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Am. S. B. No. 217

Senator Schaffer

**Cosponsors: Senators Cirino, Huffman, S., Johnson, Blessing, Brenner, Dolan, Fedor, Hackett, Hottinger, Roegner, Rulli, Schuring, Thomas, Wilson, Yuko
Representatives Abrams, Carruthers, Fraizer, Jones, Lampton, Leland, Miller, J., Seitz, Swearingen, West, White, Young, T.**

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 19
not include a person seeking to provide ombudsman services to 20
residents and recipients as a volunteer without receiving or 21
expecting to receive any form of remuneration other than 22
reimbursement for actual expenses. 23

(2) "Criminal records check" has the same meaning as in 24
section 109.572 of the Revised Code. 25

(3) "Disqualifying offense" means any of the offenses 26
listed or described in divisions (A)(3)(a) to (e) of section 27
109.572 of the Revised Code. 28

(4) "Employee" means a person employed by a responsible 29
party in a full-time, part-time, or temporary position that 30
involves providing ombudsman services to residents and 31
recipients. "Employee" includes the person employed as the state 32
long-term care ombudsman and a person employed as the head of a 33
regional long-term care ombudsman program. "Employee" does not 34
include a person who provides ombudsman services to residents 35
and recipients as a volunteer without receiving or expecting to 36
receive any form of remuneration other than reimbursement for 37
actual expenses. 38

(5) "Responsible party" means the following: 39

(a) In the case of an applicant who is under final 40
consideration for employment as the state long-term care 41
ombudsman or the person employed as the state long-term care 42
ombudsman, the director of aging; 43

(b) In the case of any other applicant who is under final 44
consideration for employment with the state long-term care 45

ombudsman program or any other employee of the state long-term 46
care ombudsman program, the state long-term care ombudsman; 47

(c) In the case of an applicant who is under final 48
consideration for employment with a regional long-term care 49
ombudsman program (including as the head of the regional 50
program) or an employee of a regional long-term care ombudsman 51
program (including the head of a regional program), the regional 52
long-term care ombudsman program. 53

(B) A responsible party may not employ an applicant or 54
continue to employ an employee in a position that involves 55
providing ombudsman services to residents and recipients if any 56
of the following apply: 57

(1) A review of the databases listed in division (D) of 58
this section reveals any of the following: 59

(a) That the applicant or employee is included in one or 60
more of the databases listed in divisions (D) (1) to (5) of this 61
section; 62

(b) That there is in the state nurse aide registry 63
established under section 3721.32 of the Revised Code a 64
statement detailing findings by the director of health that the 65
applicant or employee abused, neglected, or exploited a long- 66
term care facility or residential care facility resident or 67
misappropriated property of such a resident; 68

(c) That the applicant or employee is included in one or 69
more of the databases, if any, specified in rules adopted under 70
this section and the rules prohibit the responsible party from 71
employing an applicant or continuing to employ an employee 72
included in such a database in a position that involves 73
providing ombudsman services to residents and recipients. 74

(2) After the applicant or employee is provided, pursuant 75
to division (E) (2) (a) of this section, a copy of the form 76
prescribed pursuant to division (C) (1) of section 109.572 of the 77
Revised Code and the standard impression sheet prescribed 78
pursuant to division (C) (2) of that section, the applicant or 79
employee fails to complete the form or provide the applicant's 80
or employee's fingerprint impressions on the standard impression 81
sheet. 82

(3) Unless the applicant or employee meets standards 83
specified in rules adopted under this section, the applicant or 84
employee is found by a criminal records check required by this 85
section to have been convicted of, pleaded guilty to, or been 86
found eligible for intervention in lieu of conviction for a 87
disqualifying offense. 88

(C) A responsible party or a responsible party's designee 89
shall inform each applicant of both of the following at the time 90
of the applicant's initial application for employment in a 91
position that involves providing ombudsman services to residents 92
and recipients: 93

(1) That a review of the databases listed in division (D) 94
of this section will be conducted to determine whether the 95
responsible party is prohibited by division (B) (1) of this 96
section from employing the applicant in the position; 97

