partnership, the application shall include the name and address of each of the partners. If, at any time after the submission of a license application or issuance of a license, the statutory or designated agent of a corporation or limited liability company owning a funeral home, embalming facility, or crematory facility or the address of the statutory or designated agent changes or, in the case of a partnership, any of the partners of the funeral home, embalming facility, or crematory facility or the address of any of the partners changes, the applicant for or holder of the license to operate the funeral home, embalming facility, or crematory facility shall submit written notice to the board, within thirty days after the change, informing the board of the change and of any name or address of a statutory or designated agent or partner that has changed from that contained in the application for the license or the most recent notice submitted under division (A) (2) of this section.

(B) (1) The board of embalmers and funeral directors shall issue a license to operate a funeral home only to a licensed funeral director who is named in the application as the funeral director actually in charge and ultimately responsible for the funeral home. The board shall issue the license only for the

address at which the funeral home is physically located and 8835
operated. The funeral home license and licenses of the embalmers 8836
and funeral directors employed by the funeral home shall be 8837
displayed in a conspicuous place within the funeral home. The 8838
name of the funeral director to whom the funeral home license 8839
has been issued shall be conspicuously displayed immediately on 8840
the outside or the inside of the primary entrance to the funeral 8841
home that is used by the public. 8842

(2) The funeral home shall have on the premises one of the 8843
following: 8844

(a) If embalming will take place at the funeral home, an 8845
embalming room that is adequately equipped and maintained. The 8846
embalming room shall be kept in a clean and sanitary manner and 8847
used only for the embalming, preparation, or holding of dead 8848
human bodies. The embalming room shall contain only the 8849
articles, facilities, and instruments necessary for those 8850
purposes. 8851

(b) If embalming will not take place at the funeral home, 8852
a holding room that is adequately equipped and maintained. The 8853
holding room shall be kept in a clean and sanitary manner and 8854
used only for the preparation, other than embalming, and holding 8855
of dead human bodies. The holding room shall contain only the 8856
articles and facilities necessary for those purposes. 8857

(3) Each funeral home shall be directly supervised by a 8858
funeral director licensed under this chapter, who may supervise 8859
more than one funeral home. 8860

(C) (1) The board shall issue a license to operate an 8861
embalming facility only to a licensed embalmer who is actually 8862
in charge of and ultimately responsible for the embalming 8863

facility. The board shall issue the license only for the address 8864
at which the embalming facility is physically located and 8865
operated. The license shall be displayed in a conspicuous place 8866
within the facility. The name of the embalmer to whom the 8867
embalming facility license has been issued shall be 8868
conspicuously displayed on the outside or inside of the primary 8869
entrance to the embalming facility. 8870

(2) The embalming facility shall be adequately equipped 8871
and maintained in a sanitary manner. The embalming room at such 8872
a facility shall contain only the articles, facilities, and 8873
instruments necessary for its stated purpose. The embalming room 8874
shall be kept in a clean and sanitary condition and used only 8875
for the care and preparation of dead human bodies. 8876

(D) (1) The board shall issue a license to operate a 8877
crematory facility only to a crematory operator who is actually 8878
in charge and ultimately responsible for the crematory facility. 8879
The board shall issue the license only for the address at which 8880
the crematory facility is physically located and operated. The 8881
license shall be displayed in a conspicuous place within the 8882
crematory facility. The name of the crematory operator to whom 8883
the crematory facility license has been issued shall be 8884
conspicuously displayed on the outside or inside of the primary 8885
entrance to the crematory facility. 8886

(2) The crematory facility shall be adequately equipped 8887
and maintained in a clean and sanitary manner. The crematory 8888
facility may be located in a funeral home, embalming facility, 8889
cemetery building, or other building in which the crematory 8890
facility may lawfully operate. If a crematory facility engages 8891
in the cremation of animals, the crematory facility shall 8892
cremate animals in a cremation chamber that also is not used to 8893

cremate dead human bodies or human body parts and shall not 8894
cremate animals in a cremation chamber used for the cremation of 8895
dead human bodies and human body parts. Cremation chambers that 8896
are used for the cremation of dead human bodies or human body 8897
parts and cremation chambers used for the cremation of animals 8898
may be located in the same area. Cremation chambers used for the 8899
cremation of animals shall have conspicuously displayed on the 8900
unit a notice that the unit is to be used for animals only. 8901

(3) A license to operate a crematory facility shall be 8902
issued to the person actually in charge of the crematory 8903
facility. This section does not require the individual who is 8904
actually in charge of the crematory facility to be an embalmer 8905
or funeral director licensed under this chapter. 8906

(4) Nothing in this section or rules adopted under section 8907
4717.04 of the Revised Code precludes the establishment and 8908
operation of a crematory facility on or adjacent to the property 8909
on which a cemetery, funeral home, or embalming facility is 8910
located. 8911

Sec. 4723.16. (A) An individual whom the board of nursing 8912
licenses or otherwise legally authorizes to engage in the 8913
practice of nursing as a registered nurse, advanced practice 8914
registered nurse, or licensed practical nurse may render the 8915
professional services of a registered, advanced practice 8916
registered, or licensed practical nurse within this state 8917
through a corporation formed under division (B) of section 8918
1701.03 of the Revised Code, a limited liability company formed 8919
under Chapter 1705. or 1706. of the Revised Code, a partnership, 8920
or a professional association formed under Chapter 1785. of the 8921
Revised Code. This division does not preclude an individual of 8922
that nature from rendering professional services as a 8923

registered, advanced practice registered, or licensed practical 8924
nurse through another form of business entity, including, but 8925
not limited to, a nonprofit corporation or foundation, or in 8926
another manner that is authorized by or in accordance with this 8927
chapter, another chapter of the Revised Code, or rules of the 8928
board of nursing adopted pursuant to this chapter. 8929

(B) A corporation, limited liability company, partnership, 8930
or professional association described in division (A) of this 8931
section may be formed for the purpose of providing a combination 8932
of the professional services of the following individuals who 8933
are licensed, certificated, or otherwise legally authorized to 8934
practice their respective professions: 8935

(1) Optometrists who are authorized to practice optometry 8936
under Chapter 4725. of the Revised Code; 8937

(2) Chiropractors who are authorized to practice 8938
chiropractic or acupuncture under Chapter 4734. of the Revised 8939
Code; 8940

(3) Psychologists who are authorized to practice 8941
psychology under Chapter 4732. of the Revised Code; 8942

(4) Registered, advanced practice registered, or licensed 8943
practical nurses who are authorized to practice nursing as 8944
registered nurses, advanced practice registered nurses, or 8945
licensed practical nurses under this chapter; 8946

(5) Pharmacists who are authorized to practice pharmacy 8947
under Chapter 4729. of the Revised Code; 8948

(6) Physical therapists who are authorized to practice 8949
physical therapy under sections 4755.40 to 4755.56 of the 8950
Revised Code; 8951

(7) Occupational therapists who are licensed to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a nurse that prohibits a registered, advanced practice registered, or licensed practical nurse from engaging in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse.

Sec. 4725.33. (A) An individual whom the state vision 8982
professionals board licenses to engage in the practice of 8983
optometry may render the professional services of an optometrist 8984
within this state through a corporation formed under division 8985
(B) of section 1701.03 of the Revised Code, a limited liability 8986
company formed under Chapter 1705. or 1706. of the Revised Code, 8987
a partnership, or a professional association formed under 8988
Chapter 1785. of the Revised Code. This division does not 8989
preclude an optometrist from rendering professional services as 8990
an optometrist through another form of business entity, 8991
including, but not limited to, a nonprofit corporation or 8992
foundation, or in another manner that is authorized by or in 8993
accordance with this chapter, another chapter of the Revised 8994
Code, or rules of the state vision professionals board adopted 8995
pursuant to this chapter. 8996

(B) A corporation, limited liability company, partnership, 8997
or professional association described in division (A) of this 8998
section may be formed for the purpose of providing a combination 8999
of the professional services of the following individuals who 9000
are licensed, certificated, or otherwise legally authorized to 9001
practice their respective professions: 9002

(1) Optometrists who are authorized to practice optometry 9003
under Chapter 4725. of the Revised Code; 9004

(2) Chiropractors who are authorized to practice 9005
chiropractic or acupuncture under Chapter 4734. of the Revised 9006
Code; 9007

(3) Psychologists who are authorized to practice 9008
psychology under Chapter 4732. of the Revised Code; 9009

(4) Registered or licensed practical nurses who are 9010

authorized to practice nursing as registered nurses or as 9011
licensed practical nurses under Chapter 4723. of the Revised 9012
Code; 9013

(5) Pharmacists who are authorized to practice pharmacy 9014
under Chapter 4729. of the Revised Code; 9015

(6) Physical therapists who are authorized to practice 9016
physical therapy under sections 4755.40 to 4755.56 of the 9017
Revised Code; 9018

(7) Occupational therapists who are authorized to practice 9019
occupational therapy under sections 4755.04 to 4755.13 of the 9020
Revised Code; 9021

(8) Mechanotherapists who are authorized to practice 9022
mechanotherapy under section 4731.151 of the Revised Code; 9023

(9) Doctors of medicine and surgery, osteopathic medicine 9024
and surgery, or podiatric medicine and surgery who are 9025
authorized for their respective practices under Chapter 4731. of 9026
the Revised Code; 9027

(10) Licensed professional clinical counselors, licensed 9028
professional counselors, independent social workers, social 9029
workers, independent marriage and family therapists, or marriage 9030
and family therapists who are authorized for their respective 9031
practices under Chapter 4757. of the Revised Code. 9032

This division shall apply notwithstanding a provision of a 9033
code of ethics applicable to an optometrist that prohibits an 9034
optometrist from engaging in the practice of optometry in 9035
combination with a person who is licensed, certificated, or 9036
otherwise legally authorized to practice chiropractic, 9037
acupuncture through the state chiropractic board, psychology, 9038
nursing, pharmacy, physical therapy, occupational therapy, 9039

mechanotherapy, medicine and surgery, osteopathic medicine and 9040
surgery, podiatric medicine and surgery, professional 9041
counseling, social work, or marriage and family therapy, but who 9042
is not also licensed, certificated, or otherwise legally 9043
authorized to engage in the practice of optometry. 9044

Sec. 4729.161. (A) An individual registered with the state 9045
board of pharmacy to engage in the practice of pharmacy may 9046
render the professional services of a pharmacist within this 9047
state through a corporation formed under division (B) of section 9048
1701.03 of the Revised Code, a limited liability company formed 9049
under Chapter 1705. or 1706. of the Revised Code, a partnership, 9050
or a professional association formed under Chapter 1785. of the 9051
Revised Code. This division does not preclude an individual of 9052
that nature from rendering professional services as a pharmacist 9053
through another form of business entity, including, but not 9054
limited to, a nonprofit corporation or foundation, or in another 9055
manner that is authorized by or in accordance with this chapter, 9056
another chapter of the Revised Code, or rules of the state board 9057
of pharmacy adopted pursuant to this chapter. 9058

(B) A corporation, limited liability company, partnership, 9059
or professional association described in division (A) of this 9060
section may be formed for the purpose of providing a combination 9061
of the professional services of the following individuals who 9062
are licensed, certificated, or otherwise legally authorized to 9063
practice their respective professions: 9064

(1) Optometrists who are authorized to practice optometry 9065
under Chapter 4725. of the Revised Code; 9066

(2) Chiropractors who are authorized to practice 9067
chiropractic or acupuncture under Chapter 4734. of the Revised 9068
Code; 9069

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;	9070 9071
(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;	9072 9073 9074 9075
(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;	9076 9077
(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;	9078 9079 9080
(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;	9081 9082 9083
(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;	9084 9085
(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;	9086 9087 9088 9089
(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.	9090 9091 9092 9093 9094
This division shall apply notwithstanding a provision of a code of ethics applicable to a pharmacist that prohibits a pharmacist from engaging in the practice of pharmacy in	9095 9096 9097

combination with a person who is licensed, certificated, or 9098
otherwise legally authorized to practice optometry, 9099
chiropractic, acupuncture through the state chiropractic board, 9100
psychology, nursing, physical therapy, occupational therapy, 9101
mechanotherapy, medicine and surgery, osteopathic medicine and 9102
surgery, podiatric medicine and surgery, professional 9103
counseling, social work, or marriage and family therapy, but who 9104
is not also licensed, certificated, or otherwise legally 9105
authorized to engage in the practice of pharmacy. 9106

Sec. 4729.541. (A) Except as provided in divisions (B) to 9107
(D) of this section, all of the following are exempt from 9108
licensure as a terminal distributor of dangerous drugs: 9109

(1) A licensed health professional authorized to prescribe 9110
drugs; 9111

(2) A business entity that is a corporation formed under 9112
division (B) of section 1701.03 of the Revised Code, a limited 9113
liability company formed under Chapter 1705. or 1706. of the 9114
Revised Code, or a professional association formed under Chapter 9115
1785. of the Revised Code if the entity has a sole shareholder 9116
who is a prescriber and is authorized to provide the 9117
professional services being offered by the entity; 9118

(3) A business entity that is a corporation formed under 9119
division (B) of section 1701.03 of the Revised Code, a limited 9120
liability company formed under Chapter 1705. or 1706. of the 9121
Revised Code, a partnership or a limited liability partnership 9122
formed under Chapter 1775. of the Revised Code, or a 9123
professional association formed under Chapter 1785. of the 9124
Revised Code, if, to be a shareholder, member, or partner, an 9125
individual is required to be licensed, certified, or otherwise 9126
legally authorized under Title XLVII of the Revised Code to 9127

perform the professional service provided by the entity and each 9128
such individual is a prescriber; 9129

(4) An individual who holds a current license, 9130
certificate, or registration issued under Title XLVII of the 9131
Revised Code and has been certified to conduct diabetes 9132
education by a national certifying body specified in rules 9133
adopted by the state board of pharmacy under section 4729.68 of 9134
the Revised Code, but only with respect to insulin that will be 9135
used for the purpose of diabetes education and only if diabetes 9136
education is within the individual's scope of practice under 9137
statutes and rules regulating the individual's profession; 9138

(5) An individual who holds a valid certificate issued by 9139
a nationally recognized S.C.U.B.A. diving certifying 9140
organization approved by the state board of pharmacy under rules 9141
adopted by the board, but only with respect to medical oxygen 9142
that will be used for the purpose of emergency care or treatment 9143
at the scene of a diving emergency; 9144

(6) With respect to epinephrine autoinjectors that may be 9145
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 9146
or 3328.29 of the Revised Code, any of the following: the board 9147
of education of a city, local, exempted village, or joint 9148
vocational school district; a chartered or nonchartered 9149
nonpublic school; a community school established under Chapter 9150
3314. of the Revised Code; a STEM school established under 9151
Chapter 3326. of the Revised Code; or a college-preparatory 9152
boarding school established under Chapter 3328. of the Revised 9153
Code; 9154

(7) With respect to epinephrine autoinjectors that may be 9155
possessed under section 5101.76 of the Revised Code, any of the 9156
following: a residential camp, as defined in section 2151.011 of 9157

the Revised Code; a child day camp, as defined in section 9158
5104.01 of the Revised Code; or a child day camp operated by any 9159
county, township, municipal corporation, township park district 9160
created under section 511.18 of the Revised Code, park district 9161
created under section 1545.04 of the Revised Code, or joint 9162
recreation district established under section 755.14 of the 9163
Revised Code; 9164

(8) With respect to epinephrine autoinjectors that may be 9165
possessed under Chapter 3728. of the Revised Code, a qualified 9166
entity, as defined in section 3728.01 of the Revised Code; 9167

(9) With respect to inhalers that may be possessed under 9168
section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of 9169
the Revised Code, any of the following: the board of education 9170
of a city, local, exempted village, or joint vocational school 9171
district; a chartered or nonchartered nonpublic school; a 9172
community school established under Chapter 3314. of the Revised 9173
Code; a STEM school established under Chapter 3326. of the 9174
Revised Code; or a college-preparatory boarding school 9175
established under Chapter 3328. of the Revised Code; 9176

(10) With respect to inhalers that may be possessed under 9177
section 5101.77 of the Revised Code, any of the following: a 9178
residential camp, as defined in section 2151.011 of the Revised 9179
Code; a child day camp, as defined in section 5104.01 of the 9180
Revised Code; or a child day camp operated by any county, 9181
township, municipal corporation, township park district created 9182
under section 511.18 of the Revised Code, park district created 9183
under section 1545.04 of the Revised Code, or joint recreation 9184
district established under section 755.14 of the Revised Code; 9185

(11) With respect to naloxone that may be possessed under 9186
section 2925.61 of the Revised Code, a law enforcement agency 9187

and its peace officers; 9188

(12) With respect to naloxone that may be possessed under 9189
section 4729.514 of the Revised Code, a service entity, as 9190
defined in that section; 9191

(13) A facility that is owned and operated by the United 9192
States department of defense, the United States department of 9193
veterans affairs, or any other federal agency. 9194

(B) If a person described in division (A) of this section 9195
is a pain management clinic or is operating a pain management 9196
clinic, the person shall hold a license as a terminal 9197
distributor of dangerous drugs with a pain management clinic 9198
classification issued under section 4729.552 of the Revised 9199
Code. 9200

(C) If a person described in division (A) of this section 9201
is operating a facility, clinic, or other location described in 9202
division (B) of section 4729.553 of the Revised Code that must 9203
hold a category III terminal distributor of dangerous drugs 9204
license with an office-based opioid treatment classification, 9205
the person shall hold a license with that classification. 9206

(D) Any of the persons described in divisions (A) (1) to 9207
(12) of this section shall hold a license as a terminal 9208
distributor of dangerous drugs in order to possess, have custody 9209
or control of, and distribute any of the following: 9210

(1) Dangerous drugs that are compounded or used for the 9211
purpose of compounding; 9212

(2) A schedule I, II, III, IV, or V controlled substance, 9213
as defined in section 3719.01 of the Revised Code. 9214

Sec. 4731.226. (A) (1) An individual whom the state medical 9215

board licenses, certificates, or otherwise legally authorizes to 9216
engage in the practice of medicine and surgery, osteopathic 9217
medicine and surgery, or podiatric medicine and surgery may 9218
render the professional services of a doctor of medicine and 9219
surgery, osteopathic medicine and surgery, or podiatric medicine 9220
and surgery within this state through a corporation formed under 9221
division (B) of section 1701.03 of the Revised Code, a limited 9222
liability company formed under Chapter 1705. or 1706. of the 9223
Revised Code, a partnership, or a professional association 9224
formed under Chapter 1785. of the Revised Code. Division (A) (1) 9225
of this section does not preclude an individual of that nature 9226
from rendering professional services as a doctor of medicine and 9227
surgery, osteopathic medicine and surgery, or podiatric medicine 9228
and surgery through another form of business entity, including, 9229
but not limited to, a nonprofit corporation or foundation, or in 9230
another manner that is authorized by or in accordance with this 9231
chapter, another chapter of the Revised Code, or rules of the 9232
state medical board adopted pursuant to this chapter. 9233

(2) An individual whom the state medical board authorizes 9234
to engage in the practice of mechanotherapy may render the 9235
professional services of a mechanotherapist within this state 9236
through a corporation formed under division (B) of section 9237
1701.03 of the Revised Code, a limited liability company formed 9238
under Chapter 1705. or 1706. of the Revised Code, a partnership, 9239
or a professional association formed under Chapter 1785. of the 9240
Revised Code. Division (A) (2) of this section does not preclude 9241
an individual of that nature from rendering professional 9242
services as a mechanotherapist through another form of business 9243
entity, including, but not limited to, a nonprofit corporation 9244
or foundation, or in another manner that is authorized by or in 9245
accordance with this chapter, another chapter of the Revised 9246

Code, or rules of the state medical board adopted pursuant to 9247
this chapter. 9248

(B) A corporation, limited liability company, partnership, 9249
or professional association described in division (A) of this 9250
section may be formed for the purpose of providing a combination 9251
of the professional services of the following individuals who 9252
are licensed, certificated, or otherwise legally authorized to 9253
practice their respective professions: 9254

(1) Optometrists who are authorized to practice optometry 9255
under Chapter 4725. of the Revised Code; 9256

(2) Chiropractors who are authorized to practice 9257
chiropractic or acupuncture under Chapter 4734. of the Revised 9258
Code; 9259

(3) Psychologists who are authorized to practice 9260
psychology under Chapter 4732. of the Revised Code; 9261

(4) Registered or licensed practical nurses who are 9262
authorized to practice nursing as registered nurses or as 9263
licensed practical nurses under Chapter 4723. of the Revised 9264
Code; 9265

(5) Pharmacists who are authorized to practice pharmacy 9266
under Chapter 4729. of the Revised Code; 9267

(6) Physical therapists who are authorized to practice 9268
physical therapy under sections 4755.40 to 4755.56 of the 9269
Revised Code; 9270

(7) Occupational therapists who are authorized to practice 9271
occupational therapy under sections 4755.04 to 4755.13 of the 9272
Revised Code; 9273

(8) Mechanotherapists who are authorized to practice 9274

mechanotherapy under section 4731.151 of the Revised Code; 9275

(9) Doctors of medicine and surgery, osteopathic medicine 9276
and surgery, or podiatric medicine and surgery who are 9277
authorized for their respective practices under this chapter; 9278

(10) Licensed professional clinical counselors, licensed 9279
professional counselors, independent social workers, social 9280
workers, independent marriage and family therapists, or marriage 9281
and family therapists who are authorized for their respective 9282
practices under Chapter 4757. of the Revised Code. 9283

(C) Division (B) of this section shall apply 9284
notwithstanding a provision of a code of ethics described in 9285
division (B) (18) of section 4731.22 of the Revised Code that 9286
prohibits either of the following: 9287

(1) A doctor of medicine and surgery, osteopathic medicine 9288
and surgery, or podiatric medicine and surgery from engaging in 9289
the doctor's authorized practice in combination with a person 9290
who is licensed, certificated, or otherwise legally authorized 9291
to engage in the practice of optometry, chiropractic, 9292
acupuncture through the state chiropractic board, psychology, 9293
nursing, pharmacy, physical therapy, occupational therapy, 9294
mechanotherapy, professional counseling, social work, or 9295
marriage and family therapy, but who is not also licensed, 9296
certificated, or otherwise legally authorized to practice 9297
medicine and surgery, osteopathic medicine and surgery, or 9298
podiatric medicine and surgery. 9299

(2) A mechanotherapist from engaging in the practice of 9300
mechanotherapy in combination with a person who is licensed, 9301
certificated, or otherwise legally authorized to engage in the 9302
practice of optometry, chiropractic, acupuncture through the 9303

state chiropractic board, psychology, nursing, pharmacy, 9304
physical therapy, occupational therapy, medicine and surgery, 9305
osteopathic medicine and surgery, podiatric medicine and 9306
surgery, professional counseling, social work, or marriage and 9307
family therapy, but who is not also licensed, certificated, or 9308
otherwise legally authorized to engage in the practice of 9309
mechanotherapy. 9310

Sec. 4731.228. (A) As used in this section: 9311

(1) "Federally qualified health center" has the same 9312
meaning as in section 3701.047 of the Revised Code. 9313

(2) "Federally qualified health center look-alike" has the 9314
same meaning as in section 3701.047 of the Revised Code. 9315

(3) "Health care entity" means any of the following that 9316
employs a physician to provide physician services: 9317

(a) A hospital registered with the department of health 9318
under section 3701.07 of the Revised Code; 9319

(b) A corporation formed under division (B) of section 9320
1701.03 of the Revised Code; 9321

(c) A corporation formed under Chapter 1702. of the 9322
Revised Code; 9323

(d) A limited liability company formed under Chapter 1705. 9324
or 1706. of the Revised Code; 9325

(e) A health insuring corporation holding a certificate of 9326
authority under Chapter 1751. of the Revised Code; 9327

(f) A partnership; 9328

(g) A professional association formed under Chapter 1785. 9329
of the Revised Code. 9330

(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(5) "Physician services" means direct patient care services provided by a physician.

(6) "Termination" means the end of a physician's employment with a health care entity for any reason.

(B) This section applies when a physician's employment with a health care entity to provide physician services is terminated for any reason, unless the physician continues to provide medical services for patients of the health care entity on an independent contractor basis.

(C) (1) Except as provided in division (C) (2) of this section, a health care entity shall send notice of the termination of a physician's employment to each patient who received physician services from the physician in the two-year period immediately preceding the date of employment termination. Only patients of the health care entity who received services from the physician are to receive the notice.

(2) If the health care entity provides to the physician a list of patients treated and patient contact information, the health care entity may require the physician to send the notice required by this section.

