

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 192

Representatives Roemer, Demetriou

Cosponsors: Representatives Hillyer, Johnson, Seitz



A BILL

To amend sections 113.05, 113.11, 113.12, 113.40, 1
113.41, 113.60, 125.30, 125.901, 126.06, 127.14, 2
129.06, 129.09, 131.01, 135.01, 135.02, 135.04, 3
135.05, 135.06, 135.08, 135.10, 135.12, 135.14, 4
135.142, 135.143, 135.15, 135.182, 135.31, 5
135.35, 135.45, 135.46, 135.47, 718.01, 1111.04, 6
1112.12, 1315.54, 1345.01, 1501.10, 1503.05, 7
1509.07, 1509.225, 1514.04, 1514.05, 1521.061, 8
1548.06, 1733.04, 1733.24, 1735.03, 2109.37, 9
2109.372, 2109.44, 3314.50, 3366.05, 3737.945, 10
3903.73, 3905.32, 3916.01, 3925.26, 4141.241, 11
4505.06, 4509.101, 4509.45, 4509.62, 4509.63, 12
4509.65, 4509.67, 4710.03, 4749.01, 4763.13, 13
5725.17, 5725.22, 5727.25, 5727.31, 5727.311, 14
5727.42, 5727.47, 5727.53, 5727.81, 5727.811, 15
5727.82, 5727.83, 5733.022, 5735.03, 5735.062, 16
5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 17
5743.15, 5745.03, 5745.04, 5745.041, 5747.059, 18
5747.07, 5747.072, 5747.42, 5747.44, 5747.451, 19
5815.26, and 5815.37; to amend, for the purpose 20
of adopting a new section number as indicated in 21
parentheses, section 113.41 (125.903); to enact 22
new sections 135.61, 135.62, 135.63, 135.64, 23

135.65, and 135.66 and sections 113.22, 135.621, 24
135.622, 135.623, 135.624, 135.625, 169.053, and 25
1501.04; and to repeal sections 113.061, 113.07, 26
129.02, 129.03, 129.08, 129.10, 129.11, 129.12, 27
129.13, 129.14, 129.15, 129.16, 129.18, 129.19, 28
129.20, 129.72, 129.73, 129.74, 129.75, 129.76, 29
135.101, 135.102, 135.103, 135.104, 135.105, 30
135.106, 135.61, 135.62, 135.63, 135.64, 135.65, 31
135.66, 135.67, 135.68, 135.69, 135.70, 135.71, 32
135.72, 135.73, 135.74, 135.75, 135.76, 135.77, 33
135.771, 135.772, 135.773, 135.774, 135.78, 34
135.79, 135.791, 135.792, 135.793, 135.794, 35
135.795, 135.796, 135.81, 135.82, 135.83, 36
135.84, 135.85, 135.86, 135.87, 135.91, 135.92, 37
135.93, 135.94, 135.95, 135.96, 135.97, 144.01, 38
144.02, 144.03, 144.04, 144.05, 144.06, and 39
144.07 of the Revised Code regarding the 40
Treasurer of State and the electronic payment of 41
taxes. 42

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

Section 1. That sections 113.05, 113.11, 113.12, 113.40, 43
113.41, 113.60, 125.30, 125.901, 126.06, 127.14, 129.06, 129.09, 44
131.01, 135.01, 135.02, 135.04, 135.05, 135.06, 135.08, 135.10, 45
135.12, 135.14, 135.142, 135.143, 135.15, 135.182, 135.31, 46
135.35, 135.45, 135.46, 135.47, 718.01, 1111.04, 1112.12, 47
1315.54, 1345.01, 1501.10, 1503.05, 1509.07, 1509.225, 1514.04, 48
1514.05, 1521.061, 1548.06, 1733.04, 1733.24, 1735.03, 2109.37, 49
2109.372, 2109.44, 3314.50, 3366.05, 3737.945, 3903.73, 3905.32, 50

3916.01, 3925.26, 4141.241, 4505.06, 4509.101, 4509.45, 4509.62, 51
4509.63, 4509.65, 4509.67, 4710.03, 4749.01, 4763.13, 5725.17, 52
5725.22, 5727.25, 5727.31, 5727.311, 5727.42, 5727.47, 5727.53, 53
5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.03, 54
5735.062, 5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 55
5743.15, 5745.03, 5745.04, 5745.041, 5747.059, 5747.07, 56
5747.072, 5747.42, 5747.44, 5747.451, 5815.26, and 5815.37 be 57
amended; section 113.41 (125.903) be amended for the purpose of 58
adopting a new section number as indicated in parentheses; and 59
new sections 135.61, 135.62, 135.63, 135.64, 135.65, and 135.66 60
and sections 113.22, 135.621, 135.622, 135.623, 135.624, 61
135.625, 169.053, and 1501.04 of the Revised Code be enacted to 62
read as follows: 63

Sec. 113.05. (A) As used in sections 113.05 to 113.40 of 64
the Revised Code: 65

(1) "Account," "appropriation," "disbursement," 66
"electronic funds transfer," "fund," and "warrant" have the same 67
meanings as in section 131.01 of the Revised Code. 68

(2) "Assets" has the same meaning as in section 131.01 of 69
the Revised Code, but does not include items held in safekeeping 70
by the treasurer of state including, but not limited to, 71
collateral pledged to a state agency. 72

(3) "Custodial funds" do not include items held in 73
safekeeping by the treasurer of state including, but not limited 74
to, collateral pledged to a state agency. 75

(B) The state treasury consists of the moneys, claims, 76
bonds, notes, other obligations, stocks, and other securities, 77
receipts or other evidences of ownership, and other intangible 78
assets of the state that are required by law to be deposited in 79

the state treasury or are otherwise a part of the state 80
treasury. All assets of the state treasury shall be kept in the 81
rooms assigned the treasurer of state, with the vaults, safes, 82
and other appliances therein; provided, that: 83

(1) Securities required by law to be deposited or kept in 84
the state treasury may be deposited for safekeeping with the 85
federal reserve bank of Cleveland, Ohio or secured and insured 86
depositories in or out of this state as designated by the 87
treasurer of state. 88

(2) Public moneys may be kept in constituted state 89
depositories. 90

~~(B)~~ (C) The custodial funds of the treasurer of state 91
consist of the moneys, claims, bonds, notes, other obligations, 92
stocks, and other securities, receipts or other evidences of 93
ownership, and other intangible assets that are required by law 94
to be kept in the custody of the treasurer of state but are not 95
part of the state treasury. All assets of the custodial funds of 96
the treasurer of state shall be kept in either or both of the 97
following: 98

(1) The rooms assigned the treasurer of state, with the 99
vaults, safes, and other appliances therein; 100

(2) The federal reserve bank of Cleveland, Ohio or secured 101
and insured depositories in or out of this state as designated 102
by the treasurer of state. 103

~~(C)~~ (D) Assets of the state treasury shall not be 104
commingled with assets of the custodial funds of the treasurer 105
of state. 106

The repositing and deposit of payments pursuant to 107
~~sections section 113.06 and 113.07~~ of the Revised Code ~~are~~ is in 108

compliance with this section. 109

Sec. 113.11. No money shall be paid out of the state 110
treasury or transferred elsewhere except ~~on the warrant of as~~ 111
ordered by the director of budget and management. No money shall 112
be paid out of a custodial fund of the treasurer of state except 113
~~on proper order to the treasurer of state as ordered~~ by the 114
officer authorized by law to pay money out of the fund. 115

The treasurer of state shall adopt rules prescribing the 116
form and manner in which money may be paid out of the state 117
treasury or a custodial fund of the treasurer of state. 118

Sec. 113.12. (A) As used in this section, "valid warrant" 119
means a warrant that is not stopped, stale dated for age, 120
voided, canceled, altered, or fictitious. 121

(B) The treasurer of state, on presentation, shall pay all 122
valid warrants drawn on the ~~treasurer of state state treasury~~ by 123
the director of budget and management. ~~At least once each month~~ 124
On a daily basis, the treasurer of state shall ~~surrender~~ provide 125
to the director electronic records of all warrants the treasurer 126
of state has paid and shall ~~accept the receipt of the director~~ 127
~~therefor. The receipt shall be held by the treasurer of state in~~ 128
~~place of such warrants and as evidence of their payment until an~~ 129
~~audit of the state treasury and the custodial funds of the~~ 130
~~treasurer of state has been completed, adjusted, or returned.~~ 131

Sec. 113.22. There is hereby created in the state treasury 132
the treasurer's information technology reserve fund. The fund 133
shall consist of unexpended amounts transferred from either or 134
both of the following: 135

(A) The securities lending program fund created under 136
section 135.47 of the Revised Code; 137

(B) The account created under section 3366.05 of the 138
Revised Code that is in the custody of the treasurer of state 139
and not part of the state treasury. 140

Moneys credited to the treasurer's information technology 141
reserve fund shall be expended only to acquire or maintain 142
hardware, software, or contract services for the efficient 143
operation of the treasurer of state's office. Unexpended amounts 144
shall be retained in the fund and reserved for such future 145
technology needs. 146

Sec. 113.40. (A) As used in this section: 147

(1) "Financial transaction device" includes a credit card, 148
debit card, charge card, prepaid or stored value card, or 149
automated clearinghouse network credit, debit, or e-check entry 150
that includes, but is not limited to, accounts receivable and 151
internet-initiated, point of purchase, and telephone-initiated 152
applications, or any other device or method for making an 153
electronic payment or transfer of funds. 154

(2) "State expenses" includes fees, costs, taxes, 155
assessments, fines, penalties, payments, or any other expense a 156
person owes to a state office under the authority of a state 157
elected official or to a state entity. 158

(3) "State elected official" means the governor, 159
lieutenant governor, attorney general, secretary of state, 160
treasurer of state, and auditor of state. 161

(4) "State entity" includes any state department, agency, 162
board, or commission that deposits funds into the state 163
treasury. 164

(B) Notwithstanding any other section of the Revised Code 165
and subject to division (D) of this section, the board of 166

deposit may adopt a resolution authorizing the acceptance of 167
payments by financial transaction device to pay for state 168
expenses. The resolution shall include all of the following: 169

(1) A designation of those state elected officials and 170
state entities authorized to accept payments by financial 171
transaction device; 172

(2) A list of state expenses that may be paid by the use 173
of a financial transaction device; 174

(3) Specific identification of financial transaction 175
devices that a state elected official or state entity may 176
authorize as acceptable means of payment for state expenses. 177
Division (B) (3) of this section does not require that the same 178
financial transaction devices be accepted for the payment of 179
different types of state expenses. 180

(4) The amount, if any, authorized as a surcharge or 181
convenience fee under division (E) of this section for persons 182
using a financial transaction device. Division (B) (4) of this 183
section does not require that the same surcharges or convenience 184
fees be applied to the payment of different types of state 185
expenses. 186

(5) A specific requirement, as provided in division (G) of 187
this section, for the payment of a penalty if a payment made by 188
means of a financial transaction device is returned or 189
dishonored for any reason. 190

The board of deposit's resolution also shall designate the 191
treasurer of state as the administrative agent to solicit 192
proposals, within guidelines established by the board of deposit 193
in the resolution and in compliance with the procedures provided 194
in division (C) of this section, from financial institutions, 195

issuers of financial transaction devices, and processors of 196
financial transaction devices; to make recommendations about 197
those proposals to the state elected officials; and to assist 198
state offices in implementing the state's financial transaction 199
device acceptance and processing program. 200

(C) The administrative agent shall follow the procedures 201
provided in this division whenever it plans to contract with 202
financial institutions, issuers of financial transaction 203
devices, or processors of financial transaction devices for the 204
purposes of this section. The administrative agent shall request 205
proposals from at least three financial institutions, issuers of 206
financial transaction devices, or processors of financial 207
transaction devices, as appropriate in accordance with the 208
resolution adopted under division (B) of this section. Prior to 209
sending any financial institution, issuer, or processor a copy 210
of any such request, the administrative agent shall advertise 211
its intent to request proposals ~~in a newspaper of general~~ 212
~~circulation in the state once a week~~ for two consecutive weeks 213
by electronic publication on a state agency web site made 214
available to the general public. The notice shall state that the 215
administrative agent intends to request proposals; specify the 216
purpose of the request; indicate the date, which shall be at 217
least ten days after the ~~second~~ publication, on which the 218
request for proposals will be electronically mailed to financial 219
institutions, issuers, or processors; and require that any 220
financial institution, issuer, or processor, whichever is 221
appropriate, interested in receiving the request for proposals 222
submit written notice of this interest to the administrative 223
agent not later than ~~noon~~ of the day on which the request for 224
proposals will be electronically mailed. 225

Upon receiving the proposals, the administrative agent 226

shall review them and make a recommendation to the board of 227
deposit regarding which proposals to accept. The board of 228
deposit shall consider the agent's recommendation and review all 229
proposals submitted, and then may choose to contract with any or 230
all of the entities submitting proposals, as appropriate. The 231
board of deposit shall provide any financial institution, 232
issuer, or processor that submitted a proposal, but with which 233
the board does not enter into a contract, notice that its 234
proposal is rejected. 235

(D) The board of deposit shall send a copy of the 236
resolution adopted under division (B) of this section to each 237
state elected official and state entity authorized to accept 238
payments for state expenses by financial transaction device. 239
After receiving the resolution and before accepting such 240
payments by financial transaction device, such a state elected 241
official or state entity shall provide written notification to 242
the administrative agent of the official's or entity's intent to 243
implement the resolution within the official's or entity's 244
office. Each state office or entity subject to the board's 245
resolution adopted under division (B) of this section shall use 246
only the financial institutions, issuers of financial 247
transaction devices, and processors of financial transaction 248
devices with which the board of deposit contracts, and each such 249
office or entity is subject to the terms of those contracts. 250

If a state entity under the authority of a state elected 251
official is directly responsible for collecting one or more 252
state expenses and the state elected official determines not to 253
accept payments by financial transaction device for one or more 254
of those expenses, the office is not required to accept payments 255
by financial transaction device for those expenses, 256
notwithstanding the adoption of a resolution by the board of 257

deposit under division (B) of this section. 258

~~Any state entity that prior to March 18, 1999, accepted~~ 259
~~financial transaction devices may continue to accept such~~ 260
~~devices until June 30, 2000, without being subject to any~~ 261
~~resolution adopted by the board of deposit under division (B) of~~ 262
~~this section, or any other oversight by the board of the~~ 263
~~entity's financial transaction device program. Any such entity~~ 264
~~may use surcharges or convenience fees in any manner the state~~ 265
~~elected official or other official in charge of the entity~~ 266
~~determines to be appropriate, and, if the administrative agent~~ 267
~~consents, may appoint the administrative agent to be the~~ 268
~~entity's administrative agent for purposes of accepting~~ 269
~~financial transaction devices. In order to be exempt from the~~ 270
~~resolution of the board of deposit under division (B) of this~~ 271
~~section, a state entity shall notify the board in writing within~~ 272
~~thirty days after March 18, 1999, that it accepted financial~~ 273
~~transaction devices prior to March 18, 1999. Each such~~ 274
~~notification shall explain how processing costs associated with~~ 275
~~financial transaction devices are being paid and shall indicate~~ 276
~~whether surcharge or convenience fees are being passed on to~~ 277
~~consumers.~~ 278

(E) The board of deposit may establish a surcharge or 279
convenience fee that may be imposed upon a person making payment 280
by a financial transaction device. The surcharge or convenience 281
fee shall not be imposed unless authorized or otherwise 282
permitted by the rules prescribed under a contract, between the 283
financial institution, issuer, or processor and the 284
administrative agent, governing the use and acceptance of the 285
financial transaction device. 286

The establishment of a surcharge or convenience fee shall 287

follow the guidelines of the financial institution, issuer of 288
financial transaction devices, or processor of financial 289
transaction devices with which the board of deposit contracts. 290

If a surcharge or convenience fee is imposed, every state 291
entity accepting payment by a financial transaction device, 292
regardless of whether that entity is subject to a resolution 293
adopted by the board of deposit, shall clearly post a notice in 294
the entity's office, and shall notify each person making a 295
payment by such a device, about the surcharge or fee. Notice to 296
each person making a payment shall be provided regardless of the 297
medium used to make the payment and in a manner appropriate to 298
that medium. Each notice shall include all of the following: 299

(1) A statement that there is a surcharge or convenience 300
fee for using a financial transaction device; 301

(2) The total amount of the charge or fee expressed in 302
dollars and cents for each transaction, or the rate of the 303
charge or fee expressed as a percentage of the total amount of 304
the transaction, whichever is applicable; 305

(3) A clear statement that the surcharge or convenience 306
fee is nonrefundable. 307

(F) If a person elects to make a payment by a financial 308
transaction device and a surcharge or convenience fee is 309
imposed, the payment of the surcharge or convenience fee is not 310
refundable. 311

(G) If a person makes payment by a financial transaction 312
device and the payment is returned or dishonored for any reason, 313
the person is liable to the state for the state expense and any 314
reimbursable costs for collection, including banking charges, 315
legal fees, or other expenses incurred by the state in 316

collecting the returned or dishonored payment. The remedies and 317
procedures provided in this section are in addition to any other 318
available civil or criminal remedies provided by law. 319

(H) No person making any payment by a financial 320
transaction device to a state office shall be relieved from 321
liability for the underlying obligation, except to the extent 322
that the state realizes final payment of the underlying 323
obligation in cash or its equivalent. If final payment is not 324
made by the financial transaction device issuer or other 325
guarantor of payment in the transaction, the underlying 326
obligation survives and the state shall retain all remedies for 327
enforcement that would have applied if the transaction had not 328
occurred. 329

(I) A state entity or employee who accepts a financial 330
transaction device payment in accordance with this section and 331
any applicable state or local policies or rules is immune from 332
personal liability for the final collection of such payments as 333
specified in section 9.87 of the Revised Code. 334

(J) If the board of deposit determines that it is 335
necessary and in the state's best interest to contract with an 336
additional entity subsequent to the contract award made under 337
division (C) of this section, the board may meet and choose to 338
contract with one or more additional entities for the remainder 339
of the period previously established by a contract award made 340
under division (C) of this section. 341

(K) The administrative agent, in cooperation with the 342
office of budget and management, may adopt, amend, and rescind 343
rules in accordance with section 111.15 of the Revised Code to 344
implement and administer this section. 345

Sec. 113.60. (A) As used in this section and sections 346
113.61 and 113.62 of the Revised Code: 347

(1) "Service intermediary" means a person or entity that 348
enters into a pay for success contract under this section and 349
sections 113.61 and 113.62 of the Revised Code. The service 350
intermediary may act as the service provider that delivers the 351
services specified in the contract or may contract with a 352
separate service provider to deliver those services. 353

(2) "State agency" and "political subdivision" have the 354
same meanings as in section 9.23 of the Revised Code. 355

(B) The treasurer of state shall administer the pay for 356
success contracting program, shall develop procedures for 357
awarding pay for success contracts, and may take any action 358
necessary to implement and administer the program. Under the 359
program, the treasurer of state may enter into a pay for success 360
contract with a service intermediary for the delivery of 361
specified services that benefit the state, a political 362
subdivision, or a group of political subdivisions, such as 363
programs addressing education, public health, criminal justice, 364
or natural resource management. In the case of a contract for 365
the delivery of services that benefit the state, the treasurer 366
of state shall enter into the contract jointly with the director 367
of administrative services. The treasurer of state and, as 368
applicable, the director of administrative services, may enter 369
into a pay for success contract under either of the following 370
circumstances: 371

(1) Upon receiving an appropriation from the general 372
assembly for the purpose of entering into a pay for success 373
contract; 374

(2) (a) At the request of a state agency, a political 375
subdivision, or a group of state agencies or political 376
subdivisions that the treasurer of state and, as applicable, the 377
director of administrative services, enter into a pay for 378
success contract on behalf of the requesting state agency, 379
political subdivision, or group. The requesting state agency, 380
political subdivision, or group shall deposit the cost of the 381
contract with the treasurer of state in the appropriate fund 382
established in section 113.62 of the Revised Code. 383

(b) A political subdivision or group of political 384
subdivisions that requests the treasurer of state to enter into 385
a pay for success contract on behalf of the political 386
subdivision or group shall not use state funds to pay the cost 387
of the contract. 388