(2) That, unless the database review reveals that the 98
applicant may not be employed in the position, a criminal 99
records check of the applicant will be conducted and the 100
applicant is required to provide a set of the applicant's 101
fingerprint impressions as part of the criminal records check. 102

(D) As a condition of any applicant's being employed by a 103

responsible party in a position that involves providing 104
ombudsman services to residents and recipients, the responsible 105
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	136
under this section.	137
(E) (1) As a condition of any applicant's being employed by	138
a responsible party in a position that involves providing	139
ombudsman services to residents and recipients, the responsible	140
party or designee shall request that the superintendent of the	141
bureau of criminal identification and investigation conduct a	142
criminal records check of the applicant. If rules adopted under	143
this section so require, the responsible party or designee shall	144
request that the superintendent conduct a criminal records check	145
of an employee at times specified in the rules as a condition of	146
the responsible party continuing to employ the employee in a	147
position that involves providing ombudsman services to residents	148
and recipients. However, the responsible party or designee is	149
not required to request the criminal records check of the	150
applicant or employee if the responsible party is prohibited by	151
division (B) (1) of this section from employing the applicant or	152
continuing to employ the employee in a position that involves	153
providing ombudsman services to residents and recipients. If an	154
applicant or employee for whom a criminal records check request	155
is required by this section does not present proof of having	156
been a resident of this state for the five-year period	157
immediately prior to the date the criminal records check is	158
requested or provide evidence that within that five-year period	159
the superintendent has requested information about the applicant	160
or employee from the federal bureau of investigation in a	161
criminal records check, the responsible party or designee shall	162

request that the superintendent obtain information from the 163
federal bureau of investigation as part of the criminal records 164
check. Even if an applicant or employee for whom a criminal 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 applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The responsible party is not prohibited by division (B) (1) of this section from employing the applicant in a position that involves providing ombudsman services to residents and recipients;

(b) The responsible party or designee requests the criminal records check in accordance with division (E) of this section before conditionally employing the applicant.

(2) A responsible party shall terminate the employment of an applicant employed conditionally under division (F) (1) of this section if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the responsible party shall terminate the applicant's employment unless the applicant meets standards specified in rules adopted under this section that permit the responsible party to employ the applicant and the responsible party chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D) (2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the responsible party or designee about the applicant's criminal

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, <u>or hearing officer,</u> or other necessary	241
individual 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

this section who is involved in a case dealing with any issue, 250
matter, or action described in division (G) (4) (a), (b), or (c) 251
of this section. 252

(H) In a tort or other civil action for damages that is 253
brought as the result of an injury, death, or loss to person or 254
property caused by an applicant or employee who a responsible 255
party employs in a position that involves providing ombudsman 256
services to residents and recipients, all of the following shall 257
apply: 258

(1) If the responsible party employed the applicant or 259
employee in good faith and reasonable reliance on the report of 260
a criminal records check requested under this section, the 261
responsible party shall not be found negligent solely because of 262
its reliance on the report, even if the information in the 263
report is determined later to have been incomplete or 264
inaccurate. 265

(2) If the responsible party employed the applicant in 266
good faith on a conditional basis pursuant to division (F) of 267
this section, the responsible party shall not be found negligent 268
solely because it employed the applicant prior to receiving the 269
report of a criminal records check requested under this section. 270

(3) If the responsible party in good faith employed the 271
applicant or employee because the applicant or employee meets 272
standards specified in rules adopted under this section, the 273
responsible party shall not be found negligent solely because 274
the applicant or employee has been convicted of, pleaded guilty 275
to, or been found eligible for intervention in lieu of 276
conviction for a disqualifying offense. 277

