

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 217**

**Senator Schaffer  
Cosponsor: Senator Cirino**

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**A BILL**

To amend sections 173.27, 173.38, 173.381, 718.01, 1  
and 718.39 of the Revised Code to modify the law 2  
regarding access to criminal record check 3  
information with respect to long-term care 4  
ombudsman programs, direct-care positions, 5  
community-based long-term care services, and 6  
certain persons serving as a municipal 7  
corporation tax administrator, and to declare an 8  
emergency. 9

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

**Section 1.** That sections 173.27, 173.38, 173.381, 718.01, 10  
and 718.39 of the Revised Code be amended to read as follows: 11

**Sec. 173.27.** (A) As used in this section: 12

(1) "Applicant" means a person who is under final 13  
consideration for employment by a responsible party in a full- 14  
time, part-time, or temporary position that involves providing 15  
ombudsman services to residents and recipients. "Applicant" 16  
includes a person who is under final consideration for 17  
employment as the state long-term care ombudsman or the head of 18

a regional long-term care ombudsman program. "Applicant" does not include a person seeking to provide ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(4) "Employee" means a person employed by a responsible party in a full-time, part-time, or temporary position that involves providing ombudsman services to residents and recipients. "Employee" includes the person employed as the state long-term care ombudsman and a person employed as the head of a regional long-term care ombudsman program. "Employee" does not include a person who provides ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(5) "Responsible party" means the following:

(a) In the case of an applicant who is under final consideration for employment as the state long-term care ombudsman or the person employed as the state long-term care ombudsman, the director of aging;

(b) In the case of any other applicant who is under final consideration for employment with the state long-term care ombudsman program or any other employee of the state long-term care ombudsman program, the state long-term care ombudsman;

(c) In the case of an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the regional long-term care ombudsman program.

(B) A responsible party may not employ an applicant or continue to employ an employee in a position that involves providing ombudsman services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the responsible party from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ombudsman services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E) (2) (a) of this section, a copy of the form

prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) A responsible party or a responsible party's designee shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ombudsman services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the responsible party is prohibited by division (B) (1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of any applicant's being employed by a responsible party in a position that involves providing ombudsman services to residents and recipients, the responsible

party or designee shall conduct a database review of the 106  
applicant in accordance with rules adopted under this section. 107  
If rules adopted under this section so require, the responsible 108  
party or designee shall conduct a database review of an employee 109  
in accordance with the rules as a condition of the responsible 110  
party continuing to employ the employee in a position that 111  
involves providing ombudsman services to residents and 112  
recipients. A database review shall determine whether the 113  
applicant or employee is included in any of the following: 114

(1) The excluded parties list system that is maintained by 115  
the United States general services administration pursuant to 116  
subpart 9.4 of the federal acquisition regulation and available 117  
at the federal web site known as the system for award 118  
management; 119

(2) The list of excluded individuals and entities 120  
maintained by the office of inspector general in the United 121  
States department of health and human services pursuant to 122  
section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 123  
42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social 124  
Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as 125  
amended; 126

(3) The registry of developmental disabilities employees 127  
established under section 5123.52 of the Revised Code; 128

(4) The internet-based sex offender and child-victim 129  
offender database established under division (A)(11) of section 130  
2950.13 of the Revised Code; 131

(5) The internet-based database of inmates established 132  
under section 5120.66 of the Revised Code; 133

(6) The state nurse aide registry established under 134

section 3721.32 of the Revised Code;	135
(7) Any other database, if any, specified in rules adopted under this section.	136 137
(E) (1) As a condition of any applicant's being employed by a responsible party in a position that involves providing ombudsman services to residents and recipients, the responsible party or designee shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the responsible party or designee shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of the responsible party continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. However, the responsible party or designee is not required to request the criminal records check of the applicant or employee if the responsible party is prohibited by division (B) (1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the responsible party or designee shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal	138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165

records check request is required by this section presents proof 166  
of having been a resident of this state for the five-year 167  
period, the responsible party or designee may request that the 168  
superintendent include information from the federal bureau of 169  
investigation in the criminal records check. 170

(2) A responsible party or designee shall do all of the 171  
following: 172

(a) Provide to each applicant and employee for whom a 173  
criminal records check request is required by this section a 174  
copy of the form prescribed pursuant to division (C) (1) of 175  
section 109.572 of the Revised Code and a standard impression 176  
sheet prescribed pursuant to division (C) (2) of that section; 177

(b) Obtain the completed form and standard impression 178  
sheet from the applicant or employee; 179

(c) Forward the completed form and standard impression 180  
sheet to the superintendent. 181

(3) A responsible party shall pay to the bureau of 182  
criminal identification and investigation the fee prescribed 183  
pursuant to division (C) (3) of section 109.572 of the Revised 184  
Code for each criminal records check the responsible party or 185  
the responsible party's designee requests under this section. 186  
The responsible party may charge an applicant a fee not 187  
exceeding the amount the responsible party pays to the bureau 188  
under this section if the responsible party or designee notifies 189  
the applicant at the time of initial application for employment 190  
of the amount of the fee. 191

(F) (1) A responsible party may employ conditionally an 192  
applicant for whom a criminal records check is required by this 193  
section prior to obtaining the results of the criminal records 194

check if both of the following apply:	195
(a) The responsible party is not prohibited by division	196
(B) (1) of this section from employing the applicant in a	197
position that involves providing ombudsman services to residents	198
and recipients;	199
(b) The responsible party or designee requests the	200
criminal records check in accordance with division (E) of this	201
section before conditionally employing the applicant.	202
(2) A responsible party shall terminate the employment of	203
an applicant employed conditionally under division (F) (1) of	204
this section if the results of the criminal records check, other	205
than the results of any request for information from the federal	206
bureau of investigation, are not obtained within the period	207
ending sixty days after the date the request for the criminal	208
records check is made. Regardless of when the results of the	209
criminal records check are obtained, if the results indicate	210
that the applicant has been convicted of, pleaded guilty to, or	211
been found eligible for intervention in lieu of conviction for a	212
disqualifying offense, the responsible party shall terminate the	213
applicant's employment unless the applicant meets standards	214
specified in rules adopted under this section that permit the	215
responsible party to employ the applicant and the responsible	216
party chooses to employ the applicant. Termination of employment	217
under this division shall be considered just cause for discharge	218
for purposes of division (D) (2) of section 4141.29 of the	219
Revised Code if the applicant makes any attempt to deceive the	220
responsible party or designee about the applicant's criminal	221
record.	222
(G) The report of any criminal records check conducted	223
pursuant to a request made under this section is not a public	224



record for the purposes of section 149.43 of the Revised Code	225
and shall not be made available to any person other than the	226
following:	227
(1) The applicant or employee who is the subject of the	228
criminal records check or the applicant's or employee's	229
representative;	230
(2) The responsible party or designee;	231
(3) In the case of a criminal records check conducted for	232
an applicant who is under final consideration for employment	233
with a regional long-term care ombudsman program (including as	234
the head of the regional program) or an employee of a regional	235
long-term care ombudsman program (including the head of a	236
regional program), the state long-term care ombudsman or a	237
representative of the office of the state long-term care	238
ombudsman program who is responsible for monitoring the regional	239
program's compliance with this section;	240
(4) A court, <del>or hearing officer, or other necessary</del>	241
<del>individual</del> involved in a case dealing with any of the following:	242
(a) A denial of employment of the applicant or employee;	243
(b) Employment or unemployment benefits of the applicant	244
or employee;	245
(c) A civil or criminal action regarding the medicaid	246
program or a program the department of aging administers.	247
<u>(5) Pursuant to a lawful subpoena or valid court order,</u>	248
<u>any necessary individual not identified in division (G) (4) of</u>	249
<u>this section who is involved in a case dealing with any issue,</u>	250
<u>matter, or action described in division (G) (4) (a), (b), or (c)</u>	251
<u>of this section.</u>	252

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible party employs in a position that involves providing ombudsman services to residents and recipients, all of the following shall apply:

(1) If the responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the responsible party employed the applicant in good faith on a conditional basis pursuant to division (F) of this section, the responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The state long-term care ombudsman may not act as the director of aging's designee for the purpose of this section. The head of a regional long-term care ombudsman program may not act as the regional program's designee for the purpose of this section if the head is the employee for whom a database review

or criminal records check is being conducted.	283
(J) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.	284 285
(1) The rules may do the following:	286
(a) Require employees to undergo database reviews and criminal records checks under this section;	287 288
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	289 290 291
(c) For the purpose of division (D) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.	292 293 294
(2) The rules shall specify all of the following:	295
(a) The procedures for conducting database reviews under this section;	296 297
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	298 299 300 301
(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	302 303 304 305 306
(d) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a position that involves	307 308 309

providing ombudsman services to residents and recipients if the 310  
applicant or employee is found by a criminal records check 311  
required by this section to have been convicted of, pleaded 312  
guilty to, or been found eligible for intervention in lieu of 313  
conviction for a disqualifying offense. 314

**Sec. 173.38.** (A) As used in this section: 315

(1) "Applicant" means a person who is under final 316  
consideration for employment with a responsible party in a full- 317  
time, part-time, or temporary direct-care position or is 318  
referred to a responsible party by an employment service for 319  
such a position. "Applicant" does not include a person being 320  
considered for a direct-care position as a volunteer. 321

(2) "Area agency on aging" has the same meaning as in 322  
section 173.14 of the Revised Code. 323

(3) "Chief administrator of a responsible party" includes 324  
a consumer when the consumer is a responsible party. 325

(4) "Community-based long-term care services" means 326  
community-based long-term care services, as defined in section 327  
173.14 of the Revised Code, that are provided under a program 328  
the department of aging administers. 329

(5) "Consumer" means an individual who receives community- 330  
based long-term care services. 331