(c) The treasurer of state may apply for federal grant 389
moneys on behalf of a requesting state agency, political 390
subdivision, or group to pay the cost of all or part of the 391
contract. The treasurer of state shall not apply for federal 392
grant moneys for the purpose of entering into a pay for success 393
contract without first entering into an agreement with a 394
requesting state agency, political subdivision, or group for the 395
treasurer of state to apply for those moneys. 396

(C) The treasurer of state may adopt rules in accordance 397
with Chapter 119. of the Revised Code to administer the pay for 398
success contracting program, including rules concerning ~~both~~any 399
of the following: 400

(1) The procedure for a state agency, political 401
subdivision, or group of state agencies or political 402
subdivisions to request the treasurer of state and, as 403
applicable, the director of administrative services to enter 404

into a pay for success contract and to deposit the cost of the 405
contract with the treasurer of state; 406

(2) The types of services that are appropriate for a 407
service provider to provide under a pay for success contract; 408

(3) Any other rules necessary for the implementation and 409
administration of sections 113.60 to 113.62 of the Revised Code. 410

~~(D) The rules of the treasurer of state shall include both 411~~
~~of the following: 412~~

~~(1) A requirement that for not less than seventy five per 413~~
~~cent of the pay for success contracts entered into under this 414~~
~~section, the performance targets specified in the contract 415~~
~~require that, based on available regional or national data, the 416~~
~~improvement in the status of this state or the relevant area of 417~~
~~this state with respect to the issue the contract is meant to 418~~
~~address be greater than the average improvement in status with 419~~
~~respect to that issue in other geographical areas during the 420~~
~~period of the contract; 421~~

~~(2) A process to ensure that any regional or national data 422~~
~~used to determine whether a service provider has met its 423~~
~~performance targets under a pay for success contract are 424~~
~~scientifically valid. 425~~

Sec. 125.30. ~~(A) The department of administrative services 426~~
~~shall do both of the following: 427~~

~~(1) Create a business reply form that is capable of 428~~
~~containing information that a private business is required to 429~~
~~provide to state agencies on a regular basis. The director of 430~~
~~administrative services shall adopt rules in accordance with 431~~
~~Chapter 119. of the Revised Code specifying the information that 432~~
~~the form shall contain. Subject to division (E) of this section, 433~~

~~state agencies shall use the business reply form to obtain information from private businesses.~~ 434
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~~(2) Create create and administer an on-line online computer network system ~~to allow private businesses that allows~~ persons to electronically file ~~the business reply form~~ forms and, as authorized in the Revised Code, tax information with state agencies or political subdivisions.~~ 436
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~~In creating the business reply form described in division (A) (1) of this section, the director may consider the recommendations of interested parties from the small business community who have direct knowledge of and familiarity with the current state reporting requirements that apply to and the associated forms that are filed by small businesses.~~ 441
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~~(B) The director shall establish procedures by which state agencies may share the information that is collected through the form established under division (A) of this section. These procedures shall provide that information that has been designated as confidential by any state agency shall not be made available to the other state agencies having access to the business reply form.~~ 447
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~~(C) Not later than September 30, 1999, the director may report to the director of budget and management and to the committees that handle finance and the committees that handle state government affairs in the house of representatives and the senate on the progress of state agencies in complying with division (A) (1) of this section. The director may recommend a five per cent reduction in the future appropriations of any state agency that has failed to comply with that division without good cause.~~ 454
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~~(D) As used in this section:~~ 463

~~(1) "State agency" means the secretary of state, the department of job and family services regarding duties it performs pursuant to Title XLI of the Revised Code, the bureau of workers' compensation, the department of administrative services, and any other state agency that elects to participate in the pilot program as provided in division (E) of this section.~~ 464
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~~(2) "Form" has the same meaning as in division (B) of section 125.91 of the Revised Code.~~ 471
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~~(E) The provisions of this section pertaining to the business reply form constitute a two-year pilot program. Not later than one year after January 21, 1998, the department of administrative services shall complete the planning and preparation that is necessary to implement the pilot program. The director of administrative services may request other state agencies, as defined in division (A) of section 125.91 of the Revised Code, to participate in the pilot program. If the director so requests, the state agency may participate in the program. The provisions of this section shall cease to have effect three years after January 21, 1998. Within ninety days after the completion of the pilot program, the director of administrative services shall report to the director of budget and management and the committees described in division (C) of this section on the effectiveness of the pilot program.~~ 473
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Sec. 125.901. (A) There is hereby established the Ohio geographically referenced information program council within the department of administrative services to coordinate the property owned by the state. The department of administrative services shall provide administrative support for the council. 488
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(B) The council shall consist of the following fifteen	493
<u>fourteen</u> members:	494
(1) The state chief information officer, or the officer's	495
designee, who shall serve as the council chair;	496
(2) The director of natural resources, or the director's	497
designee;	498
(3) The director of transportation, or the director's	499
designee;	500
(4) The director of environmental protection, or the	501
director's designee;	502
(5) The director of development services, or the	503
director's designee;	504
(6) The treasurer of state, or the treasurer of state's	505
designee;	506
(7) The attorney general, or the attorney general's	507
designee;	508
(8) <u>(7)</u> The chancellor of higher education or the	509
chancellor's designee;	510
(9) <u>(8)</u> The chief of the division of oil and gas resources	511
management in the department of natural resources or the chief's	512
designee;	513
(10) <u>(9)</u> The director of public safety or the director's	514
designee;	515
(11) <u>(10)</u> The executive director of the county auditors'	516
association or the executive director's designee;	517
(12) <u>(11)</u> The executive director of the county	518
commissioners' association or the executive director's designee;	519

~~(13)~~ (12) The executive director of the county engineers' association or the executive director's designee; 520
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~~(14)~~ (13) The executive director of the Ohio municipal league or the executive director's designee; 522
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~~(15)~~ (14) The executive director of the Ohio townships association or the executive director's designee. 524
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(C) Members of the council shall serve without compensation. 526
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Sec. ~~113.41~~ 125.903. (A) ~~The treasurer of state department of administrative services shall develop and maintain a comprehensive and descriptive database of all real property under the custody and control of the state, except when otherwise required for reasons of homeland security. The database shall adequately describe, when known, the location, boundary, and acreage of the property, the use and name of the property, and the contact information and name of the state agency managing the property. The information in the database shall be available to the public free of charge through a searchable internet web site. The treasurer of state shall allow for public comment on property owned by the state.~~ 528
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(B) ~~For purposes of the database, the Ohio geographically-referenced information program council established in section 125.901 of the Revised Code shall provide to the treasurer of state, and the treasurer of state shall collect, information, in a format prescribed by the treasurer of state, that adequately describes~~ Each land-holding state agency shall collect and maintain a geographic information systems database of its respective land holdings, when known, the location, acreage, and use of state-owned property. The ~~and shall provide the database~~ 540
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to the Ohio geographically referenced information program 549
council established in section 125.901 of the Revised Code shall 550
~~make its best efforts to obtain the required information on the~~ 551
~~state owned property and shall submit updated information to the~~ 552
~~treasurer of state as it becomes available.~~ 553

(C) As used in this section, "state-owned property" does 554
not include state property owned or under the control of the 555
general assembly or any legislative agency, any court or 556
judicial agency, the secretary of state, auditor of state, 557
treasurer of state, or attorney general and their respective 558
offices. 559

Sec. 126.06. The total operating fund consists of all 560
funds in the state treasury except the auto registration 561
distribution fund, local motor vehicle license tax fund, 562
development bond retirement fund, facilities establishment fund, 563
gasoline excise tax fund, higher education improvement fund, 564
highway improvement bond retirement fund, highway capital 565
improvement fund, improvements bond retirement fund, mental 566
health facilities improvement fund, parks and recreation 567
improvement fund, ~~public improvements bond retirement fund,~~ 568
school district income tax fund, state agency facilities 569
improvement fund, public safety - highway purposes fund, Vietnam 570
conflict compensation fund, any other fund determined by the 571
director of budget and management to be a bond fund or bond 572
retirement fund, and such portion of the highway operating fund 573
as is determined by the director of budget and management and 574
the director of transportation to be restricted by Section 5a of 575
Article XII, Ohio Constitution. 576

When determining the availability of money in the total 577
operating fund to pay claims chargeable to a fund contained 578

within the total operating fund, the director of budget and 579
management shall use the same procedures and criteria the 580
director employs in determining the availability of money in a 581
fund contained within the total operating fund. The director may 582
establish limits on the negative cash balance of the general 583
revenue fund within the total operating fund, but in no case 584
shall the negative cash balance of the general revenue fund 585
exceed ten per cent of the total revenue of the general revenue 586
fund in the preceding fiscal year. 587

Sec. 127.14. The controlling board may, at the request of 588
any state agency or the director of budget and management, 589
authorize, with respect to the provisions of any appropriation 590
act: 591

(A) Transfers of all or part of an appropriation within 592
but not between state agencies, except such transfers as the 593
director of budget and management is authorized by law to make, 594
provided that no transfer shall be made by the director for the 595
purpose of effecting new or changed levels of program service 596
not authorized by the general assembly; 597

(B) Transfers of all or part of an appropriation from one 598
fiscal year to another; 599

(C) Transfers of all or part of an appropriation within or 600
between state agencies made necessary by administrative 601
reorganization or by the abolition of an agency or part of an 602
agency; 603

(D) Transfers of all or part of cash balances in excess of 604
needs from any fund of the state to the general revenue fund or 605
to such other fund of the state to which the money would have 606
been credited in the absence of the fund from which the 607

transfers are authorized to be made, except that the controlling 608
board may not authorize such transfers from the accrued leave 609
liability fund, auto registration distribution fund, local motor 610
vehicle license tax fund, budget stabilization fund, building 611
improvement fund, development bond retirement fund, facilities 612
establishment fund, gasoline excise tax fund, general revenue 613
fund, higher education improvement fund, highway improvement 614
bond retirement fund, highway capital improvement fund, highway 615
operating fund, horse racing tax fund, improvements bond 616
retirement fund, public library fund, liquor control fund, local 617
government fund, local transportation improvement program fund, 618
medicaid reserve fund, mental health facilities improvement 619
fund, Ohio fairs fund, parks and recreation improvement fund, 620
~~public improvements bond retirement fund,~~ school district income 621
tax fund, state agency facilities improvement fund, public 622
safety - highway purposes fund, state lottery fund, undivided 623
liquor permit fund, Vietnam conflict compensation bond 624
retirement fund, volunteer fire fighters' dependents fund, 625
waterways safety fund, wildlife fund, workers' compensation 626
fund, or any fund not specified in this division that the 627
director of budget and management determines to be a bond fund 628
or bond retirement fund; 629

(E) Transfers of all or part of those appropriations 630
included in the emergency purposes account of the controlling 631
board; 632

(F) Temporary transfers of all or part of an appropriation 633
or other moneys into and between existing funds, or new funds, 634
as may be established by law when needed for capital outlays for 635
which notes or bonds will be issued; 636

(G) Transfer or release of all or part of an appropriation 637

to a state agency requiring controlling board approval of such 638
transfer or release as provided by law; 639

(H) Temporary transfer of funds included in the emergency 640
purposes appropriation of the controlling board. Such temporary 641
transfers may be made subject to conditions specified by the 642
controlling board at the time temporary transfers are 643
authorized. No transfers shall be made under this division for 644
the purpose of effecting new or changed levels of program 645
service not authorized by the general assembly. 646

As used in this section, "request" means an application by 647
a state agency or the director of budget and management seeking 648
some action by the controlling board. 649

When authorizing the transfer of all or part of an 650
appropriation under this section, the controlling board may 651
authorize the transfer to an existing appropriation item and the 652
creation of and transfer to a new appropriation item. 653

Whenever there is a transfer of all or part of funds 654
included in the emergency purposes appropriation by the 655
controlling board, pursuant to division (E) of this section, the 656
state agency or the director of budget and management receiving 657
such transfer shall keep a detailed record of the use of the 658
transferred funds. At the earliest scheduled meeting of the 659
controlling board following the accomplishment of the purposes 660
specified in the request originally seeking the transfer, or 661
following the total expenditure of the transferred funds for the 662
specified purposes, the state agency or the director of budget 663
and management shall submit a report on the expenditure of such 664
funds to the board. The portion of any appropriation so 665
transferred which is not required to accomplish the purposes 666
designated in the original request to the controlling board 667

shall be returned to the proper appropriation of the controlling board at this time. 668
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Notwithstanding any provisions of law providing for the deposit of revenues received by a state agency to the credit of a particular fund in the state treasury, whenever there is a temporary transfer of funds included in the emergency purposes appropriation of the controlling board pursuant to division (H) of this section, revenues received by any state agency receiving such a temporary transfer of funds shall, as directed by the controlling board, be transferred back to the emergency purposes appropriation. 670
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The board may delegate to the director of budget and management authority to approve transfers among items of appropriation under division (A) of this section. 679
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Sec. 129.06. Funds belonging to the sinking fund shall be applied to the payment of the principal and interest of the bonded debt of the state, and to the expenses of such payment. 682
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~~When paid, bonds or certificates of the bonded debt of the state shall be canceled, and "paid" written on the face thereof with the date of payment, which inscription shall be signed by the board of commissioners of the sinking fund. Bonds or certificates so paid shall be taken from the proper accounts upon the individual and general stock ledgers and entered in the account of bonded debt paid, specifying the particular loan, the number and date of the certificate and bonds so paid, the amount, rate of interest, time at which it was redeemable, and in whose name it was standing when paid. All certificates or bonds so paid and canceled shall be filed in the office of the board.~~ 685
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Sec. 129.09. Interest on the bonded debt of the state 697

shall be paid to the owner of bonds or certificates evidencing 698
such debt, or to such owner's agent, attorney, or legal 699
representative. ~~Written proof of the authority of such agent,~~ 700
~~attorney, or legal representative must be presented to and filed~~ 701
~~with the board of commissioners of the sinking fund.~~ 702

Sec. 131.01. As used in Chapters 113., 117., 123., 124., 703
125., 126., 127., and 131. of the Revised Code, and any statute 704
that uses the terms in connection with state accounting or 705
budgeting: 706

(A) "Account" means any record, element, or summary in 707
which financial transactions are identified and recorded as 708
debit or credit transactions in order to summarize items of a 709
similar nature or classification. 710

(B) "Accounting procedure" means the arrangement of all 711
processes which discover, record, and summarize financial 712
information to produce financial statements and reports and to 713
provide internal control. 714

(C) "Accounting system" means the total structure of 715
records and procedures which discover, record, classify, and 716
report information on the financial position and operations of a 717
governmental unit or any of its funds and organizational 718
components. 719

(D) "Allocation" means a portion of an appropriation which 720
is designated for expenditure by specific organizational units 721
or for special purposes, activities, or objects that do not 722
relate to a period of time. 723

(E) "Allotment" means all or part of an appropriation 724
which may be encumbered or expended within a specific period of 725
time. 726

(F) "Appropriation" means an authorization granted by the general assembly to make expenditures and to incur obligations for specific purposes.	727 728 729
(G) "Assets" means resources owned, controlled, or otherwise used or held by the state which have monetary value.	730 731
(H) "Budget" means the plan of financial operation embodying an estimate of proposed expenditures and obligations for a given period and the proposed means of financing them.	732 733 734
(I) "Direct deposit" is a form of electronic funds transfer in which money is electronically deposited into the account of a person or entity at a financial institution.	735 736 737
(J) "Disbursement" means a payment made for any purpose.	738
(K) "Electronic benefit transfer" means the electronic delivery of benefits through automated teller machines, point of sale terminals, or other electronic media pursuant to section 5101.33 of the Revised Code.	739 740 741 742
(L) "Electronic funds transfer" means the electronic movement of funds via automated clearing house or wire transfer.	743 744
(M) "Encumbrancing document" means a document reserving all or part of an appropriation.	745 746
(N) "Expenditure" means a reduction of the balance of an appropriation after legal requirements have been met.	747 748
(O) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources, together with all related liabilities, obligations, reserves, and fund balances which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special rules,	749 750 751 752 753 754

restrictions, or limitations. 755

(P) "Lapse" means the automatic termination of an 756
appropriation at the end of the fiscal period for which it was 757
appropriated. 758

(Q) "Reappropriation" means an appropriation of a previous 759
appropriation that is continued in force in a succeeding 760
appropriation period. "Reappropriation" shall be equated with 761
and incorporated in the term "appropriation." 762

(R) "Stored value card" means a payment card that may have 763
money loaded and stored on the card and accessed through 764
automated teller machines, point of sale terminals, or other 765
electronic media. "Stored value card" does not include any 766
payment card linked to, and that can access money in, an 767
external account maintained by a financial institution. 768

(S) "Voucher" means the document used to transmit a claim 769
for payment and evidentiary matter related to the claim. 770

~~(S)~~ (T) "Warrant" means an order drawn upon the treasurer 771
of state by the director of budget and management, or an 772
authorized person at a state entity that has a custodial account 773
in the custody of the treasurer of state, directing the 774
treasurer of state to pay a specified amount to one or more 775
specified payees. A variety of payment instruments may be used, 776
including ~~an order to make a lump sum payment to a financial~~ 777
~~institution for the transfer of funds by~~ but not limited to 778
paper warrants, stored value cards, direct deposit to the 779
payee's bank account, or the drawdown of funds by electronic 780
benefit transfer, and the resulting electronic transfer to or by 781
the ultimate payees. 782

The terms defined in this section shall be used, on all 783

accounting forms, reports, formal rules, and budget requests 784
produced by a state agency, only as defined in this section. 785

Sec. 135.01. Except as otherwise provided in sections 786
135.14, 135.143, 135.181, and 135.182 of the Revised Code, as 787
used in sections 135.01 to 135.21 of the Revised Code: 788

(A) "Active deposit" means a public deposit necessary to 789
meet current demands on the treasury, and that is deposited in 790
any of the following: 791

(1) A commercial account that is payable or withdrawable, 792
in whole or in part, on demand; 793

(2) A negotiable order of withdrawal account as authorized 794
in the "Consumer Checking Account Equity Act of 1980," 94 Stat. 795
146, 12 U.S.C.A. 1832(a); 796

(3) A money market deposit account as authorized in the 797
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat. 798
1501, 12 U.S.C. 3503. 799

(B) "Auditor" includes the auditor of state and the 800
auditor, or officer exercising the functions of an auditor, of 801
any subdivision. 802

(C) "Capital funds" means the sum of the following: the 803
par value of the outstanding common capital stock, the par value 804
of the outstanding preferred capital stock, the aggregate par 805
value of all outstanding capital notes and debentures, and the 806
surplus. In the case of an institution having offices in more 807
than one county, the capital funds of such institution, for the 808
purposes of sections 135.01 to 135.21 of the Revised Code, 809
relative to the deposit of the public moneys of the subdivisions 810
in one such county, shall be considered to be that proportion of 811
the capital funds of the institution that is represented by the 812

ratio that the deposit liabilities of such institution 813
originating at the office located in the county bears to the 814
total deposit liabilities of the institution. 815

(D) "Governing board" means, in the case of the state, the 816
state board of deposit; in the case of all school districts and 817
educational service centers except as otherwise provided in this 818
section, the board of education or governing board of a service 819
center, and when the case so requires, the board of 820
commissioners of the sinking fund; in the case of a municipal 821
corporation, the legislative authority, and when the case so 822
requires, the board of trustees of the sinking fund; in the case 823
of a township, the board of township trustees; in the case of a 824
union or joint institution or enterprise of two or more 825
subdivisions not having a treasurer, the board of directors or 826
trustees thereof; and in the case of any other subdivision 827
electing or appointing a treasurer, the directors, trustees, or 828
other similar officers of such subdivision. The governing board 829
of a subdivision electing or appointing a treasurer shall be the 830
governing board of all other subdivisions for which such 831
treasurer is authorized by law to act. In the case of a county 832
school financing district that levies a tax pursuant to section 833
5705.215 of the Revised Code, the county board of education that 834
serves as its taxing authority shall operate as a governing 835
board. Any other county board of education shall operate as a 836
governing board unless it adopts a resolution designating the 837
board of county commissioners as the governing board for the 838
county school district. 839

(E) "Inactive deposit" means a public deposit other than 840
an interim deposit or an active deposit. 841