(I) The state long-term care ombudsman may not act as the 278

director of aging's designee for the purpose of this section.	279
The head of a regional long-term care ombudsman program may not	280
act as the regional program's designee for the purpose of this	281
section if the head is the employee for whom a database review	282
or criminal records check is being conducted.	283
(J) The director of aging shall adopt rules in accordance	284
with Chapter 119. of the Revised Code to implement this section.	285
(1) The rules may do the following:	286
(a) Require employees to undergo database reviews and	287
criminal records checks under this section;	288
(b) If the rules require employees to undergo database	289
reviews and criminal records checks under this section, exempt	290
one or more classes of employees from the requirements;	291
(c) For the purpose of division (D)(7) of this section,	292
specify other databases that are to be checked as part of a	293
database review conducted under this section.	294
(2) The rules shall specify all of the following:	295
(a) The procedures for conducting database reviews under	296
this section;	297
(b) If the rules require employees to undergo database	298
reviews and criminal records checks under this section, the	299
times at which the database reviews and criminal records checks	300
are to be conducted;	301
(c) If the rules specify other databases to be checked as	302
part of the database reviews, the circumstances under which a	303
responsible party is prohibited from employing an applicant or	304
continuing to employ an employee who is found by a database	305
review to be included in one or more of those databases;	306

(d) Standards that an applicant or employee must meet for 307
a responsible party to be permitted to employ the applicant or 308
continue to employ the employee in a position that involves 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	358 359 360 361

position;	362
(ii) A person who is an employee because the person is	363
employed by the agency in a full-time, part-time, or temporary	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 539
criminal records check request is required by this section a 540
copy of the form prescribed pursuant to division (C)(1) of 541
section 109.572 of the Revised Code and a standard impression 542
sheet prescribed pursuant to division (C)(2) of that section; 543

(b) Obtain the completed form and standard impression 544
sheet from the applicant or employee; 545

(c) Forward the completed form and standard impression 546
sheet to the superintendent. 547

(3) A responsible party shall pay to the bureau of 548
criminal identification and investigation the fee prescribed 549
pursuant to division (C)(3) of section 109.572 of the Revised 550
Code for each criminal records check the responsible party 551
requests under this section. A responsible party may charge an 552
applicant a fee not exceeding the amount the responsible party 553
pays to the bureau under this section if both of the following 554
apply: 555

(a) The responsible party notifies the applicant at the 556
time of initial application for employment of the amount of the 557
fee and that, unless the fee is paid, the applicant will not be 558
considered for employment. 559

(b) The medicaid program does not pay the responsible 560
party for the fee it pays to the bureau under this section. 561

(G) Divisions (D) to (F) of this section do not apply with 562
regard to an applicant or employee if the applicant or employee 563
is referred to a responsible party by an employment service that 564

supplies full-time, part-time, or temporary staff for direct-care positions and both of the following apply: 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 656
records check; 657

(5) The director of aging or a person authorized by the 658
director to monitor a responsible party's compliance with this 659
section; 660

(6) The medicaid director and the staff of the department 661
of medicaid who are involved in the administration of the 662
medicaid program if any of the following apply: 663

(a) In the case of a criminal records check requested by a 664
provider or subcontractor, the provider or subcontractor also is 665
a waiver agency; 666

(b) In the case of a criminal records check requested by 667
an employment service, the employment service makes the request 668
for an applicant or employee the employment service refers to a 669
provider or subcontractor that also is a waiver agency; 670

(c) The criminal records check is requested by a consumer 671
who is acting as a responsible party. 672

(7) A court, or hearing officer, ~~or other necessary~~ 673
~~individual~~ involved in a case dealing with any of the following: 674

(a) A denial of employment of the applicant or employee; 675

(b) Employment or unemployment benefits of the applicant 676
or employee; 677

(c) A civil or criminal action regarding the medicaid 678
program or a program the department of aging administers. 679

(8) Pursuant to a lawful subpoena or valid court order, 680
any necessary individual not identified in division (I) (7) of 681
this section who is involved in a case dealing with any issue, 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 712
criminal records checks under this section; 713

(b) If the rules require employees to undergo database 714
reviews and criminal records checks under this section, exempt 715
one or more classes of employees from the requirements; 716

(c) For the purpose of division (E) (7) of this section, 717
specify other databases that are to be checked as part of a 718
database review conducted under this section. 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 722
this section; 723

(c) If the rules require employees to undergo database 724
reviews and criminal records checks under this section, the 725
times at which the database reviews and criminal records checks 726
are to be conducted; 727

(d) If the rules specify other databases to be checked as 728
part of the database reviews, the circumstances under which a 729
responsible party is prohibited from employing an applicant or 730
continuing to employ an employee who is found by a database 731
review to be included in one or more of those databases; 732