(D) The notice provided under division (C) of this section shall be provided not later than the date of termination or thirty days after the health care entity has actual knowledge of termination or resignation of the physician, whichever is later. The notice shall be provided in accordance with rules adopted by the state medical board under section 4731.05 of the Revised

Code. The notice shall include at least all of the following: 9360

(1) A notice to the patient that the physician will no 9361
longer be practicing medicine as an employee of the health care 9362
entity; 9363

(2) Except in situations in which the health care entity 9364
has a good faith concern that the physician's conduct or the 9365
medical care provided by the physician would jeopardize the 9366
health and safety of patients, the physician's name and, if 9367
known by the health care entity, information provided by the 9368
physician that the patient may use to contact the physician; 9369

(3) The date on which the physician ceased or will cease 9370
to practice as an employee of the health care entity; 9371

(4) Contact information for an alternative physician or 9372
physicians employed by the health care entity or contact 9373
information for a group practice that can provide care for the 9374
patient; 9375

(5) Contact information that enables the patient to obtain 9376
information on the patient's medical records. 9377

(E) The requirements of this section do not apply to any 9378
of the following: 9379

(1) A physician rendering services to a patient on an 9380
episodic basis or in an emergency department or urgent care 9381
center, when it should not be reasonably expected that related 9382
medical services will be rendered by the physician to the 9383
patient in the future; 9384

(2) A medical director or other physician providing 9385
services in a similar capacity to a medical director to patients 9386
through a hospice care program licensed pursuant to section 9387

3712.04 of the Revised Code. 9388

(3) Medical residents, interns, and fellows who work in 9389
hospitals, health systems, federally qualified health centers, 9390
and federally qualified health center look-alikes as part of 9391
their medical education and training. 9392

(4) A physician providing services to a patient through a 9393
community mental health services provider certified by the 9394
director of mental health and addiction services under section 9395
5119.36 of the Revised Code or a community addiction services 9396
provider certified by the director under that section. 9397

(5) A physician providing services to a patient through a 9398
federally qualified health center or a federally qualified 9399
health center look-alike. 9400

Sec. 4732.28. (A) An individual whom the state board of 9401
psychology licenses, certificates, or otherwise legally 9402
authorizes to engage in the practice of psychology may render 9403
the professional services of a psychologist within this state 9404
through a corporation formed under division (B) of section 9405
1701.03 of the Revised Code, a limited liability company formed 9406
under Chapter 1705. or 1706. of the Revised Code, a partnership, 9407
or a professional association formed under Chapter 1785. of the 9408
Revised Code. This division does not preclude an individual of 9409
that nature from rendering professional services as a 9410
psychologist through another form of business entity, including, 9411
but not limited to, a nonprofit corporation or foundation, or in 9412
another manner that is authorized by or in accordance with this 9413
chapter, another chapter of the Revised Code, or rules of the 9414
state board of psychology adopted pursuant to this chapter. 9415

(B) A corporation, limited liability company, partnership, 9416

or professional association described in division (A) of this 9417
section may be formed for the purpose of providing a combination 9418
of the professional services of the following individuals who 9419
are licensed, certificated, or otherwise legally authorized to 9420
practice their respective professions: 9421

(1) Optometrists who are authorized to practice optometry 9422
under Chapter 4725. of the Revised Code; 9423

(2) Chiropractors who are authorized to practice 9424
chiropractic or acupuncture under Chapter 4734. of the Revised 9425
Code; 9426

(3) Psychologists who are authorized to practice 9427
psychology under this chapter; 9428

(4) Registered or licensed practical nurses who are 9429
authorized to practice nursing as registered nurses or as 9430
licensed practical nurses under Chapter 4723. of the Revised 9431
Code; 9432

(5) Pharmacists who are authorized to practice pharmacy 9433
under Chapter 4729. of the Revised Code; 9434

(6) Physical therapists who are authorized to practice 9435
physical therapy under sections 4755.40 to 4755.56 of the 9436
Revised Code; 9437

(7) Occupational therapists who are authorized to practice 9438
occupational therapy under sections 4755.04 to 4755.13 of the 9439
Revised Code; 9440

(8) Mechanotherapists who are authorized to practice 9441
mechanotherapy under section 4731.151 of the Revised Code; 9442

(9) Doctors of medicine and surgery, osteopathic medicine 9443
and surgery, or podiatric medicine and surgery who are 9444

authorized for their respective practices under Chapter 4731. of 9445
the Revised Code; 9446

(10) Licensed professional clinical counselors, licensed 9447
professional counselors, independent social workers, social 9448
workers, independent marriage and family therapists, or marriage 9449
and family therapists who are authorized for their respective 9450
practices under Chapter 4757. of the Revised Code. 9451

This division shall apply notwithstanding a provision of a 9452
code of ethics applicable to a psychologist that prohibits a 9453
psychologist from engaging in the practice of psychology in 9454
combination with a person who is licensed, certificated, or 9455
otherwise legally authorized to practice optometry, 9456
chiropractic, acupuncture through the state chiropractic board, 9457
nursing, pharmacy, physical therapy, occupational therapy, 9458
mechanotherapy, medicine and surgery, osteopathic medicine and 9459
surgery, podiatric medicine and surgery, professional 9460
counseling, social work, or marriage and family therapy, but who 9461
is not also licensed, certificated, or otherwise legally 9462
authorized to engage in the practice of psychology. 9463

Sec. 4733.16. (A) A firm, partnership, association, 9464
limited liability company, or corporation may provide 9465
professional engineering or professional surveying services in 9466
this state as long as the services are provided only through 9467
natural persons registered to provide those services in the 9468
state, subject to the exemptions in sections 4733.17 and 4733.18 9469
of the Revised Code and subject otherwise to the requirements of 9470
this chapter. 9471

(B) No firm, partnership, association, limited liability 9472
company, or corporation, except a corporation that was granted a 9473
charter prior to August 7, 1943, to engage in providing 9474

professional engineering or professional surveying services in 9475
this state or that was otherwise lawfully providing engineering 9476
services in this state prior to November 15, 1982, shall engage 9477
in providing professional engineering or professional surveying 9478
services, hold itself out to the public as being engaged in 9479
providing professional engineering or professional surveying 9480
services, or use a name including one or more of the words 9481
"engineer," "engineering," "surveyor," or "surveying" or any 9482
modification or derivation of those words, unless the firm, 9483
partnership, association, limited liability company, or 9484
corporation obtains a certificate of authorization from the 9485
state board of registration for professional engineers and 9486
surveyors and files all information required to be filed under 9487
this section with the state board of registration for 9488
professional engineers and surveyors and otherwise complies with 9489
all requirements of this chapter. A nonprofit membership 9490
corporation may use a name including one or more of the words 9491
"engineer," "engineering," "surveyor," or "surveying" or any 9492
modification or derivation of those words without complying with 9493
this section. 9494

(C) A corporation may be organized under Chapter 1701. of 9495
the Revised Code, a professional association may be organized 9496
under Chapter 1785. of the Revised Code, or a limited liability 9497
company may be formed under Chapter 1705. or 1706. of the 9498
Revised Code for the purpose of providing professional 9499
engineering, professional surveying, architectural, or landscape 9500
architectural services or any combination of those services. A 9501
corporation organized under Chapter 1701. of the Revised Code 9502
for the purpose of providing those services also may be 9503
organized for any other purpose in accordance with that chapter. 9504

(D) Each firm, partnership, association, limited liability 9505

company, or corporation through which professional engineering 9506
or professional surveying services are offered or provided in 9507
this state shall designate one or more full-time partners, 9508
managers, members, officers, or directors as being responsible 9509
for and in responsible charge of the professional engineering or 9510
professional surveying activities and decisions, and those 9511
designated persons shall be registered in this state. Each firm, 9512
partnership, association, limited liability company, or 9513
corporation shall annually file with the state board of 9514
registration for professional engineers and surveyors the name 9515
and address of all owners and all persons designated as being in 9516
responsible charge of the professional engineering or 9517
professional surveying activities and decisions and any other 9518
information the board may require. 9519

(E) The state board of registration for professional 9520
engineers and surveyors shall issue a certificate of 9521
authorization to each firm, partnership, association, limited 9522
liability company, or corporation that satisfies the 9523
requirements of this chapter, including providing information 9524
that the board may require pursuant to division (D) of this 9525
section. 9526

(F) This section does not modify any law applicable to the 9527
relationship between a person furnishing a professional service 9528
and a person receiving that service, including liability arising 9529
out of that service. 9530

(G) Nothing in this section shall restrict or limit in any 9531
manner the authority or duty of the state board of registration 9532
for professional engineers and surveyors with respect to natural 9533
persons providing professional services or any law or rule 9534
pertaining to standards of professional conduct. 9535

(H) Corporations, partnerships, associations, limited liability companies, or firms organized under the laws of another state or country wishing to provide professional engineering or professional surveying services shall obtain a certificate of authorization and meet the applicable requirements of this section.

Sec. 4734.17. (A) An individual whom the state chiropractic board licenses to engage in the practice of chiropractic or certifies to practice acupuncture may render the professional services of a chiropractor or chiropractor certified to practice acupuncture within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude a chiropractor from rendering professional services as a chiropractor or chiropractor certified to practice acupuncture through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state chiropractic board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry,

under Chapter 4725. of the Revised Code;	9566
(2) Chiropractors who are authorized to practice	9567
chiropractic or acupuncture under this chapter;	9568
(3) Psychologists who are authorized to practice	9569
psychology under Chapter 4732. of the Revised Code;	9570
(4) Registered or licensed practical nurses who are	9571
authorized to practice nursing as registered nurses or as	9572
licensed practical nurses under Chapter 4723. of the Revised	9573
Code;	9574
(5) Pharmacists who are authorized to practice pharmacy	9575
under Chapter 4729. of the Revised Code;	9576
(6) Physical therapists who are authorized to practice	9577
physical therapy under sections 4755.40 to 4755.56 of the	9578
Revised Code;	9579
(7) Occupational therapists who are authorized to practice	9580
occupational therapy under sections 4755.04 to 4755.13 of the	9581
Revised Code;	9582
(8) Mechanotherapists who are authorized to practice	9583
mechanotherapy under section 4731.151 of the Revised Code;	9584
(9) Doctors of medicine and surgery, osteopathic medicine	9585
and surgery, or podiatric medicine and surgery who are	9586
authorized for their respective practices under Chapter 4731. of	9587
the Revised Code;	9588
(10) Licensed professional clinical counselors, licensed	9589
professional counselors, independent social workers, social	9590
workers, independent marriage and family therapists, or marriage	9591
and family therapists who are authorized for their respective	9592
practices under Chapter 4757. of the Revised Code.	9593

This division shall apply notwithstanding a provision of 9594
any code of ethics established or adopted under section 4734.16 9595
of the Revised Code that prohibits an individual from engaging 9596
in the practice of chiropractic or acupuncture in combination 9597
with an individual who is licensed, certificated, or otherwise 9598
authorized for the practice of optometry, psychology, nursing, 9599
pharmacy, physical therapy, occupational therapy, 9600
mechanotherapy, medicine and surgery, osteopathic medicine and 9601
surgery, podiatric medicine and surgery, professional 9602
counseling, social work, or marriage and family therapy, but who 9603
is not also licensed under this chapter to engage in the 9604
practice of chiropractic. 9605

Sec. 4755.111. (A) An individual whom the occupational 9606
therapy section of the Ohio occupational therapy, physical 9607
therapy, and athletic trainers board licenses, certificates, or 9608
otherwise legally authorizes to engage in the practice of 9609
occupational therapy may render the professional services of an 9610
occupational therapist within this state through a corporation 9611
formed under division (B) of section 1701.03 of the Revised 9612
Code, a limited liability company formed under Chapter 1705. or 9613
1706. of the Revised Code, a partnership, or a professional 9614
association formed under Chapter 1785. of the Revised Code. This 9615
division does not preclude an individual of that nature from 9616
rendering professional services as an occupational therapist 9617
through another form of business entity, including, but not 9618
limited to, a nonprofit corporation or foundation, or in another 9619
manner that is authorized by or in accordance with sections 9620
4755.04 to 4755.13 of the Revised Code, another chapter of the 9621
Revised Code, or rules of the Ohio occupational therapy, 9622
physical therapy, and athletic trainers board adopted pursuant 9623
to sections 4755.04 to 4755.13 of the Revised Code. 9624

(B) A corporation, limited liability company, partnership, 9625
or professional association described in division (A) of this 9626
section may be formed for the purpose of providing a combination 9627
of the professional services of the following individuals who 9628
are licensed, certificated, or otherwise legally authorized to 9629
practice their respective professions: 9630

(1) Optometrists who are authorized to practice optometry 9631
under Chapter 4725. of the Revised Code; 9632

(2) Chiropractors who are authorized to practice 9633
chiropractic or acupuncture under Chapter 4734. of the Revised 9634
Code; 9635

(3) Psychologists who are authorized to practice 9636
psychology under Chapter 4732. of the Revised Code; 9637

(4) Registered or licensed practical nurses who are 9638
authorized to practice nursing as registered nurses or as 9639
licensed practical nurses under Chapter 4723. of the Revised 9640
Code; 9641

(5) Pharmacists who are authorized to practice pharmacy 9642
under Chapter 4729. of the Revised Code; 9643

(6) Physical therapists who are authorized to practice 9644
physical therapy under sections 4755.40 to 4755.56 of the 9645
Revised Code; 9646

(7) Occupational therapists who are authorized to practice 9647
occupational therapy under sections 4755.04 to 4755.13 of the 9648
Revised Code; 9649

(8) Mechanotherapists who are authorized to practice 9650
mechanotherapy under section 4731.151 of the Revised Code; 9651

(9) Doctors of medicine and surgery, osteopathic medicine 9652

and surgery, or podiatric medicine and surgery who are 9653
authorized for their respective practices under Chapter 4731. of 9654
the Revised Code; 9655

(10) Licensed professional clinical counselors, licensed 9656
professional counselors, independent social workers, social 9657
workers, independent marriage and family therapists, or marriage 9658
and family therapists who are authorized for their respective 9659
practices under Chapter 4757. of the Revised Code. 9660

This division shall apply notwithstanding a provision of a 9661
code of ethics applicable to an occupational therapist that 9662
prohibits an occupational therapist from engaging in the 9663
practice of occupational therapy in combination with a person 9664
who is licensed, certificated, or otherwise legally authorized 9665
to practice optometry, chiropractic, acupuncture through the 9666
state chiropractic board, psychology, nursing, pharmacy, 9667
physical therapy, mechanotherapy, medicine and surgery, 9668
osteopathic medicine and surgery, podiatric medicine and 9669
surgery, professional counseling, social work, or marriage and 9670
family therapy but who is not also licensed, certificated, or 9671
otherwise legally authorized to engage in the practice of 9672
occupational therapy. 9673

Sec. 4755.471. (A) An individual whom the physical therapy 9674
section of the Ohio occupational therapy, physical therapy, and 9675
athletic trainers board licenses, certificates, or otherwise 9676
legally authorizes to engage in the practice of physical therapy 9677
may render the professional services of a physical therapist 9678
within this state through a corporation formed under division 9679
(B) of section 1701.03 of the Revised Code, a limited liability 9680
company formed under Chapter 1705. or 1706. of the Revised Code, 9681
a partnership, or a professional association formed under 9682

Chapter 1785. of the Revised Code. This division does not 9683
preclude an individual of that nature from rendering 9684
professional services as a physical therapist through another 9685
form of business entity, including, but not limited to, a 9686
nonprofit corporation or foundation, or in another manner that 9687
is authorized by or in accordance with sections 4755.40 to 9688
4755.53 of the Revised Code, another chapter of the Revised 9689
Code, or rules of the Ohio occupational therapy, physical 9690
therapy, and athletic trainers board adopted pursuant to 9691
sections 4755.40 to 4755.53 of the Revised Code. 9692

(B) A corporation, limited liability company, partnership, 9693
or professional association described in division (A) of this 9694
section may be formed for the purpose of providing a combination 9695
of the professional services of the following individuals who 9696
are licensed, certificated, or otherwise legally authorized to 9697
practice their respective professions: 9698

(1) Optometrists who are authorized to practice optometry 9699
under Chapter 4725. of the Revised Code; 9700

(2) Chiropractors who are authorized to practice 9701
chiropractic or acupuncture under Chapter 4734. of the Revised 9702
Code; 9703

(3) Psychologists who are authorized to practice 9704
psychology under Chapter 4732. of the Revised Code; 9705

(4) Registered or licensed practical nurses who are 9706
authorized to practice nursing as registered nurses or as 9707
licensed practical nurses under Chapter 4723. of the Revised 9708
Code; 9709

(5) Pharmacists who are authorized to practice pharmacy 9710
under Chapter 4729. of the Revised Code; 9711

(6) Physical therapists who are authorized to practice 9712
physical therapy under sections 4755.40 to 4755.56 of the 9713
Revised Code; 9714

(7) Occupational therapists who are authorized to practice 9715
occupational therapy under sections 4755.04 to 4755.13 of the 9716
Revised Code; 9717

(8) Mechanotherapists who are authorized to practice 9718
mechanotherapy under section 4731.151 of the Revised Code; 9719

(9) Doctors of medicine and surgery, osteopathic medicine 9720
and surgery, or podiatric medicine and surgery who are 9721
authorized for their respective practices under Chapter 4731. of 9722
the Revised Code; 9723

(10) Licensed professional clinical counselors, licensed 9724
professional counselors, independent social workers, social 9725
workers, independent marriage and family therapists, or marriage 9726
and family therapists who are authorized for their respective 9727
practices under Chapter 4757. of the Revised Code. 9728

This division shall apply notwithstanding a provision of a 9729
code of ethics applicable to a physical therapist that prohibits 9730
a physical therapist from engaging in the practice of physical 9731
therapy in combination with a person who is licensed, 9732
certificated, or otherwise legally authorized to practice 9733
optometry, chiropractic, acupuncture through the state 9734
chiropractic board, psychology, nursing, pharmacy, occupational 9735
therapy, mechanotherapy, medicine and surgery, osteopathic 9736
medicine and surgery, podiatric medicine and surgery, 9737
professional counseling, social work, or marriage and family 9738
therapy, but who is not also licensed, certificated, or 9739
otherwise legally authorized to engage in the practice of 9740

physical therapy. 9741

Sec. 4757.37. (A) An individual whom the counselor, social 9742
worker, and marriage and family therapist board licenses, 9743
certificates, or otherwise legally authorizes to engage in the 9744
practice of professional counseling, social work, or marriage 9745
and family therapy may render the professional services of a 9746
licensed professional clinical counselor, licensed professional 9747
counselor, independent social worker, social worker, independent 9748
marriage and family therapist, or marriage and family therapist 9749
within this state through a corporation formed under division 9750
(B) of section 1701.03 of the Revised Code, a limited liability 9751
company formed under Chapter 1705. or 1706. of the Revised Code, 9752
a partnership, or a professional association formed under 9753
Chapter 1785. of the Revised Code. This division does not 9754
preclude such an individual from rendering professional services 9755
as a licensed professional clinical counselor, licensed 9756
professional counselor, independent social worker, social 9757
worker, independent marriage and family therapist, or marriage 9758
and family therapist through another form of business entity, 9759
including, but not limited to, a nonprofit corporation or 9760
foundation, or in another manner that is authorized by or in 9761
accordance with this chapter, another chapter of the Revised 9762
Code, or rules of the counselor, social worker, and marriage and 9763
family therapist board adopted pursuant to this chapter. 9764

(B) A corporation, limited liability company, partnership, 9765
or professional association described in division (A) of this 9766
section may be formed for the purpose of providing a combination 9767
of the professional services of the following individuals who 9768
are licensed, certificated, or otherwise legally authorized to 9769
practice their respective professions: 9770

(1) Optometrists who are authorized to practice optometry	9771
under Chapter 4725. of the Revised Code;	9772
(2) Chiropractors who are authorized to practice	9773
chiropractic or acupuncture under Chapter 4734. of the Revised	9774
Code;	9775
(3) Psychologists who are authorized to practice	9776
psychology under Chapter 4732. of the Revised Code;	9777
(4) Registered or licensed practical nurses who are	9778
authorized to practice nursing as registered nurses or as	9779
licensed practical nurses under Chapter 4723. of the Revised	9780
Code;	9781
(5) Pharmacists who are authorized to practice pharmacy	9782
under Chapter 4729. of the Revised Code;	9783
(6) Physical therapists who are authorized to practice	9784
physical therapy under sections 4755.40 to 4755.56 of the	9785
Revised Code;	9786
(7) Occupational therapists who are authorized to practice	9787
occupational therapy under sections 4755.04 to 4755.13 of the	9788
Revised Code;	9789
(8) Mechanotherapists who are authorized to practice	9790
mechanotherapy under section 4731.151 of the Revised Code;	9791
(9) Doctors of medicine and surgery, osteopathic medicine	9792
and surgery, or podiatric medicine and surgery who are	9793
authorized for their respective practices under Chapter 4731. of	9794
the Revised Code;	9795
(10) Licensed professional clinical counselors, licensed	9796
professional counselors, independent social workers, social	9797
workers, independent marriage and family therapists, or marriage	9798

and family therapists who are authorized for their respective 9799
practices under this chapter. 9800

This division applies notwithstanding a provision of a 9801
code of ethics applicable to an individual who is a licensed 9802
professional clinical counselor, licensed professional 9803
counselor, independent social worker, social worker, independent 9804
marriage and family therapist, or marriage and family therapist 9805
that prohibits the individual from engaging in the individual's 9806
practice in combination with a person who is licensed, 9807
certificated, or otherwise legally authorized to practice 9808
optometry, chiropractic, acupuncture through the state 9809
chiropractic board, psychology, nursing, pharmacy, physical 9810
therapy, occupational therapy, mechanotherapy, medicine and 9811
surgery, osteopathic medicine and surgery, or podiatric medicine 9812
and surgery, but who is not also licensed, certificated, or 9813
otherwise legally authorized to engage in the practice of 9814
professional counseling, social work, or marriage and family 9815
therapy. 9816

Sec. 5701.14. For purposes of Title LVII of the Revised 9817
Code: 9818

(A) In order to determine a limited liability company's 9819
nonprofit status, an entity is operating with a nonprofit 9820
purpose under section 1705.02 of the Revised Code or carrying on 9821
any nonprofit activity under section 1706.05 of the Revised Code 9822
if that entity is organized other than for the pecuniary gain or 9823
profit of, and its net earnings or any part of its net earnings 9824
are not distributable to, its members, its directors, its 9825
officers, or other private persons, except that the payment of 9826
reasonable compensation for services rendered, payments and 9827
distributions in furtherance of its nonprofit purpose, and the 9828

distribution of assets on dissolution permitted by section 9829
1702.49 of the Revised Code are not pecuniary gain or profit or 9830
distribution of net earnings. In no event shall payments and 9831
distributions in furtherance of an entity's nonprofit purpose 9832
deprive the entity of its nonprofit status as long as all of the 9833
members of that entity are operating with a nonprofit purpose. 9834

(B) A single member limited liability company that 9835
operates with a nonprofit purpose, as described in division (A) 9836
of this section, shall be treated as part of the same legal 9837
entity as its nonprofit member, and all assets and liabilities 9838
of that single member limited liability company shall be 9839
considered to be that of the nonprofit member. Filings or 9840
applications for exemptions or other tax purposes may be made 9841
either by the single member limited liability company or its 9842
nonprofit member. 9843

Sec. 5715.19. (A) As used in this section, "member" has 9844
the same meaning as in section 1705.01 or 1706.01 of the Revised 9845
Code, as applicable, and "internet identifier of record" has the 9846
same meaning as in section 9.312 of the Revised Code. 9847

(1) Subject to division (A)(2) of this section, a 9848
complaint against any of the following determinations for the 9849
current tax year shall be filed with the county auditor on or 9850
before the thirty-first day of March of the ensuing tax year or 9851
the date of closing of the collection for the first half of real 9852
and public utility property taxes for the current tax year, 9853
whichever is later: 9854

(a) Any classification made under section 5713.041 of the 9855
Revised Code; 9856

(b) Any determination made under section 5713.32 or 9857

5713.35 of the Revised Code; 9858

(c) Any recoupment charge levied under section 5713.35 of 9859
the Revised Code; 9860

(d) The determination of the total valuation or assessment 9861
of any parcel that appears on the tax list, except parcels 9862
assessed by the tax commissioner pursuant to section 5727.06 of 9863
the Revised Code; 9864

(e) The determination of the total valuation of any parcel 9865
that appears on the agricultural land tax list, except parcels 9866
assessed by the tax commissioner pursuant to section 5727.06 of 9867
the Revised Code; 9868

(f) Any determination made under division (A) of section 9869
319.302 of the Revised Code. 9870

If such a complaint is filed by mail or certified mail, 9871
the date of the United States postmark placed on the envelope or 9872
sender's receipt by the postal service shall be treated as the 9873
date of filing. A private meter postmark on an envelope is not a 9874
valid postmark for purposes of establishing the filing date. 9875

Any person owning taxable real property in the county or 9876
in a taxing district with territory in the county; such a 9877
person's spouse; an individual who is retained by such a person 9878
and who holds a designation from a professional assessment 9879
organization, such as the institute for professionals in 9880
taxation, the national council of property taxation, or the 9881
international association of assessing officers; a public 9882
accountant who holds a permit under section 4701.10 of the 9883
Revised Code, a general or residential real estate appraiser 9884
licensed or certified under Chapter 4763. of the Revised Code, 9885
or a real estate broker licensed under Chapter 4735. of the 9886

Revised Code, who is retained by such a person; if the person is 9887
a firm, company, association, partnership, limited liability 9888
company, or corporation, an officer, a salaried employee, a 9889
partner, or a member of that person; if the person is a trust, a 9890
trustee of the trust; the board of county commissioners; the 9891
prosecuting attorney or treasurer of the county; the board of 9892
township trustees of any township with territory within the 9893
county; the board of education of any school district with any 9894
territory in the county; or the mayor or legislative authority 9895
of any municipal corporation with any territory in the county 9896
may file such a complaint regarding any such determination 9897
affecting any real property in the county, except that a person 9898
owning taxable real property in another county may file such a 9899
complaint only with regard to any such determination affecting 9900
real property in the county that is located in the same taxing 9901
district as that person's real property is located. The county 9902
auditor shall present to the county board of revision all 9903
complaints filed with the auditor. 9904

(2) As used in division (A)(2) of this section, "interim 9905
period" means, for each county, the tax year to which section 9906
5715.24 of the Revised Code applies and each subsequent tax year 9907
until the tax year in which that section applies again. 9908

No person, board, or officer shall file a complaint 9909
against the valuation or assessment of any parcel that appears 9910
on the tax list if it filed a complaint against the valuation or 9911
assessment of that parcel for any prior tax year in the same 9912
interim period, unless the person, board, or officer alleges 9913
that the valuation or assessment should be changed due to one or 9914
more of the following circumstances that occurred after the tax 9915
lien date for the tax year for which the prior complaint was 9916
filed and that the circumstances were not taken into 9917

consideration with respect to the prior complaint: 9918

(a) The property was sold in an arm's length transaction, 9919
as described in section 5713.03 of the Revised Code; 9920

(b) The property lost value due to some casualty; 9921

(c) Substantial improvement was added to the property; 9922

(d) An increase or decrease of at least fifteen per cent 9923
in the property's occupancy has had a substantial economic 9924
impact on the property. 9925

(3) If a county board of revision, the board of tax 9926
appeals, or any court dismisses a complaint filed under this 9927
section or section 5715.13 of the Revised Code for the reason 9928
that the act of filing the complaint was the unauthorized 9929
practice of law or the person filing the complaint was engaged 9930
in the unauthorized practice of law, the party affected by a 9931
decrease in valuation or the party's agent, or the person owning 9932
taxable real property in the county or in a taxing district with 9933
territory in the county, may refile the complaint, 9934
notwithstanding division (A) (2) of this section. 9935

(4) (a) No complaint filed under this section or section 9936
5715.13 of the Revised Code shall be dismissed for the reason 9937
that the complaint fails to accurately identify the owner of the 9938
property that is the subject of the complaint. 9939

(b) If a complaint fails to accurately identify the owner 9940
of the property that is the subject of the complaint, the board 9941
of revision shall exercise due diligence to ensure the correct 9942
property owner is notified as required by divisions (B) and (C) 9943
of this section. 9944

(5) Notwithstanding division (A) (2) of this section, a 9945

person, board, or officer may file a complaint against the 9946
valuation or assessment of any parcel that appears on the tax 9947
list if it filed a complaint against the valuation or assessment 9948
of that parcel for any prior tax year in the same interim period 9949
if the person, board, or officer withdrew the complaint before 9950
the complaint was heard by the board. 9951

(B) Within thirty days after the last date such complaints 9952
may be filed, the auditor shall give notice of each complaint in 9953
which the stated amount of overvaluation, undervaluation, 9954
discriminatory valuation, illegal valuation, or incorrect 9955
determination is at least seventeen thousand five hundred 9956
dollars to each property owner whose property is the subject of 9957
the complaint, if the complaint was not filed by the owner or 9958
the owner's spouse, and to each board of education whose school 9959
district may be affected by the complaint. Within thirty days 9960
after receiving such notice, a board of education; a property 9961
owner; the owner's spouse; an individual who is retained by such 9962
an owner and who holds a designation from a professional 9963
assessment organization, such as the institute for professionals 9964
in taxation, the national council of property taxation, or the 9965
international association of assessing officers; a public 9966
accountant who holds a permit under section 4701.10 of the 9967
Revised Code, a general or residential real estate appraiser 9968
licensed or certified under Chapter 4763. of the Revised Code, 9969
or a real estate broker licensed under Chapter 4735. of the 9970
Revised Code, who is retained by such a person; or, if the 9971
property owner is a firm, company, association, partnership, 9972
limited liability company, corporation, or trust, an officer, a 9973
salaried employee, a partner, a member, or trustee of that 9974
property owner, may file a complaint in support of or objecting 9975
to the amount of alleged overvaluation, undervaluation, 9976

discriminatory valuation, illegal valuation, or incorrect 9977
determination stated in a previously filed complaint or 9978
objecting to the current valuation. Upon the filing of a 9979
complaint under this division, the board of education or the 9980
property owner shall be made a party to the action. 9981

(C) Each board of revision shall notify any complainant 9982
and also the property owner, if the property owner's address is 9983
known, when a complaint is filed by one other than the property 9984
owner, not less than ten days prior to the hearing, either by 9985
certified mail or, if the board has record of an internet 9986
identifier of record associated with the owner, by ordinary mail 9987
and by that internet identifier of record of the time and place 9988
the same will be heard. The board of revision shall hear and 9989
render its decision on a complaint within ninety days after the 9990
filing thereof with the board, except that if a complaint is 9991
filed within thirty days after receiving notice from the auditor 9992
as provided in division (B) of this section, the board shall 9993
hear and render its decision within ninety days after such 9994
filing. 9995