(F) "Interim deposit" means a deposit of interim moneys. 842

"Interim moneys" means public moneys in the treasury of ~~the~~ 843
~~state or~~ any subdivision after the award of inactive deposits 844
has been made in accordance with section 135.07 of the Revised 845
Code, which moneys are in excess of the aggregate amount of the 846
inactive deposits as estimated by the governing board prior to 847
the period of designation and which the ~~treasurer or~~ governing 848
board finds should not be deposited as active or inactive 849
deposits for the reason that such moneys will not be needed for 850
immediate use but will be needed before the end of the period of 851
designation. In the case of the state treasury, "interim moneys" 852
means public moneys that are not active deposits and may be 853
invested in accordance with section 135.143 of the Revised Code. 854

(G) "Permissible rate of interest" means a rate of 855
interest that all eligible institutions mentioned in section 856
135.03 of the Revised Code are permitted to pay by law or valid 857
regulations. 858

(H) "Warrant clearance account" means an account 859
established by the treasurer of state for ~~the~~ either of the 860
following purposes: 861

(a) The deposit of active state moneys ~~outside the city of~~ 862
~~Columbus, such account being for the exclusive purpose purposes~~ 863
of clearing state paper warrants through the banking system ~~to~~ 864
~~the treasurer, funding electronic benefit transfer cards,~~ 865
issuing stored value cards, or otherwise facilitating the 866
settlement of state obligations; 867

(b) The deposit of custodial moneys from an account held 868
in the custody of the treasurer of state to facilitate 869
settlement of obligations of the custodial fund. 870

(I) "Public deposit" means public moneys deposited in a 871

public depository pursuant to sections 135.01 to 135.21 of the Revised Code. 872
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(J) "Public depository" means an institution which receives or holds any public deposits. 874
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(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision. 876
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(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district or educational service center, a county school financing district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district or educational service center, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the "subdivision." The term also includes a union or joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint 884
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a treasurer, and for which no ex officio treasurer is provided 902
by law. 903

(M) "Treasurer" means, in the case of the state, the 904
treasurer of state and in the case of any subdivision, the 905
treasurer, or officer exercising the functions of a treasurer, 906
of such subdivision. In the case of a board of trustees of the 907
sinking fund of a municipal corporation, the board of 908
commissioners of the sinking fund of a school district, or a 909
board of directors or trustees of any union or joint institution 910
or enterprise of two or more subdivisions not having a 911
treasurer, such term means such board of trustees of the sinking 912
fund, board of commissioners of the sinking fund, or board of 913
directors or trustees. 914

(N) "Treasury investment board" of a municipal corporation 915
means the mayor or other chief executive officer, the village 916
solicitor or city director of law, and the auditor or other 917
chief fiscal officer. 918

(O) "No-load money market mutual fund" means a no-load 919
money market mutual fund to which all of the following apply: 920

(1) The fund is registered as an investment company under 921
the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 922
80a-1 to 80a-64; 923

(2) The fund has the highest letter or numerical rating 924
provided by at least one nationally recognized ~~standard-~~ 925
statistical rating ~~service~~organization; 926

(3) The fund does not include any investment in a 927
derivative. As used in division (O)(3) of this section, 928
"derivative" means a financial instrument or contract or 929
obligation whose value or return is based upon or linked to 930

another asset or index, or both, separate from the financial 931
instrument, contract, or obligation itself. Any security, 932
obligation, trust account, or other instrument that is created 933
from an issue of the United States treasury or is created from 934
an obligation of a federal agency or instrumentality or is 935
created from both is considered a derivative instrument. An 936
eligible investment described in section 135.14 or 135.35 of the 937
Revised Code with a variable interest rate payment, based upon a 938
single interest payment or single index comprised of other 939
investments provided for in division (B) (1) or (2) of section 940
135.14 of the Revised Code, is not a derivative, provided that 941
such variable rate investment has a maximum maturity of two 942
years. 943

(P) "Public depositor" means the state or a subdivision, 944
as applicable, that deposits public moneys in a public 945
depository pursuant to sections 135.01 to 135.21 of the Revised 946
Code. 947

(Q) "Uninsured public deposit" means the portion of a 948
public deposit that is not insured by the federal deposit 949
insurance corporation or by any other agency or instrumentality 950
of the federal government. 951

Sec. 135.02. There shall be a state board of deposit 952
consisting of the treasurer of state or an employee of the 953
treasurer of state's department designated by the treasurer of 954
state, the auditor of state or an employee of the auditor of 955
state's department designated by the auditor of state, and the 956
attorney general or an employee of the attorney general's 957
department designated by the attorney general. The board shall 958
meet on the call of the chairperson at least annually to perform 959
the duties prescribed in sections 135.01 to 135.21 of the 960

Revised Code. At any time, two members of the board may request 961
that the chairperson call a meeting of the board, and the 962
chairperson shall call the meeting within thirty days after 963
receiving such requests. The treasurer of state or the treasurer 964
of state's designated representative shall be chairperson of the 965
board. The treasurer of state shall designate an employee of the 966
treasurer of state's department to serve as the secretary of the 967
board and keep its records. A certified copy of such records 968
shall be prima-facie evidence of the matter appearing therein in 969
any court of record. 970

The chairperson shall provide ~~a monthly report~~ 971
notification to the board of deposit ~~consisting of the~~ 972
~~notifications that the reports~~ required under division (B) of 973
section 135.143 of the Revised Code ~~and shall post that report~~ 974
~~monthly have been posted~~ to a web site maintained by the 975
treasurer of state. 976

The necessary expenses of the board shall be paid from the 977
state treasury from appropriations for that purpose upon the 978
order of the board certified by the chairperson and the 979
secretary. 980

Sec. 135.04. (A) Any institution mentioned in section 981
135.03 of the Revised Code is eligible to become a public 982
depository of the active deposits, ~~inactive deposits,~~ and 983
interim deposits of public moneys of the state subject to the 984
requirements of sections 135.01 to 135.21 of the Revised Code. 985

(B) To facilitate the ~~clearance of state warrants to~~ 986
settlement of obligations of the state treasury and custodial 987
funds in the custody of the treasurer of state, the state board 988
of deposit may delegate the authority to the treasurer of state 989
to establish warrant clearance accounts in any institution 990

mentioned in section 135.03 of the Revised Code ~~located in areas~~ 991
~~where the volume of warrant clearances justifies the~~ 992
~~establishment of an account as determined by the treasurer of~~ 993
~~state.~~ The balances maintained in such warrant clearance 994
accounts shall be at sufficient levels to cover the activity 995
generated by such accounts on an individual basis. Any financial 996
institution in the state that has a warrant clearance account 997
established by the treasurer of state shall, not more than ~~ten~~ 998
fifteen days after the close of each ~~quarter~~month, prepare and 999
transmit to the treasurer of state an analysis statement of such 1000
account for the ~~quarter~~month then ended. Such statement shall 1001
contain such information as determined by the state board of 1002
deposit, ~~and this information shall be used in whole or in part~~ 1003
~~by the treasurer of state in determining the level of balances~~ 1004
~~to be maintained in such accounts.~~ 1005

(C) Each governing board shall award the active deposits 1006
of public moneys subject to its control to the eligible 1007
institutions in accordance with this section, except that no 1008
such public depository shall thereby be required to take or 1009
permitted to receive and have at any one time a greater amount 1010
of active deposits of such public moneys than that specified in 1011
the application of such depository. When, by reason of such 1012
limitation or otherwise, the amount of active public moneys 1013
deposited or to be deposited in a public depository, pursuant to 1014
an award made under this section, is reduced or withdrawn, as 1015
the case requires, the amount of such reduction or the sum so 1016
withdrawn shall be deposited in another eligible institution 1017
applying therefor, or if there is no such eligible institution, 1018
then the amount so withheld or withdrawn shall be awarded or 1019
deposited for the remainder of the period of designation in 1020
accordance with sections 135.01 to 135.21 of the Revised Code. 1021

(D) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the inactive and interim deposits of public moneys of a subdivision. In case the aggregate amount of inactive or interim deposits applied for by such eligible institutions is less than the aggregate maximum amount of such inactive or interim deposits as estimated to be deposited pursuant to sections 135.01 to 135.21 of the Revised Code, the governing board of the subdivision may designate as a public depository of the inactive or interim deposits of the public moneys thereof, one or more institutions of a kind mentioned in section 135.03 of the Revised Code, subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(E) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the active deposits of public moneys of a subdivision. In case the aggregate amount of active deposits of the public moneys of the subdivision applied for by such eligible institutions is less than the aggregate maximum amount to be deposited as such, as estimated by the governing board, said board may designate as a public depository of the active deposits of the public moneys of the subdivision, one or more institutions of the kind mentioned in section 135.03 of the Revised Code, subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(F) (1) The governing board of the state or of a subdivision may designate one or more minority banks as public depositories of its inactive, interim, or active deposits of public moneys designated as federal funds. Except for section 135.18, 135.181, or 135.182 of the Revised Code, Chapter 135. of the Revised Code does not apply to the application for, or the award of, such deposits. As used in this division, "minority

bank" means a bank that is owned or controlled by one or more 1053
socially or economically disadvantaged persons. Such 1054
disadvantage may arise from cultural, ethnic, or racial 1055
background, chronic economic circumstances, or other similar 1056
cause. Such persons include, but are not limited to, Afro- 1057
Americans, Puerto Ricans, Spanish-speaking Americans, and 1058
American Indians. 1059

(2) In enacting this division, the general assembly finds 1060
that: 1061

(a) Certain commercial banks are owned or controlled by 1062
minority Americans; 1063

(b) Minority banks are an important source of banking 1064
services in their communities; 1065

(c) Minority banks have been unsuccessful in competing 1066
under Chapter 135. of the Revised Code for the award of federal 1067
funds; 1068

(d) This division contains safeguards for the protection 1069
of the general public and the banking industry, since it 1070
provides the governing board of the state or political 1071
subdivision with permissive authority in the award of deposits; 1072
limits the authority of the governing board to the award of 1073
federal funds; and subjects minority banks to certain 1074
limitations of Chapter 135. of the Revised Code, including the 1075
requirement that, as in the case of every financial institution 1076
subject to Chapter 135. of the Revised Code, a minority bank 1077
pledge certain securities for repayment of the deposits. 1078

(3) The purpose of this division is to recognize that the 1079
state has a substantial and compelling interest in encouraging 1080
the establishment, development, and stability of minority banks 1081

by facilitating their access to the award of federal funds, 1082
while ensuring the protection of the general public and the 1083
banking industry. 1084

(G) The governing board of a subdivision shall award the 1085
first twenty-five thousand dollars of the active deposits of 1086
public moneys subject to its control to the eligible institution 1087
or institutions applying or qualifying therefor on the basis of 1088
the operating needs of the subdivision and shall award the 1089
active deposits of public moneys subject to its control in 1090
excess of twenty-five thousand dollars to the eligible 1091
institution or institutions applying or qualifying therefor. 1092

Sec. 135.05. Each governing board of a subdivision shall, 1093
at least three weeks prior to the date when it is required by 1094
section 135.12 of the Revised Code to designate public 1095
depositories, by resolution, estimate the aggregate maximum 1096
amount of public moneys subject to its control to be awarded and 1097
be on deposit as inactive deposits. ~~The state board of deposit~~ 1098
~~shall cause a copy of such resolution, together with a notice of~~ 1099
~~the date on which the meeting of the board for the designation~~ 1100
~~of such depositories will be held and the period for which such~~ 1101
~~inactive deposits will be awarded, to be published once a week~~ 1102
~~for two consecutive weeks in two newspapers of general~~ 1103
~~circulation in each of the three most populous counties.~~ The 1104
governing board of each subdivision shall cause a copy of such 1105
resolution, together with a notice of the date on which the 1106
meeting of the board for the designation of such depositories 1107
will be held and the period for which such inactive deposits 1108
will be awarded, to be published once a week for two consecutive 1109
weeks in a newspaper of general circulation in the county or as 1110
provided in section 7.16 of the Revised Code. If a subdivision 1111
is located in more than one county, such publication shall be 1112

made in a newspaper of general circulation in the county in 1113
which the major part of such subdivision is located, and of 1114
general circulation in the subdivision. A written notice stating 1115
the aggregate maximum amount to be awarded as inactive deposits 1116
of the subdivision shall be given to each eligible depository by 1117
the governing board at the time the first publication is made in 1118
the newspaper. 1119

All deposits of the public moneys of ~~the state or any~~ 1120
subdivision made during the period covered by the designation in 1121
excess of the aggregate amount so estimated shall be active 1122
deposits or interim deposits. Inactive, interim, and active 1123
deposits shall be separately awarded, made, and administered as 1124
provided by sections 135.01 to 135.21 of the Revised Code. 1125

Sec. 135.06. Each eligible institution desiring to be a 1126
public depository of the inactive deposits of the public moneys 1127
of ~~the state or of the inactive deposits of the public moneys of~~ 1128
the subdivision shall, not more than thirty days prior to the 1129
date fixed by section 135.12 of the Revised Code for the 1130
designation of such public depositories, make application 1131
therefor in writing to the proper governing board. Such 1132
application shall specify the maximum amount of such public 1133
moneys which the applicant desires to receive and have on 1134
deposit as an inactive deposit at any one time during the period 1135
covered by the designation, provided that it shall not apply for 1136
more than thirty per cent of its total assets as revealed by its 1137
latest report to the superintendent of financial institutions, 1138
the comptroller of the currency, ~~the office of thrift~~ 1139
~~supervision,~~ the federal deposit insurance corporation, or the 1140
board of governors of the federal reserve system, and the rate 1141
of interest which the applicant will pay thereon, subject to the 1142
limitations of sections 135.01 to 135.21 of the Revised Code. 1143

Each application shall be accompanied by a financial statement 1144
of the applicant, under oath of its cashier, treasurer, or other 1145
officer, in such detail as to show the capital funds of the 1146
applicant, as of the date of its latest report to the 1147
superintendent of financial institutions, the comptroller of the 1148
currency, ~~the office of thrift supervision,~~ the federal deposit 1149
insurance corporation, or the board of governors of the federal 1150
reserve system, and adjusted to show any changes therein made 1151
prior to the date of the application. Such application may be 1152
combined with an application for designation as a public 1153
depository of active deposits, interim deposits, or both. 1154

Sec. 135.08. Each eligible institution desiring to be a 1155
public depository of interim deposits of the public moneys of 1156
the state or of the ~~interim deposits of the public moneys of the~~ 1157
subdivision shall, not more than ~~thirty-one hundred twenty~~ thirty-one hundred twenty days 1158
prior to the date fixed by section 135.12 of the Revised Code 1159
for the designation of public depositories, make application 1160
therefor in writing to the proper governing board. Such 1161
application shall specify the maximum amount of such public 1162
moneys which the applicant desires to receive and have on 1163
deposit as interim deposits at any one time during the period 1164
covered by the designation, provided that it shall not apply for 1165
more than thirty per cent of its total assets as revealed by its 1166
latest report to the superintendent of financial institutions, 1167
the comptroller of the currency, ~~the office of thrift~~ 1168
~~supervision,~~ the federal deposit insurance corporation, or the 1169
board of governors of the federal reserve system, and the rate 1170
of interest which the applicant will pay thereon, subject to the 1171
limitations of sections 135.01 to 135.21 of the Revised Code. 1172

Each application shall be accompanied by a financial 1173
statement of the applicant, under oath of its cashier, 1174

treasurer, or other officer, in such detail as to show the 1175
capital funds of the applicant, as of the date of its latest 1176
report to the superintendent of financial institutions, the 1177
comptroller of the currency, ~~the office of thrift supervision,~~ 1178
the federal deposit insurance corporation, or the board of 1179
governors of the federal reserve system, and adjusted to show 1180
any changes therein made prior to the date of the application. 1181
Such application may be combined with an application for 1182
designation as a public depository of inactive deposits, active 1183
deposits, or both. 1184

Sec. 135.10. Each eligible institution desiring to be a 1185
public depository of the active deposits of the public moneys of 1186
the state or of a subdivision shall, not more than ~~thirty-one~~ 1187
hundred twenty days prior to the date fixed by section 135.12 of 1188
the Revised Code for the designation of such public 1189
depositories, make application therefor in writing to the proper 1190
governing board. If desired, such application may specify the 1191
maximum amount of such public moneys which the applicant desires 1192
to receive and have on deposit at any one time during the period 1193
covered by the designation. Each application shall be 1194
accompanied by a financial statement of the applicant, under 1195
oath of its cashier, treasurer, or other officer, in such detail 1196
as to show the capital funds of the applicant, as of the date of 1197
its latest report to the superintendent of ~~banks~~ financial 1198
institutions or comptroller of the currency, and adjusted to 1199
show any changes therein prior to the date of the application. 1200
Such application may be combined with an application for 1201
designation as a public depository of inactive deposits, interim 1202
deposits, or both. 1203

Sec. 135.12. (A) Beginning in ~~2004~~ 2025 and every four 1204
years thereafter, the state board of deposit shall meet on the 1205

third Monday of March ~~in the even numbered years~~ for the purpose 1206
of designating the public depositories of the public moneys of 1207
the state, and at such meeting or any adjourned session thereof 1208
shall designate such public depositories and award the public 1209
moneys of the state to and among the public depositories so 1210
designated for the period of ~~two~~ four years commencing on the 1211
first Monday of July next following. 1212

(B) Each governing board other than the state board of 1213
deposit shall meet every five years on the third Monday or such 1214
regularly scheduled meeting date of the month next preceding the 1215
date of the expiration of its designation of depositories for 1216
the purpose of designating the public depositories of the public 1217
moneys of the subdivision, and at such meeting or any adjourned 1218
session thereof, shall designate such public depositories and 1219
award the public moneys of the subdivision to and among the 1220
public depositories so designated for the period of five years 1221
commencing on the date of the expiration of the next preceding 1222
designation. The designation and award shall be made in 1223
duplicate; one copy shall be retained by the governing board of 1224
the subdivision and one copy shall be certified to the 1225
treasurer. 1226

(C) If a governing board determines, during a designation 1227
period, that a public depository designated under this section 1228
is insolvent or operating in an unsound or unsafe manner, the 1229
governing board may meet and designate a different public 1230
depository of the public moneys of the state or of the 1231
subdivision for the remainder of the designation period. 1232

(D) If a governing board determines during a designation 1233
period that it is necessary and in the state's or subdivision's 1234
best interests to appoint additional depositories, the governing 1235

board may meet and designate one or more additional public 1236
depositories of the public moneys of the state or of the 1237
subdivision for the remainder of the designation period. 1238

(E) Whenever, by amendment or enactment of any state or 1239
federal law or the amendment or adoption of any valid regulation 1240
thereunder, the terms of a designation or award, lawful at the 1241
beginning of any designation period, cease to be lawful during 1242
such period, and if the change of law or regulation requires, 1243
the designation period shall be limited so as not to extend 1244
beyond the date when that change becomes effective. In such 1245
case, the proper governing board shall meet and designate the 1246
public depositories of the public moneys of the state or of the 1247
subdivision for the remainder of the designation period. 1248

(F) During a designation period, whenever a statute 1249
authorizes a new custodial fund to be created, the state board 1250
of deposit shall meet to award the public moneys associated with 1251
the new custodial fund to a designated public depository. 1252

(G) During a designation period, whenever a state agency, 1253
as defined in section 1.60 of the Revised Code, requests to 1254
change its public depository, the state board of deposit shall 1255
meet to consider the request. 1256

Sec. 135.14. (A) As used in this section: 1257

(1) "Treasurer" does not include the treasurer of state, 1258
and "governing board" does not include the state board of 1259
deposit. 1260

(2) "Other obligations" includes notes whether or not 1261
issued in anticipation of the issuance of bonds. 1262

(B) The treasurer or governing board may invest or deposit 1263
any part or all of the interim moneys. The following 1264

classifications of obligations shall be eligible for such 1265
investment or deposit: 1266

(1) United States treasury bills, notes, bonds, or any 1267
other obligation or security issued by the United States 1268
treasury or any other obligation guaranteed as to principal and 1269
interest by the United States. 1270