(e) Standards that an applicant or employee must meet for 733
a responsible party to be permitted to employ the applicant or 734
continue to employ the employee in a direct-care position if the 735

applicant or employee is found by a criminal records check 736
required by this section to have been convicted of, pleaded 737
guilty to, or been found eligible for intervention in lieu of 738
conviction for a disqualifying offense. 739

Sec. 173.381. (A) As used in this section: 740

(1) "Community-based long-term care services" means 741
community-based long-term care services, as defined in section 742
173.14 of the Revised Code, that are provided under a program 743
the department of aging administers. 744

(2) "Community-based long-term care services certificate" 745
means a certificate issued under section 173.391 of the Revised 746
Code. 747

(3) "Community-based long-term care services contract or 748
grant" means a contract or grant awarded under section 173.392 749
of the Revised Code. 750

(4) "Criminal records check" has the same meaning as in 751
section 109.572 of the Revised Code. 752

(5) "Disqualifying offense" means any of the offenses 753
listed or described in divisions (A) (3) (a) to (e) of section 754
109.572 of the Revised Code. 755

(6) "Provider" has the same meaning as in section 173.39 756
of the Revised Code. 757

(7) "Self-employed provider" means a provider who works 758
for the provider's self and has no employees. 759

(B) This section does not apply to any individual who is 760
subject to a database review or criminal records check under 761
section 3701.881 of the Revised Code. 762

(C) (1) The department of aging or its designee shall take 763
the following actions when the circumstances specified in 764
division (C) (2) of this section apply: 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 768
long-term care services certificate; 769

(c) Refuse to award a community-based long-term care 770
services contract or grant to a self-employed provider; 771

(d) Terminate a self-employed provider's community-based 772
long-term care services contract or grant awarded on or after 773
September 15, 2014. 774

(2) The following are the circumstances that require the 775
department of aging or its designee to take action under 776
division (C) (1) of this section: 777

(a) A review of the databases listed in division (E) of 778
this section reveals any of the following: 779

(i) That the self-employed provider is included in one or 780
more of the databases listed in divisions (E) (1) to (5) of this 781
section; 782

(ii) That there is in the state nurse aide registry 783
established under section 3721.32 of the Revised Code a 784
statement detailing findings by the director of health that the 785
self-employed provider abused, neglected, or exploited a long- 786
term care facility or residential care facility resident or 787
misappropriated property of such a resident; 788

(iii) That the self-employed provider is included in one 789
or more of the databases, if any, specified in rules adopted 790

under this section and the rules require the department or its 791
designee to take action under division (C) (1) of this section if 792
a self-employed provider is included in such a database. 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 854
offender database established under division (A)(11) of section 855
2950.13 of the Revised Code; 856

(5) The internet-based database of inmates established 857
under section 5120.66 of the Revised Code; 858

(6) The state nurse aide registry established under 859
section 3721.32 of the Revised Code; 860

(7) Any other database, if any, specified in rules adopted 861
under this section. 862

(F)(1) As a condition of issuing or awarding a community- 863
based long-term care services certificate or community-based 864
long-term care services contract or grant to a self-employed 865
provider, the department of aging or its designee shall request 866
that the superintendent of the bureau of criminal identification 867
and investigation conduct a criminal records check of the self- 868
employed provider. If rules adopted under this section so 869
require, the department or its designee shall request that the 870
superintendent conduct a criminal records check of a self- 871
employed provider at times specified in the rules as a condition 872
of not revoking or terminating the self-employed provider's 873
community-based long-term care services certificate or 874
community-based long-term care services contract or grant. 875
However, the department or its designee is not required to 876
request the criminal records check of the self-employed provider 877
if the department or its designee, because of circumstances 878

specified in division (C) (2) (a) of this section, is required to 879
refuse to issue or award a community-based long-term care 880
services certificate or community-based long-term care services 881
contract or grant to the self-employed provider or to revoke or 882
terminate the self-employed provider's certificate or contract 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 sheet to the superintendent.	910 911
(3) The department or its designee 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 of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau.	912 913 914 915 916 917 918 919
(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:	920 921 922 923 924
(1) The self-employed provider or the self-employed provider's representative;	925 926
(2) The department of aging, the department's designee, or a representative of the department or its designee;	927 928
(3) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if the self-employed provider is to provide, or provides, community-based long-term care services under a component of the medicaid program that the department of aging administers;	929 930 931 932 933 934
(4) A court, or hearing officer, or other necessary individual involved in a case dealing with any of the following:	935 936