(D) The determination of any such complaint shall relate 9996
back to the date when the lien for taxes or recoupment charges 9997
for the current year attached or the date as of which liability 9998
for such year was determined. Liability for taxes and recoupment 9999
charges for such year and each succeeding year until the 10000
complaint is finally determined and for any penalty and interest 10001
for nonpayment thereof within the time required by law shall be 10002
based upon the determination, valuation, or assessment as 10003
finally determined. Each complaint shall state the amount of 10004
overvaluation, undervaluation, discriminatory valuation, illegal 10005
valuation, or incorrect classification or determination upon 10006
which the complaint is based. The treasurer shall accept any 10007

amount tendered as taxes or recoupment charge upon property 10008
concerning which a complaint is then pending, computed upon the 10009
claimed valuation as set forth in the complaint. If a complaint 10010
filed under this section for the current year is not determined 10011
by the board within the time prescribed for such determination, 10012
the complaint and any proceedings in relation thereto shall be 10013
continued by the board as a valid complaint for any ensuing year 10014
until such complaint is finally determined by the board or upon 10015
any appeal from a decision of the board. In such case, the 10016
original complaint shall continue in effect without further 10017
filing by the original taxpayer, the original taxpayer's 10018
assignee, or any other person or entity authorized to file a 10019
complaint under this section. 10020

(E) If a taxpayer files a complaint as to the 10021
classification, valuation, assessment, or any determination 10022
affecting the taxpayer's own property and tenders less than the 10023
full amount of taxes or recoupment charges as finally 10024
determined, an interest charge shall accrue as follows: 10025

(1) If the amount finally determined is less than the 10026
amount billed but more than the amount tendered, the taxpayer 10027
shall pay interest at the rate per annum prescribed by section 10028
5703.47 of the Revised Code, computed from the date that the 10029
taxes were due on the difference between the amount finally 10030
determined and the amount tendered. This interest charge shall 10031
be in lieu of any penalty or interest charge under section 10032
323.121 of the Revised Code unless the taxpayer failed to file a 10033
complaint and tender an amount as taxes or recoupment charges 10034
within the time required by this section, in which case section 10035
323.121 of the Revised Code applies. 10036

(2) If the amount of taxes finally determined is equal to 10037

or greater than the amount billed and more than the amount 10038
tendered, the taxpayer shall pay interest at the rate prescribed 10039
by section 5703.47 of the Revised Code from the date the taxes 10040
were due on the difference between the amount finally determined 10041
and the amount tendered, such interest to be in lieu of any 10042
interest charge but in addition to any penalty prescribed by 10043
section 323.121 of the Revised Code. 10044

(F) Upon request of a complainant, the tax commissioner 10045
shall determine the common level of assessment of real property 10046
in the county for the year stated in the request that is not 10047
valued under section 5713.31 of the Revised Code, which common 10048
level of assessment shall be expressed as a percentage of true 10049
value and the common level of assessment of lands valued under 10050
such section, which common level of assessment shall also be 10051
expressed as a percentage of the current agricultural use value 10052
of such lands. Such determination shall be made on the basis of 10053
the most recent available sales ratio studies of the 10054
commissioner and such other factual data as the commissioner 10055
deems pertinent. 10056

(G) A complainant shall provide to the board of revision 10057
all information or evidence within the complainant's knowledge 10058
or possession that affects the real property that is the subject 10059
of the complaint. A complainant who fails to provide such 10060
information or evidence is precluded from introducing it on 10061
appeal to the board of tax appeals or the court of common pleas, 10062
except that the board of tax appeals or court may admit and 10063
consider the evidence if the complainant shows good cause for 10064
the complainant's failure to provide the information or evidence 10065
to the board of revision. 10066

(H) In case of the pendency of any proceeding in court 10067

based upon an alleged excessive, discriminatory, or illegal 10068
valuation or incorrect classification or determination, the 10069
taxpayer may tender to the treasurer an amount as taxes upon 10070
property computed upon the claimed valuation as set forth in the 10071
complaint to the court. The treasurer may accept the tender. If 10072
the tender is not accepted, no penalty shall be assessed because 10073
of the nonpayment of the full taxes assessed. 10074

Sec. 5733.04. As used in this chapter: 10075

(A) "Issued and outstanding shares of stock" applies to 10076
nonprofit corporations, as provided in section 5733.01 of the 10077
Revised Code, and includes, but is not limited to, membership 10078
certificates and other instruments evidencing ownership of an 10079
interest in such nonprofit corporations, and with respect to a 10080
financial institution that does not have capital stock, "issued 10081
and outstanding shares of stock" includes, but is not limited 10082
to, ownership interests of depositors in the capital employed in 10083
such an institution. 10084

(B) "Taxpayer" means a corporation subject to the tax 10085
imposed by section 5733.06 of the Revised Code. 10086

(C) "Resident" means a corporation organized under the 10087
laws of this state. 10088

(D) "Commercial domicile" means the principal place from 10089
which the trade or business of the taxpayer is directed or 10090
managed. 10091

(E) "Taxable year" means the period prescribed by division 10092
(A) of section 5733.031 of the Revised Code upon the net income 10093
of which the value of the taxpayer's issued and outstanding 10094
shares of stock is determined under division (B) of section 10095
5733.05 of the Revised Code or the period prescribed by division 10096

(A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

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

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1) (a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I) (1) (b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the

net operating loss occurs, shall be deducted from net income, as 10126
determined under the allocation and apportionment provisions of 10127
section 5733.051 and division (B) of section 5733.05 of the 10128
Revised Code, to the extent necessary to reduce net income to 10129
zero with the remaining unused portion of the deduction, if any, 10130
carried forward to the remaining years of the designated 10131
carryover period as described in division (I)(1)(b) of this 10132
section, or until fully utilized, whichever occurs first. 10133

(b) For losses incurred in taxable years ending on or 10134
before December 31, 1981, the designated carryover period shall 10135
be the five consecutive taxable years after the taxable year in 10136
which the net operating loss occurred. For losses incurred in 10137
taxable years ending on or after January 1, 1982, and beginning 10138
before August 6, 1997, the designated carryover period shall be 10139
the fifteen consecutive taxable years after the taxable year in 10140
which the net operating loss occurs. For losses incurred in 10141
taxable years beginning on or after August 6, 1997, the 10142
designated carryover period shall be the twenty consecutive 10143
taxable years after the taxable year in which the net operating 10144
loss occurs. 10145

(c) The tax commissioner may require a taxpayer to furnish 10146
any information necessary to support a claim for deduction under 10147
division (I)(1)(a) of this section and no deduction shall be 10148
allowed unless the information is furnished. 10149

(2) Deduct any amount included in net income by 10150
application of section 78 or 951 of the Internal Revenue Code, 10151
amounts received for royalties, technical or other services 10152
derived from sources outside the United States, and dividends 10153
received from a subsidiary, associate, or affiliated corporation 10154
that neither transacts any substantial portion of its business 10155

nor regularly maintains any substantial portion of its assets 10156
within the United States. For purposes of determining net 10157
foreign source income deductible under division (I) (2) of this 10158
section, the amount of gross income from all such sources other 10159
than dividend income and income derived by application of 10160
section 78 or 951 of the Internal Revenue Code shall be reduced 10161
by: 10162

(a) The amount of any reimbursed expenses for personal 10163
services performed by employees of the taxpayer for the 10164
subsidiary, associate, or affiliated corporation; 10165

(b) Ten per cent of the amount of royalty income and 10166
technical assistance fees; 10167

(c) Fifteen per cent of the amount of all other income. 10168

The amounts described in divisions (I) (2) (a) to (c) of 10169
this section are deemed to be the expenses attributable to the 10170
production of deductible foreign source income unless the 10171
taxpayer shows, by clear and convincing evidence, less actual 10172
expenses, or the tax commissioner shows, by clear and convincing 10173
evidence, more actual expenses. 10174

(3) Add any loss or deduct any gain resulting from the 10175
sale, exchange, or other disposition of a capital asset, or an 10176
asset described in section 1231 of the Internal Revenue Code, to 10177
the extent that such loss or gain occurred prior to the first 10178
taxable year on which the tax provided for in section 5733.06 of 10179
the Revised Code is computed on the corporation's net income. 10180
For purposes of division (I) (3) of this section, the amount of 10181
the prior loss or gain shall be measured by the difference 10182
between the original cost or other basis of the asset and the 10183
fair market value as of the beginning of the first taxable year 10184

on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I) (5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company,

and, for tax years 2005 and thereafter, a telephone company, if 10215
the taxpayer owns at least eighty per cent of the issued and 10216
outstanding common stock of the public utility. As used in 10217
division (I)(7) of this section, "public utility" means a public 10218
utility as defined in Chapter 5727. of the Revised Code, whether 10219
or not the public utility is doing business in the state. 10220

(8) To the extent not otherwise allowed, deduct any 10221
dividends received by a taxpayer from an insurance company, if 10222
the taxpayer owns at least eighty per cent of the issued and 10223
outstanding common stock of the insurance company. As used in 10224
division (I)(8) of this section, "insurance company" means an 10225
insurance company that is taxable under Chapter 5725. or 5729. 10226
of the Revised Code. 10227

(9) Deduct expenditures for modifying existing buildings 10228
or structures to meet American national standards institute 10229
standard A-117.1-1961 (R-1971), as amended; provided, that no 10230
deduction shall be allowed to the extent that such deduction is 10231
not permitted under federal law or under rules of the tax 10232
commissioner. Those deductions as are allowed may be taken over 10233
a period of five years. The tax commissioner shall adopt rules 10234
under Chapter 119. of the Revised Code establishing reasonable 10235
limitations on the extent that expenditures for modifying 10236
existing buildings or structures are attributable to the purpose 10237
of making the buildings or structures accessible to and usable 10238
by physically handicapped persons. 10239

(10) Deduct the amount of wages and salaries, if any, not 10240
otherwise allowable as a deduction but that would have been 10241
allowable as a deduction in computing federal taxable income 10242
before operating loss deduction and special deductions for the 10243
taxable year, had the targeted jobs credit allowed and 10244

determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect. 10245
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(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I) (11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax. 10247
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(12) (a) Except as set forth in division (I) (12) (d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition. 10258
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(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, 10305
estate, trust, or corporation, if the stockholder and the 10306
stockholder's partnerships, estates, trusts, and corporations 10307
own directly, indirectly, beneficially, or constructively, in 10308
the aggregate, at least fifty per cent of the value of the 10309
taxpayer's outstanding stock; 10310

(iii) A corporation, or a party related to the corporation 10311
in a manner that would require an attribution of stock from the 10312
corporation to the party or from the party to the corporation 10313
under division (I) (12) (c) (iv) of this section, if the taxpayer 10314
owns, directly, indirectly, beneficially, or constructively, at 10315
least fifty per cent of the value of the corporation's 10316
outstanding stock. 10317

(iv) The attribution rules of section 318 of the Internal 10318
Revenue Code apply for purposes of determining whether the 10319
ownership requirements in divisions (I) (12) (c) (i) to (iii) of 10320
this section have been met. 10321

(d) For purposes of the adjustments required by division 10322
(I) (12) (a) of this section, the term "investment in the stock or 10323
debt of another entity" means only those investments where the 10324
taxpayer and the taxpayer's related entities directly, 10325
indirectly, beneficially, or constructively own, in the 10326
aggregate, at any time during the twenty-four month period 10327
commencing one year prior to the direct or indirect sale, 10328
exchange, or other disposition of such investment at least fifty 10329
per cent or more of the value of either the outstanding stock or 10330
such debt of such other entity. 10331

(e) For purposes of the adjustments required by division 10332
(I) (12) (b) of this section, the term "related entity" excludes 10333
all of the following: 10334

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;	10335 10336
(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;	10337 10338
(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;	10339 10340 10341
(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.	10342 10343
The exclusions described in divisions (I) (12) (e) (i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C) (1) to (5) of section 5733.042 of the Revised Code.	10344 10345 10346 10347
(f) Nothing in division (I) (12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I) (12) (f) (i) and (ii) of this section:	10348 10349 10350 10351
(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I) (12) (c) of this section;	10352 10353 10354 10355
(ii) A related entity's gains or losses described in division (I) (12) (b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.	10356 10357 10358 10359 10360 10361 10362

- (13) Any adjustment required by section 5733.042 of the Revised Code. 10363
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- (14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following: 10365
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- (a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code; 10368
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- (b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code. 10372
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- (15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I) (15) of this section. 10376
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- (16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code. 10384
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- (17) (a) (i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership. 10386
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(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

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

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

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B) (2) (d) of section 5733.05 of the Revised Code.

(18) (a) If a person is required to make the add-back under division (I) (17) (a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I) (18) (a) of

this section is attributable to an add-back allocated under 10421
division (I) (17) (c) of this section, the amount deducted shall 10422
be allocated to the same location. Otherwise, the amount shall 10423
be apportioned using the apportionment factors for the taxable 10424
year in which the deduction is taken, subject to division (B) (2) 10425
(d) of section 5733.05 of the Revised Code. 10426

(J) Except as otherwise expressly provided or clearly 10427
appearing from the context, any term used in this chapter has 10428
the same meaning as when used in a comparable context in the 10429
laws of the United States relating to federal income taxes. Any 10430
reference in this chapter to the Internal Revenue Code includes 10431
other laws of the United States relating to federal income 10432
taxes. 10433

(K) "Financial institution" has the meaning given by 10434
section 5725.01 of the Revised Code but does not include a 10435
production credit association as described in 85 Stat. 597, 12 10436
U.S.C.A. 2091. 10437

(L) (1) A "qualifying holding company" is any corporation 10438
satisfying all of the following requirements: 10439

(a) Subject to divisions (L) (2) and (3) of this section, 10440
the net book value of the corporation's intangible assets is 10441
greater than or equal to ninety per cent of the net book value 10442
of all of its assets and at least fifty per cent of the net book 10443
value of all of its assets represents direct or indirect 10444
investments in the equity of, loans and advances to, and 10445
accounts receivable due from related members; 10446

(b) At least ninety per cent of the corporation's gross 10447
income for the taxable year is attributable to the following: 10448

(i) The maintenance, management, ownership, acquisition, 10449

use, and disposition of its intangible property, its aircraft 10450
the use of which is not subject to regulation under 14 C.F.R. 10451
part 121 or part 135, and any real property described in 10452
division (L) (2) (c) of this section; 10453

(ii) The collection and distribution of income from such 10454
property. 10455

(c) The corporation is not a financial institution on the 10456
last day of the taxable year ending prior to the first day of 10457
the tax year; 10458

(d) The corporation's related members make a good faith 10459
and reasonable effort to make timely and fully the adjustments 10460
required by division (D) of section 5733.05 of the Revised Code 10461
and to pay timely and fully all uncontested taxes, interest, 10462
penalties, and other fees and charges imposed under this 10463
chapter; 10464

(e) Subject to division (L) (4) of this section, the 10465
corporation elects to be treated as a qualifying holding company 10466
for the tax year. 10467

A corporation otherwise satisfying divisions (L) (1) (a) to 10468
(e) of this section that does not elect to be a qualifying 10469
holding company is not a qualifying holding company for the 10470
purposes of this chapter. 10471

(2) (a) (i) For purposes of making the ninety per cent 10472
computation under division (L) (1) (a) of this section, the net 10473
book value of the corporation's assets shall not include the net 10474
book value of aircraft or real property described in division 10475
(L) (1) (b) (i) of this section. 10476

(ii) For purposes of making the fifty per cent computation 10477
under division (L) (1) (a) of this section, the net book value of 10478

assets shall include the net book value of aircraft or real 10479
property described in division (L) (1) (b) (i) of this section. 10480

(b) (i) As used in division (L) of this section, 10481
"intangible asset" includes, but is not limited to, the 10482
corporation's direct interest in each pass-through entity only 10483
if at all times during the corporation's taxable year ending 10484
prior to the first day of the tax year the corporation's and the 10485
corporation's related members' combined direct and indirect 10486
interests in the capital or profits of such pass-through entity 10487
do not exceed fifty per cent. If the corporation's interest in 10488
the pass-through entity is an intangible asset for that taxable 10489
year, then the distributive share of any income from the pass- 10490
through entity shall be income from an intangible asset for that 10491
taxable year. 10492

(ii) If a corporation's and the corporation's related 10493
members' combined direct and indirect interests in the capital 10494
or profits of a pass-through entity exceed fifty per cent at any 10495
time during the corporation's taxable year ending prior to the 10496
first day of the tax year, "intangible asset" does not include 10497
the corporation's direct interest in the pass-through entity, 10498
and the corporation shall include in its assets its 10499
proportionate share of the assets of any such pass-through 10500
entity and shall include in its gross income its distributive 10501
share of the gross income of such pass-through entity in the 10502
same form as was earned by the pass-through entity. 10503

(iii) A pass-through entity's direct or indirect 10504
proportionate share of any other pass-through entity's assets 10505
shall be included for the purpose of computing the corporation's 10506
proportionate share of the pass-through entity's assets under 10507
division (L) (2) (b) (ii) of this section, and such pass-through 10508

entity's distributive share of any other pass-through entity's 10509
gross income shall be included for purposes of computing the 10510
corporation's distributive share of the pass-through entity's 10511
gross income under division (L) (2) (b) (ii) of this section. 10512

(c) For the purposes of divisions (L) (1) (b) (i), (1) (b) 10513
(ii), (2) (a) (i), and (2) (a) (ii) of this section, real property 10514
is described in division (L) (2) (c) of this section only if all 10515
of the following conditions are present at all times during the 10516
taxable year ending prior to the first day of the tax year: 10517

(i) The real property serves as the headquarters of the 10518
corporation's trade or business, or is the place from which the 10519
corporation's trade or business is principally managed or 10520
directed; 10521

(ii) Not more than ten per cent of the value of the real 10522
property and not more than ten per cent of the square footage of 10523
the building or buildings that are part of the real property is 10524
used, made available, or occupied for the purpose of providing, 10525
acquiring, transferring, selling, or disposing of tangible 10526
property or services in the normal course of business to persons 10527
other than related members, the corporation's employees and 10528
their families, and such related members' employees and their 10529
families. 10530

(d) As used in division (L) of this section, "related 10531
member" has the same meaning as in division (A) (6) of section 10532
5733.042 of the Revised Code without regard to division (B) of 10533
that section. 10534

(3) The percentages described in division (L) (1) (a) of 10535
this section shall be equal to the quarterly average of those 10536
percentages as calculated during the corporation's taxable year 10537

ending prior to the first day of the tax year. 10538

(4) With respect to the election described in division (L) 10539
(1) (e) of this section: 10540

(a) The election need not accompany a timely filed report; 10541

(b) The election need not accompany the report; rather, 10542
the election may accompany a subsequently filed but timely 10543
application for refund and timely amended report, or a 10544
subsequently filed but timely petition for reassessment; 10545

(c) The election is not irrevocable; 10546

(d) The election applies only to the tax year specified by 10547
the corporation; 10548

(e) The corporation's related members comply with division 10549
(L) (1) (d) of this section. 10550

Nothing in division (L) (4) of this section shall be 10551
construed to extend any statute of limitations set forth in this 10552
chapter. 10553

(M) "Qualifying controlled group" means two or more 10554
corporations that satisfy the ownership and control requirements 10555
of division (A) of section 5733.052 of the Revised Code. 10556

(N) "Limited liability company" means any limited 10557
liability company formed under Chapter 1705. or 1706. of the 10558
Revised Code or under the laws of any other state. 10559

(O) "Pass-through entity" means a corporation that has 10560
made an election under subchapter S of Chapter 1 of Subtitle A 10561
of the Internal Revenue Code for its taxable year under that 10562
code, or a partnership, limited liability company, or any other 10563
person, other than an individual, trust, or estate, if the 10564

partnership, limited liability company, or other person is not 10565
classified for federal income tax purposes as an association 10566
taxed as a corporation. 10567

(P) "Electric company," "combined company," and "telephone 10568
company" have the same meanings as in section 5727.01 of the 10569
Revised Code. 10570

(Q) "Business income" means income arising from 10571
transactions, activities, and sources in the regular course of a 10572
trade or business and includes income from real property, 10573
tangible personal property, and intangible personal property if 10574
the acquisition, rental, management, and disposition of the 10575
property constitute integral parts of the regular course of a 10576
trade or business operation. "Business income" includes income, 10577
including gain or loss, from a partial or complete liquidation 10578
of a business, including, but not limited to, gain or loss from 10579
the sale or other disposition of goodwill. 10580

(R) "Nonbusiness income" means all income other than 10581
business income. 10582

Sec. 5733.33. (A) As used in this section: 10583

(1) "Manufacturing machinery and equipment" means engines 10584
and machinery, and tools and implements, of every kind used, or 10585
designed to be used, in refining and manufacturing. 10586
"Manufacturing machinery and equipment" does not include 10587
property acquired after December 31, 1999, that is used: 10588

(a) For the transmission and distribution of electricity; 10589

(b) For the generation of electricity, if fifty per cent 10590
or more of the electricity that the property generates is 10591
consumed, during the one-hundred-twenty-month period commencing 10592
with the date the property is placed in service, by persons that 10593

are not related members to the person who generates the 10594
electricity. 10595

(2) "New manufacturing machinery and equipment" means 10596
manufacturing machinery and equipment, the original use in this 10597
state of which commences with the taxpayer or with a partnership 10598
of which the taxpayer is a partner. "New manufacturing machinery 10599
and equipment" does not include property acquired after December 10600
31, 1999, that is used: 10601

(a) For the transmission and distribution of electricity; 10602

(b) For the generation of electricity, if fifty per cent 10603
or more of the electricity that the property generates is 10604
consumed, during the one-hundred-twenty-month period commencing 10605
with the date the property is placed in service, by persons that 10606
are not related members to the person who generates the 10607
electricity. 10608

(3) (a) "Purchase" has the same meaning as in section 10609
179(d) (2) of the Internal Revenue Code. 10610

(b) For purposes of this section, any property that is not 10611
manufactured or assembled primarily by the taxpayer is 10612
considered purchased at the time the agreement to acquire the 10613
property becomes binding. Any property that is manufactured or 10614
assembled primarily by the taxpayer is considered purchased at 10615
the time the taxpayer places the property in service in the 10616
county for which the taxpayer will calculate the county excess 10617
amount. 10618

(c) Notwithstanding section 179(d) of the Internal Revenue 10619
Code, a taxpayer's direct or indirect acquisition of new 10620
manufacturing machinery and equipment is not purchased on or 10621
after July 1, 1995, if the taxpayer, or a person whose 10622

relationship to the taxpayer is described in subparagraphs (A), 10623
(B), or (C) of section 179(d)(2) of the Internal Revenue Code, 10624
had directly or indirectly entered into a binding agreement to 10625
acquire the property at any time prior to July 1, 1995. 10626

(4) "Qualifying period" means the period that begins July 10627
1, 1995, and ends June 30, 2005. 10628

(5) "County average new manufacturing machinery and 10629
equipment investment" means either of the following: 10630

(a) The average annual cost of new manufacturing machinery 10631
and equipment purchased for use in the county during baseline 10632
years, in the case of a taxpayer that was in existence for more 10633
than one year during baseline years. 10634

(b) Zero, in the case of a taxpayer that was not in 10635
existence for more than one year during baseline years. 10636

(6) "Partnership" includes a limited liability company 10637
formed under Chapter 1705. or 1706. of the Revised Code or under 10638
the laws of any other state, provided that the company is not 10639
classified for federal income tax purposes as an association 10640
taxable as a corporation. 10641

(7) "Partner" includes a member of a limited liability 10642
company formed under Chapter 1705. or 1706. of the Revised Code 10643
or under the laws of any other state, provided that the company 10644
is not classified for federal income tax purposes as an 10645
association taxable as a corporation. 10646

(8) "Distressed area" means either a municipal corporation 10647
that has a population of at least fifty thousand or a county 10648
that meets two of the following criteria of economic distress, 10649
or a municipal corporation the majority of the population of 10650
which is situated in such a county: 10651

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c) (i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in

division (A) of section 3923.51 of the Revised Code. 10681

(13) "Situational distress area" means a county or a 10682
municipal corporation that has experienced or is experiencing a 10683
closing or downsizing of a major employer, that will adversely 10684
affect the county's or municipal corporation's economy. In order 10685
to be designated as a situational distress area for a period not 10686
to exceed thirty-six months, the county or municipal corporation 10687
may petition the director of development. The petition shall 10688
include written documentation that demonstrates all of the 10689
following adverse effects on the local economy: 10690

(a) The number of jobs lost by the closing or downsizing; 10691

(b) The impact that the job loss has on the county's or 10692
municipal corporation's unemployment rate as measured by the 10693
state director of job and family services; 10694

(c) The annual payroll associated with the job loss; 10695

(d) The amount of state and local taxes associated with 10696
the job loss; 10697

(e) The impact that the closing or downsizing has on the 10698
suppliers located in the county or municipal corporation. 10699

(14) "Cost" has the same meaning and limitation as in 10700
section 179(d) (3) of the Internal Revenue Code. 10701

(15) "Baseline years" means: 10702

(a) Calendar years 1992, 1993, and 1994, with regard to a 10703
credit claimed for the purchase during calendar year 1995, 1996, 10704
1997, or 1998 of new manufacturing machinery and equipment; 10705

(b) Calendar years 1993, 1994, and 1995, with regard to a 10706
credit claimed for the purchase during calendar year 1999 of new 10707

manufacturing machinery and equipment; 10708

(c) Calendar years 1994, 1995, and 1996, with regard to a 10709
credit claimed for the purchase during calendar year 2000 of new 10710
manufacturing machinery and equipment; 10711

(d) Calendar years 1995, 1996, and 1997, with regard to a 10712
credit claimed for the purchase during calendar year 2001 of new 10713
manufacturing machinery and equipment; 10714

(e) Calendar years 1996, 1997, and 1998, with regard to a 10715
credit claimed for the purchase during calendar year 2002 of new 10716
manufacturing machinery and equipment; 10717

(f) Calendar years 1997, 1998, and 1999, with regard to a 10718
credit claimed for the purchase during calendar year 2003 of new 10719
manufacturing machinery and equipment; 10720

(g) Calendar years 1998, 1999, and 2000, with regard to a 10721
credit claimed for the purchase during calendar year 2004 of new 10722
manufacturing machinery and equipment; 10723

(h) Calendar years 1999, 2000, and 2001, with regard to a 10724
credit claimed for the purchase on or after January 1, 2005, and 10725
on or before June 30, 2005, of new manufacturing machinery and 10726
equipment. 10727

(16) "Related member" has the same meaning as in section 10728
5733.042 of the Revised Code. 10729

(B) (1) Subject to division (I) of this section, a 10730
nonrefundable credit is allowed against the tax imposed by 10731
section 5733.06 of the Revised Code for a taxpayer that 10732
purchases new manufacturing machinery and equipment during the 10733
qualifying period, provided that the new manufacturing machinery 10734
and equipment are installed in this state no later than June 30, 10735

2006. No credit shall be allowed under this section for taxable 10736
years ending on or after July 1, 2005. The elimination of the 10737
credit for those taxable years includes the elimination of any 10738
remaining one-sevenths of credit amounts for which a portion was 10739
allowed for prior taxable years and the elimination of any 10740
credit carry-forward, but the purchases on which the credits 10741
were based remain subject to grants under section 122.173 of the 10742
Revised Code for those remaining one-seventh amounts or carry- 10743
forward amounts. 10744

(2) (a) Except as otherwise provided in division (B) (2) (b) 10745
of this section, a credit may be claimed under this section in 10746
excess of one million dollars only if the cost of all 10747
manufacturing machinery and equipment owned in this state by the 10748
taxpayer claiming the credit on the last day of the calendar 10749
year exceeds the cost of all manufacturing machinery and 10750
equipment owned in this state by the taxpayer on the first day 10751
of that calendar year. 10752