(6) "Criminal records check" has the same meaning as in 332  
section 109.572 of the Revised Code. 333

(7) (a) "Direct-care position" means an employment position 334  
in which an employee has either or both of the following: 335

(i) In-person contact with one or more consumers; 336

(ii) Access to one or more consumers' personal property or records.	337 338
(b) "Direct-care position" does not include a person whose sole duties are transporting individuals under Chapter 306. of the Revised Code.	339 340 341
(8) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.	342 343 344
(9) "Employee" means a person employed by a responsible party in a full-time, part-time, or temporary direct-care position and a person who works in such a position due to being referred to a responsible party by an employment service. "Employee" does not include a person who works in a direct-care position as a volunteer.	345 346 347 348 349 350
(10) "PASSPORT administrative agency" has the same meaning as in section 173.42 of the Revised Code.	351 352
(11) "Provider" has the same meaning as in section 173.39 of the Revised Code.	353 354
(12) "Responsible party" means the following:	355
(a) An area agency on aging in the case of either of the following:	356 357
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	358 359 360 361 362
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary	363 364

direct-care position or works in such a position due to being 365  
referred to the agency by an employment service. 366

(b) A PASSPORT administrative agency in the case of either 367  
of the following: 368

(i) A person who is an applicant because the person is 369  
under final consideration for employment with the agency in a 370  
full-time, part-time, or temporary direct-care position or is 371  
referred to the agency by an employment service for such a 372  
position; 373

(ii) A person who is an employee because the person is 374  
employed by the agency in a full-time, part-time, or temporary 375  
direct-care position or works in such a position due to being 376  
referred to the agency by an employment service. 377

(c) A provider in the case of either of the following: 378

(i) A person who is an applicant because the person is 379  
under final consideration for employment with the provider in a 380  
full-time, part-time, or temporary direct-care position or is 381  
referred to the provider by an employment service for such a 382  
position; 383

(ii) A person who is an employee because the person is 384  
employed by the provider in a full-time, part-time, or temporary 385  
direct-care position or works in such a position due to being 386  
referred to the provider by an employment service. 387

(d) A subcontractor in the case of either of the 388  
following: 389

(i) A person who is an applicant because the person is 390  
under final consideration for employment with the subcontractor 391  
in a full-time, part-time, or temporary direct-care position or 392

is referred to the subcontractor by an employment service for	393
such a position;	394
(ii) A person who is an employee because the person is	395
employed by the subcontractor in a full-time, part-time, or	396
temporary direct-care position or works in such a position due	397
to being referred to the subcontractor by an employment service.	398
(e) A consumer in the case of either of the following:	399
(i) A person who is an applicant because the person is	400
under final consideration for employment with the consumer in a	401
full-time, part-time, or temporary direct-care position for	402
which the consumer, as the employer of record, is to direct the	403
person in the provision of community-based long-term care	404
services the person is to provide the consumer or is referred to	405
the consumer by an employment service for such a position;	406
(ii) A person who is an employee because the person is	407
employed by the consumer in a full-time, part-time, or temporary	408
direct-care position for which the consumer, as the employer of	409
record, directs the person in the provision of community-based	410
long-term care services the person provides to the consumer or	411
who works in such a position due to being referred to the	412
consumer by an employment service.	413
(13) "Subcontractor" has the meaning specified in rules	414
adopted under this section.	415
(14) "Volunteer" means a person who serves in a direct-	416
care position without receiving or expecting to receive any form	417
of remuneration other than reimbursement for actual expenses.	418
(15) "Waiver agency" has the same meaning as in section	419
5164.342 of the Revised Code.	420

(B) This section does not apply to any individual who is 421  
subject to a database review or criminal records check under 422  
section 173.381 or 3701.881 of the Revised Code or to any 423  
individual who is subject to a criminal records check under 424  
section 3721.121 of the Revised Code. 425

(C) No responsible party shall employ an applicant or 426  
continue to employ an employee in a direct-care position if any 427  
of the following apply: 428

(1) A review of the databases listed in division (E) of 429  
this section reveals any of the following: 430

(a) That the applicant or employee is included in one or 431  
more of the databases listed in divisions (E) (1) to (5) of this 432  
section; 433

(b) That there is in the state nurse aide registry 434  
established under section 3721.32 of the Revised Code a 435  
statement detailing findings by the director of health that the 436  
applicant or employee abused, neglected, or exploited a long- 437  
term care facility or residential care facility resident or 438  
misappropriated property of such a resident; 439

(c) That the applicant or employee is included in one or 440  
more of the databases, if any, specified in rules adopted under 441  
this section and the rules prohibit the responsible party from 442  
employing an applicant or continuing to employ an employee 443  
included in such a database in a direct-care position. 444

(2) After the applicant or employee is provided, pursuant 445  
to division (F) (2) (a) of this section, a copy of the form 446  
prescribed pursuant to division (C) (1) of section 109.572 of the 447  
Revised Code and the standard impression sheet prescribed 448  
pursuant to division (C) (2) of that section, the applicant or 449



employee fails to complete the form or provide the applicant's 450  
or employee's fingerprint impressions on the standard impression 451  
sheet. 452

(3) Unless the applicant or employee meets standards 453  
specified in rules adopted under this section, the applicant or 454  
employee is found by a criminal records check required by this 455  
section to have been convicted of, pleaded guilty to, or been 456  
found eligible for intervention in lieu of conviction for a 457  
disqualifying offense. 458

(D) Except as provided by division (G) of this section, 459  
the chief administrator of a responsible party shall inform each 460  
applicant of both of the following at the time of the 461  
applicant's initial application for employment or referral to 462  
the responsible party by an employment service for a direct-care 463  
position: 464

(1) That a review of the databases listed in division (E) 465  
of this section will be conducted to determine whether the 466  
responsible party is prohibited by division (C) (1) of this 467  
section from employing the applicant in the direct-care 468  
position; 469

(2) That, unless the database review reveals that the 470  
applicant may not be employed in the direct-care position, a 471  
criminal records check of the applicant will be conducted and 472  
the applicant is required to provide a set of the applicant's 473  
fingerprint impressions as part of the criminal records check. 474

(E) As a condition of employing any applicant in a direct- 475  
care position, the chief administrator of a responsible party 476  
shall conduct a database review of the applicant in accordance 477  
with rules adopted under this section. If rules adopted under 478

this section so require, the chief administrator of a 479  
responsible party shall conduct a database review of an employee 480  
in accordance with the rules as a condition of continuing to 481  
employ the employee in a direct-care position. However, a chief 482  
administrator is not required to conduct a database review of an 483  
applicant or employee if division (G) of this section applies. A 484  
database review shall determine whether the applicant or 485  
employee is included in any of the following: 486

(1) The excluded parties list system that is maintained by 487  
the United States general services administration pursuant to 488  
subpart 9.4 of the federal acquisition regulation and available 489  
at the federal web site known as the system for award 490  
management; 491

(2) The list of excluded individuals and entities 492  
maintained by the office of inspector general in the United 493  
States department of health and human services pursuant to the 494  
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 495  
and 1320c-5; 496

(3) The registry of developmental disabilities employees 497  
established under section 5123.52 of the Revised Code; 498

(4) The internet-based sex offender and child-victim 499  
offender database established under division (A)(11) of section 500  
2950.13 of the Revised Code; 501

(5) The internet-based database of inmates established 502  
under section 5120.66 of the Revised Code; 503

(6) The state nurse aide registry established under 504  
section 3721.32 of the Revised Code; 505

(7) Any other database, if any, specified in rules adopted 506  
under this section. 507

(F) (1) As a condition of employing any applicant in a 508  
direct-care position, the chief administrator of a responsible 509  
party shall request that the superintendent of the bureau of 510  
criminal identification and investigation conduct a criminal 511  
records check of the applicant. If rules adopted under this 512  
section so require, the chief administrator of a responsible 513  
party shall request that the superintendent conduct a criminal 514  
records check of an employee at times specified in the rules as 515  
a condition of continuing to employ the employee in a direct- 516  
care position. However, the chief administrator is not required 517  
to request the criminal records check of the applicant or 518  
employee if division (G) of this section applies or the 519  
responsible party is prohibited by division (C) (1) of this 520  
section from employing the applicant or continuing to employ the 521  
employee in a direct-care position. If an applicant or employee 522  
for whom a criminal records check request is required by this 523  
section does not present proof of having been a resident of this 524  
state for the five-year period immediately prior to the date the 525  
criminal records check is requested or provide evidence that 526  
within that five-year period the superintendent has requested 527  
information about the applicant or employee from the federal 528  
bureau of investigation in a criminal records check, the chief 529  
administrator shall request that the superintendent obtain 530  
information from the federal bureau of investigation as part of 531  
the criminal records check. Even if an applicant or employee for 532  
whom a criminal records check request is required by this 533  
section presents proof of having been a resident of this state 534  
for the five-year period, the chief administrator may request 535  
that the superintendent include information from the federal 536  
bureau of investigation in the criminal records check. 537

(2) The chief administrator shall do all of the following: 538

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;	539 540 541 542 543
(b) Obtain the completed form and standard impression sheet from the applicant or employee;	544 545
(c) Forward the completed form and standard impression sheet to the superintendent.	546 547
(3) A responsible party shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible party requests under this section. A responsible party may charge an applicant a fee not exceeding the amount the responsible party pays to the bureau under this section if both of the following apply:	548 549 550 551 552 553 554 555
(a) The responsible party notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.	556 557 558 559
(b) The medicaid program does not pay the responsible party for the fee it pays to the bureau under this section.	560 561
(G) Divisions (D) to (F) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a responsible party by an employment service that supplies full-time, part-time, or temporary staff for direct-care positions and both of the following apply:	562 563 564 565 566
(1) The chief administrator of the responsible party	567

receives from the employment service confirmation that a review 568  
of the databases listed in division (E) of this section was 569  
conducted of the applicant or employee. 570