Nothing in the classification of eligible obligations set 1271
forth in division (B)(1) of this section or in the 1272
classifications of eligible obligations set forth in divisions 1273
(B)(2) to (7) of this section shall be construed to authorize 1274
any investment in stripped principal or interest obligations of 1275
such eligible obligations. 1276

(2) Bonds, notes, debentures, or any other obligations or 1277
securities issued by any federal government agency or 1278
instrumentality, including but not limited to, the federal 1279
national mortgage association, federal home loan bank, federal 1280
farm credit bank, federal home loan mortgage corporation, and 1281
government national mortgage association. All federal agency 1282
securities shall be direct issuances of federal government 1283
agencies or instrumentalities. 1284

(3) Interim deposits in the eligible institutions applying 1285
for interim moneys as provided in section 135.08 of the Revised 1286
Code. The award of interim deposits shall be made in accordance 1287
with section 135.09 of the Revised Code and the treasurer or the 1288
governing board shall determine the periods for which such 1289
interim deposits are to be made and shall award such interim 1290
deposits for such periods, provided that any eligible 1291
institution receiving an interim deposit award may, upon 1292
notification that the award has been made, decline to accept the 1293
interim deposit in which event the award shall be made as though 1294

the institution had not applied for such interim deposit. 1295

(4) Bonds and other obligations of this state, or the 1296
political subdivisions of this state, provided that, with 1297
respect to bonds or other obligations of political subdivisions, 1298
all of the following apply: 1299

(a) The bonds or other obligations are payable from 1300
general revenues of the political subdivision and backed by the 1301
full faith and credit of the political subdivision. 1302

(b) The bonds or other obligations are rated at the time 1303
of purchase in the three highest classifications established by 1304
at least one nationally recognized ~~standard~~-statistical rating 1305
~~service organization~~ and purchased through a registered 1306
securities broker or dealer. 1307

(c) The aggregate value of the bonds or other obligations 1308
does not exceed twenty per cent of interim moneys available for 1309
investment at the time of purchase. 1310

(d) The treasurer or governing board is not the sole 1311
purchaser of the bonds or other obligations at original 1312
issuance. 1313

(e) The bonds or other obligations mature within ten years 1314
from the date of settlement. 1315

No investment shall be made under division (B) (4) of this 1316
section unless the treasurer or governing board has completed 1317
additional training for making the investments authorized by 1318
division (B) (4) of this section. The type and amount of 1319
additional training shall be approved by the treasurer of state 1320
and may be conducted by or provided under the supervision of the 1321
treasurer of state. 1322

(5) No-load money market mutual funds consisting	1323
exclusively of obligations described in division (B)(1) or (2)	1324
of this section and repurchase agreements secured by such	1325
obligations, provided that investments in securities described	1326
in this division are made only through eligible institutions	1327
mentioned in section 135.03 of the Revised Code;	1328
(6) The Ohio subdivision's fund as provided in section	1329
135.45 of the Revised Code;	1330
(7) Up to forty per cent of interim moneys available for	1331
investment in either of the following:	1332
(a) Commercial paper notes issued by an entity that is	1333
defined in division (D) of section 1705.01 or division (E)-(K)	1334
of section 1706.01 of the Revised Code and that has assets	1335
exceeding five hundred million dollars, to which notes all of	1336
the following apply:	1337
(i) The notes are rated at the time of purchase in the	1338
highest classification established by at least two nationally	1339
recognized standard-statistical rating services <u>organizations</u> .	1340
(ii) The aggregate value of the notes does not exceed ten	1341
per cent of the aggregate value of the outstanding commercial	1342
paper of the issuing corporation.	1343
(iii) The notes mature not later than two hundred seventy	1344
days after purchase.	1345
(iv) The investment in commercial paper notes of a single	1346
issuer shall not exceed in the aggregate five per cent of	1347
interim moneys available for investment at the time of purchase.	1348
(b) Bankers acceptances of banks that are insured by the	1349
federal deposit insurance corporation and that mature not later	1350

than one hundred eighty days after purchase. 1351

No investment shall be made pursuant to division (B) (7) of 1352
this section unless the treasurer or governing board has 1353
completed additional training for making the investments 1354
authorized by division (B) (7) of this section. The type and 1355
amount of additional training shall be approved by the treasurer 1356
of state and may be conducted by or provided under the 1357
supervision of the treasurer of state. 1358

(C) Nothing in the classifications of eligible obligations 1359
set forth in divisions (B) (1) to (7) of this section shall be 1360
construed to authorize any investment in a derivative, and no 1361
treasurer or governing board shall invest in a derivative. For 1362
purposes of this division, "derivative" means a financial 1363
instrument or contract or obligation whose value or return is 1364
based upon or linked to another asset or index, or both, 1365
separate from the financial instrument, contract, or obligation 1366
itself. Any security, obligation, trust account, or other 1367
instrument that is created from an issue of the United States 1368
treasury or is created from an obligation of a federal agency or 1369
instrumentality or is created from both is considered a 1370
derivative instrument. An eligible investment described in this 1371
section with a variable interest rate payment, based upon a 1372
single interest payment or single index comprised of other 1373
eligible investments provided for in division (B) (1) or (2) of 1374
this section, is not a derivative, provided that such variable 1375
rate investment has a maximum maturity of two years. 1376

(D) Except as provided in division (B) (4) or (E) of this 1377
section, any investment made pursuant to this section must 1378
mature within five years from the date of settlement, unless the 1379
investment is matched to a specific obligation or debt of the 1380

subdivision. 1381

(E) The treasurer or governing board may also enter into a 1382
written repurchase agreement with any eligible institution 1383
mentioned in section 135.03 of the Revised Code or any eligible 1384
dealer pursuant to division (M) of this section, under the terms 1385
of which agreement the treasurer or governing board purchases, 1386
and such institution or dealer agrees unconditionally to 1387
repurchase any of the securities listed in divisions (D) (1) to 1388
(5), except letters of credit described in division (D) (2), of 1389
section 135.18 of the Revised Code. The market value of 1390
securities subject to an overnight written repurchase agreement 1391
must exceed the principal value of the overnight written 1392
repurchase agreement by at least two per cent. A written 1393
repurchase agreement shall not exceed thirty days and the market 1394
value of securities subject to a written repurchase agreement 1395
must exceed the principal value of the written repurchase 1396
agreement by at least two per cent and be marked to market 1397
daily. All securities purchased pursuant to this division shall 1398
be delivered into the custody of the treasurer or governing 1399
board or an agent designated by the treasurer or governing 1400
board. A written repurchase agreement with an eligible 1401
securities dealer shall be transacted on a delivery versus 1402
payment basis. The agreement shall contain the requirement that 1403
for each transaction pursuant to the agreement the participating 1404
institution or dealer shall provide all of the following 1405
information: 1406

(1) The par value of the securities; 1407

(2) The type, rate, and maturity date of the securities; 1408

(3) A numerical identifier generally accepted in the 1409
securities industry that designates the securities. 1410

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

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

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

(1) The Ohio subdivision's fund pursuant to division (B) (6) of this section;

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

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

(H) The use of leverage, in which the treasurer or governing board uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities that have not yet been acquired by the treasurer or governing board, for the

purpose of purchasing such securities on the speculation that 1440
bond prices will decline, is prohibited. 1441

(I) Whenever, during a period of designation, the 1442
treasurer classifies public moneys as interim moneys, the 1443
treasurer shall notify the governing board of such action. The 1444
notification shall be given within thirty days after such 1445
classification and in the event the governing board does not 1446
concur in such classification or in the investments or deposits 1447
made under this section, the governing board may order the 1448
treasurer to sell or liquidate any of such investments or 1449
deposits, and any such order shall specifically describe the 1450
investments or deposits and fix the date upon which they are to 1451
be sold or liquidated. Investments or deposits so ordered to be 1452
sold or liquidated shall be sold or liquidated for cash by the 1453
treasurer on the date fixed in such order at the then current 1454
market price. Neither the treasurer nor the members of the board 1455
shall be held accountable for any loss occasioned by sales or 1456
liquidations of investments or deposits at prices lower than 1457
their cost. Any loss or expense incurred in making such sales or 1458
liquidations is payable as other expenses of the treasurer's 1459
office. 1460

(J) If any investments or deposits purchased under the 1461
authority of this section are issuable to a designated payee or 1462
to the order of a designated payee, the name of the treasurer 1463
and the title of the treasurer's office shall be so designated. 1464
If any such securities are registrable either as to principal or 1465
interest, or both, then such securities shall be registered in 1466
the name of the treasurer as such. 1467

(K) The treasurer is responsible for the safekeeping of 1468
all documents evidencing a deposit or investment acquired by the 1469

treasurer under this section. Any securities may be deposited 1470
for safekeeping with a qualified trustee as provided in section 1471
135.18 of the Revised Code, except the delivery of securities 1472
acquired under any repurchase agreement under this section shall 1473
be made to a qualified trustee, provided, however, that the 1474
qualified trustee shall be required to report to the treasurer, 1475
governing board, auditor of state, or an authorized outside 1476
auditor at any time upon request as to the identity, market 1477
value, and location of the document evidencing each security, 1478
and that if the participating institution is a designated 1479
depository of the subdivision for the current period of 1480
designation, the securities that are the subject of the 1481
repurchase agreement may be delivered to the treasurer or held 1482
in trust by the participating institution on behalf of the 1483
subdivision. Interest earned on any investments or deposits 1484
authorized by this section shall be collected by the treasurer 1485
and credited by the treasurer to the proper fund of the 1486
subdivision. 1487

Upon the expiration of the term of office of a treasurer 1488
or in the event of a vacancy in the office of treasurer by 1489
reason of death, resignation, removal from office, or otherwise, 1490
the treasurer or the treasurer's legal representative shall 1491
transfer and deliver to the treasurer's successor all documents 1492
evidencing a deposit or investment held by the treasurer. For 1493
the investments and deposits so transferred and delivered, such 1494
treasurer shall be credited with and the treasurer's successor 1495
shall be charged with the amount of money held in such 1496
investments and deposits. 1497

(L) Whenever investments or deposits acquired under this 1498
section mature and become due and payable, the treasurer shall 1499
present them for payment according to their tenor, and shall 1500

collect the moneys payable thereon. The moneys so collected 1501
shall be treated as public moneys subject to sections 135.01 to 1502
135.21 of the Revised Code. 1503

(M) (1) All investments, except for investments in 1504
securities described in divisions (B) (5) and (6) of this section 1505
and for investments by a municipal corporation in the issues of 1506
such municipal corporation, shall be made only through a member 1507
of the financial industry regulatory authority (FINRA), through 1508
a bank, savings bank, or savings and loan association regulated 1509
by the superintendent of financial institutions, or through an 1510
institution regulated by the comptroller of the currency, 1511
federal deposit insurance corporation, or board of governors of 1512
the federal reserve system. 1513

(2) Payment for investments shall be made only upon the 1514
delivery of securities representing such investments to the 1515
treasurer, governing board, or qualified trustee. If the 1516
securities transferred are not represented by a certificate, 1517
payment shall be made only upon receipt of confirmation of 1518
transfer from the custodian by the treasurer, governing board, 1519
or qualified trustee. 1520

(N) In making investments authorized by this section, a 1521
treasurer or governing board may retain the services of an 1522
investment advisor, provided the advisor is licensed by the 1523
division of securities under section 1707.141 of the Revised 1524
Code or is registered with the securities and exchange 1525
commission, and possesses experience in public funds investment 1526
management, specifically in the area of state and local 1527
government investment portfolios, or the advisor is an eligible 1528
institution mentioned in section 135.03 of the Revised Code. 1529

(O) (1) Except as otherwise provided in divisions (O) (2) 1530

and (3) of this section, no treasurer or governing board shall 1531
make an investment or deposit under this section, unless there 1532
is on file with the auditor of state a written investment policy 1533
approved by the treasurer or governing board. The policy shall 1534
require that all entities conducting investment business with 1535
the treasurer or governing board shall sign the investment 1536
policy of that subdivision. All brokers, dealers, and financial 1537
institutions, described in division (M)(1) of this section, 1538
initiating transactions with the treasurer or governing board by 1539
giving advice or making investment recommendations shall sign 1540
the treasurer's or governing board's investment policy thereby 1541
acknowledging their agreement to abide by the policy's contents. 1542
All brokers, dealers, and financial institutions, described in 1543
division (M)(1) of this section, executing transactions 1544
initiated by the treasurer or governing board, having read the 1545
policy's contents, shall sign the investment policy thereby 1546
acknowledging their comprehension and receipt. 1547

(2) If a written investment policy described in division 1548
(O)(1) of this section is not filed on behalf of the subdivision 1549
with the auditor of state, the treasurer or governing board of 1550
that subdivision shall invest the subdivision's interim moneys 1551
only in interim deposits pursuant to division (B)(3) of this 1552
section or interim deposits pursuant to section 135.145 of the 1553
Revised Code and approved by the treasurer of state, no-load 1554
money market mutual funds pursuant to division (B)(5) of this 1555
section, or the Ohio subdivision's fund pursuant to division (B) 1556
(6) of this section. 1557

(3) Divisions (O)(1) and (2) of this section do not apply 1558
to a treasurer or governing board of a subdivision whose average 1559
annual portfolio of investments held pursuant to this section is 1560
one hundred thousand dollars or less, provided that the 1561

treasurer or governing board certifies, on a form prescribed by 1562
the auditor of state, that the treasurer or governing board will 1563
comply and is in compliance with the provisions of sections 1564
135.01 to 135.21 of the Revised Code. 1565

(P) A treasurer or governing board may enter into a 1566
written investment or deposit agreement that includes a 1567
provision under which the parties agree to submit to nonbinding 1568
arbitration to settle any controversy that may arise out of the 1569
agreement, including any controversy pertaining to losses of 1570
public moneys resulting from investment or deposit. The 1571
arbitration provision shall be set forth entirely in the 1572
agreement, and the agreement shall include a conspicuous notice 1573
to the parties that any party to the arbitration may apply to 1574
the court of common pleas of the county in which the arbitration 1575
was held for an order to vacate, modify, or correct the award. 1576
Any such party may also apply to the court for an order to 1577
change venue to a court of common pleas located more than one 1578
hundred miles from the county in which the treasurer or 1579
governing board is located. 1580

For purposes of this division, "investment or deposit 1581
agreement" means any agreement between a treasurer or governing 1582
board and a person, under which agreement the person agrees to 1583
invest, deposit, or otherwise manage a subdivision's interim 1584
moneys on behalf of the treasurer or governing board, or agrees 1585
to provide investment advice to the treasurer or governing 1586
board. 1587

(Q) An investment made by the treasurer or governing board 1588
pursuant to this section prior to September 27, 1996, that was a 1589
legal investment under the law as it existed before September 1590
27, 1996, may be held until maturity. 1591

Sec. 135.142. (A) In addition to the investments 1592
authorized by section 135.14 of the Revised Code, any board of 1593
education, by a two-thirds vote of its members, may authorize 1594
the treasurer of the board of education to invest up to forty 1595
per cent of the interim moneys of the board, available for 1596
investment at any one time, in either of the following: 1597

(1) Commercial paper notes issued by any entity that is 1598
defined in ~~division (D) of section 1705.01 or division (E)-(K)~~ 1599
of section 1706.01 of the Revised Code and has assets exceeding 1600
five hundred million dollars, and to which notes all of the 1601
following apply: 1602

(a) The notes are rated at the time of purchase in the 1603
highest classification established by at least two nationally 1604
recognized ~~standard statistical rating services organizations.~~ 1605

(b) The aggregate value of the notes does not exceed ten 1606
per cent of the aggregate value of the outstanding commercial 1607
paper of the issuing corporation. 1608

(c) The notes mature no later than two hundred seventy 1609
days after purchase. 1610

(d) The investment in commercial paper notes of a single 1611
issuer shall not exceed in the aggregate five per cent of 1612
interim moneys of the board available for investment at the time 1613
of purchase. 1614

(2) Bankers' acceptances of banks that are insured by the 1615
federal deposit insurance corporation and that mature no later 1616
than one hundred eighty days after purchase. 1617

(B) No investment authorized pursuant to division (A) of 1618
this section shall be made, whether or not authorized by a board 1619
of education, unless the treasurer of the board of education has 1620

completed additional training for making the types of 1621
investments authorized pursuant to division (A) of this section. 1622
The type and amount of such training shall be approved and may 1623
be conducted by or provided under the supervision of the 1624
treasurer of state. 1625

(C) The treasurer of the board of education shall prepare 1626
annually and submit to the board of education, the 1627
superintendent of public instruction, and the auditor of state, 1628
on or before the thirty-first day of August, a report listing 1629
each investment made pursuant to division (A) of this section 1630
during the preceding fiscal year, income earned from such 1631
investments, fees and commissions paid pursuant to division (D) 1632
of this section, and any other information required by the 1633
board, the superintendent, and the auditor of state. 1634

(D) A board of education may make appropriations and 1635
expenditures for fees and commissions in connection with 1636
investments made pursuant to division (A) of this section. 1637

(E) (1) In addition to the investments authorized by 1638
section 135.14 of the Revised Code and division (A) of this 1639
section, any board of education that is a party to an agreement 1640
with the treasurer of state pursuant to division (G) of section 1641
135.143 of the Revised Code and that has outstanding obligations 1642
issued under authority of section 133.10 of the Revised Code may 1643
authorize the treasurer of the board of education to invest 1644
interim moneys of the board in debt interests rated in either of 1645
the two highest rating classifications by at least two 1646
nationally recognized ~~standard statistical rating services~~ 1647
organizations and issued by entities that are defined in 1648
~~division (D) of section 1705.01 or division (E)-(K) of section~~ 1649
1706.01 of the Revised Code. The debt interests purchased under 1650

authority of division (E) of this section shall mature not later 1651
than the latest maturity date of the outstanding obligations 1652
issued under authority of section 133.10 or 133.301 of the 1653
Revised Code. 1654

(2) If any of the debt interests acquired under division 1655
(E) (1) of this section ceases to be rated as there required, its 1656
issuer shall notify the treasurer of state of this fact within 1657
twenty-four hours. At any time thereafter the treasurer of state 1658
may require collateralization at the rate of one hundred two per 1659
cent of any remaining obligation of the entity, with securities 1660
authorized for investment under section 135.143 of the Revised 1661
Code. The collateral shall be delivered to and held by a 1662
custodian acceptable to the treasurer of state, marked to market 1663
daily, and any default to be cured within twelve hours. 1664
Unlimited substitution shall be allowed of comparable 1665
securities. 1666

Sec. 135.143. (A) The treasurer of state may invest or 1667
execute transactions for any part or all of the interim funds of 1668
the state in the following classifications of obligations: 1669

(1) United States treasury bills, notes, bonds, or any 1670
other obligations or securities issued by the United States 1671
treasury or any other obligation guaranteed as to principal and 1672
interest by the United States; 1673

(2) Bonds, notes, debentures, or any other obligations or 1674
securities issued by any federal government agency or 1675
instrumentality; 1676

(3) (a) Bonds, notes, and other obligations of the state of 1677
Ohio, including, but not limited to, any obligations issued by 1678
the treasurer of state, the Ohio public facilities commission, 1679

~~the Ohio building authority,~~ the Ohio housing finance agency, 1680
the Ohio water development authority, the Ohio turnpike 1681
infrastructure commission, the Ohio higher educational facility 1682
commission, and state institutions of higher education as 1683
defined in section 3345.011 of the Revised Code; 1684

(b) Bonds, notes, and other obligations of any state or 1685
political subdivision thereof rated in the three highest 1686
categories by at least one nationally recognized ~~standard-~~ 1687
statistical rating service organization and purchased through a 1688
registered securities broker or dealer, provided the treasurer 1689
of state is not the sole purchaser of the bonds, notes, or other 1690
obligations at original issuance. 1691