As used in division (B) (2) (a) of this section, "calendar 10753
year" means the calendar year in which the machinery and 10754
equipment for which the credit is claimed was purchased. 10755

(b) Division (B) (2) (a) of this section does not apply if 10756
the taxpayer claiming the credit applies for and is issued a 10757
waiver of the requirement of that division. A taxpayer may apply 10758
to the director of development for such a waiver in the manner 10759
prescribed by the director, and the director may issue such a 10760
waiver if the director determines that granting the credit is 10761
necessary to increase or retain employees in this state, and 10762
that the credit has not caused relocation of manufacturing 10763
machinery and equipment among counties within this state for the 10764
primary purpose of qualifying for the credit. 10765

(C) (1) Except as otherwise provided in division (C) (2) and 10766
division (I) of this section, the credit amount is equal to 10767
seven and one-half per cent of the excess of the cost of the new 10768
manufacturing machinery and equipment purchased during the 10769
calendar year for use in a county over the county average new 10770
manufacturing machinery and equipment investment for that 10771
county. 10772

(2) Subject to division (I) of this section, as used in 10773
division (C) (2) of this section "county excess" means the 10774
taxpayer's excess cost for a county as computed under division 10775
(C) (1) of this section. 10776

Subject to division (I) of this section, a taxpayer with a 10777
county excess, whose purchases included purchases for use in any 10778
eligible area in the county, the credit amount is equal to 10779
thirteen and one-half per cent of the cost of the new 10780
manufacturing machinery and equipment purchased during the 10781
calendar year for use in the eligible areas in the county, 10782
provided that the cost subject to the thirteen and one-half per 10783
cent rate shall not exceed the county excess. If the county 10784
excess is greater than the cost of the new manufacturing 10785
machinery and equipment purchased during the calendar year for 10786
use in eligible areas in the county, the credit amount also 10787
shall include an amount equal to seven and one-half per cent of 10788
the amount of the difference. 10789

(3) If a taxpayer is allowed a credit for purchases of new 10790
manufacturing machinery and equipment in more than one county or 10791
eligible area, it shall aggregate the amount of those credits 10792
each year. 10793

(4) The taxpayer shall claim one-seventh of the credit 10794
amount for the tax year immediately following the calendar year 10795

in which the new manufacturing machinery and equipment is 10796
purchased for use in the county by the taxpayer or partnership. 10797
One-seventh of the taxpayer credit amount is allowed for each of 10798
the six ensuing tax years. Except for carried-forward amounts, 10799
the taxpayer is not allowed any credit amount remaining if the 10800
new manufacturing machinery and equipment is sold by the 10801
taxpayer or partnership or is transferred by the taxpayer or 10802
partnership out of the county before the end of the seven-year 10803
period unless, at the time of the sale or transfer, the new 10804
manufacturing machinery and equipment has been fully depreciated 10805
for federal income tax purposes. 10806

(5) (a) A taxpayer that acquires manufacturing machinery 10807
and equipment as a result of a merger with the taxpayer with 10808
whom commenced the original use in this state of the 10809
manufacturing machinery and equipment, or with a taxpayer that 10810
was a partner in a partnership with whom commenced the original 10811
use in this state of the manufacturing machinery and equipment, 10812
is entitled to any remaining or carried-forward credit amounts 10813
to which the taxpayer was entitled. 10814

(b) A taxpayer that enters into an agreement under 10815
division (C) (3) of section 5709.62 of the Revised Code and that 10816
acquires manufacturing machinery or equipment as a result of 10817
purchasing a large manufacturing facility, as defined in section 10818
5709.61 of the Revised Code, from another taxpayer with whom 10819
commenced the original use in this state of the manufacturing 10820
machinery or equipment, and that operates the large 10821
manufacturing facility so purchased, is entitled to any 10822
remaining or carried-forward credit amounts to which the other 10823
taxpayer who sold the facility would have been entitled under 10824
this section had the other taxpayer not sold the manufacturing 10825
facility or equipment. 10826

(c) New manufacturing machinery and equipment is not 10827
considered sold if a pass-through entity transfers to another 10828
pass-through entity substantially all of its assets as part of a 10829
plan of reorganization under which substantially all gain and 10830
loss is not recognized by the pass-through entity that is 10831
transferring the new manufacturing machinery and equipment to 10832
the transferee and under which the transferee's basis in the new 10833
manufacturing machinery and equipment is determined, in whole or 10834
in part, by reference to the basis of the pass-through entity 10835
which transferred the new manufacturing machinery and equipment 10836
to the transferee. 10837

(d) Division (C) (5) of this section shall apply only if 10838
the acquiring taxpayer or transferee does not sell the new 10839
manufacturing machinery and equipment or transfer the new 10840
manufacturing machinery and equipment out of the county before 10841
the end of the seven-year period to which division (C) (4) of 10842
this section refers. 10843

(e) Division (C) (5) (b) of this section applies only to the 10844
extent that the taxpayer that sold the manufacturing machinery 10845
or equipment, upon request, timely provides to the tax 10846
commissioner any information that the tax commissioner considers 10847
to be necessary to ascertain any remaining or carried-forward 10848
amounts to which the taxpayer that sold the facility would have 10849
been entitled under this section had the taxpayer not sold the 10850
manufacturing machinery or equipment. Nothing in division (C) (5) 10851
(b) or (e) of this section shall be construed to allow a 10852
taxpayer to claim any credit amount with respect to the acquired 10853
manufacturing machinery or equipment that is greater than the 10854
amount that would have been available to the other taxpayer that 10855
sold the manufacturing machinery or equipment had the other 10856
taxpayer not sold the manufacturing machinery or equipment. 10857

(D) The taxpayer shall claim the credit in the order 10858
required under section 5733.98 of the Revised Code. Each year, 10859
any credit amount in excess of the tax due under section 5733.06 10860
of the Revised Code after allowing for any other credits that 10861
precede the credit under this section in that order may be 10862
carried forward for three tax years. 10863

(E) A taxpayer purchasing new manufacturing machinery and 10864
equipment and intending to claim the credit shall file, with the 10865
department of development, a notice of intent to claim the 10866
credit on a form prescribed by the department of development. 10867
The department of development shall inform the tax commissioner 10868
of the notice of intent to claim the credit. No credit may be 10869
claimed under this section for any manufacturing machinery and 10870
equipment with respect to which a notice was not filed by the 10871
date of a timely filed return, including extensions, for the 10872
taxable year that includes September 30, 2005. 10873

(F) The director of development shall annually certify, by 10874
the first day of January of each year during the qualifying 10875
period, the eligible areas for the tax credit for the calendar 10876
year that includes that first day of January. The director shall 10877
send a copy of the certification to the tax commissioner. 10878

(G) New manufacturing machinery and equipment for which a 10879
taxpayer claims the credit under section 5733.31 or 5733.311 of 10880
the Revised Code shall not be considered new manufacturing 10881
machinery and equipment for purposes of the credit under this 10882
section. 10883

(H) (1) Notwithstanding sections 5733.11 and 5747.13 of the 10884
Revised Code, but subject to division (H) (2) of this section, 10885
the tax commissioner may issue an assessment against a person 10886
with respect to a credit claimed under this section for new 10887

manufacturing machinery and equipment described in division (A) 10888
(1) (b) or (2) (b) of this section, if the machinery or equipment 10889
subsequently does not qualify for the credit. 10890

(2) Division (H) (1) of this section shall not apply after 10891
the twenty-fourth month following the last day of the period 10892
described in divisions (A) (1) (b) and (2) (b) of this section. 10893

(I) Notwithstanding any other provision of this section to 10894
the contrary, in the case of a qualifying controlled group, the 10895
credit available under this section to a taxpayer or taxpayers 10896
in the qualifying controlled group shall be computed as if all 10897
corporations in the group were a single corporation. The credit 10898
shall be allocated to such a taxpayer or taxpayers in the group 10899
in any amount elected for the taxable year by the group. Such 10900
election shall be revocable and amendable during the period 10901
described in division (B) of section 5733.12 of the Revised 10902
Code. 10903

This division applies to all purchases of new 10904
manufacturing machinery and equipment made on or after January 10905
1, 2001, and to all baseline years used to compute any credit 10906
attributable to such purchases; provided, that this division may 10907
be applied solely at the election of the qualifying controlled 10908
group with respect to all purchases of new manufacturing 10909
machinery and equipment made before that date, and to all 10910
baseline years used to compute any credit attributable to such 10911
purchases. The qualifying controlled group at any time may elect 10912
to apply this division to purchases made prior to January 1, 10913
2001, subject to the following: 10914

(1) The election is irrevocable; 10915

(2) The election need not accompany a timely filed report, 10916

but the election may accompany a subsequently filed but timely 10917
application for refund, a subsequently filed but timely amended 10918
report, or a subsequently filed but timely petition for 10919
reassessment. 10920

Sec. 5733.42. (A) As used in this section: 10921

(1) "Eligible training program" means a program to provide 10922
job skills to eligible employees who are unable effectively to 10923
function on the job due to skill deficiencies or who would 10924
otherwise be displaced because of their skill deficiencies or 10925
inability to use new technology, or to provide job skills to 10926
eligible employees that enable them to perform other job duties 10927
for the taxpayer. Eligible training programs do not include 10928
executive, management, or personal enrichment training programs, 10929
or training programs intended exclusively for personal career 10930
development. 10931

(2) "Eligible employee" means an individual who is 10932
employed in this state by a taxpayer and has been so employed by 10933
the same taxpayer for at least one hundred eighty consecutive 10934
days before the day an application for the credit is filed under 10935
this section. "Eligible employee" does not include any employee 10936
for which a credit is claimed pursuant to division (A) (5) of 10937
section 5709.65 of the Revised Code for all or any part of the 10938
same year, an employee who is not a full-time employee, or 10939
executive or managerial personnel, except for the immediate 10940
supervisors of nonexecutive, nonmanagerial personnel. 10941

(3) "Eligible training costs" means: 10942

(a) Direct instructional costs, such as instructor 10943
salaries, materials and supplies, textbooks and manuals, 10944
videotapes, and other instructional media and training equipment 10945

used exclusively for the purpose of training eligible employees; 10946

(b) Wages paid to eligible employees for time devoted 10947
exclusively to an eligible training program during normal paid 10948
working hours. 10949

(4) "Full-time employee" means an individual who is 10950
employed for consideration for at least thirty-five hours per 10951
week, or who renders any other standard of service generally 10952
accepted by custom or specified by contract as full-time 10953
employment. 10954

(5) "Partnership" includes a limited liability company 10955
formed under Chapter 1705. or 1706. of the Revised Code or under 10956
the laws of another state, provided that the company is not 10957
classified for federal income tax purposes as an association 10958
taxable as a corporation. 10959

(B) There is hereby allowed a nonrefundable credit against 10960
the tax imposed by section 5733.06 of the Revised Code for 10961
taxpayers for which a tax credit certificate is issued under 10962
division (C) of this section. The credit may be claimed for tax 10963
years 2004, 2005, 2006, 2007, and 2008. The amount of the credit 10964
for tax year 2004 shall equal one-half of the average of the 10965
eligible training costs paid or incurred by the taxpayer during 10966
calendar years 1999, 2000, and 2001, not to exceed one thousand 10967
dollars for each eligible employee on account of whom eligible 10968
training costs were paid or incurred by the taxpayer during 10969
those calendar years. The amount of the credit for tax year 2005 10970
shall equal one-half of the average of the eligible training 10971
costs paid or incurred by the taxpayer during calendar years 10972
2002, 2003, and 2004, not to exceed one thousand dollars for 10973
each eligible employee on account of whom eligible training 10974
costs were paid or incurred by the taxpayer during those 10975

calendar years. The amount of the credit for tax year 2006 shall 10976
equal one-half of the average of the eligible training costs 10977
paid or incurred by the taxpayer during calendar years 2003, 10978
2004, and 2005, not to exceed one thousand dollars for each 10979
eligible employee on account of whom eligible training costs 10980
were paid or incurred by the taxpayer during those calendar 10981
years. The amount of the credit for tax year 2007 shall equal 10982
one-half of the average of the eligible training costs paid or 10983
incurred by the taxpayer during calendar years 2004, 2005, and 10984
2006, not to exceed one thousand dollars for each eligible 10985
employee on account of whom eligible training costs were paid or 10986
incurred by the taxpayer during those calendar years. The amount 10987
of the credit for tax year 2008 shall equal one-half of the 10988
average of the eligible training costs paid or incurred by the 10989
taxpayer during calendar years 2005, 2006, and 2007, not to 10990
exceed one thousand dollars for each eligible employee on 10991
account of whom eligible training costs were paid or incurred by 10992
the taxpayer during those calendar years. 10993

The credit claimed by a taxpayer each tax year shall not 10994
exceed one hundred thousand dollars. 10995

(C) A taxpayer who proposes to conduct an eligible 10996
training program may apply to the director of job and family 10997
services for a tax credit certificate under this section. The 10998
taxpayer may apply for such a certificate for tax years 2004, 10999
2005, 2006, 2007, and 2008 subject to division (L) of this 11000
section. The director shall prescribe the form of the 11001
application, which shall require a detailed description of the 11002
proposed training program. The director may require applicants 11003
to remit an application fee with each application filed with the 11004
director. The fee shall not exceed the reasonable and necessary 11005
expenses incurred by the director in receiving, reviewing, and 11006

approving such applications and issuing tax credit certificates. 11007
Proceeds from fees shall be used solely for the purpose of 11008
receiving, reviewing, and approving such applications and 11009
issuing such certificates. 11010

After receipt of an application, the director shall 11011
authorize a credit under this section by issuing a tax credit 11012
certificate, in the form prescribed by the director, if the 11013
director determines all of the following: 11014

(1) The proposed training program is an eligible training 11015
program under this section; 11016

(2) The proposed training program is economically sound 11017
and will benefit the people of this state by improving workforce 11018
skills and strengthening the economy of this state; 11019

(3) Receiving the tax credit is a major factor in the 11020
taxpayer's decision to go forward with the training program; 11021

(4) Authorization of the credit is consistent with 11022
division (H) of this section. 11023

The credit also is allowed for a taxpayer that is a 11024
partner in a partnership that pays or incurs eligible training 11025
costs. Such a taxpayer shall determine the taxpayer's credit 11026
amount in the manner prescribed by division (K) of this section. 11027

(D) If the director of job and family services denies an 11028
application for a tax credit certificate, the director shall 11029
send notice of the denial and the reason for denial to the 11030
applicant by certified mail, return receipt requested. If the 11031
director determines that an authorized training program, as 11032
actually conducted, fails to meet the requirements of this 11033
section or to comply with any condition set forth in the 11034
authorization, the director may reduce the amount of the tax 11035

credit previously granted. If the director reduces a tax credit, 11036
the director shall send notice of the reduction and the reason 11037
for the reduction to the taxpayer by certified mail, return 11038
receipt requested, and shall certify the reduction to the tax 11039
commissioner or, in the case of the reduction of a credit 11040
claimed by an insurance company, the superintendent of 11041
insurance. The tax commissioner or superintendent of insurance 11042
shall reduce the credit that may be claimed by the taxpayer 11043
accordingly. Within sixty days after receiving a notice of 11044
denial or notice of reduction of the tax credit, an applicant or 11045
taxpayer may request, in writing, a hearing before the director 11046
to review the denial or reduction. Within sixty days after 11047
receiving a request that is filed within the prescribed time, 11048
the director shall hold such a hearing at a location to be 11049
determined by the director. Within thirty days after the hearing 11050
is adjourned, the director shall issue a redetermination 11051
affirming, reversing, or modifying the denial or reduction of 11052
the tax credit and send notice of the redetermination to the 11053
applicant or taxpayer by certified mail, return receipt 11054
requested, and shall issue a notice of the redetermination to 11055
the tax commissioner or superintendent of insurance. If an 11056
applicant or taxpayer is aggrieved by the director's 11057
redetermination, the applicant or taxpayer may appeal the 11058
redetermination to the board of tax appeals in the manner 11059
prescribed by section 5717.02 of the Revised Code. 11060

(E) A taxpayer to which a tax credit certificate is issued 11061
shall retain records indicating the eligible training costs it 11062
pays or incurs for the eligible training program for which the 11063
certificate is issued for four years following the end of the 11064
tax year for which the credit is claimed. Such records shall be 11065
open to inspection by the director of job and family services 11066

upon the director's request during business hours. 11067

Financial statements and other information submitted by an 11068
applicant to the director of job and family services for a tax 11069
credit under this section, and any information taken for any 11070
purpose from such statements or information, are not public 11071
records subject to section 149.43 of the Revised Code. However, 11072
the director of job and family services, the tax commissioner, 11073
or superintendent of insurance may make use of the statements 11074
and other information for purposes of issuing public reports or 11075
in connection with court proceedings concerning tax credits 11076
allowed under this section and sections 5725.31 and 5729.07 of 11077
the Revised Code. 11078

(F) The director of job and family services, in accordance 11079
with Chapter 119. of the Revised Code, shall adopt rules 11080
necessary to implement this section and sections 5725.31 and 11081
5729.07 of the Revised Code. The rules shall be adopted after 11082
consultation with the tax commissioner and the superintendent of 11083
insurance. The rules shall require that if a taxpayer to which a 11084
tax credit certificate is issued under any of those sections 11085
permanently relocates or transfers employees trained under the 11086
tax credit certificate to another state or country within two 11087
years of receiving the certificate, the taxpayer shall repay the 11088
total amount of the tax credit received by the taxpayer for any 11089
employees permanently relocated or transferred. At the time the 11090
director gives public notice under division (A) of section 11091
119.03 of the Revised Code of the adoption of the rules, the 11092
director shall submit copies of the proposed rules to the 11093
chairpersons and ranking minority members of the standing 11094
committees in the senate and the house of representatives to 11095
which legislation on economic development matters are 11096
customarily referred. 11097

(G) On or before the thirtieth day of September of 2001, 11098
2003, 2004, 2005, 2006, 2007, and 2008 the director of job and 11099
family services shall submit a report to the governor, the 11100
president of the senate, and the speaker of the house of 11101
representatives on the tax credit program under this section and 11102
sections 5725.31 and 5729.07 of the Revised Code. The report 11103
shall include information on the number of training programs 11104
that were authorized under those sections during the preceding 11105
calendar year, a description of each authorized training 11106
program, the dollar amounts of the credits granted, and an 11107
estimate of the impact of the credits on the economy of this 11108
state. 11109

(H) The aggregate amount of credits authorized under this 11110
section and sections 5725.31 and 5729.07 of the Revised Code 11111
shall not exceed twenty million dollars per calendar year. No 11112
more than ten million dollars in credits per calendar year shall 11113
be authorized for persons engaged primarily in manufacturing. No 11114
less than five million dollars in credits per calendar year 11115
shall be set aside for persons engaged primarily in activities 11116
other than manufacturing and having fewer than five hundred 11117
employees. Subject to such limits, the director of job and 11118
family services shall adopt a rule under division (F) of this 11119
section that establishes criteria and procedures for 11120
distribution of the credits. 11121

(I) A nonrefundable credit allowed under this section 11122
shall be claimed in the order required under section 5733.98 of 11123
the Revised Code. 11124

(J) The taxpayer may carry forward any credit amount in 11125
excess of its tax due after allowing for any other credits that 11126
precede the credit under this section in the order required 11127

under section 5733.98 of the Revised Code. The excess credit may 11128
be carried forward for three years following the tax year for 11129
which it is first claimed under this section. 11130

(K) A taxpayer that is a partner in a partnership on the 11131
last day of the third calendar year of the three-year period 11132
during which the partnership pays or incurs eligible training 11133
costs may claim a credit under this section for the tax year 11134
immediately following that calendar year. The amount of a 11135
partner's credit equals the partner's interest in the 11136
partnership on the last day of such calendar year multiplied by 11137
the credit available to the partnership as computed by the 11138
partnership. 11139

(L) The director of job and family services shall not 11140
authorize any credits under this section and sections 5725.31 11141
and 5729.07 of the Revised Code for eligible training costs paid 11142
or incurred after December 31, 2007. 11143

Sec. 5747.01. Except as otherwise expressly provided or 11144
clearly appearing from the context, any term used in this 11145
chapter that is not otherwise defined in this section has the 11146
same meaning as when used in a comparable context in the laws of 11147
the United States relating to federal income taxes or if not 11148
used in a comparable context in those laws, has the same meaning 11149
as in section 5733.40 of the Revised Code. Any reference in this 11150
chapter to the Internal Revenue Code includes other laws of the 11151
United States relating to federal income taxes. 11152

As used in this chapter: 11153

(A) "Adjusted gross income" or "Ohio adjusted gross 11154
income" means federal adjusted gross income, as defined and used 11155
in the Internal Revenue Code, adjusted as provided in this 11156

section: 11157

(1) Add interest or dividends on obligations or securities 11158
of any state or of any political subdivision or authority of any 11159
state, other than this state and its subdivisions and 11160
authorities. 11161

(2) Add interest or dividends on obligations of any 11162
authority, commission, instrumentality, territory, or possession 11163
of the United States to the extent that the interest or 11164
dividends are exempt from federal income taxes but not from 11165
state income taxes. 11166

(3) Deduct interest or dividends on obligations of the 11167
United States and its territories and possessions or of any 11168
authority, commission, or instrumentality of the United States 11169
to the extent that the interest or dividends are included in 11170
federal adjusted gross income but exempt from state income taxes 11171
under the laws of the United States. 11172

(4) Deduct disability and survivor's benefits to the 11173
extent included in federal adjusted gross income. 11174

(5) Deduct benefits under Title II of the Social Security 11175
Act and tier 1 railroad retirement benefits to the extent 11176
included in federal adjusted gross income under section 86 of 11177
the Internal Revenue Code. 11178

(6) In the case of a taxpayer who is a beneficiary of a 11179
trust that makes an accumulation distribution as defined in 11180
section 665 of the Internal Revenue Code, add, for the 11181
beneficiary's taxable years beginning before 2002, the portion, 11182
if any, of such distribution that does not exceed the 11183
undistributed net income of the trust for the three taxable 11184
years preceding the taxable year in which the distribution is 11185

made to the extent that the portion was not included in the 11186
trust's taxable income for any of the trust's taxable years 11187
beginning in 2002 or thereafter. "Undistributed net income of a 11188
trust" means the taxable income of the trust increased by (a) (i) 11189
the additions to adjusted gross income required under division 11190
(A) of this section and (ii) the personal exemptions allowed to 11191
the trust pursuant to section 642(b) of the Internal Revenue 11192
Code, and decreased by (b) (i) the deductions to adjusted gross 11193
income required under division (A) of this section, (ii) the 11194
amount of federal income taxes attributable to such income, and 11195
(iii) the amount of taxable income that has been included in the 11196
adjusted gross income of a beneficiary by reason of a prior 11197
accumulation distribution. Any undistributed net income included 11198
in the adjusted gross income of a beneficiary shall reduce the 11199
undistributed net income of the trust commencing with the 11200
earliest years of the accumulation period. 11201

(7) Deduct the amount of wages and salaries, if any, not 11202
otherwise allowable as a deduction but that would have been 11203
allowable as a deduction in computing federal adjusted gross 11204
income for the taxable year, had the targeted jobs credit 11205
allowed and determined under sections 38, 51, and 52 of the 11206
Internal Revenue Code not been in effect. 11207

(8) Deduct any interest or interest equivalent on public 11208
obligations and purchase obligations to the extent that the 11209
interest or interest equivalent is included in federal adjusted 11210
gross income. 11211

(9) Add any loss or deduct any gain resulting from the 11212
sale, exchange, or other disposition of public obligations to 11213
the extent that the loss has been deducted or the gain has been 11214
included in computing federal adjusted gross income. 11215

(10) Deduct or add amounts, as provided under section 11216
5747.70 of the Revised Code, related to contributions to 11217
variable college savings program accounts made or tuition units 11218
purchased pursuant to Chapter 3334. of the Revised Code. 11219

(11) (a) Deduct, to the extent not otherwise allowable as a 11220
deduction or exclusion in computing federal or Ohio adjusted 11221
gross income for the taxable year, the amount the taxpayer paid 11222
during the taxable year for medical care insurance and qualified 11223
long-term care insurance for the taxpayer, the taxpayer's 11224
spouse, and dependents. No deduction for medical care insurance 11225
under division (A) (11) (a) of this section shall be allowed 11226
either to any taxpayer who is eligible to participate in any 11227
subsidized health plan maintained by any employer of the 11228
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 11229
entitled to, or on application would be entitled to, benefits 11230
under part A of Title XVIII of the "Social Security Act," 49 11231
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 11232
division (A) (11) (a) of this section, "subsidized health plan" 11233
means a health plan for which the employer pays any portion of 11234
the plan's cost. The deduction allowed under division (A) (11) (a) 11235
of this section shall be the net of any related premium refunds, 11236
related premium reimbursements, or related insurance premium 11237
dividends received during the taxable year. 11238

(b) Deduct, to the extent not otherwise deducted or 11239
excluded in computing federal or Ohio adjusted gross income 11240
during the taxable year, the amount the taxpayer paid during the 11241
taxable year, not compensated for by any insurance or otherwise, 11242
for medical care of the taxpayer, the taxpayer's spouse, and 11243
dependents, to the extent the expenses exceed seven and one-half 11244
per cent of the taxpayer's federal adjusted gross income. 11245

(c) Deduct, to the extent not otherwise deducted or 11246
excluded in computing federal or Ohio adjusted gross income, any 11247
amount included in federal adjusted gross income under section 11248
105 or not excluded under section 106 of the Internal Revenue 11249
Code solely because it relates to an accident and health plan 11250
for a person who otherwise would be a "qualifying relative" and 11251
thus a "dependent" under section 152 of the Internal Revenue 11252
Code but for the fact that the person fails to meet the income 11253
and support limitations under section 152(d)(1)(B) and (C) of 11254
the Internal Revenue Code. 11255

(d) For purposes of division (A)(11) of this section, 11256
"medical care" has the meaning given in section 213 of the 11257
Internal Revenue Code, subject to the special rules, 11258
limitations, and exclusions set forth therein, and "qualified 11259
long-term care" has the same meaning given in section 7702B(c) 11260
of the Internal Revenue Code. Solely for purposes of divisions 11261
(A)(11)(a) and (c) of this section, "dependent" includes a 11262
person who otherwise would be a "qualifying relative" and thus a 11263
"dependent" under section 152 of the Internal Revenue Code but 11264
for the fact that the person fails to meet the income and 11265
support limitations under section 152(d)(1)(B) and (C) of the 11266
Internal Revenue Code. 11267

(12)(a) Deduct any amount included in federal adjusted 11268
gross income solely because the amount represents a 11269
reimbursement or refund of expenses that in any year the 11270
taxpayer had deducted as an itemized deduction pursuant to 11271
section 63 of the Internal Revenue Code and applicable United 11272
States department of the treasury regulations. The deduction 11273
otherwise allowed under division (A)(12)(a) of this section 11274
shall be reduced to the extent the reimbursement is attributable 11275
to an amount the taxpayer deducted under this section in any 11276

taxable year.	11277
(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.	11278 11279 11280 11281 11282
(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:	11283 11284 11285 11286
(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;	11287 11288 11289 11290
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	11291 11292
(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.	11293 11294 11295 11296 11297 11298 11299
(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;	11300 11301 11302 11303 11304 11305