(2) The chief administrator of the responsible party 571  
receives from the employment service, applicant, or employee a 572  
report of the results of a criminal records check of the 573  
applicant or employee that has been conducted by the 574  
superintendent within the one-year period immediately preceding 575  
the following: 576

(a) In the case of an applicant, the date of the 577  
applicant's referral by the employment service to the 578  
responsible party; 579

(b) In the case of an employee, the date by which the 580  
responsible party would otherwise have to request a criminal 581  
records check of the employee under division (F) of this 582  
section. 583

(H) (1) A responsible party may employ conditionally an 584  
applicant for whom a criminal records check request is required 585  
by this section prior to obtaining the results of the criminal 586  
records check if the responsible party is not prohibited by 587  
division (C) (1) of this section from employing the applicant in 588  
a direct-care position and either of the following applies: 589

(a) The chief administrator of the responsible party 590  
requests the criminal records check in accordance with division 591  
(F) of this section before conditionally employing the 592  
applicant. 593

(b) The applicant is referred to the responsible party by 594  
an employment service, the employment service or the applicant 595  
provides the chief administrator of the responsible party a 596

letter that is on the letterhead of the employment service, the 597  
letter is dated and signed by a supervisor or another designated 598  
official of the employment service, and the letter states all of 599  
the following: 600

(i) That the employment service has requested the 601  
superintendent to conduct a criminal records check regarding the 602  
applicant; 603

(ii) That the requested criminal records check is to 604  
include a determination of whether the applicant has been 605  
convicted of, pleaded guilty to, or been found eligible for 606  
intervention in lieu of conviction for a disqualifying offense; 607

(iii) That the employment service has not received the 608  
results of the criminal records check as of the date set forth 609  
on the letter; 610

(iv) That the employment service promptly will send a copy 611  
of the results of the criminal records check to the chief 612  
administrator of the responsible party when the employment 613  
service receives the results. 614

(2) If a responsible party employs an applicant 615  
conditionally pursuant to division (H) (1) (b) of this section, 616  
the employment service, on its receipt of the results of the 617  
criminal records check, promptly shall send a copy of the 618  
results to the chief administrator of the responsible party. 619

(3) A responsible party that employs an applicant 620  
conditionally pursuant to division (H) (1) (a) or (b) of this 621  
section shall terminate the applicant's employment if the 622  
results of the criminal records check, other than the results of 623  
any request for information from the federal bureau of 624  
investigation, are not obtained within the period ending sixty 625

days after the date the request for the criminal records check 626  
is made. Regardless of when the results of the criminal records 627  
check are obtained, if the results indicate that the applicant 628  
has been convicted of, pleaded guilty to, or been found eligible 629  
for intervention in lieu of conviction for a disqualifying 630  
offense, the responsible party shall terminate the applicant's 631  
employment unless the applicant meets standards specified in 632  
rules adopted under this section that permit the responsible 633  
party to employ the applicant and the responsible party chooses 634  
to employ the applicant. Termination of employment under this 635  
division shall be considered just cause for discharge for 636  
purposes of division (D) (2) of section 4141.29 of the Revised 637  
Code if the applicant makes any attempt to deceive the 638  
responsible party about the applicant's criminal record. 639

(I) The report of any criminal records check conducted 640  
pursuant to a request made under this section is not a public 641  
record for the purposes of section 149.43 of the Revised Code 642  
and shall not be made available to any person other than the 643  
following: 644

(1) The applicant or employee who is the subject of the 645  
criminal records check or the applicant's or employee's 646  
representative; 647

(2) The chief administrator of the responsible party 648  
requesting the criminal records check or the administrator's 649  
representative; 650

(3) The administrator of any other facility, agency, or 651  
program that provides community-based long-term care services 652  
that is owned or operated by the same entity that owns or 653  
operates the responsible party that requested the criminal 654  
records check; 655

- (4) The employment service that requested the criminal records check; 656  
657
- (5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section; 658  
659  
660
- (6) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if any of the following apply: 661  
662  
663
- (a) In the case of a criminal records check requested by a provider or subcontractor, the provider or subcontractor also is a waiver agency; 664  
665  
666
- (b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a provider or subcontractor that also is a waiver agency; 667  
668  
669  
670
- (c) The criminal records check is requested by a consumer who is acting as a responsible party. 671  
672
- (7) A court, or hearing officer, ~~or other necessary individual~~ involved in a case dealing with any of the following: 673  
674
- (a) A denial of employment of the applicant or employee; 675
- (b) Employment or unemployment benefits of the applicant or employee; 676  
677
- (c) A civil or criminal action regarding the medicaid program or a program the department of aging administers. 678  
679
- (8) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (I) (7) of this section who is involved in a case dealing with any issue, 680  
681  
682



matter, or action described in division (I) (7) (a), (b), or (c) 683  
of this section. 684

(J) In a tort or other civil action for damages that is 685  
brought as the result of an injury, death, or loss to person or 686  
property caused by an applicant or employee who a responsible 687  
party employs in a direct-care position, all of the following 688  
shall apply: 689

(1) If the responsible party employed the applicant or 690  
employee in good faith and reasonable reliance on the report of 691  
a criminal records check requested under this section, the 692  
responsible party shall not be found negligent solely because of 693  
its reliance on the report, even if the information in the 694  
report is determined later to have been incomplete or 695  
inaccurate. 696

(2) If the responsible party employed the applicant in 697  
good faith on a conditional basis pursuant to division (H) of 698  
this section, the responsible party shall not be found negligent 699  
solely because it employed the applicant prior to receiving the 700  
report of a criminal records check requested under this section. 701

(3) If the responsible party in good faith employed the 702  
applicant or employee because the applicant or employee meets 703  
standards specified in rules adopted under this section, the 704  
responsible party shall not be found negligent solely because 705  
the applicant or employee has been convicted of, pleaded guilty 706  
to, or been found eligible for intervention in lieu of 707  
conviction for a disqualifying offense. 708

(K) The director of aging shall adopt rules in accordance 709  
with Chapter 119. of the Revised Code to implement this section. 710

(1) The rules may do the following: 711

(a) Require employees to undergo database reviews and criminal records checks under this section;	712 713
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	714 715 716
(c) For the purpose of division (E) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.	717 718 719
(2) The rules shall specify all of the following:	720
(a) The meaning of the term "subcontractor";	721
(b) The procedures for conducting database reviews under this section;	722 723
(c) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	724 725 726 727
(d) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	728 729 730 731 732
(e) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	733 734 735 736 737 738 739

<b>Sec. 173.381.</b> (A) As used in this section:	740
(1) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.	741 742 743 744
(2) "Community-based long-term care services certificate" means a certificate issued under section 173.391 of the Revised Code.	745 746 747
(3) "Community-based long-term care services contract or grant" means a contract or grant awarded under section 173.392 of the Revised Code.	748 749 750
(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	751 752
(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.	753 754 755
(6) "Provider" has the same meaning as in section 173.39 of the Revised Code.	756 757
(7) "Self-employed provider" means a provider who works for the provider's self and has no employees.	758 759
(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code.	760 761 762
(C) (1) The department of aging or its designee shall take the following actions when the circumstances specified in division (C) (2) of this section apply:	763 764 765
(a) Refuse to issue a community-based long-term care	766

services certificate to a self-employed provider;	767
(b) Revoke a self-employed provider's community-based long-term care services certificate;	768 769
(c) Refuse to award a community-based long-term care services contract or grant to a self-employed provider;	770 771
(d) Terminate a self-employed provider's community-based long-term care services contract or grant awarded on or after September 15, 2014.	772 773 774
(2) The following are the circumstances that require the department of aging or its designee to take action under division (C) (1) of this section:	775 776 777
(a) A review of the databases listed in division (E) of this section reveals any of the following:	778 779
(i) That the self-employed provider is included in one or more of the databases listed in divisions (E) (1) to (5) of this section;	780 781 782
(ii) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the self-employed provider abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;	783 784 785 786 787 788
(iii) That the self-employed provider is included in one or more of the databases, if any, specified in rules adopted under this section and the rules require the department or its designee to take action under division (C) (1) of this section if a self-employed provider is included in such a database.	789 790 791 792 793
(b) After the self-employed provider is provided, pursuant	794

to division (F) (2) (a) of this section, a copy of the form 795  
prescribed pursuant to division (C) (1) of section 109.572 of the 796  
Revised Code and the standard impression sheet prescribed 797  
pursuant to division (C) (2) of that section, the self-employed 798  
provider fails to complete the form or provide the self-employed 799  
provider's fingerprint impressions on the standard impression 800  
sheet. 801

(c) Unless the self-employed provider meets standards 802  
specified in rules adopted under this section, the self-employed 803  
provider is found by a criminal records check required by this 804  
section to have been convicted of, pleaded guilty to, or been 805  
found eligible for intervention in lieu of conviction for a 806  
disqualifying offense. 807

(D) The department of aging or its designee shall inform 808  
each self-employed provider of both of the following at the time 809  
of the self-employed provider's initial application for a 810  
community-based long-term care services certificate or initial 811  
bid for a community-based long-term care services contract or 812  
grant: 813

(1) That a review of the databases listed in division (E) 814  
of this section will be conducted to determine whether the 815  
department or its designee is required by division (C) of this 816  
section to refuse to issue or award a community-based long-term 817  
care services certificate or community-based long-term care 818  
services contract or grant to the self-employed provider; 819

(2) That, unless the database review reveals that the 820  
department or its designee is required to refuse to issue or 821  
award a community-based long-term care services certificate or 822  
community-based long-term care services contract or grant to the 823  
self-employed provider, a criminal records check of the self- 824

employed provider will be conducted and the self-employed 825  
provider is required to provide a set of the self-employed 826  
provider's fingerprint impressions as part of the criminal 827  
records check. 828