(4) (a) Written repurchase agreements with any eligible 1692
Ohio financial institution that is a member of the federal 1693
reserve system or federal home loan bank, ~~or any registered~~ 1694
United States government securities dealer, or any counterparty 1695
rated in one of the three highest categories by at least one 1696
nationally recognized statistical rating organization or 1697
otherwise determined by the treasurer of state to have adequate 1698
capital and liquidity, under the terms of which agreement the 1699
treasurer of state purchases and the eligible financial 1700
institution ~~or,~~ dealer, or counterparty agrees unconditionally 1701
to repurchase any of the securities that are listed in division 1702
(A) (1), (2), ~~or (3),~~ (6), or (11) of this section. The market 1703
value of securities subject to these transactions must exceed 1704
the principal value of the repurchase agreement by an amount 1705
specified by the treasurer of state, and the securities must be 1706
delivered into the custody of the treasurer of state or the 1707
qualified trustee or agent designated by the treasurer of state. 1708
The agreement shall contain the requirement that for each 1709
transaction pursuant to the agreement, the participating 1710

institution ~~or~~, dealer, or counterparty shall provide all of 1711
the following information: 1712

(i) The par value of the securities; 1713

(ii) The type, rate, and maturity date of the securities; 1714

(iii) A numerical identifier generally accepted in the 1715
securities industry that designates the securities. 1716

(b) The treasurer of state also may sell any securities, 1717
listed in division (A) (1), (2), ~~or~~ (6), or (11) of this section, 1718
regardless of maturity or time of redemption of the securities, 1719
under the same terms and conditions for repurchase, provided 1720
that the securities have been fully paid for and are owned by 1721
the treasurer of state at the time of the sale. 1722

(c) For purposes of division (A) (4) of this section, the 1723
treasurer of state shall only buy or sell securities listed in 1724
division (A) (11) of this section issued by entities that are 1725
organized under the laws of this state, any other state, or the 1726
United States. 1727

(5) Securities lending agreements with any eligible 1728
financial institution that is a member of the federal reserve 1729
system or federal home loan bank or any recognized United States 1730
government securities dealer, under the terms of which 1731
agreements the treasurer of state lends securities and the 1732
eligible financial institution or dealer agrees to 1733
simultaneously exchange similar securities or cash, equal value 1734
for equal value. 1735

Securities and cash received as collateral for a 1736
securities lending agreement are not interim funds of the state. 1737
The investment of cash collateral received pursuant to a 1738
securities lending agreement may be invested only in such 1739

instruments specified by the treasurer of state in accordance 1740
with a written investment policy. 1741

(6) Various forms of commercial paper issued by any entity 1742
that is organized under the laws of the United States or a 1743
state, which notes are rated in the two highest categories by 1744
two nationally recognized ~~standard~~ statistical rating 1745
~~services organizations~~, provided that the total amount invested 1746
under this section in any commercial paper at any time shall not 1747
exceed forty per cent of the state's total average portfolio, as 1748
determined and calculated by the treasurer of state; 1749

(7) Bankers acceptances, maturing in two hundred seventy 1750
days or less, provided that the total amount invested in bankers 1751
acceptances at any time shall not exceed ten per cent of the 1752
state's total average portfolio, as determined and calculated by 1753
the treasurer of state; 1754

(8) Certificates of deposit, savings accounts, or deposit 1755
accounts in eligible institutions applying for interim moneys as 1756
provided in section 135.08 of the Revised Code, including linked 1757
deposits as provided in sections 135.61 to ~~135.67~~ 135.66 of the 1758
Revised Code, ~~agricultural linked deposits as provided in~~ 1759
~~sections 135.71 to 135.76 of the Revised Code, business linked~~ 1760
~~deposits as provided in sections 135.77 to 135.774 of the~~ 1761
Revised Code, and housing linked deposits as provided in 1762
~~sections 135.81 to 135.87 of the Revised Code;~~ 1763

(9) Negotiable certificates of deposit denominated in 1764
United States dollars issued by a nationally or state-chartered 1765
bank, a savings association or a federal savings association, a 1766
state or federal credit union, or a federally licensed or state- 1767
licensed branch of a foreign bank, which are rated in the two 1768
highest categories by two nationally recognized ~~standard~~ 1769

statistical rating services organizations, provided that the 1770
total amount invested under this section in negotiable 1771
certificates of deposit at any time shall not exceed twenty-five 1772
per cent of the state's total average portfolio, as determined 1773
and calculated by the treasurer of state. Interim funds invested 1774
in accordance with division (A) (9) of this section are not 1775
limited to institutions applying for interim moneys under 1776
section 135.08 of the Revised Code, nor are they subject to any 1777
pledging requirements described in sections 135.18, 135.181, or 1778
135.182 of the Revised Code. 1779

(10) The state treasurer's investment pool authorized 1780
under section 135.45 of the Revised Code; 1781

(11) Debt interests, other than commercial paper described 1782
in division (A) (6) of this section, rated in the three highest 1783
categories by two nationally recognized ~~standard~~ statistical 1784
rating ~~services organizations~~ and issued by entities that are 1785
organized under the laws of the United States or a state, or 1786
issued by foreign nations diplomatically recognized by the 1787
United States government, or any instrument based on, derived 1788
from, or related to such interests, provided that: 1789

(a) The investments in debt interests other than 1790
commercial paper, when added to the investment in written 1791
repurchase agreements for securities listed in division (A) (3) 1792
or (11) of this section, shall not exceed in the aggregate 1793
twenty-five per cent of the state's portfolio. 1794

(b) The investments in debt interests issued by foreign 1795
nations shall not exceed in the aggregate two per cent of the 1796
state's portfolio. 1797

The treasurer of state shall invest under division (A) (11) 1798

of this section in a debt interest issued by a foreign nation 1799
only if the debt interest is backed by the full faith and credit 1800
of that foreign nation, and provided that all interest and 1801
principal shall be denominated and payable in United States 1802
funds. 1803

(c) When added to the investment in commercial paper and 1804
negotiable certificates of deposit, the investments in the debt 1805
interests of a single issuer shall not exceed in the aggregate 1806
five per cent of the state's portfolio. 1807

(d) For purposes of division (A)(11) of this section, a 1808
debt interest is rated in the three highest categories by two 1809
nationally recognized ~~standard-statistical~~ rating ~~services-~~ 1810
organizations if either the debt interest itself or the issuer 1811
of the debt interest is rated, or is implicitly rated, in the 1812
three highest categories by two nationally recognized ~~standard-~~ 1813
statistical rating ~~services~~organizations. 1814

(e) For purposes of division (A)(11) of this section, the 1815
"state's portfolio" means the state's total average portfolio, 1816
as determined and calculated by the treasurer of state. 1817

(12) No-load money market mutual funds rated in the 1818
highest category by one nationally recognized ~~standard-~~ 1819
statistical rating ~~service-organization~~ or consisting 1820
exclusively of obligations described in division (A)(1), (2), or 1821
(6) of this section and repurchase agreements secured by such 1822
obligations; 1823

(13) Obligations issued by, or on behalf of, an Ohio 1824
political subdivision under Chapter 133. of the Revised Code or 1825
Section 12 of Article XVIII, Ohio Constitution, and identified 1826
in an agreement described in division (G) of this section; 1827

(14) Obligations issued by the state of Ohio, any 1828
political subdivision thereof, or by or on behalf of any 1829
nonprofit corporation or association doing business in this 1830
state rated in the four highest categories by at least one 1831
nationally recognized ~~standard statistical rating service~~ 1832
organization and identified in an agreement described in 1833
division (K) of this section. 1834

(B) ~~Whenever, during a period of designation~~ On or before 1835
the tenth day of each month, the treasurer of state ~~classifies~~ 1836
~~public moneys as interim moneys, the treasurer of state shall~~ 1837
notify the state board of deposit ~~of such action. The~~ 1838
~~notification shall be given within thirty days after such~~ 1839
~~classification and, in that~~ the following reports pertaining to 1840
the immediately preceding month have been posted to the web site 1841
maintained by the treasurer of state: 1842

(1) The daily ledger report of state funds prepared in 1843
accordance with section 113.13 of the Revised Code; 1844

(2) The monthly portfolio report detailing the current 1845
inventory of all investments and deposits held within the 1846
classification of interim moneys; 1847

(3) The monthly activity report within the classification 1848
of interim moneys summarized by type of investment or deposit. 1849

In the event the state board of deposit does not concur in 1850
such classification or in the investments or deposits made under 1851
this section, the board may order the treasurer of state to sell 1852
or liquidate any of the investments or deposits, and any such 1853
order shall specifically describe the investments or deposits 1854
and fix the date upon which they are to be sold or liquidated. 1855
Investments or deposits so ordered to be sold or liquidated 1856

shall be sold or liquidated for cash by the treasurer of state 1857
on the date fixed in such order at the then current market 1858
price. Neither the treasurer of state nor the members of the 1859
state board of deposit shall be held accountable for any loss 1860
occasioned by sales or liquidations of investments or deposits 1861
at prices lower than their cost. Any loss or expense incurred in 1862
making these sales or liquidations is payable as other expenses 1863
of the treasurer's office. 1864

(C) If any securities or obligations invested in by the 1865
treasurer of state pursuant to this section are registrable 1866
either as to principal or interest, or both, such securities or 1867
obligations shall be registered in the name of the treasurer of 1868
state. 1869

(D) The treasurer of state is responsible for the 1870
safekeeping of all securities or obligations under this section. 1871
Any such securities or obligations may be deposited for 1872
safekeeping as provided in section 113.05 of the Revised Code. 1873

(E) Interest earned on any investments or deposits 1874
authorized by this section shall be collected by the treasurer 1875
of state and credited by the treasurer of state to the proper 1876
fund of the state. 1877

(F) Whenever investments or deposits acquired under this 1878
section mature and become due and payable, the treasurer of 1879
state shall present them for payment according to their tenor, 1880
and shall collect the moneys payable thereon. The moneys so 1881
collected shall be treated as public moneys subject to sections 1882
135.01 to 135.21 of the Revised Code. 1883

(G) The treasurer of state and any entity issuing 1884
obligations referred to in division (A) (13) of this section, 1885

which obligations mature within one year from the original date 1886
of issuance, may enter into an agreement providing for: 1887

(1) The purchase of those obligations by the treasurer of 1888
state on terms and subject to conditions set forth in the 1889
agreement; 1890

(2) The payment to the treasurer of state of a reasonable 1891
fee as consideration for the agreement of the treasurer of state 1892
to purchase those obligations; provided, however, that the 1893
treasurer of state shall not be authorized to enter into any 1894
such agreement with a board of education of a school district 1895
that has an outstanding obligation with respect to a loan 1896
received under authority of section 3313.483 of the Revised 1897
Code. 1898

(H) For purposes of division (G) of this section, a fee 1899
shall not be considered reasonable unless it is set to recover 1900
only the direct costs, a reasonable estimate of the indirect 1901
costs associated with the purchasing of obligations under 1902
division (G) of this section and any reselling of the 1903
obligations or any interest in the obligations, including 1904
interests in a fund comprised of the obligations, and the 1905
administration thereof. No money from the general revenue fund 1906
shall be used to subsidize the purchase or resale of these 1907
obligations. 1908

(I) All money collected by the treasurer of state from the 1909
fee imposed by division (G) of this section shall be deposited 1910
to the credit of the state political subdivision obligations 1911
fund, which is hereby created in the state treasury. Money 1912
credited to the fund shall be used solely to pay the treasurer 1913
of state's direct and indirect costs associated with purchasing 1914
and reselling obligations under division (G) of this section. 1915

(J) As used in this section, "political subdivision" means 1916
a county, township, municipal corporation, school district, or 1917
other body corporate and politic responsible for governmental 1918
activities in a geographic area smaller than that of the state. 1919

(K) (1) The treasurer of state and any entity issuing 1920
obligations referred to in division (A) (14) of this section, 1921
which obligations ~~have a demand feature to tender the obligation~~ 1922
~~at par plus accrued interest~~ require a conditional liquidity 1923
requirement, may enter into an agreement providing for the 1924
following: 1925

(a) The purchase of the obligations by the treasurer of 1926
state on terms and subject to conditions set forth in the 1927
agreement; 1928

(b) Payment to the treasurer of state of a fee as 1929
consideration for the agreement of the treasurer of state to 1930
purchase the obligations. 1931

(2) The treasurer of state shall not enter into agreements 1932
under division (K) (1) of this section for obligations that, in 1933
the aggregate, exceed ten per cent of the state's total average 1934
portfolio, as determined and calculated by the treasurer of 1935
state. 1936

(3) For purposes of division (A) (14) of this section, an 1937
obligation is rated in the four highest categories by at least 1938
one nationally recognized ~~standard~~ statistical rating service 1939
organization if either the debt interest itself or the obligor 1940
of the debt interest is rated in the four highest categories by 1941
at least one nationally recognized ~~standard~~ statistical rating 1942
service organization. 1943

(4) All money collected by the treasurer of state from the 1944

fee imposed by division (K) of this section shall be deposited 1945
to the credit of the state securities tender program fund, which 1946
is hereby created in the state treasury. The amount of income 1947
from the state securities tender program credited to the state 1948
securities tender program fund shall not exceed one per cent of 1949
the average par value of obligations subject to agreements under 1950
division (K) (1) of this section. All other such income shall be 1951
credited to the general revenue fund. The treasurer of state may 1952
use the state securities tender program fund solely for 1953
operations of the office of the treasurer of state. 1954

(L) (1) The treasurer of state and a state university or 1955
college issuing obligations under section 3345.12 of the Revised 1956
Code may enter into an agreement providing for the following: 1957

(a) The purchase of those obligations by the treasurer of 1958
state pursuant to division (A) (3) (a) of this section on terms 1959
and subject to conditions set forth in the agreement; 1960

(b) The department of higher education to withhold, in the 1961
event the state university or college does not pay bond service 1962
charges on the obligations when due, appropriated funds 1963
allocated to the state university or college in an amount 1964
sufficient to pay bond service charges on the obligations, less 1965
any amounts deposited for that purpose under the bond 1966
proceedings. Upon the request of the treasurer of state, the 1967
department of higher education shall promptly pay to the 1968
treasurer of state the amounts withheld. 1969

(2) For purposes of division (L) (1) of this section, 1970
"obligations," "state university or college," "bond service 1971
charges," and "bond proceedings" have the same meanings as in 1972
section 3345.12 of the Revised Code. 1973

Sec. 135.15. Whenever the governing board, other than the 1974
state board of deposit, is of the opinion that the actual amount 1975
of active deposits is insufficient to meet the anticipated 1976
demands on such active deposits, it shall direct the treasurer 1977
to sell interim money investments or deposits or transfer from 1978
the inactive deposits to the active deposits an amount 1979
sufficient to meet such demands. The board shall designate in 1980
such order the depositories from which withdrawals for such 1981
purpose shall be made and the amounts to be withdrawn from each. 1982
The treasurer shall immediately give appropriate written notice 1983
of such withdrawal to each public depository affected thereby, 1984
and at the expiration of the period of such notice shall make 1985
such withdrawals by presentation of certificates of deposit, or 1986
otherwise, in such manner as the board provides by appropriate 1987
regulations. In case there are two or more public depositories 1988
subject to such withdrawal, the board shall make such 1989
withdrawals from the public depositories paying the lowest rates 1990
of interest and in proportional amounts as near as is 1991
practicable. 1992

Whenever the state board of deposit is of the opinion that 1993
the actual amount of active deposits is insufficient to meet the 1994
anticipated demands on such active deposits, it shall direct the 1995
treasurer of state to sell interim money investments or to 1996
redeem negotiated deposits in an amount sufficient to meet such 1997
demands. The treasurer of state shall use the treasurer of 1998
state's discretion in selecting the instruments to be sold or 1999
redeemed. 2000

Sec. 135.182. (A) As used in this section: 2001

(1) "Public depository" means that term as defined in 2002
section 135.01 of the Revised Code, but also means an 2003

institution that receives or holds any public deposits as 2004
defined in section 135.31 of the Revised Code. 2005

(2) "Public depositor" means that term as defined in 2006
section 135.01 of the Revised Code, but also includes a county 2007
and any municipal corporation that has adopted a charter under 2008
Article XVIII, Ohio Constitution. 2009

(3) "Public deposits," "public moneys," and "treasurer" 2010
mean those terms as defined in section 135.01 of the Revised 2011
Code, but also have the same meanings as are set forth in 2012
section 135.31 of the Revised Code, but for purposes of this 2013
section does not include the moneys of metropolitan housing 2014
authorities. 2015

(B) (1) Not later than July 1, 2017, the treasurer of state 2016
shall create the Ohio pooled collateral program. Under this 2017
program, each institution designated as a public depository that 2018
selects the pledging method prescribed in division (A) (2) of 2019
section 135.18 or division (A) (2) of section 135.37 of the 2020
Revised Code shall pledge to the treasurer of state a single 2021
pool of eligible securities for the benefit of all public 2022
depositories at the public depository to secure the repayment of 2023
all uninsured public deposits at the public depository, provided 2024
that at all times the total market value of the securities so 2025
pledged is at least equal to either of the following: 2026

(a) One hundred two per cent of the total amount of all 2027
uninsured public deposits; 2028

(b) An amount determined by rules adopted by the treasurer 2029
of state that set forth the criteria for determining the 2030
aggregate market value of the pool of eligible securities 2031
pledged by a public depository pursuant to division (B) of this 2032

section. Such criteria shall include, but are not limited to, 2033
prudent capital and liquidity management by the public 2034
depository and the safety and soundness of the public depository 2035
as determined by a third-party rating organization. 2036

(2) The treasurer of state shall monitor the eligibility, 2037
market value, and face value of the pooled securities pledged by 2038
the public depository. Each public depository shall carry in its 2039
accounting records at all times a general ledger or other 2040
appropriate account of the total amount of all public deposits 2041
to be secured by the pool, as determined at the opening of 2042
business each day, and the total market value of securities 2043
pledged to secure such deposits, and report such information to 2044
the treasurer of state in a manner and frequency as determined 2045
by the treasurer of state pursuant to rules adopted by the 2046
treasurer of state. A public depositor shall be responsible for 2047
periodically confirming the accuracy of its account balances 2048
with the treasurer of state; otherwise, the treasurer of state 2049
shall be the sole public depositor responsible for monitoring 2050
and ensuring the sufficiency of securities pledged under this 2051
section. 2052

(3) If, on any day, the total market value of the 2053
securities pledged by the public depository is less than that 2054
specified in division (B) (1) (a) or (b) of this section, 2055
whichever is applicable, the public depository shall have two 2056
business days to pledge additional eligible securities having a 2057
market value sufficient, when combined with the market value of 2058
eligible securities already pledged, to satisfy the requirement 2059
of division (B) (1) (a) or (b) of this section, as applicable, to 2060
secure the repayment of all uninsured public deposits at the 2061
public depository. 2062

(C) The public depository shall designate a qualified trustee approved by the treasurer of state and place with such trustee for safekeeping the eligible securities pledged pursuant to division (B) of this section. The trustee shall hold the eligible securities in an account indicating the treasurer of state's security interest in the eligible securities. The treasurer of state shall give written notice of the trustee to all public depositors for which such securities are pledged. The trustee shall report to the treasurer of state information relating to the securities pledged to secure such public deposits in a manner and frequency as determined by the treasurer of state.

(D) In order for a public depository to receive public moneys under this section, the public depository and the treasurer of state shall first execute an agreement that sets forth the entire arrangement among the parties and that meets the requirements described in 12 U.S.C. 1823(e). In addition, the agreement shall authorize the treasurer of state to obtain control of the collateral pursuant to division (D) of section 1308.24 of the Revised Code.

(E) The securities or other obligations described in division (D) of section 135.18 of the Revised Code shall be eligible as collateral for the purposes of division (B) of this section, provided no such securities or obligations pledged as collateral are at any time in default as to either principal or interest.