(a) A refusal to issue or award a community-based long-term services certificate or community-based long-term care services contract or grant to the self-employed provider; 937
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(b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant; 940
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(c) A civil or criminal action regarding a program the department of aging administers. 943
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(5) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (G) (4) of this section who is involved in a case dealing with any issue, matter, or action described in division (G) (4) (a), (b), or (c) of this section. 945
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(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 a self-employed provider, both of the following shall apply: 950
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(1) If the department of aging or its designee, in good faith and reasonable reliance on the report of a criminal records check requested under this section, issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant, the department and its designee 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. 954
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(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 wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (D) (5) of this section.	1086 1087 1088 1089 1090 1091 1092
(b) For the purposes of division (B) (1) (a) of this section:	1093 1094
(i) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (B) (1) (d) of this section;	1095 1096 1097 1098 1099 1100 1101 1102 1103 1104
(ii) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.	1105 1106 1107 1108 1109 1110
(c) Division (B) (1) (b) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders'	1111 1112 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 1117
taxpayer's net profit for a taxable year shall reduce the amount 1118
of net operating loss that may be carried forward to any 1119
subsequent year for use by that taxpayer. In no event shall the 1120
cumulative deductions for all taxable years with respect to a 1121
taxpayer's net operating loss exceed the original amount of that 1122
net operating loss available to that taxpayer. 1123

(2) In the case of nonresidents, all income, salaries, 1124
qualifying wages, commissions, and other compensation from 1125
whatever source earned or received by the nonresident for work 1126
done, services performed or rendered, or activities conducted in 1127
the municipal corporation, including any net profit of the 1128
nonresident, but excluding the nonresident's distributive share 1129
of the net profit or loss of only pass-through entities owned 1130
directly or indirectly by the nonresident. 1131

(3) For taxpayers that are not individuals, net profit of 1132
the taxpayer; 1133

(4) Lottery, sweepstakes, gambling and sports winnings, 1134
winnings from games of chance, and prizes and awards. If the 1135
taxpayer is a professional gambler for federal income tax 1136
purposes, the taxpayer may deduct related wagering losses and 1137
expenses to the extent authorized under the Internal Revenue 1138
Code and claimed against such winnings. 1139

(C) "Exempt income" means all of the following: 1140

(1) The military pay or allowances of members of the armed 1141
forces of the United States or members of their reserve 1142

components, including the national guard of any state;	1143
(2) (a) Except as provided in division (C) (2) (b) of this section, intangible income;	1144 1145
(b) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.	1146 1147 1148 1149 1150 1151 1152
(3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C) (3) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o) (2) of the Internal Revenue Code.	1153 1154 1155 1156 1157 1158 1159 1160 1161 1162 1163 1164
(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.	1165 1166 1167 1168
(5) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed	1169 1170 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 1263
section does not apply to qualifying wages that an employer 1264
elects to withhold under division (D)(2) of section 718.011 of 1265
the Revised Code. 1266

(d) The exemption provided in division (C)(16)(a) of this 1267
section does not apply to qualifying wages if both of the 1268
following conditions apply: 1269

(i) For qualifying wages described in division (B)(1) of 1270
section 718.011 of the Revised Code, the employee's employer 1271
withholds and remits tax on the qualifying wages to the 1272
municipal corporation in which the employee's principal place of 1273
work is situated, or, for qualifying wages described in division 1274
(E) of section 718.011 of the Revised Code, the employee's 1275
employer withholds and remits tax on the qualifying wages to the 1276
municipal corporation in which the employer's fixed location is 1277
located; 1278

(ii) The employee receives a refund of the tax described 1279
in division (C)(16)(d)(i) of this section on the basis of the 1280
employee not performing services in that municipal corporation. 1281

(17)(a) Except as provided in division (C)(17)(b) or (c) 1282
of this section, compensation that is not qualifying wages paid 1283
to a nonresident individual for personal services performed in 1284
the municipal corporation on not more than twenty days in a 1285
taxable year. 1286