(E) As a condition of issuing or awarding a community- 829  
based long-term care services certificate or community-based 830  
long-term care services contract or grant to a self-employed 831  
provider, the department of aging or its designee shall conduct 832  
a database review of the self-employed provider in accordance 833  
with rules adopted under this section. If rules adopted under 834  
this section so require, the department or its designee shall 835  
conduct a database review of a self-employed provider in 836  
accordance with the rules as a condition of not revoking or 837  
terminating the self-employed provider's community-based long- 838  
term care services certificate or community-based long-term care 839  
services contract or grant. A database review shall determine 840  
whether the self-employed provider is included in any of the 841  
following: 842

(1) The excluded parties list system that is maintained by 843  
the United States general services administration pursuant to 844  
subpart 9.4 of the federal acquisition regulation and available 845  
at the federal web site known as the system for award 846  
management; 847

(2) The list of excluded individuals and entities 848  
maintained by the office of inspector general in the United 849  
States department of health and human services pursuant to the 850  
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 851

(3) The registry of developmental disabilities employees 852  
established under section 5123.52 of the Revised Code; 853

(4) The internet-based sex offender and child-victim offender database established under division (A) (11) of section 2950.13 of the Revised Code;	854 855 856
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	857 858
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	859 860
(7) Any other database, if any, specified in rules adopted under this section.	861 862
(F) (1) As a condition of issuing or awarding a community-based long-term care services certificate or community-based long-term care services contract or grant to a self-employed provider, the department of aging or its designee shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the self-employed provider. If rules adopted under this section so require, the department or its designee shall request that the superintendent conduct a criminal records check of a self-employed provider at times specified in the rules as a condition of not revoking or terminating the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant. However, the department or its designee is not required to request the criminal records check of the self-employed provider if the department or its designee, because of circumstances specified in division (C) (2) (a) of this section, is required to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or to revoke or terminate the self-employed provider's certificate or contract	863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883

or grant. 884

If a self-employed provider for whom a criminal records 885  
check request is required by this section does not present proof 886  
of having been a resident of this state for the five-year period 887  
immediately prior to the date the criminal records check is 888  
requested or provide evidence that within that five-year period 889  
the superintendent has requested information about the self- 890  
employed provider from the federal bureau of investigation in a 891  
criminal records check, the department or its designee shall 892  
request that the superintendent obtain information from the 893  
federal bureau of investigation as part of the criminal records 894  
check. Even if a self-employed provider for whom a criminal 895  
records check request is required by this section presents proof 896  
of having been a resident of this state for the five-year 897  
period, the department or its designee may request that the 898  
superintendent include information from the federal bureau of 899  
investigation in the criminal records check. 900

(2) The department or its designee shall do all of the 901  
following: 902

(a) Provide to each self-employed provider for whom a 903  
criminal records check request is required by this section a 904  
copy of the form prescribed pursuant to division (C)(1) of 905  
section 109.572 of the Revised Code and a standard impression 906  
sheet prescribed pursuant to division (C)(2) of that section; 907

(b) Obtain the completed form and standard impression 908  
sheet from the self-employed provider; 909

(c) Forward the completed form and standard impression 910  
sheet to the superintendent. 911

(3) The department or its designee shall pay to the bureau 912



of criminal identification and investigation the fee prescribed 913  
pursuant to division (C) (3) of section 109.572 of the Revised 914  
Code for each criminal records check of a self-employed provider 915  
the department or its designee requests under this section. The 916  
department or its designee may charge the self-employed provider 917  
a fee that does not exceed the amount the department or its 918  
designee pays to the bureau. 919

(G) The report of any criminal records check of a self- 920  
employed provider conducted pursuant to a request made under 921  
this section is not a public record for the purposes of section 922  
149.43 of the Revised Code and shall not be made available to 923  
any person other than the following: 924

(1) The self-employed provider or the self-employed 925  
provider's representative; 926

(2) The department of aging, the department's designee, or 927  
a representative of the department or its designee; 928

(3) The medicaid director and the staff of the department 929  
of medicaid who are involved in the administration of the 930  
medicaid program if the self-employed provider is to provide, or 931  
provides, community-based long-term care services under a 932  
component of the medicaid program that the department of aging 933  
administers; 934

(4) A court, ~~or hearing officer, or other necessary~~ 935  
~~individual~~ involved in a case dealing with any of the following: 936

(a) A refusal to issue or award a community-based long- 937  
term services certificate or community-based long-term care 938  
services contract or grant to the self-employed provider; 939

(b) A revocation or termination of the self-employed 940  
provider's community-based long-term care services certificate 941

or community-based long-term care services contract or grant; 942

(c) A civil or criminal action regarding a program the 943  
department of aging administers. 944

(5) Pursuant to a lawful subpoena or valid court order, 945  
any necessary individual not identified in division (G) (4) of 946  
this section who is involved in a case dealing with any issue, 947  
matter, or action described in division (G) (4) (a), (b), or (c) 948  
of this section. 949

(H) In a tort or other civil action for damages that is 950  
brought as the result of an injury, death, or loss to person or 951  
property caused by a self-employed provider, both of the 952  
following shall apply: 953

(1) If the department of aging or its designee, in good 954  
faith and reasonable reliance on the report of a criminal 955  
records check requested under this section, issued or awarded a 956  
community-based long-term care services certificate or 957  
community-based long-term care services contract or grant to the 958  
self-employed provider or did not revoke or terminate the self- 959  
employed provider's certificate or contract or grant, the 960  
department and its designee shall not be found negligent solely 961  
because of its reliance on the report, even if the information 962  
in the report is determined later to have been incomplete or 963  
inaccurate. 964

(2) If the department or its designee in good faith issued 965  
or awarded a community-based long-term care services certificate 966  
or community-based long-term care services contract or grant to 967  
the self-employed provider or did not revoke or terminate the 968  
self-employed provider's certificate or contract or grant 969  
because the self-employed provider meets standards specified in 970

rules adopted under this section, the department and its 971  
designee shall not be found negligent solely because the self- 972  
employed provider has been convicted of, pleaded guilty to, or 973  
been found eligible for intervention in lieu of conviction for a 974  
disqualifying offense. 975

(I) The director of aging shall adopt rules in accordance 976  
with Chapter 119. of the Revised Code to implement this section. 977

(1) The rules may do the following: 978

(a) Require self-employed providers who have been issued 979  
or awarded community-based long-term care services certificates 980  
or community-based long-term care services contracts or grants 981  
to undergo database reviews and criminal records checks under 982  
this section; 983

(b) If the rules require self-employed providers who have 984  
been issued or awarded community-based long-term care services 985  
certificates or community-based long-term care services 986  
contracts or grants to undergo database reviews and criminal 987  
records checks under this section, exempt one or more classes of 988  
such self-employed providers from the requirements; 989

(c) For the purpose of division (E) (7) of this section, 990  
specify other databases that are to be checked as part of a 991  
database review conducted under this section. 992

(2) The rules shall specify all of the following: 993

(a) The procedures for conducting database reviews under 994  
this section; 995

(b) If the rules require self-employed providers who have 996  
been issued or awarded community-based long-term care services 997  
certificates or community-based long-term care services 998

contracts or grants to undergo database reviews and criminal 999  
records checks under this section, the times at which the 1000  
database reviews and criminal records checks are to be 1001  
conducted; 1002

(c) If the rules specify other databases to be checked as 1003  
part of the database reviews, the circumstances under which the 1004  
department of aging or its designee is required to refuse to 1005  
issue or award a community-based long-term care services 1006  
certificate or community-based long-term care services contract 1007  
or grant to a self-employed provider or to revoke or terminate a 1008  
self-employed provider's certificate or contract or grant when 1009  
the self-employed provider is found by a database review to be 1010  
included in one or more of those databases; 1011

(d) Standards that a self-employed provider must meet for 1012  
the department or its designee to be permitted to issue or award 1013  
a community-based long-term care services certificate or 1014  
community-based long-term care services contract or grant to the 1015  
self-employed provider or not to revoke or terminate the self- 1016  
employed provider's certificate or contract or grant if the 1017  
self-employed provider is found by a criminal records check 1018  
required by this section to have been convicted of, pleaded 1019  
guilty to, or been found eligible for intervention in lieu of 1020  
conviction for a disqualifying offense. 1021

**Sec. 718.01.** Any term used in this chapter that is not 1022  
otherwise defined in this chapter has the same meaning as when 1023  
used in a comparable context in laws of the United States 1024  
relating to federal income taxation or in Title LVII of the 1025  
Revised Code, unless a different meaning is clearly required. 1026  
Except as provided in section 718.81 of the Revised Code, if a 1027  
term used in this chapter that is not otherwise defined in this 1028

chapter is used in a comparable context in both the laws of the 1029  
United States relating to federal income tax and in Title LVII 1030  
of the Revised Code and the use is not consistent, then the use 1031  
of the term in the laws of the United States relating to federal 1032  
income tax shall control over the use of the term in Title LVII 1033  
of the Revised Code. 1034

Except as otherwise provided in section 718.81 of the 1035  
Revised Code, as used in this chapter: 1036

(A) (1) "Municipal taxable income" means the following: 1037

(a) For a person other than an individual, income 1038  
apportioned or situated to the municipal corporation under 1039  
section 718.02 of the Revised Code, as applicable, reduced by 1040  
any pre-2017 net operating loss carryforward available to the 1041  
person for the municipal corporation. 1042

(b) (i) For an individual who is a resident of a municipal 1043  
corporation other than a qualified municipal corporation, income 1044  
reduced by exempt income to the extent otherwise included in 1045  
income, then reduced as provided in division (A) (2) of this 1046  
section, and further reduced by any pre-2017 net operating loss 1047  
carryforward available to the individual for the municipal 1048  
corporation. 1049