(F) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by

corporations of trust powers generally, is qualified to act as 2093
trustee for the safekeeping of securities, under this section. 2094
Any institution mentioned in section 135.03 or 135.32 of the 2095
Revised Code that holds a certificate of qualification issued by 2096
the superintendent of financial institutions or any institution 2097
complying with sections 1111.04, 1111.05, and 1111.06 of the 2098
Revised Code is qualified to act as trustee for the safekeeping 2099
of securities under this section, other than those belonging to 2100
itself or to an affiliate as defined in section 1101.01 of the 2101
Revised Code. 2102

(G) The public depository may substitute, exchange, or 2103
release eligible securities deposited with the qualified trustee 2104
pursuant to this section, provided that such substitution, 2105
exchange, or release is effectuated pursuant to written 2106
authorization from the treasurer of state, and such action does 2107
not reduce the total market value of the securities to an amount 2108
that is less than the amount established pursuant to division 2109
(B) of this section. 2110

(H) Notwithstanding the fact that a public depository is 2111
required to pledge eligible securities in certain amounts to 2112
secure public deposits, a qualified trustee has no duty or 2113
obligation to determine the eligibility, market value, or face 2114
value of any securities deposited with the trustee by a public 2115
depository. This applies in all situations including, but not 2116
limited to, a substitution or exchange of securities, but 2117
excluding those situations effectuated by division (I) of this 2118
section in which the trustee is required to determine face and 2119
market value. 2120

(I) The qualified trustee shall enter into a custodial 2121
agreement with the treasurer of state and public depository in 2122

which the trustee agrees to comply with entitlement orders 2123
originated by the treasurer of state without further consent by 2124
the public depository or, in the case of collateral held by the 2125
public depository in an account at a federal reserve bank, the 2126
treasurer of state shall have the treasurer's security interest 2127
marked on the books of the federal reserve bank where the 2128
account for the collateral is maintained. If the public 2129
depository fails to pay over any part of the public deposits 2130
made therein as provided by law and secured pursuant to division 2131
(B) of this section, the treasurer of state shall give written 2132
notice of this failure to the qualified trustee holding the pool 2133
of securities pledged against the public deposits, and at the 2134
same time shall send a copy of this notice to the public 2135
depository. Upon receipt of this notice, the trustee shall 2136
transfer to the treasurer of state for sale, the pooled 2137
securities that are necessary to produce an amount equal to the 2138
public deposits made by the public depositor and not paid over, 2139
less the portion of the deposits covered by any federal deposit 2140
insurance, plus any accrued interest due on the deposits. The 2141
treasurer of state shall sell any of the bonds or other 2142
securities so transferred. When a sale of bonds or other 2143
securities has been so made and upon payment to the public 2144
depositor of the purchase money, the treasurer of state shall 2145
transfer such bonds or securities whereupon the absolute 2146
ownership of such bonds or securities shall pass to the 2147
purchasers. Any surplus after deducting the amount due to the 2148
public depositor and expenses of sale shall be paid to the 2149
public depository. 2150

(J) Any charges or compensation of a qualified trustee for 2151
acting as such under this section shall be paid by the public 2152
depository and in no event shall be chargeable to the public 2153

depositor or to any officer of the public depositor. The charges 2154
or compensation shall not be a lien or charge upon the 2155
securities deposited for safekeeping prior or superior to the 2156
rights to and interests in the securities of the public 2157
depositor. The treasurer and the treasurer's bonders or surety 2158
shall be relieved from any liability to the public depositor or 2159
to the public depository for the loss or destruction of any 2160
securities deposited with a qualified trustee pursuant to this 2161
section. 2162

(K) A public depositor, treasurer, or the public 2163
depositor's or treasurer's bonders or surety are not liable for 2164
the loss of funds if a public depository fails to comply with 2165
the terms set forth in the agreement provided for in division 2166
(D) of this section for the appropriate level of collateral, as 2167
required under division (B) (1) (a) or (b) of this section, to 2168
secure the public deposits made under that agreement. 2169

(L) (1) The following information is confidential and not a 2170
public record under section 149.43 of the Revised Code: 2171

(a) All reports or other information obtained or created 2172
about a public depository for purposes of division (B) (1) (b) of 2173
this section; 2174

(b) The identity of a public depositor's public 2175
depository; 2176

(c) The identity of a public depository's public 2177
depositories. 2178

(2) Nothing in this section prevents the treasurer of 2179
state from releasing or exchanging such confidential information 2180
as required by law or for the operation of the pooled collateral 2181
program. 2182

(M) The treasurer of state may impose reasonable fees, 2183
including late fees, upon public depositories participating in 2184
the pooled collateral program to defray the actual and necessary 2185
expenses incurred by the treasurer in connection with the 2186
program. All such fees collected by the treasurer shall be 2187
deposited into the state treasury to the credit of the 2188
administrative fund created in section 113.20 of the Revised 2189
Code. 2190

(N) The treasurer of state may adopt rules necessary for 2191
the implementation of this section and sections 135.18 and 2192
135.181 of the Revised Code. Such rules shall be adopted in 2193
accordance with Chapter 119. of the Revised Code. 2194

Sec. 135.31. As used in sections 135.31 to 135.40 of the 2195
Revised Code: 2196

(A) "Active moneys" means an amount of public moneys in 2197
public depositories determined to be necessary to meet current 2198
demands upon a county treasury, and deposited in any of the 2199
following: 2200

(1) A commercial account and withdrawable, in whole or in 2201
part, on demand; 2202

(2) A negotiable order of withdrawal account as authorized 2203
in the "Consumer Checking Account Equity Act of 1980," 94 Stat. 2204
146, 12 U.S.C.A. 1832(a); 2205

(3) A money market deposit account as authorized in the 2206
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat. 2207
1501, 12 U.S.C. 3503. 2208

(B) "Inactive moneys" means all public moneys in public 2209
depositories in excess of the amount determined to be needed as 2210
active moneys. 2211

(C) "Investing authority" means the treasurer, except as provided in section 135.34 of the Revised Code. 2212
2213

(D) "Public deposits" means public moneys deposited in a public depository pursuant to sections 135.31 to 135.40 of the Revised Code. 2214
2215
2216

(E) "Public moneys" means all moneys in the treasury of a county or moneys coming lawfully into the possession or custody of the treasurer. 2217
2218
2219

(F) "Treasurer" means the county treasurer. 2220

(G) "No-load money market mutual fund" means a no-load money market mutual fund that is registered as an investment company under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1 to 80a-64, and that has the highest letter or numerical rating provided by at least one nationally recognized ~~standard~~-statistical rating ~~service~~organization. 2221
2222
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Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment: 2227
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2229
2230
2231
2232

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury, any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States. 2233
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Nothing in the classification of eligible securities and obligations set forth in divisions (A) (2) to (10) of this 2239
2240

section shall be construed to authorize any investment in 2241
stripped principal or interest obligations of such eligible 2242
securities and obligations. 2243

(2) Bonds, notes, debentures, or any other obligations or 2244
securities issued by any federal government agency or 2245
instrumentality, including, but not limited to, the federal 2246
national mortgage association, federal home loan bank, federal 2247
farm credit bank, federal home loan mortgage corporation, and 2248
government national mortgage association. All federal agency 2249
securities shall be direct issuances of federal government 2250
agencies or instrumentalities. 2251

(3) Time certificates of deposit or savings or deposit 2252
accounts, including, but not limited to, passbook accounts, in 2253
any eligible institution mentioned in section 135.32 of the 2254
Revised Code; 2255

(4) Bonds and other obligations of this state or the 2256
political subdivisions of this state, provided the bonds or 2257
other obligations of political subdivisions mature within ten 2258
years from the date of settlement; 2259

(5) No-load money market mutual funds rated in the highest 2260
category at the time of purchase by at least one nationally 2261
recognized ~~standard-statistical~~ rating ~~service-organization~~ or 2262
consisting exclusively of obligations described in division (A) 2263
(1), (2), or (6) of section 135.143 of the Revised Code and 2264
repurchase agreements secured by such obligations, provided that 2265
investments in securities described in this division are made 2266
only through eligible institutions mentioned in section 135.32 2267
of the Revised Code; 2268

(6) The Ohio subdivision's fund as provided in section 2269

135.45 of the Revised Code;	2270
(7) Securities lending agreements with any eligible	2271
institution mentioned in section 135.32 of the Revised Code that	2272
is a member of the federal reserve system or federal home loan	2273
bank or with any recognized United States government securities	2274
dealer meeting the description in division (J)(1) of this	2275
section, under the terms of which agreements the investing	2276
authority lends securities and the eligible institution or	2277
dealer agrees to simultaneously exchange similar securities or	2278
cash, equal value for equal value.	2279
Securities and cash received as collateral for a	2280
securities lending agreement are not inactive moneys of the	2281
county or moneys of a county public library fund. The investment	2282
of cash collateral received pursuant to a securities lending	2283
agreement may be invested only in instruments specified by the	2284
investing authority in the written investment policy described	2285
in division (K) of this section.	2286
(8) Up to forty per cent of the county's total average	2287
portfolio in either of the following investments:	2288
(a) Commercial paper notes issued by an entity that is	2289
defined in division (D) of section 1705.01 or division (E) of	2290
section 1706.01 of the Revised Code and that has assets	2291
exceeding five hundred million dollars, to which notes all of	2292
the following apply:	2293
(i) The notes are rated at the time of purchase in the	2294
highest classification established by at least two nationally	2295
recognized standard <u>statistical</u> rating services <u>organizations</u> .	2296
(ii) The aggregate value of the notes does not exceed ten	2297
per cent of the aggregate value of the outstanding commercial	2298

paper of the issuing corporation.	2299
(iii) The notes mature not later than two hundred seventy days after purchase.	2300 2301
(iv) The investment in commercial paper notes of a single issuer shall not exceed in the aggregate five per cent of interim moneys available for investment at the time of purchase.	2302 2303 2304
(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and that mature not later than one hundred eighty days after purchase.	2305 2306 2307
No investment shall be made pursuant to division (A) (8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A) (8) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.	2308 2309 2310 2311 2312 2313 2314
(9) Up to fifteen per cent of the county's total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply:	2315 2316 2317 2318 2319 2320 2321
(a) The notes are rated in the three highest categories by at least two nationally recognized standard-statistical <u>rating services-organizations</u> at the time of purchase.	2322 2323 2324
(b) The notes mature not later than three years after purchase.	2325 2326

(10) Debt interests rated at the time of purchase in the 2327
three highest categories by two nationally recognized ~~standard-~~ 2328
statistical rating ~~services organizations~~ and issued by foreign 2329
nations diplomatically recognized by the United States 2330
government. All interest and principal shall be denominated and 2331
payable in United States funds. The investments made under 2332
division (A) (10) of this section shall not exceed in the 2333
aggregate two per cent of a county's total average portfolio. 2334

The investing authority shall invest under division (A) 2335
(10) of this section in a debt interest issued by a foreign 2336
nation only if the debt interest is backed by the full faith and 2337
credit of that foreign nation, there is no prior history of 2338
default, and the debt interest matures not later than five years 2339
after purchase. For purposes of division (A) (10) of this 2340
section, a debt interest is rated in the three highest 2341
categories by two nationally recognized ~~standard-~~ statistical 2342
rating ~~services organizations~~ if either the debt interest itself 2343
or the issuer of the debt interest is rated, or is implicitly 2344
rated, at the time of purchase in the three highest categories 2345
by two nationally recognized ~~standard-~~ statistical rating 2346
~~services organizations~~. 2347

(11) A current unpaid or delinquent tax line of credit 2348
authorized under division (G) of section 135.341 of the Revised 2349
Code, provided that all of the conditions for entering into such 2350
a line of credit under that division are satisfied, or bonds and 2351
other obligations of a county land reutilization corporation 2352
organized under Chapter 1724. of the Revised Code, if the county 2353
land reutilization corporation is located wholly or partly 2354
within the same county as the investing authority. 2355

(B) Nothing in the classifications of eligible obligations 2356

and securities set forth in divisions (A) (1) to (10) of this 2357
section shall be construed to authorize investment in a 2358
derivative, and no investing authority shall invest any county 2359
inactive moneys or any moneys in a county public library fund in 2360
a derivative. For purposes of this division, "derivative" means 2361
a financial instrument or contract or obligation whose value or 2362
return is based upon or linked to another asset or index, or 2363
both, separate from the financial instrument, contract, or 2364
obligation itself. Any security, obligation, trust account, or 2365
other instrument that is created from an issue of the United 2366
States treasury or is created from an obligation of a federal 2367
agency or instrumentality or is created from both is considered 2368
a derivative instrument. An eligible investment described in 2369
this section with a variable interest rate payment, based upon a 2370
single interest payment or single index comprised of other 2371
eligible investments provided for in division (A) (1) or (2) of 2372
this section, is not a derivative, provided that such variable 2373
rate investment has a maximum maturity of two years. A treasury 2374
inflation-protected security shall not be considered a 2375
derivative, provided the security matures not later than five 2376
years after purchase. 2377

(C) Except as provided in division (A) (4) or (D) of this 2378
section, any investment made pursuant to this section must 2379
mature within five years from the date of settlement, unless the 2380
investment is matched to a specific obligation or debt of the 2381
county or to a specific obligation or debt of a political 2382
subdivision of this state, and the investment is specifically 2383
approved by the investment advisory committee. 2384

(D) The investing authority may also enter into a written 2385
repurchase agreement with any eligible institution mentioned in 2386
section 135.32 of the Revised Code or any eligible securities 2387

dealer pursuant to division (J) of this section, under the terms 2388
of which agreement the investing authority purchases and the 2389
eligible institution or dealer agrees unconditionally to 2390
repurchase any of the securities listed in divisions (D) (1) to 2391
(5), except letters of credit described in division (D) (2), of 2392
section 135.18 of the Revised Code. The market value of 2393
securities subject to an overnight written repurchase agreement 2394
must exceed the principal value of the overnight written 2395
repurchase agreement by at least two per cent. A written 2396
repurchase agreement must exceed the principal value of the 2397
overnight written repurchase agreement, by at least two per 2398
cent. A written repurchase agreement shall not exceed thirty 2399
days, and the market value of securities subject to a written 2400
repurchase agreement must exceed the principal value of the 2401
written repurchase agreement by at least two per cent and be 2402
marked to market daily. All securities purchased pursuant to 2403
this division shall be delivered into the custody of the 2404
investing authority or the qualified custodian of the investing 2405
authority or an agent designated by the investing authority. A 2406
written repurchase agreement with an eligible securities dealer 2407
shall be transacted on a delivery versus payment basis. The 2408
agreement shall contain the requirement that for each 2409
transaction pursuant to the agreement the participating 2410
institution shall provide all of the following information: 2411

(1) The par value of the securities; 2412

(2) The type, rate, and maturity date of the securities; 2413

(3) A numerical identifier generally accepted in the 2414
securities industry that designates the securities. 2415

No investing authority shall enter into a written 2416
repurchase agreement under the terms of which the investing 2417

authority agrees to sell securities owned by the county to a 2418
purchaser and agrees with that purchaser to unconditionally 2419
repurchase those securities. 2420

(E) No investing authority shall make an investment under 2421
this section, unless the investing authority, at the time of 2422
making the investment, reasonably expects that the investment 2423
can be held until its maturity. The investing authority's 2424
written investment policy shall specify the conditions under 2425
which an investment may be redeemed or sold prior to maturity. 2426

(F) No investing authority shall pay a county's inactive 2427
moneys or moneys of a county public library fund into a fund 2428
established by another subdivision, treasurer, governing board, 2429
or investing authority, if that fund was established by the 2430
subdivision, treasurer, governing board, or investing authority 2431
for the purpose of investing or depositing the public moneys of 2432
other subdivisions. This division does not apply to the payment 2433
of public moneys into either of the following: 2434

(1) The Ohio subdivision's fund pursuant to division (A) 2435
(6) of this section; 2436

(2) A fund created solely for the purpose of acquiring, 2437
constructing, owning, leasing, or operating municipal utilities 2438
pursuant to the authority provided under section 715.02 of the 2439
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 2440

For purposes of division (F) of this section, 2441
"subdivision" includes a county. 2442

(G) The use of leverage, in which the county uses its 2443
current investment assets as collateral for the purpose of 2444
purchasing other assets, is prohibited. The issuance of taxable 2445
notes for the purpose of arbitrage is prohibited. Contracting to 2446

sell securities not owned by the county, for the purpose of 2447
purchasing such securities on the speculation that bond prices 2448
will decline, is prohibited. 2449

(H) Any securities, certificates of deposit, deposit 2450
accounts, or any other documents evidencing deposits or 2451
investments made under authority of this section shall be issued 2452
in the name of the county with the county treasurer or investing 2453
authority as the designated payee. If any such deposits or 2454
investments are registrable either as to principal or interest, 2455
or both, they shall be registered in the name of the treasurer. 2456

(I) The investing authority shall be responsible for the 2457
safekeeping of all documents evidencing a deposit or investment 2458
acquired under this section, including, but not limited to, 2459
safekeeping receipts evidencing securities deposited with a 2460
qualified trustee, as provided in section 135.37 of the Revised 2461
Code, and documents confirming the purchase of securities under 2462
any repurchase agreement under this section shall be deposited 2463
with a qualified trustee, provided, however, that the qualified 2464
trustee shall be required to report to the investing authority, 2465
auditor of state, or an authorized outside auditor at any time 2466
upon request as to the identity, market value, and location of 2467
the document evidencing each security, and that if the 2468
participating institution is a designated depository of the 2469
county for the current period of designation, the securities 2470
that are the subject of the repurchase agreement may be 2471
delivered to the treasurer or held in trust by the participating 2472
institution on behalf of the investing authority. 2473

Upon the expiration of the term of office of an investing 2474
authority or in the event of a vacancy in the office for any 2475
reason, the officer or the officer's legal representative shall 2476

transfer and deliver to the officer's successor all documents 2477
mentioned in this division for which the officer has been 2478
responsible for safekeeping. For all such documents transferred 2479
and delivered, the officer shall be credited with, and the 2480
officer's successor shall be charged with, the amount of moneys 2481
evidenced by such documents. 2482

(J) (1) All investments, except for investments in 2483
securities described in divisions (A) (5), (6), and (11) of this 2484
section, shall be made only through a member of the financial 2485
industry regulatory authority (FINRA), through a bank, savings 2486
bank, or savings and loan association regulated by the 2487
superintendent of financial institutions, or through an 2488
institution regulated by the comptroller of the currency, 2489
federal deposit insurance corporation, or board of governors of 2490
the federal reserve system. 2491

(2) Payment for investments shall be made only upon the 2492
delivery of securities representing such investments to the 2493
treasurer, investing authority, or qualified trustee. If the 2494
securities transferred are not represented by a certificate, 2495
payment shall be made only upon receipt of confirmation of 2496
transfer from the custodian by the treasurer, governing board, 2497
or qualified trustee. 2498

(K) (1) Except as otherwise provided in division (K) (2) of 2499
this section, no investing authority shall make an investment or 2500
deposit under this section, unless there is on file with the 2501
auditor of state a written investment policy approved by the 2502
investing authority. The policy shall require that all entities 2503
conducting investment business with the investing authority 2504
shall sign the investment policy of that investing authority. 2505
All brokers, dealers, and financial institutions, described in 2506

division (J) (1) of this section, initiating transactions with 2507
the investing authority by giving advice or making investment 2508
recommendations shall sign the investing authority's investment 2509
policy thereby acknowledging their agreement to abide by the 2510
policy's contents. All brokers, dealers, and financial 2511
institutions, described in division (J) (1) of this section, 2512
executing transactions initiated by the investing authority, 2513
having read the policy's contents, shall sign the investment 2514
policy thereby acknowledging their comprehension and receipt. 2515

(2) If a written investment policy described in division 2516
(K) (1) of this section is not filed on behalf of the county with 2517
the auditor of state, the investing authority of that county 2518
shall invest the county's inactive moneys and moneys of the 2519
county public library fund only in time certificates of deposits 2520
or savings or deposit accounts pursuant to division (A) (3) of 2521
this section, no-load money market mutual funds pursuant to 2522
division (A) (5) of this section, or the Ohio subdivision's fund 2523
pursuant to division (A) (6) of this section. 2524

(L) (1) The investing authority shall establish and 2525
maintain an inventory of all obligations and securities acquired 2526
by the investing authority pursuant to this section. The 2527
inventory shall include a description of each obligation or 2528
security, including type, cost, par value, maturity date, 2529
settlement date, and any coupon rate. 2530

(2) The investing authority shall also keep a complete 2531
record of all purchases and sales of the obligations and 2532
securities made pursuant to this section. 2533

(3) The investing authority shall maintain a monthly 2534
portfolio report and issue a copy of the monthly portfolio 2535
report describing such investments to the county investment 2536

advisory committee, detailing the current inventory of all 2537
obligations and securities, all transactions during the month 2538
that affected the inventory, any income received from the 2539
obligations and securities, and any investment expenses paid, 2540
and stating the names of any persons effecting transactions on 2541
behalf of the investing authority. 2542