(b) The exemption provided in division (C)(17)(a) of this 1287
section does not apply under either of the following 1288

circumstances:	1289
(i) The individual's base of operation is located in the municipal corporation.	1290 1291
(ii) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C) (17) (b) (ii) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in section 718.011 of the Revised Code.	1292 1293 1294 1295 1296 1297 1298 1299
(c) Compensation to which division (C) (17) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.	1300 1301 1302 1303 1304
(d) For purposes of division (C) (17) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.	1305 1306 1307 1308 1309
(18) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Revised Code on or after March 27, 2013, unless	1310 1311 1312 1313 1314 1315 1316 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 1380
person may deduct, for purposes of an income tax levied by a 1381
municipal corporation that levies an income tax before January 1382
1, 2016, the full amount allowed by division (D) (3) of this 1383
section without regard to the limitation of division (D) (3) (b) 1384
(i) of this section. 1385

(d) Any pre-2017 net operating loss carryforward deduction 1386
that is available may be utilized before a taxpayer may deduct 1387
any amount pursuant to division (D) (3) of this section. 1388

(e) Nothing in division (D) (3) (c) (i) of this section 1389
precludes a person from carrying forward, for use with respect 1390
to any return filed for a taxable year beginning after 2018, any 1391
amount of net operating loss that was not fully utilized by 1392
operation of division (D) (3) (c) (i) of this section. To the 1393
extent that an amount of net operating loss that was not fully 1394
utilized in one or more taxable years by operation of division 1395
(D) (3) (c) (i) of this section is carried forward for use with 1396
respect to a return filed for a taxable year beginning in 2019, 1397
2020, 2021, or 2022, the limitation described in division (D) (3) 1398
(c) (i) of this section shall apply to the amount carried 1399
forward. 1400

(4) For the purposes of this chapter, and notwithstanding 1401
division (D) (2) of this section, net profit of a disregarded 1402
entity shall not be taxable as against that disregarded entity, 1403
but shall instead be included in the net profit of the owner of 1404
the disregarded entity. 1405

(5) For the purposes of this chapter, and notwithstanding 1406
any other provision of this chapter, the net profit of a 1407
publicly traded partnership that makes the election described in 1408
division (D) (5) of this section shall be taxed as if the 1409
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 limitations, adjusted as follows:	1581 1582
(1) Deduct the following amounts:	1583
(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.	1584 1585 1586
(b) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.	1587 1588 1589 1590
(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	1591 1592 1593 1594 1595 1596
(d) Any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	1597 1598 1599 1600 1601 1602 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 employee was employed by the employer before April 1, 1986.	1606 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 1698
liability company, a qualifying subchapter S subsidiary, or 1699
another entity if the company, subsidiary, or entity is a 1700
disregarded entity for federal income tax purposes. 1701

(CC) "Generic form" means an electronic or paper form that 1702
is not prescribed by a particular municipal corporation and that 1703
is designed for reporting taxes withheld by an employer, agent 1704
of an employer, or other payer, estimated municipal income 1705
taxes, or annual municipal income tax liability or for filing a 1706
refund claim. 1707

(DD) "Tax return preparer" means any individual described 1708
in section 7701(a)(36) of the Internal Revenue Code and 26 1709
C.F.R. 301.7701-15. 1710

(EE) "Ohio business gateway" means the online computer 1711
network system, created under section 125.30 of the Revised 1712
Code, that allows persons to electronically file business reply 1713
forms with state agencies and includes any successor electronic 1714
filing and payment system. 1715

(FF) "Local board of tax review" and "board of tax review" 1716
mean the entity created under section 718.11 of the Revised 1717
Code. 1718

(GG) "Net operating loss" means a loss incurred by a 1719
person in the operation of a trade or business. "Net operating 1720
loss" does not include unutilized losses resulting from basis 1721
limitations, at-risk limitations, or passive activity loss 1722
limitations. 1723

(HH) "Casino operator" and "casino facility" have the same 1724
meanings as in section 3772.01 of the Revised Code. 1725

(II) "Video lottery terminal" has the same meaning as in 1726
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)~~ (U) (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. Therefore, this 1889
act shall go into immediate effect. 1890