(ii) For an individual who is a resident of a qualified 1050  
municipal corporation, Ohio adjusted gross income reduced by 1051  
income exempted, and increased by deductions excluded, by the 1052  
qualified municipal corporation from the qualified municipal 1053  
corporation's tax. If a qualified municipal corporation, on or 1054  
before December 31, 2013, exempts income earned by individuals 1055  
who are not residents of the qualified municipal corporation and 1056  
net profit of persons that are not wholly located within the 1057

qualified municipal corporation, such individual or person shall 1058  
have no municipal taxable income for the purposes of the tax 1059  
levied by the qualified municipal corporation and may be 1060  
exempted by the qualified municipal corporation from the 1061  
requirements of section 718.03 of the Revised Code. 1062

(c) For an individual who is a nonresident of a municipal 1063  
corporation, income reduced by exempt income to the extent 1064  
otherwise included in income and then, as applicable, 1065  
apportioned or situated to the municipal corporation under 1066  
section 718.02 of the Revised Code, then reduced as provided in 1067  
division (A)(2) of this section, and further reduced by any pre- 1068  
2017 net operating loss carryforward available to the individual 1069  
for the municipal corporation. 1070

(2) In computing the municipal taxable income of a 1071  
taxpayer who is an individual, the taxpayer may subtract, as 1072  
provided in division (A)(1)(b)(i) or (c) of this section, the 1073  
amount of the individual's employee business expenses reported 1074  
on the individual's form 2106 that the individual deducted for 1075  
federal income tax purposes for the taxable year, subject to the 1076  
limitation imposed by section 67 of the Internal Revenue Code. 1077  
For the municipal corporation in which the taxpayer is a 1078  
resident, the taxpayer may deduct all such expenses allowed for 1079  
federal income tax purposes. For a municipal corporation in 1080  
which the taxpayer is not a resident, the taxpayer may deduct 1081  
such expenses only to the extent the expenses are related to the 1082  
taxpayer's performance of personal services in that nonresident 1083  
municipal corporation. 1084

(B) "Income" means the following: 1085

(1)(a) For residents, all income, salaries, qualifying 1086  
wages, commissions, and other compensation from whatever source 1087

earned or received by the resident, including the resident's 1088  
distributive share of the net profit of pass-through entities 1089  
owned directly or indirectly by the resident and any net profit 1090  
of the resident, except as provided in division (D) (5) of this 1091  
section. 1092

(b) For the purposes of division (B) (1) (a) of this 1093  
section: 1094

(i) Any net operating loss of the resident incurred in the 1095  
taxable year and the resident's distributive share of any net 1096  
operating loss generated in the same taxable year and 1097  
attributable to the resident's ownership interest in a pass- 1098  
through entity shall be allowed as a deduction, for that taxable 1099  
year and the following five taxable years, against any other net 1100  
profit of the resident or the resident's distributive share of 1101  
any net profit attributable to the resident's ownership interest 1102  
in a pass-through entity until fully utilized, subject to 1103  
division (B) (1) (d) of this section; 1104

(ii) The resident's distributive share of the net profit 1105  
of each pass-through entity owned directly or indirectly by the 1106  
resident shall be calculated without regard to any net operating 1107  
loss that is carried forward by that entity from a prior taxable 1108  
year and applied to reduce the entity's net profit for the 1109  
current taxable year. 1110

(c) Division (B) (1) (b) of this section does not apply with 1111  
respect to any net profit or net operating loss attributable to 1112  
an ownership interest in an S corporation unless shareholders' 1113  
distributive shares of net profits from S corporations are 1114  
subject to tax in the municipal corporation as provided in 1115  
division (C) (14) (b) or (c) of this section. 1116

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

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

(3) For taxpayers that are not individuals, net profit of the taxpayer;

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

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

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

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



(b) A municipal corporation that taxed any type of 1146  
intangible income on March 29, 1988, pursuant to Section 3 of 1147  
S.B. 238 of the 116th general assembly, may continue to tax that 1148  
type of income if a majority of the electors of the municipal 1149  
corporation voting on the question of whether to permit the 1150  
taxation of that type of intangible income after 1988 voted in 1151  
favor thereof at an election held on November 8, 1988. 1152

(3) Social security benefits, railroad retirement 1153  
benefits, unemployment compensation, pensions, retirement 1154  
benefit payments, payments from annuities, and similar payments 1155  
made to an employee or to the beneficiary of an employee under a 1156  
retirement program or plan, disability payments received from 1157  
private industry or local, state, or federal governments or from 1158  
charitable, religious or educational organizations, and the 1159  
proceeds of sickness, accident, or liability insurance policies. 1160  
As used in division (C) (3) of this section, "unemployment 1161  
compensation" does not include supplemental unemployment 1162  
compensation described in section 3402(o) (2) of the Internal 1163  
Revenue Code. 1164

(4) The income of religious, fraternal, charitable, 1165  
scientific, literary, or educational institutions to the extent 1166  
such income is derived from tax-exempt real estate, tax-exempt 1167  
tangible or intangible property, or tax-exempt activities. 1168

(5) Compensation paid under section 3501.28 or 3501.36 of 1169  
the Revised Code to a person serving as a precinct election 1170  
official to the extent that such compensation does not exceed 1171  
one thousand dollars for the taxable year. Such compensation in 1172  
excess of one thousand dollars for the taxable year may be 1173  
subject to taxation by a municipal corporation. A municipal 1174  
corporation shall not require the payer of such compensation to 1175

withhold any tax from that compensation.	1176
(6) Dues, contributions, and similar payments received by	1177
charitable, religious, educational, or literary organizations or	1178
labor unions, lodges, and similar organizations;	1179
(7) Alimony and child support received;	1180
(8) Compensation for personal injuries or for damages to	1181
property from insurance proceeds or otherwise, excluding	1182
compensation paid for lost salaries or wages or compensation	1183
from punitive damages;	1184
(9) Income of a public utility when that public utility is	1185
subject to the tax levied under section 5727.24 or 5727.30 of	1186
the Revised Code. Division (C) (9) of this section does not apply	1187
for purposes of Chapter 5745. of the Revised Code.	1188
(10) Gains from involuntary conversions, interest on	1189
federal obligations, items of income subject to a tax levied by	1190
the state and that a municipal corporation is specifically	1191
prohibited by law from taxing, and income of a decedent's estate	1192
during the period of administration except such income from the	1193
operation of a trade or business;	1194
(11) Compensation or allowances excluded from federal	1195
gross income under section 107 of the Internal Revenue Code;	1196
(12) Employee compensation that is not qualifying wages as	1197
defined in division (R) of this section;	1198
(13) Compensation paid to a person employed within the	1199
boundaries of a United States air force base under the	1200
jurisdiction of the United States air force that is used for the	1201
housing of members of the United States air force and is a	1202
center for air force operations, unless the person is subject to	1203

taxation because of residence or domicile. If the compensation 1204  
is subject to taxation because of residence or domicile, tax on 1205  
such income shall be payable only to the municipal corporation 1206  
of residence or domicile. 1207

(14) (a) Except as provided in division (C) (14) (b) or (c) 1208  
of this section, an S corporation shareholder's distributive 1209  
share of net profits of the S corporation, other than any part 1210  
of the distributive share of net profits that represents wages 1211  
as defined in section 3121(a) of the Internal Revenue Code or 1212  
net earnings from self-employment as defined in section 1402(a) 1213  
of the Internal Revenue Code. 1214

(b) If, pursuant to division (H) of former section 718.01 1215  
of the Revised Code as it existed before March 11, 2004, a 1216  
majority of the electors of a municipal corporation voted in 1217  
favor of the question at an election held on November 4, 2003, 1218  
the municipal corporation may continue after 2002 to tax an S 1219  
corporation shareholder's distributive share of net profits of 1220  
an S corporation. 1221

(c) If, on December 6, 2002, a municipal corporation was 1222  
imposing, assessing, and collecting a tax on an S corporation 1223  
shareholder's distributive share of net profits of the S 1224  
corporation to the extent the distributive share would be 1225  
allocated or apportioned to this state under divisions (B) (1) 1226  
and (2) of section 5733.05 of the Revised Code if the S 1227  
corporation were a corporation subject to taxes imposed under 1228  
Chapter 5733. of the Revised Code, the municipal corporation may 1229  
continue to impose the tax on such distributive shares to the 1230  
extent such shares would be so allocated or apportioned to this 1231  
state only until December 31, 2004, unless a majority of the 1232  
electors of the municipal corporation voting on the question of 1233

continuing to tax such shares after that date voted in favor of 1234  
that question at an election held November 2, 2004. If a 1235  
majority of those electors voted in favor of the question, the 1236  
municipal corporation may continue after December 31, 2004, to 1237  
impose the tax on such distributive shares only to the extent 1238  
such shares would be so allocated or apportioned to this state. 1239

(d) A municipal corporation shall be deemed to have 1240  
elected to tax S corporation shareholders' distributive shares 1241  
of net profits of the S corporation in the hands of the 1242  
shareholders if a majority of the electors of a municipal 1243  
corporation voted in favor of a question at an election held 1244  
under division (C) (14) (b) or (c) of this section. The municipal 1245  
corporation shall specify by resolution or ordinance that the 1246  
tax applies to the distributive share of a shareholder of an S 1247  
corporation in the hands of the shareholder of the S 1248  
corporation. 1249

(15) To the extent authorized under a resolution or 1250  
ordinance adopted by a municipal corporation before January 1, 1251  
2016, all or a portion of the income of individuals or a class 1252  
of individuals under eighteen years of age. 1253

(16) (a) Except as provided in divisions (C) (16) (b), (c), 1254  
and (d) of this section, qualifying wages described in division 1255  
(B) (1) or (E) of section 718.011 of the Revised Code to the 1256  
extent the qualifying wages are not subject to withholding for 1257  
the municipal corporation under either of those divisions. 1258

(b) The exemption provided in division (C) (16) (a) of this 1259  
section does not apply with respect to the municipal corporation 1260  
in which the employee resided at the time the employee earned 1261  
the qualifying wages. 1262

(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 in division (C) (16) (d) (i) of this section on the basis of the employee not performing services in that municipal corporation.