(4) The monthly portfolio report shall be a public record 2543
and available for inspection under section 149.43 of the Revised 2544
Code. 2545

(5) The inventory and the monthly portfolio report shall 2546
be filed with the board of county commissioners. The monthly 2547
portfolio report also shall be filed with the treasurer of 2548
state. 2549

(M) An investing authority may enter into a written 2550
investment or deposit agreement that includes a provision under 2551
which the parties agree to submit to nonbinding arbitration to 2552
settle any controversy that may arise out of the agreement, 2553
including any controversy pertaining to losses of public moneys 2554
resulting from investment or deposit. The arbitration provision 2555
shall be set forth entirely in the agreement, and the agreement 2556
shall include a conspicuous notice to the parties that any party 2557
to the arbitration may apply to the court of common pleas of the 2558
county in which the arbitration was held for an order to vacate, 2559
modify, or correct the award. Any such party may also apply to 2560
the court for an order to change venue to a court of common 2561
pleas located more than one hundred miles from the county in 2562
which the investing authority is located. 2563

For purposes of this division, "investment or deposit 2564
agreement" means any agreement between an investing authority 2565
and a person, under which agreement the person agrees to invest, 2566

deposit, or otherwise manage, on behalf of the investing 2567
authority, a county's inactive moneys or moneys in a county 2568
public library fund, or agrees to provide investment advice to 2569
the investing authority. 2570

(N) (1) An investment held in the county portfolio on 2571
September 27, 1996, that was a legal investment under the law as 2572
it existed before September 27, 1996, may be held until 2573
maturity. 2574

(2) An investment held in the county portfolio on 2575
September 10, 2012, that was a legal investment under the law as 2576
it existed before September 10, 2012, may be held until 2577
maturity. 2578

Sec. 135.45. (A) Subject to division (B) of this section, 2579
a treasurer, governing board, or investing authority of a 2580
subdivision may pay public moneys of the subdivision into the 2581
Ohio subdivision's fund, which may be established in the custody 2582
of the treasurer of state. The treasurer of state shall invest 2583
the moneys in the fund in separately managed accounts and pooled 2584
accounts, including the state treasurer's investment pool, in 2585
the same manner, in the same types of instruments, and subject 2586
to the same limitations provided for the deposit and investment 2587
of interim moneys of the state, except that the fund shall not 2588
be invested in the linked deposits authorized under sections 2589
135.61 to ~~135.67~~135.66 of the Revised Code. 2590

(B) (1) On and after July 1, 1997, a treasurer, governing 2591
board, or investing authority of a subdivision that has not 2592
entered into an agreement with the treasurer of state under 2593
division (C) of this section shall not invest public moneys of 2594
the subdivision in a pooled account of the Ohio subdivision's 2595
fund under division (B) (6) of section 135.14 of the Revised Code 2596

or division (A) (6) of section 135.35 of the Revised Code if the 2597
pool does not maintain the highest letter or numerical rating 2598
provided by at least one nationally recognized ~~standard~~ 2599
statistical rating service organization. 2600

(2) Upon receipt of notice that the pool does not maintain 2601
the highest letter or numerical rating required under division 2602
(B) (1) of this section, the treasurer of state shall have ninety 2603
days to obtain the required highest letter or numerical rating. 2604
If the treasurer of state fails to obtain the required highest 2605
letter or numerical rating, the treasurer of state shall have an 2606
additional one hundred eighty days to develop a plan to dissolve 2607
the pool. The plan shall include reasonable standards for the 2608
equitable return of public moneys in the pool to those 2609
subdivisions participating in the pool. 2610

(3) Treasurers, governing boards, or investing authorities 2611
of subdivisions participating in the pool shall not be required 2612
to divest in the pool during the initial one hundred eighty days 2613
following the treasurer of state's receipt of notice under 2614
division (B) (2) of this section. 2615

(C) A treasurer, governing board, or investing authority 2616
of a subdivision that wishes to invest public moneys of the 2617
subdivision in a separately managed account or pooled account of 2618
the Ohio subdivision's fund may enter into an agreement with the 2619
treasurer of state that sets forth the manner in which the money 2620
is to be invested. The treasurer of state shall invest the 2621
moneys in accordance with the agreement, subject to the 2622
limitations set forth in division (A) of this section. For 2623
purposes of this division, the limitation on investments in debt 2624
interests provided in division (A) (11) (a) of section 135.143 of 2625
the Revised Code shall not apply to a subdivision's excess 2626

reserves. 2627

(D) The treasurer of state shall adopt such rules as are 2628
necessary for the implementation of this section, including the 2629
efficient administration of and accounting for the separately 2630
managed accounts and pooled accounts, including the state 2631
treasurer's investment pool, and the specification of minimum 2632
amounts that may be paid into such pools and minimum periods of 2633
time for which such payments shall be retained in the pools. The 2634
rules shall provide for the administrative expenses of the 2635
separately managed accounts and pooled accounts, including the 2636
state treasurer's investment pool, to be paid from the earnings 2637
and for the interest earnings in excess of such expenses to be 2638
credited to the several treasurers, governing boards, and 2639
investing authorities participating in a pool in a manner which 2640
equitably reflects the differing amounts of their respective 2641
investments in the pool and the differing periods of time for 2642
which such amounts are in the pool. 2643

(E) The treasurer of state shall give bond with sufficient 2644
sureties, payable to the treasurers, governing boards, and 2645
investing authorities of subdivisions participating in the fund, 2646
for the benefit of the subdivisions whose moneys are paid into 2647
the fund for investment, in the total penal sum of two hundred 2648
fifty thousand dollars, conditioned for the faithful discharge 2649
of the treasurer of state's duties in relation to the fund. 2650

(F) The treasurer of state and the treasurer of state's 2651
bonders or surety are liable for the loss of any interim moneys 2652
of the state and subdivisions invested under this section to the 2653
same extent the treasurer of state and the treasurer of state's 2654
bonders or surety are liable for the loss of public moneys under 2655
section 135.19 of the Revised Code. 2656

(G) As used in this section:	2657
(1) "Interim moneys" and "governing board" have the same meanings as in section 135.01 of the Revised Code.	2658 2659
(2) (a) "Subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes a county, a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution, or any government entity for which the fund is a permissible investment.	2660 2661 2662 2663 2664
(b) "Public moneys of a subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes "public moneys" as defined in section 135.31 of the Revised Code, and funds held in the custody of the treasurer of state notwithstanding any limitations on the permissible investments of such funds.	2665 2666 2667 2668 2669 2670
(3) "Treasurer" has the same meaning as in sections 135.01 and 135.31 of the Revised Code.	2671 2672
(4) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.	2673 2674
(5) "Excess reserves" means the amount of a subdivision's public moneys that exceed the average of a subdivision's annual operating expenses in the immediately preceding three fiscal years.	2675 2676 2677 2678
Sec. 135.46. (A) The treasurer of state may create a taxable investment pool or a tax-exempt investment pool, or both, for the purpose of providing a procedure for the temporary investment of bond proceeds. The pool shall be in the custody of the treasurer of state.	2679 2680 2681 2682 2683
(B) A treasurer, governing board, or investing authority	2684

of a subdivision, or any agency of the state that has debt- 2685
issuing authority may pay bond proceeds into either or both of 2686
the pools authorized under division (A) of this section. 2687

(C) The treasurer of state shall invest the funds of the 2688
taxable investment pool authorized under division (A) of this 2689
section in the same manner, in the same types of instruments, 2690
and subject to the same limitations provided for the deposit and 2691
investment of interim moneys of the state and subdivisions under 2692
sections 135.14 and ~~135.141~~135.143 of the Revised Code. The 2693
treasurer also may invest in any other taxable obligations 2694
issued by any political subdivision of the state. 2695

(D) The treasurer of state shall invest the funds of the 2696
tax-exempt investment pool in debt obligations and participation 2697
interests in such obligations, if all of the following apply: 2698

(1) The obligations are issued by or on behalf of any 2699
state of the United States, or any political subdivision, 2700
agency, or instrumentality of any such state; 2701

(2) The interest on such obligations is exempt from 2702
federal income taxation; 2703

(3) The obligations are rated in either of the two highest 2704
classifications established by at least one nationally 2705
recognized ~~standard~~statistical rating ~~service~~organization. 2706

(E) (1) The treasurer of state shall, pursuant to Chapter 2707
119. of the Revised Code, adopt such rules as are necessary to 2708
carry out the purposes of this section and for the efficient 2709
administration and accounting of a pool established pursuant to 2710
division (A) of this section. 2711

(2) The rules shall provide for the administrative 2712
expenses of such pool to be paid from its earnings and for the 2713

interest earnings in excess of such expenses to be credited to 2714
the several treasurers, governing boards, investing authorities, 2715
and agencies of the state participating in the pool in a manner 2716
that equitably reflects the differing amounts of their 2717
respective investments in the pool and the differing periods of 2718
time for which such amounts are in the pool. 2719

(3) The rules shall establish standards governing pools 2720
authorized under division (A) of this section, taking into 2721
consideration all federal rebate and yield restrictions and the 2722
objective of maintaining a high degree of safety and liquidity. 2723

(F) Upon creating a pool authorized under division (A) of 2724
this section, the treasurer of state shall give bond with 2725
sufficient sureties, payable to the treasurers, governing 2726
boards, and investing authorities of subdivisions and agencies 2727
of the state participating in the pool, for the benefit of the 2728
participating subdivisions and agencies, in the total penal sum 2729
of two hundred fifty thousand dollars, conditioned for the 2730
faithful discharge of ~~his~~the treasurer of state's duties in 2731
relation to the pool. 2732

(G) The treasurer of state and ~~his bondsmen~~the treasurer 2733
of state's bonders or surety are liable for the loss of any 2734
moneys of the state invested under this section through a pool 2735
established under division (A) of this section to the same 2736
extent the treasurer of state and ~~his bondsmen~~the treasurer of 2737
state's bonders or surety are liable for the loss of public 2738
moneys under section 135.19 of the Revised Code. 2739

(H) As used in this section: 2740

(1) "Governing board" has the same meaning as in section 2741
135.01 of the Revised Code. 2742

(2) "Interim moneys" has the same meaning as in section 135.01 of the Revised Code.	2743 2744
(3) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.	2745 2746
(4) "Public moneys of a subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes "public moneys" as defined in section 135.31 of the Revised Code, and funds held in the custody of the treasurer of state notwithstanding any limitations on the permissible investments of such funds.	2747 2748 2749 2750 2751 2752
(5) "Subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes a county, or a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution.	2753 2754 2755 2756
(6) "Treasurer" has the same meaning as in sections 135.01 and 135.31 of the Revised Code.	2757 2758
Sec. 135.47. (A) There is hereby created the securities nlending <u>lending</u> program.	2759 2760
(B) There is hereby created in the state treasury the securities lending program fund. Income from the interest earnings of the securities lending program in an amount calculated pursuant to division (D) of this section shall be credited to the fund. All other such income shall be credited to the general revenue fund.	2761 2762 2763 2764 2765 2766
(C) The treasurer of state may use the securities lending program fund solely for operations of the office of the treasurer of state <u>or may transfer unexpended amounts in the fund to the treasurer's information technology reserve fund created under section 113.22 of the Revised Code.</u>	2767 2768 2769 2770 2771

(D) The amount of income from the interest earnings of the securities lending program that shall be paid into the securities lending program fund shall not exceed an amount based on an annual rate of one-quarter of one per cent of the total average daily par value of assets in the securities lending program, as determined and calculated by the treasurer of state. Such income shall be paid on a monthly basis.

Sec. 135.61. (A) The treasurer of state may invest in linked deposits under Chapter 135. of the Revised Code, provided that at the time of placement of any such linked deposits the combined amount of investments of public money of the state in linked deposits of any kind is not more than twelve per cent of the state's total average investment portfolio as determined by the treasurer of state. When deciding whether to invest in any linked deposits, the treasurer of state shall give priority to the investment, liquidity, and cash flow needs of the state.

(B) The treasurer of state may, in accordance with section 111.15 of the Revised Code, adopt rules necessary for the implementation and administration of linked deposits under this chapter, including, but not limited to, the manner in which an eligible lending institution is designated, and the linked deposits are placed, held, designated, and collateralized.

(C) Notwithstanding any provision of the Revised Code to the contrary, the treasurer of state may require an eligible credit union that holds linked deposits under this chapter to pay interest at a rate not lower than the product of the prevailing interest rate multiplied by the sum of one plus the treasurer of state's assessment rate. The treasurer of state may, in accordance with section 119.03 of the Revised Code, adopt rules necessary for the implementation of division (C) of

this section. 2802

Sec. 135.62. As used in sections 135.61 to 135.66 of the 2803
Revised Code: 2804

(A) "Discount interest rate" means an interest rate below 2805
the prevailing interest rate that the treasurer of state 2806
determines eligible lending institutions are willing to pay to 2807
hold linked deposits. 2808

(B) "Eligible borrower" means a borrower who has met all 2809
the requirements necessary to participate in the adoption linked 2810
deposit program under section 135.63 of the Revised Code, 2811
agricultural linked deposit program under section 135.64 of the 2812
Revised Code, small business linked deposit program under 2813
section 135.65 of the Revised Code, or home improvement linked 2814
deposit program under section 135.66 of the Revised Code. 2815

(C) "Eligible credit union" means, notwithstanding any 2816
provision of sections 135.01 to 135.21 of the Revised Code to 2817
the contrary, a federal credit union, a foreign credit union 2818
licensed pursuant to section 1733.39 of the Revised Code, or a 2819
credit union as defined in section 1733.01 of the Revised Code, 2820
located in this state. 2821

(D) "Eligible lending institution" means a financial 2822
institution that is eligible to make loans, agrees to 2823
participate in the applicable linked deposit program, and is one 2824
of the following: 2825

(1) A public depository of state funds, or an eligible 2826
credit union designated under division (A) of section 135.12 of 2827
the Revised Code; 2828

(2) The Ohio housing finance agency, in accordance with 2829
division (A) (3) (a) of section 135.143 of the Revised Code; 2830

(3) For the agricultural linked deposit program, 2831
notwithstanding any provision of sections 135.01 to 135.21 of 2832
the Revised Code to the contrary, an institution of the farm 2833
credit system organized under the federal "Farm Credit Act of 2834
1971," 85 Stat. 583, 12 U.S.C. 2001, as amended. 2835

(E) "Homestead" means a dwelling owned and occupied in 2836
this state as a single-family primary residence by an individual 2837
for the purpose of qualifying for the home improvement linked 2838
deposit program. "Homestead" includes a house, condo, unit in a 2839
multiple-unit dwelling, manufactured home or mobile home taxed 2840
as real property pursuant to division (B) of section 4503.06 of 2841
the Revised Code, or any other building with a residential 2842
classification, as allowed by the treasurer of state. 2843
"Homestead" includes so much of the land surrounding the 2844
dwelling as is reasonably necessary for the use of the dwelling 2845
as a residence, as determined by the treasurer of state. 2846

(F) "Linked deposit" means a certificate of deposit, share 2847
certificate, other financial institution instrument, or portion 2848
of an existing deposit of interim funds made in accordance with 2849
section 135.09 of the Revised Code placed, purchased, or 2850
designated by the treasurer of state with an eligible lending 2851
institution; provided the institution agrees to lend up to the 2852
value of such certificate of deposit, share certificate, other 2853
financial institution instrument, or designated portion of an 2854
existing deposit to eligible borrowers for applicable linked 2855
deposit programs at the rate established in division (A) of 2856
section 135.624 of the Revised Code, and in accordance with the 2857
deposit agreement provided in section 135.623 of the Revised 2858
Code. 2859

(G) "Linked deposit program" means a program authorized 2860

under sections 135.61 to 135.66 of the Revised Code and 2861
established by the treasurer of state pursuant to such sections. 2862

(H) "Loan" means a contractual agreement under which an 2863
eligible lending institution agrees to lend money to an eligible 2864
borrower in the form of an upfront lump sum, a line of credit, 2865
or any other reasonable arrangement approved by the treasurer of 2866
state. 2867

(I) "Manufactured home" has the same meaning as in section 2868
3781.06 of the Revised Code. 2869

(J) "Mobile home" has the same meaning as in section 2870
4501.01 of the Revised Code. 2871

(K) "Other financial institution instrument" means: 2872

(1) For the agricultural linked deposit program under 2873
section 135.64 of the Revised Code, an investment by the 2874
treasurer of state in bonds, notes, debentures, or other 2875
obligations or securities issued by the federal farm credit bank 2876
with regard to an eligible lending institution; 2877

(2) For all linked deposit programs other than the 2878
agricultural linked deposit program, a product that otherwise 2879
would pay the prevailing interest rate approved by the treasurer 2880
of state, for the purpose of providing eligible borrowers with 2881
the benefits of the applicable linked deposit program, and in 2882
accordance with the deposit agreement provided in section 2883
135.623 of the Revised Code. 2884

(L) "Owner" includes a holder of one of the several 2885
estates in fee, a vendee in possession under a purchase 2886
agreement or a land contract, a mortgagor, a life tenant, one or 2887
more tenants with a right of survivorship, tenants in common, a 2888
settlor of a revocable or irrevocable inter vivos trust holding 2889

the title to a homestead occupied by the settlor as of right 2890
under the trust, or any other determination as made by the 2891
treasurer of state. 2892

(M) "Prevailing interest rate" means a current market 2893
interest rate selected by the treasurer of state that eligible 2894
lending institutions are willing to pay to hold deposits of the 2895
treasurer of state. 2896

(N) "Qualifying adoption expense" means any expense 2897
incurred to legally adopt a child as described in division (C) 2898
of section 3107.055 of the Revised Code, including any costs 2899
incurred by the eligible borrower proximately relating to the 2900
completion and approval of the home study under section 3107.031 2901
of the Revised Code, and any other expense as determined by the 2902
treasurer of state. 2903

(O) "Treasurer of state's assessment rate" means a number 2904
not exceeding ten per cent that is calculated in a manner 2905
determined by the treasurer of state and that seeks to account 2906
for the effect that varying tax treatment among different types 2907
of financial institutions has on the ability of financial 2908
institutions to pay competitive interest rates to hold deposits. 2909

Sec. 135.621. (A) An eligible lending institution that 2910
desires to receive a linked deposit shall accept and review 2911
applications for loans from eligible borrowers for linked 2912
deposit programs in which the eligible lending institution 2913
participates. The eligible lending institution shall apply all 2914
usual lending standards to determine the credit worthiness of 2915
each eligible borrower. No loan shall exceed the amount 2916
determined by the treasurer of state. 2917

(B) An eligible borrower shall certify on its loan 2918

application that the reduced rate loan will be used exclusively 2919
for the purposes of the applicable linked deposit program, as 2920
described in section 135.63, 135.64, 135.65, or 135.66 of the 2921
Revised Code. Whoever knowingly makes a false statement 2922
concerning such application is guilty of the offense of 2923
falsification under section 2921.13 of the Revised Code. 2924

(C) The eligible lending institution shall forward to the 2925
treasurer of state a linked deposit loan package, in the form 2926
and manner prescribed by the treasurer of state. The package 2927
shall include such information as required by the treasurer of 2928
state, including the amount of each loan requested by each 2929
eligible borrower and all other information as described in 2930
section 135.63, 135.64, 135.65, or 135.66 of the Revised Code 2931
for the applicable linked deposit program. The institution shall 2932
certify both of the following: 2933

(1) That each applicant is an eligible borrower and, for 2934
each such eligible borrower, the present borrowing rate; 2935

(2) That the eligible lending institution applied all of 2936
its usual lending standards to determine the credit worthiness 2937
of each eligible borrower. 2938

(D) No fee shall be charged to any party for the 2939
preparation, processing, reporting, or monitoring of any 2940
application to an eligible lending institution or the treasurer 2941
of state for participation in a linked deposit program. 2942

Sec. 135.622. (A) The treasurer of state may accept or 2943
reject a linked deposit loan package, or any portion of it, 2944
based on the treasurer of state's evaluation of the eligible 2945
borrowers included in the package, the amount of individual 2946
loans in the package, and the amount of state funds to be 2947

deposited with an eligible lending institution. 2948

(B) Upon acceptance of the linked deposit loan package or 2949
any portion of it, the treasurer of state may place, purchase, 2950
or designate a linked deposit with the eligible lending 2951
institution at the discount rate, and in accordance with the 2952
deposit agreement required under section 135.623 of the Revised 2953
Code and the procedures established by the treasurer of state. 2954