(b) Add the amounts distributed from a medical savings account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year. 11306
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(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following: 11309
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(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code; 11312
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(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 11316
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(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (17) of this section. 11319
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(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for 11327
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qualified tuition and fees paid to an eligible institution for 11335
the taxpayer, the taxpayer's spouse, or any dependent of the 11336
taxpayer, who is a resident of this state and is enrolled in or 11337
attending a program that culminates in a degree or diploma at an 11338
eligible institution. The deduction may be claimed only to the 11339
extent that qualified tuition and fees are not otherwise 11340
deducted or excluded for any taxable year from federal or Ohio 11341
adjusted gross income. The deduction may not be claimed for 11342
educational expenses for which the taxpayer claims a credit 11343
under section 5747.27 of the Revised Code. 11344

(19) Add any reimbursement received during the taxable 11345
year of any amount the taxpayer deducted under division (A) (18) 11346
of this section in any previous taxable year to the extent the 11347
amount is not otherwise included in Ohio adjusted gross income. 11348

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 11349
(v) of this section, add five-sixths of the amount of 11350
depreciation expense allowed by subsection (k) of section 168 of 11351
the Internal Revenue Code, including the taxpayer's 11352
proportionate or distributive share of the amount of 11353
depreciation expense allowed by that subsection to a pass- 11354
through entity in which the taxpayer has a direct or indirect 11355
ownership interest. 11356

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 11357
of this section, add five-sixths of the amount of qualifying 11358
section 179 depreciation expense, including the taxpayer's 11359
proportionate or distributive share of the amount of qualifying 11360
section 179 depreciation expense allowed to any pass-through 11361
entity in which the taxpayer has a direct or indirect ownership 11362
interest. 11363

(iii) Subject to division (A) (20) (a) (v) of this section, 11364

for taxable years beginning in 2012 or thereafter, if the 11365
increase in income taxes withheld by the taxpayer is equal to or 11366
greater than ten per cent of income taxes withheld by the 11367
taxpayer during the taxpayer's immediately preceding taxable 11368
year, "two-thirds" shall be substituted for "five-sixths" for 11369
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 11370

(iv) Subject to division (A) (20) (a) (v) of this section, 11371
for taxable years beginning in 2012 or thereafter, a taxpayer is 11372
not required to add an amount under division (A) (20) of this 11373
section if the increase in income taxes withheld by the taxpayer 11374
and by any pass-through entity in which the taxpayer has a 11375
direct or indirect ownership interest is equal to or greater 11376
than the sum of (I) the amount of qualifying section 179 11377
depreciation expense and (II) the amount of depreciation expense 11378
allowed to the taxpayer by subsection (k) of section 168 of the 11379
Internal Revenue Code, and including the taxpayer's 11380
proportionate or distributive shares of such amounts allowed to 11381
any such pass-through entities. 11382

(v) If a taxpayer directly or indirectly incurs a net 11383
operating loss for the taxable year for federal income tax 11384
purposes, to the extent such loss resulted from depreciation 11385
expense allowed by subsection (k) of section 168 of the Internal 11386
Revenue Code and by qualifying section 179 depreciation expense, 11387
"the entire" shall be substituted for "five-sixths of the" for 11388
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 11389

The tax commissioner, under procedures established by the 11390
commissioner, may waive the add-backs related to a pass-through 11391
entity if the taxpayer owns, directly or indirectly, less than 11392
five per cent of the pass-through entity. 11393

(b) Nothing in division (A) (20) of this section shall be 11394

construed to adjust or modify the adjusted basis of any asset. 11395

(c) To the extent the add-back required under division (A) 11396
(20) (a) of this section is attributable to property generating 11397
nonbusiness income or loss allocated under section 5747.20 of 11398
the Revised Code, the add-back shall be situated to the same 11399
location as the nonbusiness income or loss generated by the 11400
property for the purpose of determining the credit under 11401
division (A) of section 5747.05 of the Revised Code. Otherwise, 11402
the add-back shall be apportioned, subject to one or more of the 11403
four alternative methods of apportionment enumerated in section 11404
5747.21 of the Revised Code. 11405

(d) For the purposes of division (A) (20) (a) (v) of this 11406
section, net operating loss carryback and carryforward shall not 11407
include the allowance of any net operating loss deduction 11408
carryback or carryforward to the taxable year to the extent such 11409
loss resulted from depreciation allowed by section 168(k) of the 11410
Internal Revenue Code and by the qualifying section 179 11411
depreciation expense amount. 11412

(e) For the purposes of divisions (A) (20) and (21) of this 11413
section: 11414

(i) "Income taxes withheld" means the total amount 11415
withheld and remitted under sections 5747.06 and 5747.07 of the 11416
Revised Code by an employer during the employer's taxable year. 11417

(ii) "Increase in income taxes withheld" means the amount 11418
by which the amount of income taxes withheld by an employer 11419
during the employer's current taxable year exceeds the amount of 11420
income taxes withheld by that employer during the employer's 11421
immediately preceding taxable year. 11422

(iii) "Qualifying section 179 depreciation expense" means 11423

the difference between (I) the amount of depreciation expense 11424
directly or indirectly allowed to a taxpayer under section 179 11425
of the Internal Revised Code, and (II) the amount of 11426
depreciation expense directly or indirectly allowed to the 11427
taxpayer under section 179 of the Internal Revenue Code as that 11428
section existed on December 31, 2002. 11429

(21) (a) If the taxpayer was required to add an amount 11430
under division (A) (20) (a) of this section for a taxable year, 11431
deduct one of the following: 11432

(i) One-fifth of the amount so added for each of the five 11433
succeeding taxable years if the amount so added was five-sixths 11434
of qualifying section 179 depreciation expense or depreciation 11435
expense allowed by subsection (k) of section 168 of the Internal 11436
Revenue Code; 11437

(ii) One-half of the amount so added for each of the two 11438
succeeding taxable years if the amount so added was two-thirds 11439
of such depreciation expense; 11440

(iii) One-sixth of the amount so added for each of the six 11441
succeeding taxable years if the entire amount of such 11442
depreciation expense was so added. 11443

(b) If the amount deducted under division (A) (21) (a) of 11444
this section is attributable to an add-back allocated under 11445
division (A) (20) (c) of this section, the amount deducted shall 11446
be situated to the same location. Otherwise, the add-back shall 11447
be apportioned using the apportionment factors for the taxable 11448
year in which the deduction is taken, subject to one or more of 11449
the four alternative methods of apportionment enumerated in 11450
section 5747.21 of the Revised Code. 11451

(c) No deduction is available under division (A) (21) (a) of 11452

this section with regard to any depreciation allowed by section 11453
168(k) of the Internal Revenue Code and by the qualifying 11454
section 179 depreciation expense amount to the extent that such 11455
depreciation results in or increases a federal net operating 11456
loss carryback or carryforward. If no such deduction is 11457
available for a taxable year, the taxpayer may carry forward the 11458
amount not deducted in such taxable year to the next taxable 11459
year and add that amount to any deduction otherwise available 11460
under division (A) (21) (a) of this section for that next taxable 11461
year. The carryforward of amounts not so deducted shall continue 11462
until the entire addition required by division (A) (20) (a) of 11463
this section has been deducted. 11464

(d) No refund shall be allowed as a result of adjustments 11465
made by division (A) (21) of this section. 11466

(22) Deduct, to the extent not otherwise deducted or 11467
excluded in computing federal or Ohio adjusted gross income for 11468
the taxable year, the amount the taxpayer received during the 11469
taxable year as reimbursement for life insurance premiums under 11470
section 5919.31 of the Revised Code. 11471

(23) Deduct, to the extent not otherwise deducted or 11472
excluded in computing federal or Ohio adjusted gross income for 11473
the taxable year, the amount the taxpayer received during the 11474
taxable year as a death benefit paid by the adjutant general 11475
under section 5919.33 of the Revised Code. 11476

(24) Deduct, to the extent included in federal adjusted 11477
gross income and not otherwise allowable as a deduction or 11478
exclusion in computing federal or Ohio adjusted gross income for 11479
the taxable year, military pay and allowances received by the 11480
taxpayer during the taxable year for active duty service in the 11481
United States army, air force, navy, marine corps, or coast 11482

guard or reserve components thereof or the national guard. The 11483
deduction may not be claimed for military pay and allowances 11484
received by the taxpayer while the taxpayer is stationed in this 11485
state. 11486

(25) Deduct, to the extent not otherwise allowable as a 11487
deduction or exclusion in computing federal or Ohio adjusted 11488
gross income for the taxable year and not otherwise compensated 11489
for by any other source, the amount of qualified organ donation 11490
expenses incurred by the taxpayer during the taxable year, not 11491
to exceed ten thousand dollars. A taxpayer may deduct qualified 11492
organ donation expenses only once for all taxable years 11493
beginning with taxable years beginning in 2007. 11494

For the purposes of division (A) (25) of this section: 11495

(a) "Human organ" means all or any portion of a human 11496
liver, pancreas, kidney, intestine, or lung, and any portion of 11497
human bone marrow. 11498

(b) "Qualified organ donation expenses" means travel 11499
expenses, lodging expenses, and wages and salary forgone by a 11500
taxpayer in connection with the taxpayer's donation, while 11501
living, of one or more of the taxpayer's human organs to another 11502
human being. 11503

(26) Deduct, to the extent not otherwise deducted or 11504
excluded in computing federal or Ohio adjusted gross income for 11505
the taxable year, amounts received by the taxpayer as retired 11506
personnel pay for service in the uniformed services or reserve 11507
components thereof, or the national guard, or received by the 11508
surviving spouse or former spouse of such a taxpayer under the 11509
survivor benefit plan on account of such a taxpayer's death. If 11510
the taxpayer receives income on account of retirement paid under 11511

the federal civil service retirement system or federal employees 11512
retirement system, or under any successor retirement program 11513
enacted by the congress of the United States that is established 11514
and maintained for retired employees of the United States 11515
government, and such retirement income is based, in whole or in 11516
part, on credit for the taxpayer's uniformed service, the 11517
deduction allowed under this division shall include only that 11518
portion of such retirement income that is attributable to the 11519
taxpayer's uniformed service, to the extent that portion of such 11520
retirement income is otherwise included in federal adjusted 11521
gross income and is not otherwise deducted under this section. 11522
Any amount deducted under division (A) (26) of this section is 11523
not included in a taxpayer's adjusted gross income for the 11524
purposes of section 5747.055 of the Revised Code. No amount may 11525
be deducted under division (A) (26) of this section on the basis 11526
of which a credit was claimed under section 5747.055 of the 11527
Revised Code. 11528

(27) Deduct, to the extent not otherwise deducted or 11529
excluded in computing federal or Ohio adjusted gross income for 11530
the taxable year, the amount the taxpayer received during the 11531
taxable year from the military injury relief fund created in 11532
section 5902.05 of the Revised Code. 11533

(28) Deduct, to the extent not otherwise deducted or 11534
excluded in computing federal or Ohio adjusted gross income for 11535
the taxable year, the amount the taxpayer received as a veterans 11536
bonus during the taxable year from the Ohio department of 11537
veterans services as authorized by Section 2r of Article VIII, 11538
Ohio Constitution. 11539

(29) Deduct, to the extent not otherwise deducted or 11540
excluded in computing federal or Ohio adjusted gross income for 11541

the taxable year, any income derived from a transfer agreement 11542
or from the enterprise transferred under that agreement under 11543
section 4313.02 of the Revised Code. 11544

(30) Deduct, to the extent not otherwise deducted or 11545
excluded in computing federal or Ohio adjusted gross income for 11546
the taxable year, Ohio college opportunity or federal Pell grant 11547
amounts received by the taxpayer or the taxpayer's spouse or 11548
dependent pursuant to section 3333.122 of the Revised Code or 20 11549
U.S.C. 1070a, et seq., and used to pay room or board furnished 11550
by the educational institution for which the grant was awarded 11551
at the institution's facilities, including meal plans 11552
administered by the institution. For the purposes of this 11553
division, receipt of a grant includes the distribution of a 11554
grant directly to an educational institution and the crediting 11555
of the grant to the enrollee's account with the institution. 11556

(31) Deduct from the portion of an individual's federal 11557
adjusted gross income that is business income, to the extent not 11558
otherwise deducted or excluded in computing federal adjusted 11559
gross income for the taxable year, one hundred twenty-five 11560
thousand dollars for each spouse if spouses file separate 11561
returns under section 5747.08 of the Revised Code or two hundred 11562
fifty thousand dollars for all other individuals. 11563

(32) Deduct, as provided under section 5747.78 of the 11564
Revised Code, contributions to ABLE savings accounts made in 11565
accordance with sections 113.50 to 113.56 of the Revised Code. 11566

(33) (a) Deduct, to the extent not otherwise deducted or 11567
excluded in computing federal or Ohio adjusted gross income 11568
during the taxable year, all of the following: 11569

(i) Compensation paid to a qualifying employee described 11570

in division (A) (14) (a) of section 5703.94 of the Revised Code to 11571
the extent such compensation is for disaster work conducted in 11572
this state during a disaster response period pursuant to a 11573
qualifying solicitation received by the employee's employer; 11574

(ii) Compensation paid to a qualifying employee described 11575
in division (A) (14) (b) of section 5703.94 of the Revised Code to 11576
the extent such compensation is for disaster work conducted in 11577
this state by the employee during the disaster response period 11578
on critical infrastructure owned or used by the employee's 11579
employer; 11580

(iii) Income received by an out-of-state disaster business 11581
for disaster work conducted in this state during a disaster 11582
response period, or, if the out-of-state disaster business is a 11583
pass-through entity, a taxpayer's distributive share of the 11584
pass-through entity's income from the business conducting 11585
disaster work in this state during a disaster response period, 11586
if, in either case, the disaster work is conducted pursuant to a 11587
qualifying solicitation received by the business. 11588

(b) All terms used in division (A) (33) of this section 11589
have the same meanings as in section 5703.94 of the Revised 11590
Code. 11591

(34) For a taxpayer who is a qualifying Ohio educator, 11592
deduct, to the extent not otherwise deducted or excluded in 11593
computing federal or Ohio adjusted gross income for the taxable 11594
year, the lesser of two hundred fifty dollars or the amount of 11595
expenses described in subsections (a) (2) (D) (i) and (ii) of 11596
section 62 of the Internal Revenue Code paid or incurred by the 11597
taxpayer during the taxpayer's taxable year in excess of the 11598
amount the taxpayer is authorized to deduct for that taxable 11599
year under subsection (a) (2) (D) of that section. 11600

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

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

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

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

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

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject 11630
to section 5747.24 of the Revised Code; 11631

(2) The estate of a decedent who at the time of death was 11632
domiciled in this state. The domicile tests of section 5747.24 11633
of the Revised Code are not controlling for purposes of division 11634
(I) (2) of this section. 11635

(3) A trust that, in whole or part, resides in this state. 11636
If only part of a trust resides in this state, the trust is a 11637
resident only with respect to that part. 11638

For the purposes of division (I) (3) of this section: 11639

(a) A trust resides in this state for the trust's current 11640
taxable year to the extent, as described in division (I) (3) (d) 11641
of this section, that the trust consists directly or indirectly, 11642
in whole or in part, of assets, net of any related liabilities, 11643
that were transferred, or caused to be transferred, directly or 11644
indirectly, to the trust by any of the following: 11645

(i) A person, a court, or a governmental entity or 11646
instrumentality on account of the death of a decedent, but only 11647
if the trust is described in division (I) (3) (e) (i) or (ii) of 11648
this section; 11649

(ii) A person who was domiciled in this state for the 11650
purposes of this chapter when the person directly or indirectly 11651
transferred assets to an irrevocable trust, but only if at least 11652
one of the trust's qualifying beneficiaries is domiciled in this 11653
state for the purposes of this chapter during all or some 11654
portion of the trust's current taxable year; 11655

(iii) A person who was domiciled in this state for the 11656
purposes of this chapter when the trust document or instrument 11657
or part of the trust document or instrument became irrevocable, 11658

but only if at least one of the trust's qualifying beneficiaries 11659
is a resident domiciled in this state for the purposes of this 11660
chapter during all or some portion of the trust's current 11661
taxable year. If a trust document or instrument became 11662
irrevocable upon the death of a person who at the time of death 11663
was domiciled in this state for purposes of this chapter, that 11664
person is a person described in division (I) (3) (a) (iii) of this 11665
section. 11666

(b) A trust is irrevocable to the extent that the 11667
transferor is not considered to be the owner of the net assets 11668
of the trust under sections 671 to 678 of the Internal Revenue 11669
Code. 11670

(c) With respect to a trust other than a charitable lead 11671
trust, "qualifying beneficiary" has the same meaning as 11672
"potential current beneficiary" as defined in section 1361(e) (2) 11673
of the Internal Revenue Code, and with respect to a charitable 11674
lead trust "qualifying beneficiary" is any current, future, or 11675
contingent beneficiary, but with respect to any trust 11676
"qualifying beneficiary" excludes a person or a governmental 11677
entity or instrumentality to any of which a contribution would 11678
qualify for the charitable deduction under section 170 of the 11679
Internal Revenue Code. 11680

(d) For the purposes of division (I) (3) (a) of this 11681
section, the extent to which a trust consists directly or 11682
indirectly, in whole or in part, of assets, net of any related 11683
liabilities, that were transferred directly or indirectly, in 11684
whole or part, to the trust by any of the sources enumerated in 11685
that division shall be ascertained by multiplying the fair 11686
market value of the trust's assets, net of related liabilities, 11687
by the qualifying ratio, which shall be computed as follows: 11688

(i) The first time the trust receives assets, the 11689
numerator of the qualifying ratio is the fair market value of 11690
those assets at that time, net of any related liabilities, from 11691
sources enumerated in division (I) (3) (a) of this section. The 11692
denominator of the qualifying ratio is the fair market value of 11693
all the trust's assets at that time, net of any related 11694
liabilities. 11695

(ii) Each subsequent time the trust receives assets, a 11696
revised qualifying ratio shall be computed. The numerator of the 11697
revised qualifying ratio is the sum of (1) the fair market value 11698
of the trust's assets immediately prior to the subsequent 11699
transfer, net of any related liabilities, multiplied by the 11700
qualifying ratio last computed without regard to the subsequent 11701
transfer, and (2) the fair market value of the subsequently 11702
transferred assets at the time transferred, net of any related 11703
liabilities, from sources enumerated in division (I) (3) (a) of 11704
this section. The denominator of the revised qualifying ratio is 11705
the fair market value of all the trust's assets immediately 11706
after the subsequent transfer, net of any related liabilities. 11707

(iii) Whether a transfer to the trust is by or from any of 11708
the sources enumerated in division (I) (3) (a) of this section 11709
shall be ascertained without regard to the domicile of the 11710
trust's beneficiaries. 11711

(e) For the purposes of division (I) (3) (a) (i) of this 11712
section: 11713

(i) A trust is described in division (I) (3) (e) (i) of this 11714
section if the trust is a testamentary trust and the testator of 11715
that testamentary trust was domiciled in this state at the time 11716
of the testator's death for purposes of the taxes levied under 11717
Chapter 5731. of the Revised Code. 11718

(ii) A trust is described in division (I) (3) (e) (ii) of 11719
this section if the transfer is a qualifying transfer described 11720
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 11721
trust is an irrevocable inter vivos trust, and at least one of 11722
the trust's qualifying beneficiaries is domiciled in this state 11723
for purposes of this chapter during all or some portion of the 11724
trust's current taxable year. 11725

(f) For the purposes of division (I) (3) (e) (ii) of this 11726
section, a "qualifying transfer" is a transfer of assets, net of 11727
any related liabilities, directly or indirectly to a trust, if 11728
the transfer is described in any of the following: 11729

(i) The transfer is made to a trust, created by the 11730
decedent before the decedent's death and while the decedent was 11731
domiciled in this state for the purposes of this chapter, and, 11732
prior to the death of the decedent, the trust became irrevocable 11733
while the decedent was domiciled in this state for the purposes 11734
of this chapter. 11735

(ii) The transfer is made to a trust to which the 11736
decedent, prior to the decedent's death, had directly or 11737
indirectly transferred assets, net of any related liabilities, 11738
while the decedent was domiciled in this state for the purposes 11739
of this chapter, and prior to the death of the decedent the 11740
trust became irrevocable while the decedent was domiciled in 11741
this state for the purposes of this chapter. 11742

(iii) The transfer is made on account of a contractual 11743
relationship existing directly or indirectly between the 11744
transferor and either the decedent or the estate of the decedent 11745
at any time prior to the date of the decedent's death, and the 11746
decedent was domiciled in this state at the time of death for 11747
purposes of the taxes levied under Chapter 5731. of the Revised 11748

Code. 11749

(iv) The transfer is made to a trust on account of a 11750
contractual relationship existing directly or indirectly between 11751
the transferor and another person who at the time of the 11752
decedent's death was domiciled in this state for purposes of 11753
this chapter. 11754

(v) The transfer is made to a trust on account of the will 11755
of a testator who was domiciled in this state at the time of the 11756
testator's death for purposes of the taxes levied under Chapter 11757
5731. of the Revised Code. 11758

(vi) The transfer is made to a trust created by or caused 11759
to be created by a court, and the trust was directly or 11760
indirectly created in connection with or as a result of the 11761
death of an individual who, for purposes of the taxes levied 11762
under Chapter 5731. of the Revised Code, was domiciled in this 11763
state at the time of the individual's death. 11764

(g) The tax commissioner may adopt rules to ascertain the 11765
part of a trust residing in this state. 11766

(J) "Nonresident" means an individual or estate that is 11767
not a resident. An individual who is a resident for only part of 11768
a taxable year is a nonresident for the remainder of that 11769
taxable year. 11770

(K) "Pass-through entity" has the same meaning as in 11771
section 5733.04 of the Revised Code. 11772

(L) "Return" means the notifications and reports required 11773
to be filed pursuant to this chapter for the purpose of 11774
reporting the tax due and includes declarations of estimated tax 11775
when so required. 11776

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

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

(O) "Dependents" means one of the following:

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

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

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

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

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to

exercise, including like functions that are exercised under a 11805
charter adopted pursuant to the Ohio Constitution. 11806

(R) "Overpayment" means any amount already paid that 11807
exceeds the figure determined to be the correct amount of the 11808
tax. 11809

(S) "Taxable income" or "Ohio taxable income" applies only 11810
to estates and trusts, and means federal taxable income, as 11811
defined and used in the Internal Revenue Code, adjusted as 11812
follows: 11813

(1) Add interest or dividends, net of ordinary, necessary, 11814
and reasonable expenses not deducted in computing federal 11815
taxable income, on obligations or securities of any state or of 11816
any political subdivision or authority of any state, other than 11817
this state and its subdivisions and authorities, but only to the 11818
extent that such net amount is not otherwise includible in Ohio 11819
taxable income and is described in either division (S)(1)(a) or 11820
(b) of this section: 11821

(a) The net amount is not attributable to the S portion of 11822
an electing small business trust and has not been distributed to 11823
beneficiaries for the taxable year; 11824

(b) The net amount is attributable to the S portion of an 11825
electing small business trust for the taxable year. 11826

(2) Add interest or dividends, net of ordinary, necessary, 11827
and reasonable expenses not deducted in computing federal 11828
taxable income, on obligations of any authority, commission, 11829
instrumentality, territory, or possession of the United States 11830
to the extent that the interest or dividends are exempt from 11831
federal income taxes but not from state income taxes, but only 11832
to the extent that such net amount is not otherwise includible 11833

in Ohio taxable income and is described in either division (S) 11834
(1) (a) or (b) of this section; 11835

(3) Add the amount of personal exemption allowed to the 11836
estate pursuant to section 642(b) of the Internal Revenue Code; 11837

(4) Deduct interest or dividends, net of related expenses 11838
deducted in computing federal taxable income, on obligations of 11839
the United States and its territories and possessions or of any 11840
authority, commission, or instrumentality of the United States 11841
to the extent that the interest or dividends are exempt from 11842
state taxes under the laws of the United States, but only to the 11843
extent that such amount is included in federal taxable income 11844
and is described in either division (S) (1) (a) or (b) of this 11845
section; 11846

(5) Deduct the amount of wages and salaries, if any, not 11847
otherwise allowable as a deduction but that would have been 11848
allowable as a deduction in computing federal taxable income for 11849
the taxable year, had the targeted jobs credit allowed under 11850
sections 38, 51, and 52 of the Internal Revenue Code not been in 11851
effect, but only to the extent such amount relates either to 11852
income included in federal taxable income for the taxable year 11853
or to income of the S portion of an electing small business 11854
trust for the taxable year; 11855

(6) Deduct any interest or interest equivalent, net of 11856
related expenses deducted in computing federal taxable income, 11857
on public obligations and purchase obligations, but only to the 11858
extent that such net amount relates either to income included in 11859
federal taxable income for the taxable year or to income of the 11860
S portion of an electing small business trust for the taxable 11861
year; 11862

(7) Add any loss or deduct any gain resulting from sale, 11863
exchange, or other disposition of public obligations to the 11864
extent that such loss has been deducted or such gain has been 11865
included in computing either federal taxable income or income of 11866
the S portion of an electing small business trust for the 11867
taxable year; 11868

(8) Except in the case of the final return of an estate, 11869
add any amount deducted by the taxpayer on both its Ohio estate 11870
tax return pursuant to section 5731.14 of the Revised Code, and 11871
on its federal income tax return in determining federal taxable 11872
income; 11873

(9) (a) Deduct any amount included in federal taxable 11874
income solely because the amount represents a reimbursement or 11875
refund of expenses that in a previous year the decedent had 11876
deducted as an itemized deduction pursuant to section 63 of the 11877
Internal Revenue Code and applicable treasury regulations. The 11878
deduction otherwise allowed under division (S) (9) (a) of this 11879
section shall be reduced to the extent the reimbursement is 11880
attributable to an amount the taxpayer or decedent deducted 11881
under this section in any taxable year. 11882

(b) Add any amount not otherwise included in Ohio taxable 11883
income for any taxable year to the extent that the amount is 11884
attributable to the recovery during the taxable year of any 11885
amount deducted or excluded in computing federal or Ohio taxable 11886
income in any taxable year, but only to the extent such amount 11887
has not been distributed to beneficiaries for the taxable year. 11888

(10) Deduct any portion of the deduction described in 11889
section 1341(a) (2) of the Internal Revenue Code, for repaying 11890
previously reported income received under a claim of right, that 11891
meets both of the following requirements: 11892

(a) It is allowable for repayment of an item that was 11893
included in the taxpayer's taxable income or the decedent's 11894
adjusted gross income for a prior taxable year and did not 11895
qualify for a credit under division (A) or (B) of section 11896
5747.05 of the Revised Code for that year. 11897

(b) It does not otherwise reduce the taxpayer's taxable 11898
income or the decedent's adjusted gross income for the current 11899
or any other taxable year. 11900

(11) Add any amount claimed as a credit under section 11901
5747.059 of the Revised Code to the extent that the amount 11902
satisfies either of the following: 11903

(a) The amount was deducted or excluded from the 11904
computation of the taxpayer's federal taxable income as required 11905
to be reported for the taxpayer's taxable year under the 11906
Internal Revenue Code; 11907

(b) The amount resulted in a reduction in the taxpayer's 11908
federal taxable income as required to be reported for any of the 11909
taxpayer's taxable years under the Internal Revenue Code. 11910

(12) Deduct any amount, net of related expenses deducted 11911
in computing federal taxable income, that a trust is required to 11912
report as farm income on its federal income tax return, but only 11913
if the assets of the trust include at least ten acres of land 11914
satisfying the definition of "land devoted exclusively to 11915
agricultural use" under section 5713.30 of the Revised Code, 11916
regardless of whether the land is valued for tax purposes as 11917
such land under sections 5713.30 to 5713.38 of the Revised Code. 11918
If the trust is a pass-through entity investor, section 5747.231 11919
of the Revised Code applies in ascertaining if the trust is 11920
eligible to claim the deduction provided by division (S) (12) of 11921

this section in connection with the pass-through entity's farm income. 11922
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Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S) (12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S) (12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter. 11924
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(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income. 11930
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(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A) (20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S) (14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter. 11933
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(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code. 11940
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(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code. 11943
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(V) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state. 11947
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(W) "Pass-through entity investor" means any person who, 11950

during any portion of a taxable year of a pass-through entity, 11951
is a partner, member, shareholder, or equity investor in that 11952
pass-through entity. 11953