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

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

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

(ii) The individual is a professional athlete, 1292  
professional entertainer, or public figure, and the compensation 1293  
is paid for the performance of services in the individual's 1294  
capacity as a professional athlete, professional entertainer, or 1295  
public figure. For purposes of division (C) (17) (b) (ii) of this 1296  
section, "professional athlete," "professional entertainer," and 1297  
"public figure" have the same meanings as in section 718.011 of 1298  
the Revised Code. 1299

(c) Compensation to which division (C) (17) of this section 1300  
applies shall be treated as earned or received at the 1301  
individual's base of operation. If the individual does not have 1302  
a base of operation, the compensation shall be treated as earned 1303  
or received where the individual is domiciled. 1304

(d) For purposes of division (C) (17) of this section, 1305  
"base of operation" means the location where an individual owns 1306  
or rents an office, storefront, or similar facility to which the 1307  
individual regularly reports and at which the individual 1308  
regularly performs personal services for compensation. 1309

(18) Compensation paid to a person for personal services 1310  
performed for a political subdivision on property owned by the 1311  
political subdivision, regardless of whether the compensation is 1312  
received by an employee of the subdivision or another person 1313  
performing services for the subdivision under a contract with 1314  
the subdivision, if the property on which services are performed 1315  
is annexed to a municipal corporation pursuant to section 1316  
709.023 of the Revised Code on or after March 27, 2013, unless 1317  
the person is subject to such taxation because of residence. If 1318  
the compensation is subject to taxation because of residence, 1319  
municipal income tax shall be payable only to the municipal 1320  
corporation of residence. 1321

(19) In the case of a tax administered, collected, and 1322  
enforced by a municipal corporation pursuant to an agreement 1323  
with the board of directors of a joint economic development 1324  
district under section 715.72 of the Revised Code, the net 1325  
profits of a business, and the income of the employees of that 1326  
business, exempted from the tax under division (Q) of that 1327  
section. 1328

(20) All of the following: 1329

(a) Income derived from disaster work conducted in this 1330  
state by an out-of-state disaster business during a disaster 1331  
response period pursuant to a qualifying solicitation received 1332  
by the business; 1333

(b) Income of a qualifying employee described in division 1334  
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 1335  
such income is derived from disaster work conducted in this 1336  
state by the employee during a disaster response period pursuant 1337  
to a qualifying solicitation received by the employee's 1338  
employer; 1339

(c) Income of a qualifying employee described in division 1340  
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 1341  
such income is derived from disaster work conducted in this 1342  
state by the employee during a disaster response period on 1343  
critical infrastructure owned or used by the employee's 1344  
employer. 1345

(21) Income the taxation of which is prohibited by the 1346  
constitution or laws of the United States. 1347

Any item of income that is exempt income of a pass-through 1348  
entity under division (C) of this section is exempt income of 1349  
each owner of the pass-through entity to the extent of that 1350

owner's distributive or proportionate share of that item of the 1351  
entity's income. 1352

(D) (1) "Net profit" for a person who is an individual 1353  
means the individual's net profit required to be reported on 1354  
schedule C, schedule E, or schedule F reduced by any net 1355  
operating loss carried forward. For the purposes of division (D) 1356  
(1) of this section, the net operating loss carried forward 1357  
shall be calculated and deducted in the same manner as provided 1358  
in division (D) (3) of this section. 1359

(2) "Net profit" for a person other than an individual 1360  
means adjusted federal taxable income reduced by any net 1361  
operating loss incurred by the person in a taxable year 1362  
beginning on or after January 1, 2017, subject to the 1363  
limitations of division (D) (3) of this section. 1364

(3) (a) The amount of such net operating loss shall be 1365  
deducted from net profit to the extent necessary to reduce 1366  
municipal taxable income to zero, with any remaining unused 1367  
portion of the net operating loss carried forward to not more 1368  
than five consecutive taxable years following the taxable year 1369  
in which the loss was incurred, but in no case for more years 1370  
than necessary for the deduction to be fully utilized. 1371

(b) No person shall use the deduction allowed by division 1372  
(D) (3) of this section to offset qualifying wages. 1373

(c) (i) For taxable years beginning in 2018, 2019, 2020, 1374  
2021, or 2022, a person may not deduct, for purposes of an 1375  
income tax levied by a municipal corporation that levies an 1376  
income tax before January 1, 2016, more than fifty per cent of 1377  
the amount of the deduction otherwise allowed by division (D) (3) 1378  
of this section. 1379



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

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

(e) Nothing in division (D) (3) (c) (i) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (D) (3) (c) (i) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (D) (3) (c) (i) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (D) (3) (c) (i) of this section shall apply to the amount carried forward.

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

(5) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (D) (5) of this section shall be taxed as if the

partnership were a C corporation, and shall not be treated as 1410  
the net profit or income of any owner of the partnership. 1411

A publicly traded partnership that is treated as a 1412  
partnership for federal income tax purposes and that is subject 1413  
to tax on its net profits in one or more municipal corporations 1414  
in this state may elect to be treated as a C corporation for 1415  
municipal income tax purposes. The publicly traded partnership 1416  
shall make the election in every municipal corporation in which 1417  
the partnership is subject to taxation on its net profits. The 1418  
election shall be made on the annual tax return filed in each 1419  
such municipal corporation. The publicly traded partnership 1420  
shall not be required to file the election with any municipal 1421  
corporation in which the partnership is not subject to taxation 1422  
on its net profits, but division (D) (5) of this section applies 1423  
to all municipal corporations in which an individual owner of 1424  
the partnership resides. 1425

(E) "Adjusted federal taxable income," for a person 1426  
required to file as a C corporation, or for a person that has 1427  
elected to be taxed as a C corporation under division (D) (5) of 1428  
this section, means a C corporation's federal taxable income 1429  
before net operating losses and special deductions as determined 1430  
under the Internal Revenue Code, adjusted as follows: 1431

(1) Deduct intangible income to the extent included in 1432  
federal taxable income. The deduction shall be allowed 1433  
regardless of whether the intangible income relates to assets 1434  
used in a trade or business or assets held for the production of 1435  
income. 1436

(2) Add an amount equal to five per cent of intangible 1437  
income deducted under division (E) (1) of this section, but 1438  
excluding that portion of intangible income directly related to 1439

the sale, exchange, or other disposition of property described	1440
in section 1221 of the Internal Revenue Code;	1441
(3) Add any losses allowed as a deduction in the	1442
computation of federal taxable income if the losses directly	1443
relate to the sale, exchange, or other disposition of an asset	1444
described in section 1221 or 1231 of the Internal Revenue Code;	1445
(4) (a) Except as provided in division (E) (4) (b) of this	1446
section, deduct income and gain included in federal taxable	1447
income to the extent the income and gain directly relate to the	1448
sale, exchange, or other disposition of an asset described in	1449
section 1221 or 1231 of the Internal Revenue Code;	1450
(b) Division (E) (4) (a) of this section does not apply to	1451
the extent the income or gain is income or gain described in	1452
section 1245 or 1250 of the Internal Revenue Code.	1453
(5) Add taxes on or measured by net income allowed as a	1454
deduction in the computation of federal taxable income;	1455
(6) In the case of a real estate investment trust or	1456
regulated investment company, add all amounts with respect to	1457
dividends to, distributions to, or amounts set aside for or	1458
credited to the benefit of investors and allowed as a deduction	1459
in the computation of federal taxable income;	1460
(7) Deduct, to the extent not otherwise deducted or	1461
excluded in computing federal taxable income, any income derived	1462
from a transfer agreement or from the enterprise transferred	1463
under that agreement under section 4313.02 of the Revised Code;	1464
(8) Deduct exempt income to the extent not otherwise	1465
deducted or excluded in computing adjusted federal taxable	1466
income.	1467

(9) Deduct any net profit of a pass-through entity owned 1468  
directly or indirectly by the taxpayer and included in the 1469  
taxpayer's federal taxable income unless an affiliated group of 1470  
corporations includes that net profit in the group's federal 1471  
taxable income in accordance with division (E) (3) (b) of section 1472  
718.06 of the Revised Code. 1473

(10) Add any loss incurred by a pass-through entity owned 1474  
directly or indirectly by the taxpayer and included in the 1475  
taxpayer's federal taxable income unless an affiliated group of 1476  
corporations includes that loss in the group's federal taxable 1477  
income in accordance with division (E) (3) (b) of section 718.06 1478  
of the Revised Code. 1479

If the taxpayer is not a C corporation, is not a 1480  
disregarded entity that has made the election described in 1481  
division (L) (2) of this section, is not a publicly traded 1482  
partnership that has made the election described in division (D) 1483  
(5) of this section, and is not an individual, the taxpayer 1484  
shall compute adjusted federal taxable income under this section 1485  
as if the taxpayer were a C corporation, except guaranteed 1486  
payments and other similar amounts paid or accrued to a partner, 1487  
former partner, shareholder, former shareholder, member, or 1488  
former member shall not be allowed as a deductible expense 1489  
unless such payments are in consideration for the use of capital 1490  
and treated as payment of interest under section 469 of the 1491  
Internal Revenue Code or United States treasury regulations. 1492  
Amounts paid or accrued to a qualified self-employed retirement 1493  
plan with respect to a partner, former partner, shareholder, 1494  
former shareholder, member, or former member of the taxpayer, 1495  
amounts paid or accrued to or for health insurance for a 1496  
partner, former partner, shareholder, former shareholder, 1497  
member, or former member, and amounts paid or accrued to or for 1498

life insurance for a partner, former partner, shareholder, 1499  
former shareholder, member, or former member shall not be 1500  
allowed as a deduction. 1501