(X) "Banking day" has the same meaning as in section 11954
1304.01 of the Revised Code. 11955

(Y) "Month" means a calendar month. 11956

(Z) "Quarter" means the first three months, the second 11957
three months, the third three months, or the last three months 11958
of the taxpayer's taxable year. 11959

(AA) (1) "Eligible institution" means a state university or 11960
state institution of higher education as defined in section 11961
3345.011 of the Revised Code, or a private, nonprofit college, 11962
university, or other post-secondary institution located in this 11963
state that possesses a certificate of authorization issued by 11964
the chancellor of higher education pursuant to Chapter 1713. of 11965
the Revised Code or a certificate of registration issued by the 11966
state board of career colleges and schools under Chapter 3332. 11967
of the Revised Code. 11968

(2) "Qualified tuition and fees" means tuition and fees 11969
imposed by an eligible institution as a condition of enrollment 11970
or attendance, not exceeding two thousand five hundred dollars 11971
in each of the individual's first two years of post-secondary 11972
education. If the individual is a part-time student, "qualified 11973
tuition and fees" includes tuition and fees paid for the 11974
academic equivalent of the first two years of post-secondary 11975
education during a maximum of five taxable years, not exceeding 11976
a total of five thousand dollars. "Qualified tuition and fees" 11977
does not include: 11978

(a) Expenses for any course or activity involving sports, 11979

games, or hobbies unless the course or activity is part of the individual's degree or diploma program; 11980
11981

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction; 11982
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(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program. 11985
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(BB) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any. 11988
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(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied: 11992
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(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust. 11998
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(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. 12003
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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. 12006
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(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 (BB) (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 of the book value of the qualifying investee's total physical assets everywhere 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. If, for a taxable year, the trust recognizes a qualifying trust amount

with respect to more than one qualifying investee, the amount 12038
described in division (BB) (4) (b) of this section shall equal the 12039
sum of the products so computed for each such qualifying 12040
investee. 12041

(c) (i) With respect to a trust or portion of a trust that 12042
is a resident as ascertained in accordance with division (I) (3) 12043
(d) of this section, its modified nonbusiness income. 12044

(ii) With respect to a trust or portion of a trust that is 12045
not a resident as ascertained in accordance with division (I) (3) 12046
(d) of this section, the amount of its modified nonbusiness 12047
income satisfying the descriptions in divisions (B) (2) to (5) of 12048
section 5747.20 of the Revised Code, except as otherwise 12049
provided in division (BB) (4) (c) (ii) of this section. With 12050
respect to a trust or portion of a trust that is not a resident 12051
as ascertained in accordance with division (I) (3) (d) of this 12052
section, the trust's portion of modified nonbusiness income 12053
recognized from the sale, exchange, or other disposition of a 12054
debt interest in or equity interest in a section 5747.212 12055
entity, as defined in section 5747.212 of the Revised Code, 12056
without regard to division (A) of that section, shall not be 12057
allocated to this state in accordance with section 5747.20 of 12058
the Revised Code but shall be apportioned to this state in 12059
accordance with division (B) of section 5747.212 of the Revised 12060
Code without regard to division (A) of that section. 12061

If the allocation and apportionment of a trust's income 12062
under divisions (BB) (4) (a) and (c) of this section do not fairly 12063
represent the modified Ohio taxable income of the trust in this 12064
state, the alternative methods described in division (C) of 12065
section 5747.21 of the Revised Code may be applied in the manner 12066
and to the same extent provided in that section. 12067

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

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

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB) (5) (a) (iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

(EE) (1) For the purposes of division (EE) of this section:

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

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

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

(ii) A subsidiary that is wholly owned by any corporation 12157
that has made an election under subchapter S, chapter one, 12158
subtitle A of the Internal Revenue Code for its taxable year 12159
ending within, or on the last day of, the investor's taxable 12160
year. 12161

(2) For the purposes of this chapter, unless expressly 12162
stated otherwise, no qualifying person indirectly owns any asset 12163
directly or indirectly owned by any qualifying corporation. 12164

(FF) For purposes of this chapter and Chapter 5751. of the 12165
Revised Code: 12166

(1) "Trust" does not include a qualified pre-income tax 12167
trust. 12168

(2) A "qualified pre-income tax trust" is any pre-income 12169
tax trust that makes a qualifying pre-income tax trust election 12170
as described in division (FF)(3) of this section. 12171

(3) A "qualifying pre-income tax trust election" is an 12172
election by a pre-income tax trust to subject to the tax imposed 12173
by section 5751.02 of the Revised Code the pre-income tax trust 12174
and all pass-through entities of which the trust owns or 12175
controls, directly, indirectly, or constructively through 12176
related interests, five per cent or more of the ownership or 12177
equity interests. The trustee shall notify the tax commissioner 12178
in writing of the election on or before April 15, 2006. The 12179
election, if timely made, shall be effective on and after 12180
January 1, 2006, and shall apply for all tax periods and tax 12181
years until revoked by the trustee of the trust. 12182

(4) A "pre-income tax trust" is a trust that satisfies all 12183
of the following requirements: 12184

(a) The document or instrument creating the trust was 12185

executed by the grantor before January 1, 1972; 12186

(b) The trust became irrevocable upon the creation of the 12187
trust; and 12188

(c) The grantor was domiciled in this state at the time 12189
the trust was created. 12190

(GG) "Uniformed services" has the same meaning as in 10 12191
U.S.C. 101. 12192

(HH) "Taxable business income" means the amount by which 12193
an individual's business income that is included in federal 12194
adjusted gross income exceeds the amount of business income the 12195
individual is authorized to deduct under division (A) (31) of 12196
this section for the taxable year. 12197

(II) "Employer" does not include a franchisor with respect 12198
to the franchisor's relationship with a franchisee or an 12199
employee of a franchisee, unless the franchisor agrees to assume 12200
that role in writing or a court of competent jurisdiction 12201
determines that the franchisor exercises a type or degree of 12202
control over the franchisee or the franchisee's employees that 12203
is not customarily exercised by a franchisor for the purpose of 12204
protecting the franchisor's trademark, brand, or both. For 12205
purposes of this division, "franchisor" and "franchisee" have 12206
the same meanings as in 16 C.F.R. 436.1. 12207

(JJ) "Modified adjusted gross income" means Ohio adjusted 12208
gross income plus any amount deducted under division (A) (31) of 12209
this section for the taxable year. 12210

(KK) "Qualifying Ohio educator" means an individual who, 12211
for a taxable year, qualifies as an eligible educator, as that 12212
term is defined in section 62 of the Internal Revenue Code, and 12213
who holds a certificate, license, or permit described in Chapter 12214

3319. or section 3301.071 of the Revised Code.	12215
Sec. 5751.01. As used in this chapter:	12216
(A) "Person" means, but is not limited to, individuals,	12217
combinations of individuals of any form, receivers, assignees,	12218
trustees in bankruptcy, firms, companies, joint-stock companies,	12219
business trusts, estates, partnerships, limited liability	12220
partnerships, limited liability companies, associations, joint	12221
ventures, clubs, societies, for-profit corporations, S	12222
corporations, qualified subchapter S subsidiaries, qualified	12223
subchapter S trusts, trusts, entities that are disregarded for	12224
federal income tax purposes, and any other entities.	12225
(B) "Consolidated elected taxpayer" means a group of two	12226
or more persons treated as a single taxpayer for purposes of	12227
this chapter as the result of an election made under section	12228
5751.011 of the Revised Code.	12229
(C) "Combined taxpayer" means a group of two or more	12230
persons treated as a single taxpayer for purposes of this	12231
chapter under section 5751.012 of the Revised Code.	12232
(D) "Taxpayer" means any person, or any group of persons	12233
in the case of a consolidated elected taxpayer or combined	12234
taxpayer treated as one taxpayer, required to register or pay	12235
tax under this chapter. "Taxpayer" does not include excluded	12236
persons.	12237
(E) "Excluded person" means any of the following:	12238
(1) Any person with not more than one hundred fifty	12239
thousand dollars of taxable gross receipts during the calendar	12240
year. Division (E) (1) of this section does not apply to a person	12241
that is a member of a consolidated elected taxpayer;	12242

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E) (2) (a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E) (2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section

5726.02 of the Revised Code based on one or more taxable years 12272
that include the entire tax period under this chapter; 12273

(4) A person directly or indirectly owned by one or more 12274
financial institutions, as defined in section 5726.01 of the 12275
Revised Code, that paid the tax imposed by section 5726.02 of 12276
the Revised Code based on one or more taxable years that include 12277
the entire tax period under this chapter. 12278

For the purposes of division (E) (4) of this section, a 12279
person owns another person under the following circumstances: 12280

(a) In the case of corporations issuing capital stock, one 12281
corporation owns another corporation if it owns fifty per cent 12282
or more of the other corporation's capital stock with current 12283
voting rights; 12284

(b) In the case of a limited liability company, one person 12285
owns the company if that person's membership interest, as 12286
defined in section 1705.01 or 1706.01 of the Revised Code as 12287
applicable, is fifty per cent or more of the combined membership 12288
interests of all persons owning such interests in the company; 12289

(c) In the case of a partnership, trust, or other 12290
unincorporated business organization other than a limited 12291
liability company, one person owns the organization if, under 12292
the articles of organization or other instrument governing the 12293
affairs of the organization, that person has a beneficial 12294
interest in the organization's profits, surpluses, losses, or 12295
distributions of fifty per cent or more of the combined 12296
beneficial interests of all persons having such an interest in 12297
the organization. 12298

(5) A domestic insurance company or foreign insurance 12299
company, as defined in section 5725.01 of the Revised Code, that 12300

paid the insurance company premiums tax imposed by section 12301
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 12302
insurance company whose gross premiums are subject to tax under 12303
section 3905.36 of the Revised Code based on one or more 12304
measurement periods that include the entire tax period under 12305
this chapter; 12306

(6) A person that solely facilitates or services one or 12307
more securitizations of phase-in-recovery property pursuant to a 12308
final financing order as those terms are defined in section 12309
4928.23 of the Revised Code. For purposes of this division, 12310
"securitization" means transferring one or more assets to one or 12311
more persons and then issuing securities backed by the right to 12312
receive payment from the asset or assets so transferred. 12313

(7) Except as otherwise provided in this division, a pre- 12314
income tax trust as defined in division (FF) (4) of section 12315
5747.01 of the Revised Code and any pass-through entity of which 12316
such pre-income tax trust owns or controls, directly, 12317
indirectly, or constructively through related interests, more 12318
than five per cent of the ownership or equity interests. If the 12319
pre-income tax trust has made a qualifying pre-income tax trust 12320
election under division (FF) (3) of section 5747.01 of the 12321
Revised Code, then the trust and the pass-through entities of 12322
which it owns or controls, directly, indirectly, or 12323
constructively through related interests, more than five per 12324
cent of the ownership or equity interests, shall not be excluded 12325
persons for purposes of the tax imposed under section 5751.02 of 12326
the Revised Code. 12327

(8) Nonprofit organizations or the state and its agencies, 12328
instrumentalities, or political subdivisions. 12329

(F) Except as otherwise provided in divisions (F) (2), (3), 12330

and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that

affect assets, liabilities, profits, losses, equity, or 12359
investments in foreign operations; (ii) interest rate 12360
fluctuations; or (iii) commodity price fluctuations. As used in 12361
division (F) (2) (c) of this section, "hedging transaction" has 12362
the same meaning as used in section 1221 of the Internal Revenue 12363
Code and also includes transactions accorded hedge accounting 12364
treatment under statement of financial accounting standards 12365
number 133 of the financial accounting standards board. For the 12366
purposes of division (F) (2) (c) of this section, the actual 12367
transfer of title of real or tangible personal property to 12368
another entity is not a hedging transaction. 12369

(d) Proceeds received attributable to the repayment, 12370
maturity, or redemption of the principal of a loan, bond, mutual 12371
fund, certificate of deposit, or marketable instrument; 12372

(e) The principal amount received under a repurchase 12373
agreement or on account of any transaction properly 12374
characterized as a loan to the person; 12375

(f) Contributions received by a trust, plan, or other 12376
arrangement, any of which is described in section 501(a) of the 12377
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 12378
1, Subchapter (D) of the Internal Revenue Code applies; 12379

(g) Compensation, whether current or deferred, and whether 12380
in cash or in kind, received or to be received by an employee, 12381
former employee, or the employee's legal successor for services 12382
rendered to or for an employer, including reimbursements 12383
received by or for an individual for medical or education 12384
expenses, health insurance premiums, or employee expenses, or on 12385
account of a dependent care spending account, legal services 12386
plan, any cafeteria plan described in section 125 of the 12387
Internal Revenue Code, or any similar employee reimbursement; 12388

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	12389 12390 12391
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	12392 12393 12394
(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;	12395 12396 12397 12398 12399 12400 12401
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	12402 12403 12404
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;	12405 12406 12407
(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;	12408 12409 12410 12411 12412 12413 12414 12415 12416 12417

(n) Pension reversions;	12418
(o) Contributions to capital;	12419
(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;	12420 12421 12422 12423 12424
(q) In the case of receipts from the sale of cigarettes, tobacco products, or vapor products by a wholesale dealer, retail dealer, distributor, manufacturer, vapor distributor, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes, tobacco products, or vapor products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;	12425 12426 12427 12428 12429 12430 12431 12432
(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;	12433 12434 12435 12436 12437 12438 12439
(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;	12440 12441 12442 12443 12444 12445 12446

(t) Receipts realized by a new motor vehicle dealer or 12447
used motor vehicle dealer, as defined in section 4517.01 of the 12448
Revised Code, from the sale or other transfer of a motor 12449
vehicle, as defined in that section, to another motor vehicle 12450
dealer for the purpose of resale by the transferee motor vehicle 12451
dealer, but only if the sale or other transfer was based upon 12452
the transferee's need to meet a specific customer's preference 12453
for a motor vehicle; 12454

(u) Receipts from a financial institution described in 12455
division (E) (3) of this section for services provided to the 12456
financial institution in connection with the issuance, 12457
processing, servicing, and management of loans or credit 12458
accounts, if such financial institution and the recipient of 12459
such receipts have at least fifty per cent of their ownership 12460
interests owned or controlled, directly or constructively 12461
through related interests, by common owners; 12462

(v) Receipts realized from administering anti-neoplastic 12463
drugs and other cancer chemotherapy, biologicals, therapeutic 12464
agents, and supportive drugs in a physician's office to patients 12465
with cancer; 12466

(w) Funds received or used by a mortgage broker that is 12467
not a dealer in intangibles, other than fees or other 12468
consideration, pursuant to a table-funding mortgage loan or 12469
warehouse-lending mortgage loan. Terms used in division (F) (2) 12470
(w) of this section have the same meanings as in section 1322.01 12471
of the Revised Code, except "mortgage broker" means a person 12472
assisting a buyer in obtaining a mortgage loan for a fee or 12473
other consideration paid by the buyer or a lender, or a person 12474
engaged in table-funding or warehouse-lending mortgage loans 12475
that are first lien mortgage loans. 12476

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;	12477 12478 12479 12480 12481
(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;	12482 12483 12484 12485 12486
(z) Qualifying distribution center receipts.	12487
(i) For purposes of division (F)(2)(z) of this section:	12488
(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.	12489 12490 12491 12492 12493 12494 12495
(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or	12496 12497 12498 12499 12500 12501 12502 12503 12504 12505

processing. "Refining" is limited to extracting impurities from 12506
gold, silver, platinum, or palladium through smelting or some 12507
other process at a refining facility. 12508

(III) "Qualified distribution center" means a warehouse, a 12509
facility similar to a warehouse, or a refining facility in this 12510
state that, for the qualifying year, is operated by a person 12511
that is not part of a combined taxpayer group and that has a 12512
qualifying certificate. All warehouses or facilities similar to 12513
warehouses that are operated by persons in the same taxpayer 12514
group and that are located within one mile of each other shall 12515
be treated as one qualified distribution center. All refining 12516
facilities that are operated by persons in the same taxpayer 12517
group and that are located in the same or adjacent counties may 12518
be treated as one qualified distribution center. 12519

(IV) "Qualifying year" means the calendar year to which 12520
the qualifying certificate applies. 12521

(V) "Qualifying period" means the period of the first day 12522
of July of the second year preceding the qualifying year through 12523
the thirtieth day of June of the year preceding the qualifying 12524
year. 12525

(VI) "Qualifying certificate" means the certificate issued 12526
by the tax commissioner after the operator of a distribution 12527
center files an annual application with the commissioner. The 12528
application and annual fee shall be filed and paid for each 12529
qualified distribution center on or before the first day of 12530
September before the qualifying year or within forty-five days 12531
after the distribution center opens, whichever is later. 12532

The applicant must substantiate to the commissioner's 12533
satisfaction that, for the qualifying period, all persons 12534

operating the distribution center have more than fifty per cent 12535
of the cost of the qualified property shipped to a location such 12536
that it would be situated outside this state under the provisions 12537
of division (E) of section 5751.033 of the Revised Code. The 12538
applicant must also substantiate that the distribution center 12539
cumulatively had costs from its suppliers equal to or exceeding 12540
five hundred million dollars during the qualifying period. (For 12541
purposes of division (F) (2) (z) (i) (VI) of this section, 12542
"supplier" excludes any person that is part of the consolidated 12543
elected taxpayer group, if applicable, of the operator of the 12544
qualified distribution center.) The commissioner may require the 12545
applicant to have an independent certified public accountant 12546
certify that the calculation of the minimum thresholds required 12547
for a qualified distribution center by the operator of a 12548
distribution center has been made in accordance with generally 12549
accepted accounting principles. The commissioner shall issue or 12550
deny the issuance of a certificate within sixty days after the 12551
receipt of the application. A denial is subject to appeal under 12552
section 5717.02 of the Revised Code. If the operator files a 12553
timely appeal under section 5717.02 of the Revised Code, the 12554
operator shall be granted a qualifying certificate effective for 12555
the remainder of the qualifying year or until the appeal is 12556
finalized, whichever is earlier. If the operator does not 12557
prevail in the appeal, the operator shall pay the ineligible 12558
operator's supplier tax liability. 12559

(VII) "Ohio delivery percentage" means the proportion of 12560
the total property delivered to a destination inside Ohio from 12561
the qualified distribution center during the qualifying period 12562
compared with total deliveries from such distribution center 12563
everywhere during the qualifying period. 12564

(VIII) "Refining facility" means one or more buildings 12565

located in a county in the Appalachian region of this state as 12566
defined by section 107.21 of the Revised Code and utilized for 12567
refining or smelting gold, silver, platinum, or palladium to a 12568
grade and fineness acceptable for delivery to a registered 12569
commodities exchange. 12570

(IX) "Registered commodities exchange" means a board of 12571
trade, such as New York mercantile exchange, inc. or commodity 12572
exchange, inc., designated as a contract market by the commodity 12573
futures trading commission under the "Commodity Exchange Act," 7 12574
U.S.C. 1 et seq., as amended. 12575

(X) "Ineligible operator's supplier tax liability" means 12576
an amount equal to the tax liability of all suppliers of a 12577
distribution center had the distribution center not been issued 12578
a qualifying certificate for the qualifying year. Ineligible 12579
operator's supplier tax liability shall not include interest or 12580
penalties. The tax commissioner shall determine an ineligible 12581
operator's supplier tax liability based on information that the 12582
commissioner may request from the operator of the distribution 12583
center. An operator shall provide a list of all suppliers of the 12584
distribution center and the corresponding costs of qualified 12585
property for the qualifying year at issue within sixty days of a 12586
request by the commissioner under this division. 12587

(ii) (I) If the distribution center is new and was not open 12588
for the entire qualifying period, the operator of the 12589
distribution center may request that the commissioner grant a 12590
qualifying certificate. If the certificate is granted and it is 12591
later determined that more than fifty per cent of the qualified 12592
property during that year was not shipped to a location such 12593
that it would be situated outside of this state under the 12594
provisions of division (E) of section 5751.033 of the Revised 12595

Code or if it is later determined that the person that operates 12596
the distribution center had average monthly costs from its 12597
suppliers of less than forty million dollars during that year, 12598
then the operator of the distribution center shall pay the 12599
ineligible operator's supplier tax liability. (For purposes of 12600
division (F) (2) (z) (ii) of this section, "supplier" excludes any 12601
person that is part of the consolidated elected taxpayer group, 12602
if applicable, of the operator of the qualified distribution 12603
center.) 12604

(II) The commissioner may grant a qualifying certificate 12605
to a distribution center that does not qualify as a qualified 12606
distribution center for an entire qualifying period if the 12607
operator of the distribution center demonstrates that the 12608
business operations of the distribution center have changed or 12609
will change such that the distribution center will qualify as a 12610
qualified distribution center within thirty-six months after the 12611
date the operator first applies for a certificate. If, at the 12612
end of that thirty-six-month period, the business operations of 12613
the distribution center have not changed such that the 12614
distribution center qualifies as a qualified distribution 12615
center, the operator of the distribution center shall pay the 12616
ineligible operator's supplier tax liability for each year that 12617
the distribution center received a certificate but did not 12618
qualify as a qualified distribution center. For each year the 12619
distribution center receives a certificate under division (F) (2) 12620
(z) (ii) (II) of this section, the distribution center shall pay 12621
all applicable fees required under division (F) (2) (z) of this 12622
section and shall submit an updated business plan showing the 12623
progress the distribution center made toward qualifying as a 12624
qualified distribution center during the preceding year. 12625

(III) An operator may appeal a determination under 12626

division (F) (2) (z) (ii) (I) or (II) of this section that the 12627
ineligible operator is liable for the operator's supplier tax 12628
liability as a result of not qualifying as a qualified 12629
distribution center, as provided in section 5717.02 of the 12630
Revised Code. 12631

(iii) When filing an application for a qualifying 12632
certificate under division (F) (2) (z) (i) (VI) of this section, the 12633
operator of a qualified distribution center also shall provide 12634
documentation, as the commissioner requires, for the 12635
commissioner to ascertain the Ohio delivery percentage. The 12636
commissioner, upon issuing the qualifying certificate, also 12637
shall certify the Ohio delivery percentage. The operator of the 12638
qualified distribution center may appeal the commissioner's 12639
certification of the Ohio delivery percentage in the same manner 12640
as an appeal is taken from the denial of a qualifying 12641
certificate under division (F) (2) (z) (i) (VI) of this section. 12642

(iv) (I) In the case where the distribution center is new 12643
and not open for the entire qualifying period, the operator 12644
shall make a good faith estimate of an Ohio delivery percentage 12645
for use by suppliers in their reports of taxable gross receipts 12646
for the remainder of the qualifying period. The operator of the 12647
facility shall disclose to the suppliers that such Ohio delivery 12648
percentage is an estimate and is subject to recalculation. By 12649
the due date of the next application for a qualifying 12650
certificate, the operator shall determine the actual Ohio 12651
delivery percentage for the estimated qualifying period and 12652
proceed as provided in division (F) (2) (z) (iii) of this section 12653
with respect to the calculation and recalculation of the Ohio 12654
delivery percentage. The supplier is required to file, within 12655
sixty days after receiving notice from the operator of the 12656
qualified distribution center, amended reports for the impacted 12657

calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(II) The operator of a distribution center that receives a qualifying certificate under division (F) (2) (z) (ii) (II) of this section shall make a good faith estimate of the Ohio delivery percentage that the operator estimates will apply to the distribution center at the end of the thirty-six-month period after the operator first applied for a qualifying certificate under that division. The result of the estimate shall be multiplied by a factor of one and seventy-five one-hundredths. The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross receipts for each qualifying year that the distribution center receives a qualifying certificate under division (F) (2) (z) (ii) (II) of this section, except that, if the product is less than five per cent, the Ohio delivery percentage used shall be five per cent and that, if the product exceeds forty-nine per cent, the Ohio delivery percentage used shall be forty-nine per cent.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F) (2) (z) of this section. An operator receiving a qualifying certificate is liable for the ineligible operator's supplier tax liability for each year the operator received a certificate but did not qualify as a qualified distribution center.