Nothing in division (E) of this section shall be construed 1502  
as allowing the taxpayer to add or deduct any amount more than 1503  
once or shall be construed as allowing any taxpayer to deduct 1504  
any amount paid to or accrued for purposes of federal self- 1505  
employment tax. 1506

(F) "Schedule C" means internal revenue service schedule C 1507  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 1508  
Code. 1509

(G) "Schedule E" means internal revenue service schedule E 1510  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 1511  
Code. 1512

(H) "Schedule F" means internal revenue service schedule F 1513  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 1514  
Code. 1515

(I) "Internal Revenue Code" has the same meaning as in 1516  
section 5747.01 of the Revised Code. 1517

(J) "Resident" means an individual who is domiciled in the 1518  
municipal corporation as determined under section 718.012 of the 1519  
Revised Code. 1520

(K) "Nonresident" means an individual that is not a 1521  
resident. 1522

(L) (1) "Taxpayer" means a person subject to a tax levied 1523  
on income by a municipal corporation in accordance with this 1524  
chapter. "Taxpayer" does not include a grantor trust or, except 1525  
as provided in division (L) (2) (a) of this section, a disregarded 1526

entity. 1527

(2) (a) A single member limited liability company that is a 1528  
disregarded entity for federal tax purposes may be a separate 1529  
taxpayer from its single member in all Ohio municipal 1530  
corporations in which it either filed as a separate taxpayer or 1531  
did not file for its taxable year ending in 2003, if all of the 1532  
following conditions are met: 1533

(i) The limited liability company's single member is also 1534  
a limited liability company. 1535

(ii) The limited liability company and its single member 1536  
were formed and doing business in one or more Ohio municipal 1537  
corporations for at least five years before January 1, 2004. 1538

(iii) Not later than December 31, 2004, the limited 1539  
liability company and its single member each made an election to 1540  
be treated as a separate taxpayer under division (L) of this 1541  
section as this section existed on December 31, 2004. 1542

(iv) The limited liability company was not formed for the 1543  
purpose of evading or reducing Ohio municipal corporation income 1544  
tax liability of the limited liability company or its single 1545  
member. 1546

(v) The Ohio municipal corporation that was the primary 1547  
place of business of the sole member of the limited liability 1548  
company consented to the election. 1549

(b) For purposes of division (L) (2) (a) (v) of this section, 1550  
a municipal corporation was the primary place of business of a 1551  
limited liability company if, for the limited liability 1552  
company's taxable year ending in 2003, its income tax liability 1553  
was greater in that municipal corporation than in any other 1554  
municipal corporation in Ohio, and that tax liability to that 1555

municipal corporation for its taxable year ending in 2003 was at 1556  
least four hundred thousand dollars. 1557

(M) "Person" includes individuals, firms, companies, joint 1558  
stock companies, business trusts, estates, trusts, partnerships, 1559  
limited liability partnerships, limited liability companies, 1560  
associations, C corporations, S corporations, governmental 1561  
entities, and any other entity. 1562

(N) "Pass-through entity" means a partnership not treated 1563  
as an association taxable as a C corporation for federal income 1564  
tax purposes, a limited liability company not treated as an 1565  
association taxable as a C corporation for federal income tax 1566  
purposes, an S corporation, or any other class of entity from 1567  
which the income or profits of the entity are given pass-through 1568  
treatment for federal income tax purposes. "Pass-through entity" 1569  
does not include a trust, estate, grantor of a grantor trust, or 1570  
disregarded entity. 1571

(O) "S corporation" means a person that has made an 1572  
election under subchapter S of Chapter 1 of Subtitle A of the 1573  
Internal Revenue Code for its taxable year. 1574

(P) "Single member limited liability company" means a 1575  
limited liability company that has one direct member. 1576

(Q) "Limited liability company" means a limited liability 1577  
company formed under Chapter 1705. or 1706. of the Revised Code 1578  
or under the laws of another state. 1579

(R) "Qualifying wages" means wages, as defined in section 1580  
3121(a) of the Internal Revenue Code, without regard to any wage 1581  
limitations, adjusted as follows: 1582

(1) Deduct the following amounts: 1583

(a) Any amount included in wages if the amount constitutes 1584  
compensation attributable to a plan or program described in 1585  
section 125 of the Internal Revenue Code. 1586

(b) Any amount included in wages if the amount constitutes 1587  
payment on account of a disability related to sickness or an 1588  
accident paid by a party unrelated to the employer, agent of an 1589  
employer, or other payer. 1590

(c) Any amount attributable to a nonqualified deferred 1591  
compensation plan or program described in section 3121(v) (2) (C) 1592  
of the Internal Revenue Code if the compensation is included in 1593  
wages and the municipal corporation has, by resolution or 1594  
ordinance adopted before January 1, 2016, exempted the amount 1595  
from withholding and tax. 1596

(d) Any amount included in wages if the amount arises from 1597  
the sale, exchange, or other disposition of a stock option, the 1598  
exercise of a stock option, or the sale, exchange, or other 1599  
disposition of stock purchased under a stock option and the 1600  
municipal corporation has, by resolution or ordinance adopted 1601  
before January 1, 2016, exempted the amount from withholding and 1602  
tax. 1603

(e) Any amount included in wages that is exempt income. 1604

(2) Add the following amounts: 1605

(a) Any amount not included in wages solely because the 1606  
employee was employed by the employer before April 1, 1986. 1607

(b) Any amount not included in wages because the amount 1608  
arises from the sale, exchange, or other disposition of a stock 1609  
option, the exercise of a stock option, or the sale, exchange, 1610  
or other disposition of stock purchased under a stock option and 1611  
the municipal corporation has not, by resolution or ordinance, 1612



exempted the amount from withholding and tax adopted before 1613  
January 1, 2016. Division (R) (2) (b) of this section applies only 1614  
to those amounts constituting ordinary income. 1615

(c) Any amount not included in wages if the amount is an 1616  
amount described in section 401(k), 403(b), or 457 of the 1617  
Internal Revenue Code. Division (R) (2) (c) of this section 1618  
applies only to employee contributions and employee deferrals. 1619

(d) Any amount that is supplemental unemployment 1620  
compensation benefits described in section 3402(o) (2) of the 1621  
Internal Revenue Code and not included in wages. 1622

(e) Any amount received that is treated as self-employment 1623  
income for federal tax purposes in accordance with section 1624  
1402(a) (8) of the Internal Revenue Code. 1625

(f) Any amount not included in wages if all of the 1626  
following apply: 1627

(i) For the taxable year the amount is employee 1628  
compensation that is earned outside of the United States and 1629  
that either is included in the taxpayer's gross income for 1630  
federal income tax purposes or would have been included in the 1631  
taxpayer's gross income for such purposes if the taxpayer did 1632  
not elect to exclude the income under section 911 of the 1633  
Internal Revenue Code; 1634

(ii) For no preceding taxable year did the amount 1635  
constitute wages as defined in section 3121(a) of the Internal 1636  
Revenue Code; 1637

(iii) For no succeeding taxable year will the amount 1638  
constitute wages; and 1639

(iv) For any taxable year the amount has not otherwise 1640

been added to wages pursuant to either division (R) (2) of this 1641  
section or section 718.03 of the Revised Code, as that section 1642  
existed before the effective date of H.B. 5 of the 130th general 1643  
assembly, March 23, 2015. 1644

(S) "Intangible income" means income of any of the 1645  
following types: income yield, interest, capital gains, 1646  
dividends, or other income arising from the ownership, sale, 1647  
exchange, or other disposition of intangible property including, 1648  
but not limited to, investments, deposits, money, or credits as 1649  
those terms are defined in Chapter 5701. of the Revised Code, 1650  
and patents, copyrights, trademarks, tradenames, investments in 1651  
real estate investment trusts, investments in regulated 1652  
investment companies, and appreciation on deferred compensation. 1653  
"Intangible income" does not include prizes, awards, or other 1654  
income associated with any lottery winnings, gambling winnings, 1655  
or other similar games of chance. 1656

(T) "Taxable year" means the corresponding tax reporting 1657  
period as prescribed for the taxpayer under the Internal Revenue 1658  
Code. 1659

(U) (1) "Tax administrator" means, subject to division (U) 1660  
(2) of this section, the individual charged with direct 1661  
responsibility for administration of an income tax levied by a 1662  
municipal corporation in accordance with this chapter, and also 1663  
includes the following: 1664

~~(1)~~ (a) A municipal corporation acting as the agent of 1665  
another municipal corporation; 1666

~~(2)~~ (b) A person retained by a municipal corporation to 1667  
administer a tax levied by the municipal corporation, but only 1668  
if the municipal corporation does not compensate the person in 1669

whole or in part on a contingency basis; 1670

~~(3)~~ (c) The central collection agency or the regional 1671  
income tax agency or their successors in interest, or another 1672  
entity organized to perform functions similar to those performed 1673  
by the central collection agency and the regional income tax 1674  
agency. 1675

(2) "Tax administrator" does not include the tax 1676  
commissioner. 1677

(3) A private individual or entity serving in any position 1678  
described in division (U) (1) (b) or (c) of this section shall 1679  
have no access to criminal history record information. 1680

(V) "Employer" means a person that is an employer for 1681  
federal income tax purposes. 1682

(W) "Employee" means an individual who is an employee for 1683  
federal income tax purposes. 1684

(X) "Other payer" means any person, other than an 1685  
individual's employer or the employer's agent, that pays an 1686  
individual any amount included in the federal gross income of 1687  
the individual. "Other payer" includes casino operators and 1688  
video lottery terminal sales agents. 1689

(Y) "Calendar quarter" means the three-month period ending 1690  
on the last day of March, June, September, or December. 1691

(Z) "Form 2106" means internal revenue service form 2106 1692  
filed by a taxpayer pursuant to the Internal Revenue Code. 1693

(AA) "Municipal corporation" includes a joint economic 1694  
development district or joint economic development zone that 1695  
levies an income tax under section 715.691, 715.70, 715.71, or 1696  
715.72 of the Revised Code. 1697

(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

(DD) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

(EE) "Ohio business gateway" means the online computer network system, created under section 125.30 of the Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(FF) "Local board of tax review" and "board of tax review" mean the entity created under section 718.11 of the Revised Code.