(vi) The annual fee for a qualifying certificate shall be 12689
one hundred thousand dollars for each qualified distribution 12690
center. If a qualifying certificate is not issued, the annual 12691
fee is subject to refund after the exhaustion of all appeals 12692
provided for in division (F)(2)(z)(i)(VI) of this section. The 12693
first one hundred thousand dollars of the annual application 12694
fees collected each calendar year shall be credited to the 12695
revenue enhancement fund. The remainder of the annual 12696
application fees collected shall be distributed in the same 12697
manner required under section 5751.20 of the Revised Code. 12698

(vii) The tax commissioner may require that adequate 12699
security be posted by the operator of the distribution center on 12700
appeal when the commissioner disagrees that the applicant has 12701
met the minimum thresholds for a qualified distribution center 12702
as set forth in division (F)(2)(z) of this section. 12703

(aa) Receipts of an employer from payroll deductions 12704
relating to the reimbursement of the employer for advancing 12705
moneys to an unrelated third party on an employee's behalf; 12706

(bb) Cash discounts allowed and taken; 12707

(cc) Returns and allowances; 12708

(dd) Bad debts from receipts on the basis of which the tax 12709
imposed by this chapter was paid in a prior quarterly tax 12710
payment period. For the purpose of this division, "bad debts" 12711
means any debts that have become worthless or uncollectible 12712
between the preceding and current quarterly tax payment periods, 12713
have been uncollected for at least six months, and that may be 12714
claimed as a deduction under section 166 of the Internal Revenue 12715
Code and the regulations adopted under that section, or that 12716
could be claimed as such if the taxpayer kept its accounts on 12717

the accrual basis. "Bad debts" does not include repossessed 12718
property, uncollectible amounts on property that remains in the 12719
possession of the taxpayer until the full purchase price is 12720
paid, or expenses in attempting to collect any account 12721
receivable or for any portion of the debt recovered; 12722

(ee) Any amount realized from the sale of an account 12723
receivable to the extent the receipts from the underlying 12724
transaction giving rise to the account receivable were included 12725
in the gross receipts of the taxpayer; 12726

(ff) Any receipts directly attributed to a transfer 12727
agreement or to the enterprise transferred under that agreement 12728
under section 4313.02 of the Revised Code. 12729

(gg) (i) As used in this division: 12730

(I) "Qualified uranium receipts" means receipts from the 12731
sale, exchange, lease, loan, production, processing, or other 12732
disposition of uranium within a uranium enrichment zone 12733
certified by the tax commissioner under division (F) (2) (gg) (ii) 12734
of this section. "Qualified uranium receipts" does not include 12735
any receipts with a situs in this state outside a uranium 12736
enrichment zone certified by the tax commissioner under division 12737
(F) (2) (gg) (ii) of this section. 12738

(II) "Uranium enrichment zone" means all real property 12739
that is part of a uranium enrichment facility licensed by the 12740
United States nuclear regulatory commission and that was or is 12741
owned or controlled by the United States department of energy or 12742
its successor. 12743

(ii) Any person that owns, leases, or operates real or 12744
tangible personal property constituting or located within a 12745
uranium enrichment zone may apply to the tax commissioner to 12746

have the uranium enrichment zone certified for the purpose of 12747
excluding qualified uranium receipts under division (F) (2) (gg) 12748
of this section. The application shall include such information 12749
that the tax commissioner prescribes. Within sixty days after 12750
receiving the application, the tax commissioner shall certify 12751
the zone for that purpose if the commissioner determines that 12752
the property qualifies as a uranium enrichment zone as defined 12753
in division (F) (2) (gg) of this section, or, if the tax 12754
commissioner determines that the property does not qualify, the 12755
commissioner shall deny the application or request additional 12756
information from the applicant. If the tax commissioner denies 12757
an application, the commissioner shall state the reasons for the 12758
denial. The applicant may appeal the denial of an application to 12759
the board of tax appeals pursuant to section 5717.02 of the 12760
Revised Code. If the applicant files a timely appeal, the tax 12761
commissioner shall conditionally certify the applicant's 12762
property. The conditional certification shall expire when all of 12763
the applicant's appeals are exhausted. Until final resolution of 12764
the appeal, the applicant shall retain the applicant's records 12765
in accordance with section 5751.12 of the Revised Code, 12766
notwithstanding any time limit on the preservation of records 12767
under that section. 12768

(hh) In the case of amounts collected by a licensed casino 12769
operator from casino gaming, amounts in excess of the casino 12770
operator's gross casino revenue. In this division, "casino 12771
operator" and "casino gaming" have the meanings defined in 12772
section 3772.01 of the Revised Code, and "gross casino revenue" 12773
has the meaning defined in section 5753.01 of the Revised Code. 12774

(ii) Receipts realized from the sale of agricultural 12775
commodities by an agricultural commodity handler, both as 12776
defined in section 926.01 of the Revised Code, that is licensed 12777

by the director of agriculture to handle agricultural 12778
commodities in this state. 12779

(jj) Qualifying integrated supply chain receipts. 12780

As used in division (F) (2) (jj) of this section: 12781

(i) "Qualifying integrated supply chain receipts" means 12782
receipts of a qualified integrated supply chain vendor from the 12783
sale of qualified property delivered to, or integrated supply 12784
chain services provided to, another qualified integrated supply 12785
chain vendor or to a retailer that is a member of the integrated 12786
supply chain. "Qualifying integrated supply chain receipts" does 12787
not include receipts of a person that is not a qualified 12788
integrated supply chain vendor from the sale of raw materials to 12789
a member of an integrated supply chain, or receipts of a member 12790
of an integrated supply chain from the sale of qualified 12791
property or integrated supply chain services to a person that is 12792
not a member of the integrated supply chain. 12793

(ii) "Qualified property" means any of the following: 12794

(I) Component parts used to hold, contain, package, or 12795
dispense qualified products, excluding equipment; 12796

(II) Work-in-process inventory that will become, comprise, 12797
or form a component part of a qualified product capable of being 12798
sold at retail, excluding equipment, machinery, furniture, and 12799
fixtures; 12800

(III) Finished goods inventory that is a qualified product 12801
capable of being sold at retail in the inventory's present form. 12802

(iii) "Qualified integrated supply chain vendor" means a 12803
person that is a member of an integrated supply chain and that 12804
provides integrated supply chain services within a qualified 12805

integrated supply chain district to a retailer that is a member 12806
of the integrated supply chain or to another qualified 12807
integrated supply chain vendor that is located within the same 12808
such district as the person but does not share a common owner 12809
with that person. 12810

(iv) "Qualified product" means a personal care, health, or 12811
beauty product or an aromatic product, including a candle. 12812
"Qualified product" does not include a drug that may be 12813
dispensed only pursuant to a prescription, durable medical 12814
equipment, mobility enhancing equipment, or a prosthetic device, 12815
as those terms are defined in section 5739.01 of the Revised 12816
Code. 12817

(v) "Integrated supply chain" means two or more qualified 12818
integrated supply chain vendors certified on the most recent 12819
list certified to the tax commissioner under this division that 12820
systematically collaborate and coordinate business operations 12821
with a retailer on the flow of tangible personal property from 12822
material sourcing through manufacturing, assembly, packaging, 12823
and delivery to the retailer to improve long-term financial 12824
performance of each vendor and the supply chain that includes 12825
the retailer. 12826

For the purpose of the certification required under this 12827
division, the reporting person for each retailer, on or before 12828
the first day of October of each year, shall certify to the tax 12829
commissioner a list of the qualified integrated supply chain 12830
vendors providing or receiving integrated supply chain services 12831
within a qualified integrated supply chain district for the 12832
ensuing calendar year. On or before the following first day of 12833
November, the commissioner shall issue a certificate to the 12834
retailer and to each vendor certified to the commissioner on 12835

that list. The certificate shall include the names of the 12836
retailer and of the qualified integrated supply chain vendors. 12837

The retailer shall notify the commissioner of any changes 12838
to the list, including additions to or subtractions from the 12839
list or changes in the name or legal entity of vendors certified 12840
on the list, within sixty days after the date the retailer 12841
becomes aware of the change. Within thirty days after receiving 12842
that notification, the commissioner shall issue a revised 12843
certificate to the retailer and to each vendor certified on the 12844
list. The revised certificate shall include the effective date 12845
of the change. 12846

Each recipient of a certificate issued pursuant to this 12847
division shall maintain a copy of the certificate for four years 12848
from the date the certificate was received. 12849

(vi) "Integrated supply chain services" means procuring 12850
raw materials or manufacturing, processing, refining, 12851
assembling, packaging, or repackaging tangible personal property 12852
that will become finished goods inventory capable of being sold 12853
at retail by a retailer that is a member of an integrated supply 12854
chain. 12855

(vii) "Retailer" means a person primarily engaged in 12856
making retail sales and any member of that person's consolidated 12857
elected taxpayer group or combined taxpayer group, whether or 12858
not that member is primarily engaged in making retail sales. 12859

(viii) "Qualified integrated supply chain district" means 12860
the parcel or parcels of land from which a retailer's integrated 12861
supply chain that existed on September 29, 2015, provides or 12862
receives integrated supply chain services, and to which all of 12863
the following apply: 12864

(I) The parcel or parcels are located wholly in a county 12865
having a population of greater than one hundred sixty-five 12866
thousand but less than one hundred seventy thousand based on the 12867
2010 federal decennial census. 12868

(II) The parcel or parcels are located wholly in the 12869
corporate limits of a municipal corporation with a population 12870
greater than seven thousand five hundred and less than eight 12871
thousand based on the 2010 federal decennial census that is 12872
partly located in the county described in division (F) (2) (jj) 12873
(viii) (I) of this section, as those corporate limits existed on 12874
September 29, 2015. 12875

(III) The aggregate acreage of the parcel or parcels 12876
equals or exceeds one hundred acres. 12877

(kk) In the case of a railroad company described in 12878
division (D) (9) of section 5727.01 of the Revised Code that 12879
purchases dyed diesel fuel directly from a supplier as defined 12880
by section 5736.01 of the Revised Code, an amount equal to the 12881
product of the number of gallons of dyed diesel fuel purchased 12882
directly from such a supplier multiplied by the average 12883
wholesale price for a gallon of diesel fuel as determined under 12884
section 5736.02 of the Revised Code for the period during which 12885
the fuel was purchased multiplied by a fraction, the numerator 12886
of which equals the rate of tax levied by section 5736.02 of the 12887
Revised Code less the rate of tax computed in section 5751.03 of 12888
the Revised Code, and the denominator of which equals the rate 12889
of tax computed in section 5751.03 of the Revised Code. 12890

(ll) Receipts realized by an out-of-state disaster 12891
business from disaster work conducted in this state during a 12892
disaster response period pursuant to a qualifying solicitation 12893
received by the business. Terms used in division (F) (2) (ll) of 12894

this section have the same meanings as in section 5703.94 of the Revised Code. 12895
12896

(mm) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state. 12897
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(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 12900
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(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 12909
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(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code. 12916
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(H) A person has "substantial nexus with this state" if any of the following applies. The person: 12918
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(1) Owns or uses a part or all of its capital in this state; 12920
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(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; 12922
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(3) Has bright-line presence in this state;	12924
(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.	12925 12926 12927
(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:	12928 12929 12930
(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I) (1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.	12931 12932 12933 12934 12935
(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:	12936 12937 12938
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	12939 12940
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	12941 12942 12943
(c) Any amount the person pays for services performed in this state on its behalf by another.	12944 12945
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	12946 12947
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	12948 12949 12950

(5) Is domiciled in this state as an individual or for 12951
corporate, commercial, or other business purposes. 12952

(J) "Tangible personal property" has the same meaning as 12953
in section 5739.01 of the Revised Code. 12954

(K) "Internal Revenue Code" means the Internal Revenue 12955
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 12956
used in this chapter that is not otherwise defined has the same 12957
meaning as when used in a comparable context in the laws of the 12958
United States relating to federal income taxes unless a 12959
different meaning is clearly required. Any reference in this 12960
chapter to the Internal Revenue Code includes other laws of the 12961
United States relating to federal income taxes. 12962

(L) "Calendar quarter" means a three-month period ending 12963
on the thirty-first day of March, the thirtieth day of June, the 12964
thirtieth day of September, or the thirty-first day of December. 12965

(M) "Tax period" means the calendar quarter or calendar 12966
year on the basis of which a taxpayer is required to pay the tax 12967
imposed under this chapter. 12968

(N) "Calendar year taxpayer" means a taxpayer for which 12969
the tax period is a calendar year. 12970

(O) "Calendar quarter taxpayer" means a taxpayer for which 12971
the tax period is a calendar quarter. 12972

(P) "Agent" means a person authorized by another person to 12973
act on its behalf to undertake a transaction for the other, 12974
including any of the following: 12975

(1) A person receiving a fee to sell financial 12976
instruments; 12977

(2) A person retaining only a commission from a 12978

transaction with the other proceeds from the transaction being	12979
remitted to another person;	12980
(3) A person issuing licenses and permits under section	12981
1533.13 of the Revised Code;	12982
(4) A lottery sales agent holding a valid license issued	12983
under section 3770.05 of the Revised Code;	12984
(5) A person acting as an agent of the division of liquor	12985
control under section 4301.17 of the Revised Code.	12986
(Q) "Received" includes amounts accrued under the accrual	12987
method of accounting.	12988
(R) "Reporting person" means a person in a consolidated	12989
elected taxpayer or combined taxpayer group that is designated	12990
by that group to legally bind the group for all filings and tax	12991
liabilities and to receive all legal notices with respect to	12992
matters under this chapter, or, for the purposes of section	12993
5751.04 of the Revised Code, a separate taxpayer that is not a	12994
member of such a group.	12995
Sec. 5751.012. (A) All persons, other than persons	12996
enumerated in divisions (E) (2) to (5) of section 5751.01 of the	12997
Revised Code, having more than fifty per cent of the value of	12998
their ownership interest owned or controlled, directly or	12999
constructively through related interests, by common owners	13000
during all or any portion of the tax period, together with the	13001
common owners, shall be members of a combined taxpayer group if	13002
those persons are not members of a consolidated elected taxpayer	13003
group pursuant to an election under section 5751.011 of the	13004
Revised Code.	13005
(B) A combined taxpayer group shall register, file	13006
returns, and pay taxes under this chapter as a single taxpayer	13007

and shall neither exclude taxable gross receipts between its 13008
members nor from others that are not members. 13009

(C) Any person acquired or formed after the filing of the 13010
registration shall be included in the group if the person meets 13011
the requirements of division (A) of this section, and the group 13012
must notify the commissioner of any additions to the group on a 13013
form prescribed by the commissioner for such purpose. 13014

(D) (1) In the case of one or more persons formed under 13015
Chapter 1706. of the Revised Code or under the laws of any state 13016
or of the United States as a limited liability company and 13017
series thereof, such limited liability company and any series 13018
thereof shall file as a combined taxpayer for the calendar year 13019
if it is determined, by a preponderance of the evidence, that 13020
such series of the limited liability company was created, in 13021
whole or in part, to avoid paying the tax imposed under this 13022
chapter. 13023

(2) A series of a limited liability company shall not be 13024
determined to have been created, in whole or in part, to avoid 13025
paying the tax imposed under this chapter unless, for a limited 13026
liability company or series thereof that would otherwise be 13027
subject to the tax imposed under this chapter, the creation of 13028
the series results in either the reduction of taxable gross 13029
receipts below one hundred fifty thousand dollars or evasion of 13030
the bright-line presence standard under division (I) of section 13031
5751.01 of the Revised Code. 13032

(3) A taxpayer required to file as a combined taxpayer for 13033
a calendar year under division (D) of this section shall file as 13034
a combined taxpayer for all subsequent calendar years unless the 13035
taxpayer requests and receives written permission from the tax 13036
commissioner to file otherwise or unless the taxpayer has 13037

experienced a change in circumstances. 13038

(4) If a limited liability company and the series thereof 13039
register and file as a consolidated elected taxpayer, the group 13040
may not be required to file as a combined taxpayer under 13041
division (D) (1) of this section. 13042

Section 2. That existing sections 111.16, 122.16, 122.173, 13043
135.14, 135.142, 135.35, 150.05, 718.01, 1329.01, 1329.02, 13044
1701.03, 1701.05, 1701.791, 1702.05, 1702.411, 1703.04, 1729.36, 13045
1729.38, 1745.461, 1751.01, 1776.69, 1776.82, 1782.02, 1782.432, 13046
1785.09, 3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 4703.331, 13047
4715.18, 4715.22, 4715.365, 4715.431, 4717.06, 4723.16, 4725.33, 13048
4729.161, 4729.541, 4731.226, 4731.228, 4732.28, 4733.16, 13049
4734.17, 4755.111, 4755.471, 4757.37, 5701.14, 5715.19, 5733.04, 13050
5733.33, 5733.42, 5747.01, 5751.01, and 5751.012 of the Revised 13051
Code are hereby repealed. 13052

Section 3. That sections 1705.01, 1705.02, 1705.03, 13053
1705.031, 1705.04, 1705.05, 1705.06, 1705.07, 1705.08, 1705.081, 13054
1705.09, 1705.10, 1705.11, 1705.12, 1705.13, 1705.14, 1705.15, 13055
1705.16, 1705.161, 1705.17, 1705.18, 1705.19, 1705.20, 1705.21, 13056
1705.22, 1705.23, 1705.24, 1705.25, 1705.26, 1705.27, 1705.28, 13057
1705.281, 1705.282, 1705.29, 1705.291, 1705.292, 1705.30, 13058
1705.31, 1705.32, 1705.33, 1705.34, 1705.35, 1705.36, 1705.361, 13059
1705.37, 1705.371, 1705.38, 1705.381, 1705.39, 1705.391, 13060
1705.40, 1705.41, 1705.42, 1705.43, 1705.44, 1705.45, 1705.46, 13061
1705.47, 1705.48, 1705.49, 1705.50, 1705.51, 1705.52, 1705.53, 13062
1705.54, 1705.55, 1705.56, 1705.57, 1705.58, and 1705.61 of the 13063
Revised Code are hereby repealed. 13064

Section 4. Section 3 of this act shall take effect on 13065
January 1, 2022. 13066

Section 5. The repeal of a statute by this act shall not 13067
affect an action commenced, proceeding brought, or right accrued 13068
prior to January 1, 2022. 13069

Section 6. The General Assembly, applying the principle 13070
stated in division (B) of section 1.52 of the Revised Code that 13071
amendments are to be harmonized if reasonably capable of 13072
simultaneous operation, finds that the following sections, 13073
presented in this act as composites of the sections as amended 13074
by the acts indicated, are the resulting versions of the 13075
sections in effect prior to the effective date of the sections 13076
as presented in this act: 13077

Section 111.16 of the Revised Code as amended by both Sub. 13078
H.B. 31 and Sub. H.B. 133 of the 132nd General Assembly. 13079

Section 135.35 of the Revised Code as amended by Am. Sub. 13080
H.B. 49, Sub. H.B. 251, and S.B. 163, all of the 132 General 13081
Assembly. 13082

Section 3345.203 of the Revised Code as amended by both 13083
Am. Sub. H.B. 384 and Sub. S.B. 3 of the 131st General Assembly. 13084

Section 5751.012 of the Revised Code as amended by both 13085
H.B. 508 and H.B. 510 of the 129th General Assembly. 13086

Section 7. That sections 127.16, 169.01, 169.03, 169.08, 13087
169.13, and 4735.24 be amended and section 169.052 of the 13088
Revised Code be enacted to read as follows: 13089

Sec. 127.16. (A) Upon the request of either a state agency 13090
or the director of budget and management and after the 13091
controlling board determines that an emergency or a sufficient 13092
economic reason exists, the controlling board may approve the 13093
making of a purchase without competitive selection as provided 13094
in division (B) of this section. 13095

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under the medicaid program;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the opportunities for

Ohioans with disabilities agency of services, or supplies, that	13154
are provided to persons with disabilities, or to purchases made	13155
by the agency in connection with the eligibility determinations	13156
it makes for applicants of programs administered by the social	13157
security administration;	13158
(9) Applying to payments by the department of medicaid	13159
under section 5164.85 of the Revised Code for group health plan	13160
premiums, deductibles, coinsurance, and other cost-sharing	13161
expenses;	13162
(10) Applying to any agency of the legislative branch of	13163
the state government;	13164
(11) Applying to agreements or contracts entered into	13165
under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214	13166
of the Revised Code;	13167
(12) Applying to purchases of services by the adult parole	13168
authority under section 2967.14 of the Revised Code or by the	13169
department of youth services under section 5139.08 of the	13170
Revised Code;	13171
(13) Applying to dues or fees paid for membership in an	13172
organization or association;	13173
(14) Applying to purchases of utility services pursuant to	13174
section 9.30 of the Revised Code;	13175
(15) Applying to purchases made in accordance with rules	13176
adopted by the department of administrative services of motor	13177
vehicle, aviation, or watercraft fuel, or emergency repairs of	13178
such vehicles;	13179
(16) Applying to purchases of tickets for passenger air	13180
transportation;	13181

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	13182 13183 13184
(18) Applying to the judicial branch of state government;	13185
(19) Applying to purchases of liquor for resale by the division of liquor control;	13186 13187
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	13188 13189 13190
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	13191 13192 13193 13194
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	13195 13196 13197
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education or the Ohio history connection;	13198 13199 13200
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	13201 13202 13203 13204
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;	13205 13206 13207
(26) Applying to payments by the department of job and family services to the United States department of health and	13208 13209

human services for printing and mailing notices pertaining to 13210
the tax refund offset program of the internal revenue service of 13211
the United States department of the treasury; 13212

(27) Applying to contracts entered into by the department 13213
of developmental disabilities under section 5123.18 of the 13214
Revised Code; 13215

(28) Applying to payments made by the department of mental 13216
health and addiction services under a physician recruitment 13217
program authorized by section 5119.185 of the Revised Code; 13218

(29) Applying to contracts entered into with persons by 13219
the director of commerce for unclaimed funds collection and 13220
remittance efforts as provided in division ~~(F)~~ (G) of section 13221
169.03 of the Revised Code. The director shall keep an itemized 13222
accounting of unclaimed funds collected by those persons and 13223
amounts paid to them for their services. 13224

(30) Applying to purchases made by a state institution of 13225
higher education in accordance with the terms of a contract 13226
between the vendor and an inter-university purchasing group 13227
comprised of purchasing officers of state institutions of higher 13228
education; 13229

(31) Applying to the department of medicaid's purchases of 13230
health assistance services under the children's health insurance 13231
program; 13232

(32) Applying to payments by the attorney general from the 13233
reparations fund to hospitals and other emergency medical 13234
facilities for performing medical examinations to collect 13235
physical evidence pursuant to section 2907.28 of the Revised 13236
Code; 13237

(33) Applying to contracts with a contracting authority or 13238

administrative receiver under division (B) of section 5126.056	13239
of the Revised Code;	13240
(34) Applying to purchases of goods and services by the	13241
department of veterans services in accordance with the terms of	13242
contracts entered into by the United States department of	13243
veterans affairs;	13244
(35) Applying to payments by the superintendent of the	13245
bureau of criminal identification and investigation to the	13246
federal bureau of investigation for criminal records checks	13247
pursuant to section 109.572 of the Revised Code;	13248
(36) Applying to contracts entered into by the department	13249
of medicaid under section 5164.47 of the Revised Code;	13250
(37) Applying to contracts entered into under section	13251
5160.12 of the Revised Code;	13252
(38) Applying to payments to the Ohio history connection	13253
from other state agencies.	13254
(E) When determining whether a state agency has reached	13255
the cumulative purchase thresholds established in divisions (B)	13256
(1) and (2) of this section, all of the following purchases by	13257
such agency shall not be considered:	13258
(1) Purchases made through competitive selection or with	13259
controlling board approval;	13260
(2) Purchases listed in division (D) of this section;	13261
(3) For the purposes of the threshold of division (B) (1)	13262
of this section only, leases of real estate.	13263
(F) As used in this section, "competitive selection,"	13264
"purchase," "supplies," and "services" have the same meanings as	13265

in section 125.01 of the Revised Code.	13266
Sec. 169.01. As used in this chapter, unless the context otherwise requires:	13267 13268
(A) "Financial organization" means any bank, trust company, savings bank, safe deposit company, mutual savings bank without mutual stock, savings and loan association, credit union, or investment company.	13269 13270 13271 13272
(B) (1) "Unclaimed funds" means any moneys, rights to moneys, or intangible property, described in section 169.02 of the Revised Code, when, as shown by the records of the holder, the owner has not, within the times provided in section 169.02 of the Revised Code, done any of the following:	13273 13274 13275 13276 13277
(a) Increased, decreased, or adjusted the amount of such funds;	13278 13279
(b) Assigned, paid premiums, or encumbered such funds;	13280
(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;	13281 13282 13283
(d) Corresponded with the holder concerning such funds;	13284
(e) Otherwise indicated an interest in or knowledge of such funds;	13285 13286
(f) Transacted business with the holder.	13287
(2) "Unclaimed funds" does not include any of the following:	13288 13289
(a) Money received or collected under section 9.39 of the Revised Code;	13290 13291
(b) Any payment or credit due to a business association	13292

from a business association representing sums payable to 13293
suppliers, or payment for services rendered, in the course of 13294
business, including, but not limited to, checks or memoranda, 13295
overpayments, unidentified remittances, nonrefunded overcharges, 13296
discounts, refunds, and rebates; 13297

(c) Any payment or credit received by a business 13298
association from a business association for tangible goods sold, 13299
or services performed, in the course of business, including, but 13300
not limited to, checks or memoranda, overpayments, unidentified 13301
remittances, nonrefunded overcharges, discounts, refunds, and 13302
rebates; 13303

(d) Either of the following: 13304

(i) Any credit or obligation due a retail customer that is 13305
represented by a gift certificate, gift card, merchandise 13306
credit, or merchandise credit card, redeemable only for goods or 13307
services, including gift cards issued by financial organizations 13308
or business associations; 13309

(ii) Any electronic payment device that is issued by a 13310
financial organization or a business association that has no 13311
expiration date and meets all of the following conditions: 13312

(I) It is purchased or loaded on a prepaid basis for the 13313
future purchase or delivery of goods or services. 13314

(II) It is redeemable upon presentation to a single 13315
merchant or service provider or an affiliated group of merchants 13316
or service providers. 13317

(III) It is not redeemable for cash in whole or in part. 13318

(e) Any open-loop prepaid card that is issued by a 13319
financial organization or a business association for which the 13320

underlying funds do not expire. For purposes of division (B) (2) 13321
(e) of this section, "open-loop prepaid card" means an 13322
electronic payment device that meets all of the following 13323
conditions: 13324

(i) It is purchased or loaded on a prepaid basis for the 13325
future purchase or delivery of any goods or services. 13326

(ii) It can be used to purchase goods and services at 13327
multiple unaffiliated merchants or service providers. 13328

(iii) It is not redeemable for cash in whole or in part. 13329

(f) Any rewards card. For purposes of division (B) (2) (f) 13330
of this section, "rewards card" includes any loyalty, incentive, 13331
or promotional type program that is issued by a financial 13332
organization or a business association whether represented by a 13333
card or electronic record, which program is established for the 13334
purposes of providing cardholder awards, rewards, rebates, or 13335
other amounts to reward the cardholder for the cardholder's 13336
relationship with the entity sponsoring the rewards card, 13337
provided that no direct money was paid by the cardholder for the 13338
rewards card. "Rewards card" includes both of the following: 13339

(i) Cards or electronic records consisting of points, 13340
cash, or other tokens of value given to a cardholder as a reward 13341
or incentive for engaging in a transaction or a series of 13342
transactions; 13343

(ii) The unpaid portion of a rewards card when the rewards 13344
card is partially loaded by the cardholder with the remaining 13345
portion funded as a reward or incentive. 13346

A minimal annual fee charged to the cardholder for joining 13347
any such loyalty, incentive, or promotional type program shall 13348
not be considered direct money paid by the cardholder for the 13349

rewards card. For purposes of division (B) (2) (f) of this 13350
section, "cardholder" means the holder of a rewards card, 13351
regardless of whether the rewards card is represented by a card 13352
or by an electronic record. 13353

For purposes of division (B) (2) of this section, "business 13354
association" means any corporation, joint venture, business 13355
trust, limited liability company, partnership, association, or 13356
other business entity composed of one or more individuals, 13357
whether or not the entity is for profit. 13358

(C) "Owner" means any person, or the person's legal 13359
representative, entitled to receive or having a legal or 13360
equitable interest in or claim against moneys, rights to moneys, 13361
or other intangible property, subject to this chapter. 13362

(D) (1) "Holder" means any person that has possession, 13363
custody, or control of moneys, rights to moneys, or other 13364
intangible property, or that is indebted to another, if any of 13365
the following applies: 13366

(a) Such person resides in this state; 13367

(b) Such person is formed under the laws of this state; 13368

(c) Such person is formed under the laws of the United 13369
States and has an office or principal place of business in this 13370
state; 13371

(d) The records of such person indicate that the last 13372
known address of the owner of such moneys, rights to moneys, or 13373
other intangible property is in this state; 13374

(e) The records of such person do not indicate the last 13375
known address of the owner of the moneys, rights to moneys, or 13376
other intangible property and the entity originating or issuing 13377

the moneys, rights to moneys, or other intangible property in 13378
this state or any political subdivision of this state, or is 13379
incorporated, organized, created, or otherwise located in this 13380
state. Division (D) (1) (e) of this section applies to all moneys, 13381
rights to moneys, or other intangible property that is in the 13382
possession, custody, or control of such person on or after July 13383
22, 1994, whether the moneys, rights to moneys, or other 13384
intangible property becomes unclaimed funds prior to or on or 13385
after that date. 13386

(2) "Holder" does not mean any hospital granted tax-exempt 13387
status under section 501(c) (3) of the Internal Revenue Code or 13388
any hospital owned or operated by the state or by any political 13389
subdivision. Any entity in order to be exempt from the 13390
definition of "holder" pursuant to this division shall make a 13391
reasonable, good-faith effort to contact the owner of the 13392
unclaimed funds. 13393

(E) "Person" includes a natural person; corporation, 13394
whether for profit or not for profit; copartnership; 13395
unincorporated nonprofit association; public authority; estate; 13396
trust; two or more persons having a joint or common interest; 13397
eleemosynary organization; fraternal or cooperative association; 13398
other legal or community entity; the United States government, 13399
including any district, territory, possession, officer, agency, 13400
department, authority, instrumentality, board, bureau, or court; 13401
or any state or political subdivision thereof, including any 13402
officer, agency, board, bureau, commission, division, 13403
department, authority, court, or instrumentality. 13404

(F) "Mortgage funds" means the mortgage insurance fund 13405
created by section 122.561 of the Revised Code, and the housing 13406
guarantee fund created by division (D) of section 128.11 of the 13407

Revised Code.	13408
(G) "Lawful claims" means any vested right a holder of unclaimed funds has against the owner of such unclaimed funds.	13409 13410
(H) "Public utility" means any entity defined as such by division (A) of section 745.01 or by section 4905.02 of the Revised Code.	13411 13412 13413
(I) "Deposit" means to place money in the custody of a financial organization for the purpose of establishing an income-bearing account by purchase or otherwise.	13414 13415 13416
(J) "Income-bearing account" means a time or savings account, whether or not evidenced by a certificate of deposit, or an investment account through which investments are made solely in obligations of the United States or its agencies or instrumentalities or guaranteed as to principal and interest by the United States or its agencies or instrumentalities, debt securities rated as investment grade by at least two nationally recognized rating services, debt securities which the director of commerce has determined to have been issued for the safety and welfare of the residents of this state, and equity interests in mutual funds that invest solely in some or all of the above-listed securities and involve no general liability, without regard to whether income earned on such accounts, securities, or interests is paid periodically or at the end of a term.	13417 13418 13419 13420 13421 13422 13423 13424 13425 13426 13427 13428 13429 13430
(K) "Director of commerce" may be read as the "division of unclaimed funds" or the "superintendent of unclaimed funds."	13431 13432
<u>(L) "Attorney unclaimed funds" means any unclaimed funds, as defined in division (B) (1) of this section, that are any of the following:</u>	13433 13434 13435
<u>(1) Funds held in interest on lawyer trust accounts</u>	13436

<u>pursuant to section 4705.09 of the Revised Code;</u>	13437
<u>(2) Funds held in an interest on trust accounts pursuant</u>	13438
<u>to section 3953.231 of the Revised Code;</u>	13439
<u>(3) Residual settlement funds whether for named or unnamed</u>	13440
<u>plaintiffs, received by the division of unclaimed funds, and</u>	13441
<u>held, paid out, or allocated by the division pursuant to or</u>	13442
<u>consistent with the terms and conditions of the court order</u>	13443
<u>authorizing the settlement fund.</u>	13444
Sec. 169.03. (A) (1) Every holder of unclaimed funds and,	13445
when requested, every person that could be the holder of	13446
unclaimed funds, under this chapter shall report to the director	13447
of commerce with respect to the unclaimed funds as provided in	13448
this section. The report shall be verified.	13449
(2) With respect to items of unclaimed funds each having a	13450
value of fifty dollars or more, the report required under	13451
division (A) (1) of this section shall include the following:	13452
(a) The full name, if known, and last known address, if	13453
any, of each person appearing from the records of the holder to	13454
be the owner of unclaimed funds under this chapter;	13455
(b) In the case of unclaimed funds reported by holders	13456
providing life insurance coverage, the full name of the insured	13457
or annuitant and beneficiary, if any, and their last known	13458
addresses according to the holder's records;	13459
(c) The nature and identifying number, if any, or	13460
description of the funds and the amount appearing from the	13461
records to be due;	13462
(d) The date when the funds became payable, demandable, or	13463
returnable and the date of the last transaction with the owner	13464

with respect to the funds; 13465

(e) Subject to division ~~(I)~~ (J) of this section, the 13466
social security number of the owner of the unclaimed funds, if 13467
it is available; 13468

(f) If the item of unclaimed funds has a value of one 13469
thousand dollars or more and the holder has verified that the 13470
last known address as shown by the records of the holder is not 13471
accurate as provided in division ~~(D)~~ (E) of this section, a 13472
statement that efforts were undertaken by the holder to verify 13473
that the address is not accurate. Any verifying documentation 13474
shall be maintained by the holder for five years from the date 13475
of the report and shall be available upon request to the 13476
director or the director's designee. 13477

(g) Other information that the director prescribes as 13478
necessary for the administration of this chapter. 13479

(3) With respect to items of unclaimed funds each having a 13480
value of less than fifty dollars, the report required under 13481
division (A) (1) of this section shall include the following: 13482

(a) Each category of items of unclaimed funds as described 13483
in section 169.02 of the Revised Code; 13484

(b) The number of items of unclaimed funds within each 13485
category; 13486

(c) The aggregated value of the items of unclaimed funds 13487
within each category. 13488

(B) If the holder of unclaimed funds is holding attorney 13489
unclaimed funds or residual settlement funds, the holder shall 13490
transmit, upon the division's request, a duplicate copy of the 13491
report required by division (A) of this section to the Ohio 13492

access to justice foundation, established pursuant to section 13493
120.521 of the Revised Code. 13494

(C) If the holder of unclaimed funds is a successor to 13495
other organizations that previously held the funds for the 13496
owner, or if the holder has changed its name while holding the 13497
funds, it shall file with the report all prior known names and 13498
addresses and date and state of incorporation or formation of 13499
each holder of the funds. 13500

~~(C)~~ (D) The report shall be filed before the first day of 13501
November of each year as of the preceding thirtieth day of June, 13502
but the report of holders providing life insurance coverage 13503
shall be filed before the first day of May of each year as of 13504
the preceding thirty-first day of December. The director may 13505
postpone, for good cause shown, the reporting date upon written 13506
request by any holder required to file a report. 13507

~~(D)~~ (E) The holder of unclaimed funds under this chapter 13508
shall send notice to each owner of each item of unclaimed funds 13509
having a value of fifty dollars or more at the last known 13510
address of the owner as shown by the records of the holder 13511
before filing the annual report. In case of holders providing 13512
life insurance coverage, this notice shall also be mailed to 13513
each beneficiary at the last known address of the beneficiary as 13514
shown by the records of the holder, except that the notice to 13515
beneficiaries shall not be mailed if that address is the same as 13516
that of the insured and the surname of the beneficiary is the 13517
same as that of the insured. The holder shall not report an item 13518
of unclaimed funds earlier than the thirtieth day after the 13519
mailing of notice required by this division. 13520

The notice required by this division shall set forth the 13521
nature and identifying number, if any, or description of the 13522

funds and the amount appearing on the records of the holder to 13523
be due the owner or beneficiary, and shall inform the owner or 13524
beneficiary that the funds will, thirty days after the mailing 13525
of the notice, be reported as unclaimed funds under this 13526
chapter. A self-addressed, stamped envelope shall be included 13527
with the notice, with instructions that the owner or beneficiary 13528
may use the envelope to inform the holder of the owner's or 13529
beneficiary's continued interest in the funds, and, if so 13530
informed before the date for making the report to the director, 13531
the holder shall not report the funds to the director. The 13532
notice shall be mailed by first class mail if the item of 13533
unclaimed funds has a value of fifty dollars or more but less 13534
than one thousand dollars and by certified mail, return receipt 13535
requested, if the item of unclaimed funds has a value of one 13536
thousand dollars or more, unless the holder has verified that 13537
the last known address of the owner or beneficiary as shown by 13538
the records of the holder is not accurate. For purposes of this 13539
section, a holder has verified that the last known address of 13540
the owner or beneficiary is not accurate by documenting at least 13541
two of the following: 13542

(1) The owner or beneficiary failed to respond to a first 13543
class mail notice sent to the last known address of the owner or 13544
beneficiary. 13545

(2) A first class mail notice sent by the holder to the 13546
last known address of the owner or beneficiary was returned as 13547
undeliverable. 13548

(3) An electronic or manual search of available public 13549
records failed to confirm that the last known address of the 13550
owner or beneficiary is accurate. The holder shall maintain 13551
documentation of its search efforts. If a search of public 13552

records or databases identifies a more recent address for the 13553
owner or beneficiary than the address in the holder's records, 13554
the holder shall send notice to the owner or beneficiary at that 13555
more recent address in accordance with this section. 13556

A holder that sends a notice by certified mail, return 13557
receipt requested, may charge the item of unclaimed funds up to 13558
twenty dollars for providing that notice. 13559

If there is no address of record for the owner or 13560
beneficiary, the holder is relieved of any responsibility of 13561
sending notice, attempting to notify, or notifying the owner or 13562
beneficiary. The mailing of notice pursuant to this section 13563
shall discharge the holder from any further responsibility to 13564
give notice. 13565

~~(E)~~ (F) Verification of the report and of the mailing of 13566
notice, where required, shall be executed by an officer of the 13567
reporting holder. 13568

~~(F) (1)~~ (G) (1) The director may, at reasonable times and 13569
upon reasonable notice, examine or cause to be examined, by 13570
auditors of supervisory departments or divisions of the state, 13571
the records of any holder to determine compliance with this 13572
chapter. 13573

(2) Holders shall retain records, designated by the 13574
director as applicable to unclaimed funds, for five years beyond 13575
the relevant time period provided in section 169.02 of the 13576
Revised Code, or until completion of an audit conducted pursuant 13577
to division ~~(F)~~ (G) of this section, whichever occurs first. An 13578
audit conducted pursuant to division ~~(F)~~ (G) of this section 13579
shall not require a holder to make records available for a 13580
period of time exceeding the records retention period set forth 13581

in division ~~(F)~~(G) of this section, except for records 13582
pertaining to instruments evidencing ownership, or rights to 13583
them or funds paid toward the purchase of them, or any dividend, 13584
capital credit, profit, distribution, interest, or payment on 13585
principal or other sum, held or owed by a holder, including 13586
funds deposited with a fiscal agent or fiduciary for payment of 13587
them, or pertaining to debt of a publicly traded corporation. 13588
Any holder that is audited pursuant to division ~~(F)~~(G) of this 13589
section shall only be required to make available those records 13590
that are relevant to an unclaimed funds audit of that holder as 13591
prescribed by the director. 13592

(3) The director may enter into contracts, pursuant to 13593
procedures prescribed by the director, with persons for the sole 13594
purpose of examining the records of holders, determining 13595
compliance with this chapter, and collecting, taking possession 13596
of, and remitting to the department's division of unclaimed 13597
funds, in a timely manner, the amounts found and defined as 13598
unclaimed. The director shall not enter into such a contract 13599
with a person unless the person does all of the following: 13600

(a) Agrees to maintain the confidentiality of the records 13601
examined, as required under division ~~(F)(4)~~(G)(4) of this 13602
section; 13603

(b) Agrees to conduct the audit in accordance with rules 13604
adopted under section 169.09 of the Revised Code; 13605

(c) Obtains a corporate surety bond issued by a bonding 13606
company or insurance company authorized to do business in this 13607
state. The bond shall be in favor of the director and in the 13608
penal sum determined by the director. The bond shall be for the 13609
benefit of any holder of unclaimed funds that is audited by the 13610
principal and is injured by the principal's failure to comply 13611

with division ~~(F)(3)(a)~~ (G)(3)(a) or (b) of this section. 13612

(4) Records audited pursuant to division ~~(F)~~ (G) of this 13613
section are confidential, and shall not be disclosed except as 13614
required by section 169.06 of the Revised Code or as the 13615
director considers necessary in the proper administration of 13616
this chapter. 13617

(5) If a person with whom the director has entered into a 13618
contract pursuant to division ~~(F)(3)~~ (G)(3) of this section 13619
intends to conduct, in conjunction with an unclaimed funds audit 13620
under this section, an unclaimed funds audit for the purpose of 13621
administering another state's unclaimed or abandoned property 13622
laws, the person, prior to commencing the audit, shall provide 13623
written notice to the director of the person's intent to conduct 13624
such an audit, along with documentation evidencing the person's 13625
express authorization from the other state to conduct the audit 13626
on behalf of that state. 13627

(6) Prior to the commencement of an audit conducted 13628
pursuant to division ~~(F)~~ (G) of this section, the director shall 13629
notify the holder of unclaimed funds of the director's intent to 13630
audit the holder's records. If the audit will be conducted in 13631
conjunction with an audit for one or more other states, the 13632
director shall provide the holder with the name or names of 13633
those states. 13634

(7) Any holder of unclaimed funds may appeal the findings 13635
of an audit conducted pursuant to division ~~(F)~~ (G) of this 13636
section to the director. Pursuant to the authority granted by 13637
section 169.09 of the Revised Code, the director shall adopt 13638
rules establishing procedures for considering such an appeal. 13639

~~(G)~~ (H) All holders shall make sufficient investigation of 13640

their records to ensure that the funds reported to the director 13641
are unclaimed as set forth in division (B) of section 169.01 and 13642
section 169.02 of the Revised Code. 13643

~~(H)~~ (I) The expiration of any period of limitations on or 13644
after March 1, 1968, within which a person entitled to any 13645
moneys, rights to moneys, or intangible property could have 13646
commenced an action or proceeding to obtain these items shall 13647
not prevent these items from becoming unclaimed funds or relieve 13648
the holder of them of any duty to report and give notice as 13649
provided in this section and deliver them in the manner provided 13650
in section 169.05 of the Revised Code, provided that the holder 13651
may comply with this section and section 169.05 of the Revised 13652
Code with respect to any moneys, rights to moneys, or intangible 13653
property as to which the applicable statute of limitations has 13654
run prior to March 1, 1968, and in that event the holder shall 13655
be entitled to the protective provisions of section 169.07 of 13656
the Revised Code. 13657

~~(I)~~ (J) No social security number contained in a report 13658
made pursuant to this section shall be used by the department of 13659
commerce for any purpose other than to enable the division of 13660
unclaimed funds to carry out the purposes of this chapter and 13661
for child support purposes in response to a request made by the 13662
office of child support in the department of job and family 13663
services made pursuant to section 3123.88 of the Revised Code. 13664

Sec. 169.052. (A) Every holder of attorney unclaimed funds 13665
shall, at the time of filing, remit to the director of commerce 13666
one hundred per cent of the aggregate amount of unclaimed funds 13667
as shown on the report. The funds may be claimed by the director 13668
of the Ohio access to justice foundation, created pursuant to 13669
section 120.521 of the Revised Code. Interest shall accrue on 13670

attorney unclaimed funds in accordance with division (D) of 13671
section 169.08 of the Revised Code while held by the Ohio access 13672
to justice foundation and shall be credited to attorney 13673
unclaimed funds. 13674

(B) The director of commerce or the director's designee 13675
shall serve on the board of directors of the Ohio access to 13676
justice foundation which holds attorney unclaimed funds. 13677

(C) Funds recovered by the Ohio access to justice 13678
foundation are subject to call at the discretion of the director 13679
of commerce to be returned to the department of commerce. Funds 13680
recovered by the Ohio access to justice foundation shall be used 13681
to provide financial assistance to legal aid societies, to 13682
enhance or improve access to justice, or to operate the 13683
foundation. 13684

(D) Attorney unclaimed funds held by the Ohio access to 13685
justice foundation may be assessed the actual, reasonable cost 13686
the department of commerce incurs for administering attorney 13687
unclaimed funds as described in division (B) of section 169.03 13688
of the Revised Code, this section, and section 169.08 of the 13689
Revised Code. 13690

Sec. 169.08. (A) The director shall pay to the owner or 13691
other person who has established the right to payment under this 13692
section, funds from the unclaimed funds trust fund in an amount 13693
equal to the amount of property delivered or reported to the 13694
director, or equal to the net proceeds if the securities or 13695
other property have been sold, together with interest earned by 13696
the state if required to be paid under division (D) of this 13697
section. Any person claiming a property interest in unclaimed 13698
funds delivered or reported to the state under Chapter 169. of 13699
the Revised Code, including the office of child support in the 13700

department of job and family services, pursuant to section 13701
3123.88 of the Revised Code, may file a claim thereto on the 13702
form prescribed by the director of commerce. 13703

(B) The director shall consider matters relevant to any 13704
claim filed under division (A) of this section and shall hold a 13705
formal hearing if requested or considered necessary and receive 13706
evidence concerning such claim. A finding and decision in 13707
writing on each claim filed shall be prepared, stating the 13708
substance of any evidence received or heard and the reasons for 13709
allowance or disallowance of the claim. The evidence and 13710
decision shall be a public record. No statute of limitations 13711
shall bar the allowance of a claim. 13712

(C) For the purpose of conducting any hearing, the 13713
director may require the attendance of such witnesses and the 13714
production of such books, records, and papers as the director 13715
desires, and the director may take the depositions of witnesses 13716
residing within or without this state in the same manner as is 13717
prescribed by law for the taking of depositions in civil actions 13718
in the court of common pleas, and for that purpose the director 13719
may issue a subpoena for any witness or a subpoena duces tecum 13720
to compel the production of any books, records, or papers, 13721
directed to the sheriff of the county where such witness resides 13722
or is found, which shall be served and returned. The fees of the 13723
sheriff shall be the same as that allowed in the court of common 13724
pleas in criminal cases. Witnesses shall be paid the fees and 13725
mileage provided for under section 119.094 of the Revised Code. 13726
Fees and mileage shall be paid from the unclaimed funds trust 13727
fund. 13728

(D) Interest earned by the state shall be payable to 13729
claimants of unclaimed funds held by the state in accordance 13730

with final court orders derived from the *Sogg v. Zurz*, 121 Ohio
St.3d 449 (2009), line of cases and final settlement agreement
determining payment of interest on unclaimed funds. For
properties received by the state on or before July 26, 1991,
interest shall be paid at a rate of six per cent per annum from
the date the state received the property up to and including
July 26, 1991. No interest shall be payable on any properties
for the period from July 27, 1991, up to and including August 2,
2000. For properties held by the state on August 3, 2000, or
after, interest shall be paid at the applicable required rate
per annum for the period held from August 3, 2000, or the date
of receipt, whichever is later, up to and including the date the
claim is paid.

(E) Claims shall be paid from the trust fund. If the
amount available in the trust fund is not sufficient to pay
pending claims, or other amounts disburseable from the trust
fund, the treasurer of state shall certify such fact to the
director, who shall then withdraw such amount of funds from the
mortgage accounts as the director determines necessary to
reestablish the trust fund to a level required to pay
anticipated claims but not more than ten per cent of the net
unclaimed funds reported to date.

The director may withdraw the funds paid to the director
by the holders and deposited by the director with the treasurer
of state or in a financial institution as agent for such funds.
Whenever these funds are inadequate to meet the requirements for
the trust fund, the director shall provide for a withdrawal of
funds, within a reasonable time, in such amount as is necessary
to meet the requirements, from financial institutions in which
such funds were retained or placed by a holder and from other
holders who have retained funds, in an equitable manner as

prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(F) (1) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(2) If a claim that is allowed under this section relates to attorney unclaimed funds that have been recovered by the Ohio access to justice foundation, pursuant to division (A) of section 169.052 of the Revised Code and division (A) of this section, the director shall notify the Ohio access to justice foundation in writing of the payment of the claim and the Ohio access to justice foundation shall immediately reimburse the unclaimed funds trust fund in the amount of such claim inclusive of interest as required by division (D) of this section. The reimbursement shall be credited to the unclaimed funds trust fund.

(G) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised

Code. 13792

In the event the claimant prevails, the claimant shall be 13793
reimbursed for reasonable attorney's fees and costs. 13794

(H) Notwithstanding anything to the contrary in this 13795
chapter, any holder who has paid moneys to or entered into an 13796
agreement with the director pursuant to section 169.05 of the 13797
Revised Code on certified checks, cashiers' checks, bills of 13798
exchange, letters of credit, drafts, money orders, or travelers' 13799
checks, may make payment to any person entitled thereto, 13800
including the office of child support, and upon surrender of the 13801
document, except in the case of travelers' checks, and proof of 13802
such payment, the director shall reimburse the holder for such 13803
payment without interest. 13804

Sec. 169.13. (A) (1) All agreements to pay a fee, 13805
compensation, commission, or other remuneration to locate, 13806
deliver, recover, or assist in the recovery of unclaimed funds 13807
reported under section 169.03 of the Revised Code, entered into 13808
within two years immediately after the date a report is filed 13809
under division ~~(C)~~(D) of section 169.03 of the Revised Code, 13810
are invalid. 13811

(2) A person interested in entering into an agreement to 13812
locate, deliver, recover, or assist in the recovery of unclaimed 13813
funds for remuneration shall not initiate any contact with an 13814
owner during the two-year period immediately after the date a 13815
report is filed under division ~~(C)~~(D) of section 169.03 of the 13816
Revised Code. Failure to comply with this requirement is grounds 13817
for the invalidation of any such agreement between the person 13818
and the owner. 13819

(B) An agreement entered into any time after such two-year 13820

period is valid only if all of the following conditions are met: 13821

(1) The aggregate fee, compensation, commission, or other 13822
remuneration agreed upon is not in excess of ten per cent of the 13823
amount recovered and paid to the owner by the director of budget 13824
and management; 13825

(2) The agreement is in writing, signed by the owner, and 13826
notarized and discloses all of the following items: 13827

(a) The name, address, and telephone number of the owner, 13828
as shown by the records of the person or entity in possession of 13829
the unclaimed funds or contents of a safe deposit box; 13830

(b) The name, address, and telephone number of the owner 13831
if the owner's name, address, or telephone number are different 13832
from the name, address, or telephone number of the owner as 13833
shown by the records of the person or entity in possession of 13834
the unclaimed funds or contents of a safe deposit box; 13835

(c) The nature and value of the unclaimed funds or 13836
contents of a safe deposit box; 13837

(d) The amount the owner will receive after the fee or 13838
compensation has been subtracted; 13839

(e) The name and address of the person or entity in 13840
possession of the unclaimed funds or contents of a safe deposit 13841
box; 13842

(f) That the ~~auditor of state~~ director of budget and 13843
management will pay the unclaimed funds directly to the owner or 13844
the director of commerce shall deliver the contents of a safe 13845
deposit box directly to the owner; 13846

(g) That the person agreeing to locate, deliver, recover, 13847
or assist in the recovery of the unclaimed funds or contents of 13848

a safe deposit box is not an employee or agent of the director
of commerce; 13849
13850

(h) That the director of commerce is not a party to the
agreement; 13851
13852

(i) That the person agreeing to locate, deliver, recover,
or assist in the recovery of the unclaimed funds or contents of
a safe deposit box holds a valid certificate of registration
issued by the director under section 169.16 of the Revised Code; 13853
13854
13855
13856

(j) The number designated on that certificate of
registration and the date the certificate of registration
expires. 13857
13858
13859

(3) No agreement described in division (B)(2) of this
section shall include a power of attorney for the payment of the
unclaimed funds or delivery of the contents of a safe deposit
box to any person other than the owner of the unclaimed funds or
contents of a safe deposit box. 13860
13861
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(4) If the agreement involves recovery of the contents of
a safe deposit box, the agreement stipulates that the person
receiving any fee, compensation, commission, or other
remuneration for engaging in any activity for the purpose of
locating, delivering, recovering, or assisting in the recovery
of unclaimed funds or other items stored in a safe deposit box
on behalf of any other person shall do all of the following: 13865
13866
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13871

(a) Make arrangements to have an appraiser and the
director of commerce view the contents of the safe deposit box
together, at a time mutually agreeable to the appraiser and
director; 13872
13873
13874
13875

(b) State that the value of the property in the safe
deposit box is the amount established by the appraiser who 13876
13877

viewed the safe deposit box contents; 13878

(c) Base the fee, compensation, commission, or other 13879
remuneration for locating, delivering, recovering, or assisting 13880
in the recovery of unclaimed funds or other items stored in a 13881
safe deposit box on the appraised value established by the 13882
appraiser who viewed the safe deposit box contents. 13883

(C) No person shall receive a fee, compensation, 13884
commission, or other remuneration, or engage in any activity for 13885
the purpose of locating, delivering, recovering, or assisting in 13886
the recovery of unclaimed funds or contents of a safe deposit 13887
box, under an agreement that is invalid under this section. 13888

(D) A person who receives any fee, compensation, 13889
commission, or other remuneration for engaging in any activity 13890
for the purpose of locating, delivering, recovering, or 13891
assisting in the recovery of unclaimed funds or other items 13892
stored in a safe deposit box on behalf of any other person 13893
cannot function as an appraiser of the contents of the safe 13894
deposit box for purposes of division (B) (4) of this section. 13895

(E) The director shall not recognize or make any delivery 13896
and the auditor of state shall not make any payment pursuant to 13897
any power of attorney between an owner of the unclaimed funds or 13898
contents of a safe deposit box and the person with whom the 13899
owner entered into an agreement pursuant to division (B) (2) of 13900
this section to locate, deliver, recover, or assist in the 13901
recovery of the unclaimed funds or contents of a safe deposit 13902
box if that power of attorney is entered into on or after ~~the~~ 13903
~~effective date of this amendment~~ March 23, 2007, and that power 13904
of attorney specifically provides for the payment of unclaimed 13905
funds or delivery of the contents of a safe deposit box to any 13906
person other than the owner of the unclaimed funds or contents 13907

of a safe deposit box. Nothing in this section shall be 13908
construed as prohibiting the payment of unclaimed funds or 13909
delivery of the contents of a safe deposit box to the legal 13910
representative of the owner of the unclaimed funds or contents 13911
of the safe deposit box. Notwithstanding the definition of 13912
"owner" specified in division (C) of section 169.01 of the 13913
Revised Code, for purposes of the payment of unclaimed funds or 13914
delivery of the contents of the safe deposit box, a person with 13915
whom an owner entered into an agreement under division (B)(2) of 13916
this section is not a legal representative. 13917

Sec. 4735.24. (A) Except as otherwise provided in this 13918
section, when earnest money connected to a real estate purchase 13919
agreement is deposited in a real estate broker's trust or 13920
special account, the broker shall maintain that money in the 13921
account in accordance with the terms of the purchase agreement 13922
until one of the following occurs: 13923

(1) The transaction closes and the broker disburses the 13924
earnest money to the closing or escrow agent or otherwise 13925
disburses the money pursuant to the terms of the purchase 13926
agreement. 13927

(2) The parties provide the broker with separate written 13928
instructions that both parties have signed that specify how the 13929
broker is to disburse the earnest money and the broker acts 13930
pursuant to those instructions. 13931

(3) The broker receives a copy of a final court order that 13932
specifies to whom the earnest money is to be awarded and the 13933
broker acts pursuant to the court order. 13934

(4) The earnest money becomes unclaimed funds as defined 13935
in division (M)(2) of section 169.02 of the Revised Code and, 13936

after providing the notice that division ~~(D)~~(E) of section 13937
169.03 of the Revised Code requires, the broker has reported the 13938
unclaimed funds to the director of commerce pursuant to section 13939
169.03 of the Revised Code and has remitted all of the earnest 13940
money to the director. 13941

(B) A purchase agreement may provide that in the event of 13942
a dispute regarding the disbursement of the earnest money, the 13943
broker will return the money to the purchaser without notice to 13944
the parties unless, within two years from the date the earnest 13945
money was deposited in the broker's trust or special account, 13946
the broker has received one of the following: 13947

(1) Written instructions signed by both parties specifying 13948
how the money is to be disbursed; 13949

(2) Written notice that a court action to resolve the 13950
dispute has been filed. 13951

(C) (1) If the parties dispute the disbursement of the 13952
earnest money and the purchase agreement contains the provision 13953
described in division (B) of this section, not later than the 13954
first day of September following the two year anniversary date 13955
of the deposit of the earnest money in the broker's account, the 13956
broker shall return the earnest money to the purchaser unless 13957
the parties provided the broker with written instructions or a 13958
notice of a court action as described in division (B) of this 13959
section. 13960

(2) If the broker cannot locate the purchaser at the time 13961
the disbursement is due, after providing the notice that 13962
division ~~(D)~~(E) of section 169.03 of the Revised Code requires, 13963
the broker shall report the earnest money as unclaimed funds to 13964
the director of commerce pursuant to section 169.03 of the 13965

Revised Code and remit all of the earnest money to the director. 13966

Section 8. That existing sections 127.16, 169.01, 169.03, 13967
169.08, 169.13, and 4735.24 of the Revised Code are hereby 13968
repealed. 13969

Section 9. Section 169.13 of the Revised Code is presented 13970
in this act as a composite of the section as amended by both 13971
H.B. 699 and S.B. 223 of the 126th General Assembly. The General 13972
Assembly, applying the principle stated in division (B) of 13973
section 1.52 of the Revised Code that amendments are to be 13974
harmonized if reasonably capable of simultaneous operation, 13975
finds that the composite is the resulting version of the section 13976
in effect prior to the effective date of the section as 13977
presented in this act. 13978