(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.

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

(II) "Video lottery terminal" has the same meaning as in

section 3770.21 of the Revised Code. 1727

(JJ) "Video lottery terminal sales agent" means a lottery 1728  
sales agent licensed under Chapter 3770. of the Revised Code to 1729  
conduct video lottery terminals on behalf of the state pursuant 1730  
to section 3770.21 of the Revised Code. 1731

(KK) "Postal service" means the United States postal 1732  
service. 1733

(LL) "Certified mail," "express mail," "United States 1734  
mail," "postal service," and similar terms include any delivery 1735  
service authorized pursuant to section 5703.056 of the Revised 1736  
Code. 1737

(MM) "Postmark date," "date of postmark," and similar 1738  
terms include the date recorded and marked in the manner 1739  
described in division (B) (3) of section 5703.056 of the Revised 1740  
Code. 1741

(NN) "Related member" means a person that, with respect to 1742  
the taxpayer during all or any portion of the taxable year, is 1743  
either a related entity, a component member as defined in 1744  
section 1563(b) of the Internal Revenue Code, or a person to or 1745  
from whom there is attribution of stock ownership in accordance 1746  
with section 1563(e) of the Internal Revenue Code except, for 1747  
purposes of determining whether a person is a related member 1748  
under this division, "twenty per cent" shall be substituted for 1749  
"5 percent" wherever "5 percent" appears in section 1563(e) of 1750  
the Internal Revenue Code. 1751

(OO) "Related entity" means any of the following: 1752

(1) An individual stockholder, or a member of the 1753  
stockholder's family enumerated in section 318 of the Internal 1754  
Revenue Code, if the stockholder and the members of the 1755

stockholder's family own directly, indirectly, beneficially, or 1756  
constructively, in the aggregate, at least fifty per cent of the 1757  
value of the taxpayer's outstanding stock; 1758

(2) A stockholder, or a stockholder's partnership, estate, 1759  
trust, or corporation, if the stockholder and the stockholder's 1760  
partnerships, estates, trusts, or corporations own directly, 1761  
indirectly, beneficially, or constructively, in the aggregate, 1762  
at least fifty per cent of the value of the taxpayer's 1763  
outstanding stock; 1764

(3) A corporation, or a party related to the corporation 1765  
in a manner that would require an attribution of stock from the 1766  
corporation to the party or from the party to the corporation 1767  
under division (OO) (4) of this section, provided the taxpayer 1768  
owns directly, indirectly, beneficially, or constructively, at 1769  
least fifty per cent of the value of the corporation's 1770  
outstanding stock; 1771

(4) The attribution rules described in section 318 of the 1772  
Internal Revenue Code apply for the purpose of determining 1773  
whether the ownership requirements in divisions (OO) (1) to (3) 1774  
of this section have been met. 1775

(PP) (1) "Assessment" means a written finding by the tax 1776  
administrator that a person has underpaid municipal income tax, 1777  
or owes penalty and interest, or any combination of tax, 1778  
penalty, or interest, to the municipal corporation that 1779  
commences the person's time limitation for making an appeal to 1780  
the local board of tax review pursuant to section 718.11 of the 1781  
Revised Code, and has "ASSESSMENT" written in all capital 1782  
letters at the top of such finding. 1783

(2) "Assessment" does not include an informal notice 1784

denying a request for refund issued under division (B)(3) of 1785  
section 718.19 of the Revised Code, a billing statement 1786  
notifying a taxpayer of current or past-due balances owed to the 1787  
municipal corporation, a tax administrator's request for 1788  
additional information, a notification to the taxpayer of 1789  
mathematical errors, or a tax administrator's other written 1790  
correspondence to a person or taxpayer that does meet the 1791  
criteria prescribed by division (PP)(1) of this section. 1792

(QQ) "Taxpayers' rights and responsibilities" means the 1793  
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 1794  
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 1795  
Revised Code and the responsibilities of taxpayers to file, 1796  
report, withhold, remit, and pay municipal income tax and 1797  
otherwise comply with Chapter 718. of the Revised Code and 1798  
resolutions, ordinances, and rules adopted by a municipal 1799  
corporation for the imposition and administration of a municipal 1800  
income tax. 1801

(RR) "Qualified municipal corporation" means a municipal 1802  
corporation that, by resolution or ordinance adopted on or 1803  
before December 31, 2011, adopted Ohio adjusted gross income, as 1804  
defined by section 5747.01 of the Revised Code, as the income 1805  
subject to tax for the purposes of imposing a municipal income 1806  
tax. 1807

(SS)(1) "Pre-2017 net operating loss carryforward" means 1808  
any net operating loss incurred in a taxable year beginning 1809  
before January 1, 2017, to the extent such loss was permitted, 1810  
by a resolution or ordinance of the municipal corporation that 1811  
was adopted by the municipal corporation before January 1, 2016, 1812  
to be carried forward and utilized to offset income or net 1813  
profit generated in such municipal corporation in future taxable 1814

years. 1815

(2) For the purpose of calculating municipal taxable 1816  
income, any pre-2017 net operating loss carryforward may be 1817  
carried forward to any taxable year, including taxable years 1818  
beginning in 2017 or thereafter, for the number of taxable years 1819  
provided in the resolution or ordinance or until fully utilized, 1820  
whichever is earlier. 1821

(TT) "Small employer" means any employer that had total 1822  
revenue of less than five hundred thousand dollars during the 1823  
preceding taxable year. For purposes of this division, "total 1824  
revenue" means receipts of any type or kind, including, but not 1825  
limited to, sales receipts; payments; rents; profits; gains, 1826  
dividends, and other investment income; compensation; 1827  
commissions; premiums; money; property; grants; contributions; 1828  
donations; gifts; program service revenue; patient service 1829  
revenue; premiums; fees, including premium fees and service 1830  
fees; tuition payments; unrelated business revenue; 1831  
reimbursements; any type of payment from a governmental unit, 1832  
including grants and other allocations; and any other similar 1833  
receipts reported for federal income tax purposes or under 1834  
generally accepted accounting principles. "Small employer" does 1835  
not include the federal government; any state government, 1836  
including any state agency or instrumentality; any political 1837  
subdivision; or any entity treated as a government for financial 1838  
accounting and reporting purposes. 1839

(UU) "Audit" means the examination of a person or the 1840  
inspection of the books, records, memoranda, or accounts of a 1841  
person for the purpose of determining liability for a municipal 1842  
income tax. 1843

(VV) "Publicly traded partnership" means any partnership, 1844



an interest in which is regularly traded on an established 1845  
securities market. A "publicly traded partnership" may have any 1846  
number of partners. 1847

(WW) "Tax commissioner" means the tax commissioner 1848  
appointed under section 121.03 of the Revised Code. 1849

(XX) "Out-of-state disaster business," "qualifying 1850  
solicitation," "qualifying employee," "disaster work," "critical 1851  
infrastructure," and "disaster response period" have the same 1852  
meanings as in section 5703.94 of the Revised Code. 1853

(YY) "Pension" means a retirement benefit plan, regardless 1854  
of whether the plan satisfies the qualifications described under 1855  
section 401(a) of the Internal Revenue Code, including amounts 1856  
that are taxable under the "Federal Insurance Contributions 1857  
Act," Chapter 21 of the Internal Revenue Code, excluding 1858  
employee contributions and elective deferrals, and regardless of 1859  
whether such amounts are paid in the same taxable year in which 1860  
the amounts are included in the employee's wages, as defined by 1861  
section 3121(a) of the Internal Revenue Code. 1862

(ZZ) "Retirement benefit plan" means an arrangement 1863  
whereby an entity provides benefits to individuals either on or 1864  
after their termination of service because of retirement or 1865  
disability. "Retirement benefit plan" does not include wage 1866  
continuation payments, severance payments, or payments made for 1867  
accrued personal or vacation time. 1868

**Sec. 718.39.** If the municipal corporation imposing a tax 1869  
in accordance with this chapter has a population greater than 1870  
thirty thousand according to the most recent decennial census or 1871  
if the tax administrator charged with the administration of the 1872  
tax is described in either division ~~(U)~~~~(2)~~(1) (b) or ~~(3)~~(c) of 1873

section 718.01 of the Revised Code, all of the tax 1874  
administrator's written correspondence to a taxpayer or other 1875  
person shall include the name and contact information of an 1876  
individual designated to receive inquiries regarding the 1877  
correspondence. The individual may be the tax administrator or 1878  
an employee of the tax administrator. 1879

**Section 2.** That existing sections 173.27, 173.38, 173.381, 1880  
718.01, and 718.39 of the Revised Code are hereby repealed. 1881

**Section 3.** This act is hereby declared to be an emergency 1882  
measure necessary for the immediate preservation of the public 1883  
peace, health, and safety. The reason for such necessity is that 1884  
the changes that it makes to Ohio law are urgently needed to 1885  
restrict access in specified circumstances to criminal records 1886  
check information related to long-term care ombudsman programs, 1887  
direct-care positions, community-based long-term care services, 1888  
and municipal corporation tax administrators. 1889