(C) Eligible lending institutions shall comply fully with 2955
Chapter 135. of the Revised Code. 2956

Sec. 135.623. (A) An eligible lending institution shall 2957
enter into a deposit agreement with the treasurer of state, 2958
which shall include requirements necessary to carry out the 2959
purposes of sections 135.62 to 135.66 of the Revised Code. 2960

(B) The deposit agreement shall specify the maturity 2961
period of the linked deposit considered appropriate by the 2962
treasurer of state, which shall not exceed five years, as well 2963
as any other information, terms, or conditions the treasurer of 2964
state may require. Interest shall be paid by the eligible 2965
lending institution at times determined by the treasurer of 2966
state. 2967

Sec. 135.624. (A) Upon the treasurer of state placing, 2968
purchasing, or designating a linked deposit, the eligible 2969
lending institution shall lend the corresponding funds to each 2970
approved eligible borrower listed in the accepted linked deposit 2971
loan package, and in accordance with the deposit agreement 2972
required by section 135.623 of the Revised Code. Unless 2973
otherwise specified in the deposit agreement, the interest rates 2974
on the loans to such eligible borrowers shall be at a rate equal 2975
to or greater than the present borrowing rate applicable to each 2976

specific eligible borrower in the accepted linked deposit loan 2977
package minus the difference between the prevailing interest 2978
rate and the discount interest rate at which the linked deposits 2979
were placed, made, or designated. 2980

(B) The eligible lending institution shall provide to the 2981
treasurer of state a certificate of compliance with division (A) 2982
of this section, in the form and manner prescribed by the 2983
treasurer of state. 2984

(C) Upon the conclusion of the maturity period, the 2985
treasurer of state may allow for the renewal of an application 2986
for a linked deposit program with the same terms for one or more 2987
additional maturity periods if certain requirements are met, as 2988
determined by the treasurer of state. In the event the treasurer 2989
of state does not allow for renewal, the requirements are not 2990
met, or the eligible borrower is not eligible for a renewal, an 2991
eligible borrower may submit a new application to participate in 2992
a linked deposit program. 2993

(D) At the time of maturity or upon the repayment of a 2994
loan in its entirety, whichever is earlier, the eligible 2995
financial institution shall return the amount of the 2996
corresponding linked deposit to the treasurer of state in a 2997
timely manner, as prescribed by the treasurer of state. 2998

(E) The treasurer of state shall take any and all steps 2999
necessary to implement and administer the linked deposit 3000
programs, including the development of guidelines as necessary. 3001

Sec. 135.625. (A) The state and the treasurer of state are 3002
not liable to any eligible lending institution or any eligible 3003
borrower in any manner for payment of the principal or interest 3004
on a loan to an eligible borrower. Any delay in payments, 3005

default on the part of an eligible borrower, or misuse or 3006
misconduct on the part of an eligible lending institution or 3007
eligible borrower does not in any manner affect the deposit 3008
agreement required by section 135.623 of the Revised Code 3009
between the eligible lending institution and the treasurer of 3010
state. 3011

(B) If an eligible lending institution changes the terms 3012
of a loan to an eligible borrower because of a delay in payments 3013
or default, the amount of the linked deposit associated with the 3014
loan plus applicable interest and without early withdrawal 3015
penalties shall be returned to the treasurer of state by the 3016
eligible lending institution in a timely manner as prescribed by 3017
the treasurer of state. 3018

Sec. 135.63. (A) The general assembly finds that 3019
strengthening families across Ohio is critical toward ensuring 3020
the long-term prosperity of the state. However, the upfront 3021
financial costs associated with adoption often deter families 3022
from pursuing the adoption process. Accordingly, it is declared 3023
to be the public policy of the state through the adoption linked 3024
deposit program to create the availability of reduced rate loans 3025
to reduce the financial burden of adoption and to strengthen 3026
families in this state. 3027

(B) An eligible borrower for the adoption linked deposit 3028
program is an individual who is a resident of this state and to 3029
whom either of the following applies: 3030

(1) The individual completes a home study pursuant to 3031
section 3107.031 of the Revised Code and is approved to adopt. 3032

(2) The individual is pursuing an adoption through the 3033
public foster care system and meets the requirements set by the 3034

department of job and family services. 3035

(C) An eligible lending institution for the adoption 3036
linked deposit program must be able to make secured or unsecured 3037
personal loans. 3038

(D) An eligible borrower shall certify on the borrower's 3039
loan application that the reduced rate loan will be used 3040
exclusively to pay for qualifying adoption expenses. 3041

Sec. 135.64. (A) The general assembly finds that Ohio's 3042
agricultural industry has long served as a critical component of 3043
the state's overall economy. However, an inadequate supply of 3044
affordable financing options that meet the needs of Ohio's 3045
agricultural community and other various economic pressures pose 3046
an ongoing challenge for farmers, agribusiness, and agricultural 3047
cooperatives as they work to grow or maintain sufficient 3048
operations throughout the year. Accordingly, it is declared to 3049
be the public policy of the state through the agricultural 3050
linked deposit program to create the availability of reduced 3051
rate loans to inject needed capital into the agricultural 3052
community, sustain or improve agricultural economic growth and 3053
profitability, and protect a core driver of the state's economy. 3054

(B) An eligible borrower for the agricultural linked 3055
deposit program is any person engaged in agriculture that has 3056
all the following characteristics: 3057

(1) Is headquartered or domiciled in this state; 3058

(2) Maintains land or facilities for agricultural purposes 3059
in this state provided that the land or facilities within this 3060
state comprise not less than fifty-one per cent of the total of 3061
all lands or facilities maintained by the person; 3062

(3) Is either organized for profit or as an agricultural 3063

cooperative as defined in section 1729.01 of the Revised Code. 3064

(C) An eligible lending institution for the agricultural 3065
linked deposit program must be able to make commercial loans. 3066

(D) An eligible borrower shall certify on its loan 3067
application that the reduced rate loan will be used exclusively 3068
for agricultural purposes on land or in facilities owned or 3069
operated by the eligible borrower in this state and that the 3070
loan will materially contribute to the preservation or growth of 3071
the business. 3072

Sec. 135.65. (A) The general assembly finds that small 3073
businesses make significant contributions to the state's 3074
economic well-being. However, various economic challenges, such 3075
as tightened capital availability, inflationary pressures, or 3076
rising interest rates, can cause disproportionate harm to small 3077
businesses and discourage aspiring job creators from taking root 3078
in Ohio. Accordingly, it is declared to be the public policy of 3079
the state through the small business linked deposit program to 3080
create the availability of reduced rate loans to inject needed 3081
capital into the business community, sustain or improve small 3082
business growth profitability, protect the jobs of residents, 3083
and foster economic growth and development within Ohio's small 3084
businesses. 3085

(B) An eligible borrower for the small business linked 3086
deposit program is any person, including a person engaged in 3087
agriculture, that has all the following characteristics: 3088

(1) Is headquartered or domiciled in this state; 3089

(2) Maintains offices or operating facilities in this 3090
state, provided that the offices or operating facilities within 3091
the state comprise not less than fifty-one per cent of the total 3092

of all offices and operating facilities maintained by the 3093
business; 3094

(3) Employs fewer than one hundred fifty employees, not 3095
less than fifty-one per cent of whom are residents of this 3096
state; 3097

(4) Is organized for profit. 3098

(C) An eligible lending institution for the small business 3099
linked deposit program must be able to make commercial loans. 3100

(D) An eligible borrower shall certify on its loan 3101
application that the reduced rate loan will be used exclusively 3102
in this state to create new jobs, preserve existing jobs and 3103
employment opportunities, or materially contribute to the 3104
preservation or growth of the business. 3105

Sec. 135.66. (A) The general assembly finds that making 3106
homeownership and maintenance costs more affordable is an 3107
important part of fostering a robust and lasting population 3108
across the state. However, homeowners often struggle to find 3109
adequate and affordable financing options to pursue home 3110
improvement, home restoration, or similar types of projects and 3111
upgrades aimed at maintaining or increasing the livability and 3112
value of a home. Accordingly, it is declared to be the public 3113
policy of the state through the home improvement linked deposit 3114
program to create the availability of reduced rate loans to 3115
improve, maintain, or restore an existing homestead. 3116

(B) An eligible borrower for the home improvement linked 3117
deposit program is any individual who is a resident of this 3118
state and to whom both of the following apply: 3119

(1) The individual is the owner of an existing homestead 3120
located in this state. 3121

(2) The loan will be used to improve or maintain that existing homestead. 3122
3123

(C) An eligible lending institution for the home improvement linked deposit program must be able to make residential or secured or unsecured personal loans. 3124
3125
3126

(D) An eligible borrower shall certify on the loan application that the reduced rate loan will be used exclusively to improve, maintain, or restore the eligible borrower's existing homestead, in accordance with the program goals outlined in division (A) of this section. 3127
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(E) An eligible borrower shall include in the loan application official estimates or receipts for the total amount of the loan. 3132
3133
3134

Sec. 169.053. (A) As used in this section, "state of Ohio coupon bond" means property, tangible or intangible, in the form of a coupon bond and its related interest coupons issued by this state prior to 1985 and to which all of the following apply: 3135
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3137
3138

(1) It has matured, been called and defeased, or otherwise become due and payable. 3139
3140

(2) Either the treasurer of state or the trustee bank is the paying agent. 3141
3142

(3) The owner has neither registered the bond or interest coupon nor claimed the bond's principal or interest. 3143
3144

(B) Notwithstanding any provision of the Revised Code to the contrary, state of Ohio coupon bonds held by any person, business, or state or other government, political subdivision, agency, or instrumentality, and all proceeds thereof, shall be presumed abandoned in this state and constitute unclaimed funds 3145
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3149

under this chapter if both of the following apply: 3150

(1) The owner of the state of Ohio coupon bond or interest 3151
coupon is unknown to the treasurer of state. 3152

(2) The state of Ohio coupon bond's principal or interest 3153
has remained unclaimed and unredeemed for three years after 3154
final maturity, call date, interest payment date, or other 3155
payment date. 3156

(C) State of Ohio coupon bonds that are presumed abandoned 3157
and constitute unclaimed funds under division (B) of this 3158
section, including bonds in the possession of the director of 3159
commerce, shall escheat to the state three years after becoming 3160
abandoned and unclaimed property. All property rights and legal 3161
title to and ownership of such bonds or interest coupons or 3162
proceeds from such bonds or interest coupons, including all 3163
rights, powers, and privileges of survivorship of any owner, co- 3164
owner, or beneficiary, shall vest solely in this state as 3165
provided in divisions (D) to (H) of this section. 3166

(D) If, within one hundred eighty days after the three- 3167
year period prescribed under division (C) of this section, no 3168
claim has been filed under this chapter for the bond, the 3169
director shall commence a civil action in a court of competent 3170
jurisdiction for a determination that the bond escheats to the 3171
state. The director may postpone the commencement of an action 3172
until a sufficient number of bonds have accumulated in the 3173
director's custody to justify the expense of the proceedings. 3174

(E) Service by publication shall be made in accordance 3175
with Rule 4.4 of the Rules of Civil Procedure. 3176

(F) If no person files a claim or appears at the hearing 3177
to substantiate a claim or if the court determines that a 3178

claimant is not entitled to the property claimed, and if the 3179
court is satisfied by the evidence that the director has 3180
substantially complied with the laws of this state, the court 3181
shall enter a judgment that the bonds have escheated to the 3182
state and all property rights and legal title to and ownership 3183
of the bonds or the proceeds from the bonds, including all 3184
rights, powers, and privileges of survivorship of any owner, co- 3185
owner, or beneficiary, have vested solely in the state. 3186

(G) The director shall redeem the state of Ohio coupon 3187
bonds escheated to the state by judgment of the court. When the 3188
proceeds that have escheated have been recovered by the 3189
director, the director shall pay all costs incident to the 3190
collection and recovery of the proceeds from the redemption of 3191
the bonds and disburse the remaining balance of the proceeds in 3192
the manner provided under section 169.05 of the Revised Code for 3193
all other unclaimed funds. 3194

(H) Notwithstanding section 169.08 of the Revised Code, 3195
any person claiming a state of Ohio coupon bond that has 3196
escheated to the state under this section, or for the proceeds 3197
from the bond, may file a claim with the director. Upon 3198
providing sufficient proof of the validity of the person's 3199
claim, the director may, in the director's discretion, pay the 3200
claim less any expenses and costs incurred by the state in 3201
securing full title and ownership of the property by escheat. If 3202
payment has been made to a claimant, no action thereafter may be 3203
maintained by any other claimant against the state or any 3204
officer of the state, for or on account of the payment of the 3205
claim. 3206

Sec. 718.01. Any term used in this chapter that is not 3207
otherwise defined in this chapter has the same meaning as when 3208

used in a comparable context in laws of the United States 3209
relating to federal income taxation or in Title LVII of the 3210
Revised Code, unless a different meaning is clearly required. 3211
Except as provided in section 718.81 of the Revised Code, if a 3212
term used in this chapter that is not otherwise defined in this 3213
chapter is used in a comparable context in both the laws of the 3214
United States relating to federal income tax and in Title LVII 3215
of the Revised Code and the use is not consistent, then the use 3216
of the term in the laws of the United States relating to federal 3217
income tax shall control over the use of the term in Title LVII 3218
of the Revised Code. 3219

Except as otherwise provided in section 718.81 of the 3220
Revised Code, as used in this chapter: 3221

(A) (1) "Municipal taxable income" means the following: 3222

(a) For a person other than an individual, income 3223
apportioned or situated to the municipal corporation under 3224
section 718.02 of the Revised Code, as applicable, reduced by 3225
any pre-2017 net operating loss carryforward available to the 3226
person for the municipal corporation. 3227

(b) (i) For an individual who is a resident of a municipal 3228
corporation other than a qualified municipal corporation, income 3229
reduced by exempt income to the extent otherwise included in 3230
income, then reduced as provided in division (A) (2) of this 3231
section, and further reduced by any pre-2017 net operating loss 3232
carryforward available to the individual for the municipal 3233
corporation. 3234

(ii) For an individual who is a resident of a qualified 3235
municipal corporation, Ohio adjusted gross income reduced by 3236
income exempted, and increased by deductions excluded, by the 3237

qualified municipal corporation from the qualified municipal 3238
corporation's tax. If a qualified municipal corporation, on or 3239
before December 31, 2013, exempts income earned by individuals 3240
who are not residents of the qualified municipal corporation and 3241
net profit of persons that are not wholly located within the 3242
qualified municipal corporation, such individual or person shall 3243
have no municipal taxable income for the purposes of the tax 3244
levied by the qualified municipal corporation and may be 3245
exempted by the qualified municipal corporation from the 3246
requirements of section 718.03 of the Revised Code. 3247

(c) For an individual who is a nonresident of a municipal 3248
corporation, income reduced by exempt income to the extent 3249
otherwise included in income and then, as applicable, 3250
apportioned or situated to the municipal corporation under 3251
section 718.02 of the Revised Code, then reduced as provided in 3252
division (A)(2) of this section, and further reduced by any pre- 3253
2017 net operating loss carryforward available to the individual 3254
for the municipal corporation. 3255

(2) In computing the municipal taxable income of a 3256
taxpayer who is an individual, the taxpayer may subtract, as 3257
provided in division (A)(1)(b)(i) or (c) of this section, the 3258
amount of the individual's employee business expenses reported 3259
on the individual's form 2106 that the individual deducted for 3260
federal income tax purposes for the taxable year, subject to the 3261
limitation imposed by section 67 of the Internal Revenue Code. 3262
For the municipal corporation in which the taxpayer is a 3263
resident, the taxpayer may deduct all such expenses allowed for 3264
federal income tax purposes. For a municipal corporation in 3265
which the taxpayer is not a resident, the taxpayer may deduct 3266
such expenses only to the extent the expenses are related to the 3267
taxpayer's performance of personal services in that nonresident 3268

municipal corporation.	3269
(B) "Income" means the following:	3270
(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.	3271 3272 3273 3274 3275 3276 3277
(b) For the purposes of division (B) (1) (a) of this section:	3278 3279
(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;	3280 3281 3282 3283 3284 3285 3286 3287 3288 3289
(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.	3290 3291 3292 3293 3294 3295
(c) Division (B) (1) (b) of this section does not apply with respect to any net profit or net operating loss attributable to	3296 3297

an ownership interest in an S corporation unless shareholders' 3298
distributive shares of net profits from S corporations are 3299
subject to tax in the municipal corporation as provided in 3300
division (C) (14) (b) or (c) of this section. 3301

(d) Any amount of a net operating loss used to reduce a 3302
taxpayer's net profit for a taxable year shall reduce the amount 3303
of net operating loss that may be carried forward to any 3304
subsequent year for use by that taxpayer. In no event shall the 3305
cumulative deductions for all taxable years with respect to a 3306
taxpayer's net operating loss exceed the original amount of that 3307
net operating loss available to that taxpayer. 3308

(2) In the case of nonresidents, all income, salaries, 3309
qualifying wages, commissions, and other compensation from 3310
whatever source earned or received by the nonresident for work 3311
done, services performed or rendered, or activities conducted in 3312
the municipal corporation, including any net profit of the 3313
nonresident, but excluding the nonresident's distributive share 3314
of the net profit or loss of only pass-through entities owned 3315
directly or indirectly by the nonresident. 3316

(3) For taxpayers that are not individuals, net profit of 3317
the taxpayer; 3318

(4) Lottery, sweepstakes, gambling and sports winnings, 3319
winnings from games of chance, and prizes and awards. If the 3320
taxpayer is a professional gambler for federal income tax 3321
purposes, the taxpayer may deduct related wagering losses and 3322
expenses to the extent authorized under the Internal Revenue 3323
Code and claimed against such winnings. 3324

(C) "Exempt income" means all of the following: 3325

(1) The military pay or allowances of members of the armed 3326

forces of the United States or members of their reserve 3327
components, including the national guard of any state; 3328

(2) (a) Except as provided in division (C) (2) (b) of this 3329
section, intangible income; 3330

(b) A municipal corporation that taxed any type of 3331
intangible income on March 29, 1988, pursuant to Section 3 of 3332
S.B. 238 of the 116th general assembly, may continue to tax that 3333
type of income if a majority of the electors of the municipal 3334
corporation voting on the question of whether to permit the 3335
taxation of that type of intangible income after 1988 voted in 3336
favor thereof at an election held on November 8, 1988. 3337

(3) Social security benefits, railroad retirement 3338
benefits, unemployment compensation, pensions, retirement 3339
benefit payments, payments from annuities, and similar payments 3340
made to an employee or to the beneficiary of an employee under a 3341
retirement program or plan, disability payments received from 3342
private industry or local, state, or federal governments or from 3343
charitable, religious or educational organizations, and the 3344
proceeds of sickness, accident, or liability insurance policies. 3345
As used in division (C) (3) of this section, "unemployment 3346
compensation" does not include supplemental unemployment 3347
compensation described in section 3402(o) (2) of the Internal 3348
Revenue Code. 3349

(4) The income of religious, fraternal, charitable, 3350
scientific, literary, or educational institutions to the extent 3351
such income is derived from tax-exempt real estate, tax-exempt 3352
tangible or intangible property, or tax-exempt activities. 3353

(5) Compensation paid under section 3501.28 or 3501.36 of 3354
the Revised Code to a person serving as a precinct election 3355

official to the extent that such compensation does not exceed 3356
one thousand dollars for the taxable year. Such compensation in 3357
excess of one thousand dollars for the taxable year may be 3358
subject to taxation by a municipal corporation. A municipal 3359
corporation shall not require the payer of such compensation to 3360
withhold any tax from that compensation. 3361

(6) Dues, contributions, and similar payments received by 3362
charitable, religious, educational, or literary organizations or 3363
labor unions, lodges, and similar organizations; 3364

(7) Alimony and child support received; 3365

(8) Compensation for personal injuries or for damages to 3366
property from insurance proceeds or otherwise, excluding 3367
compensation paid for lost salaries or wages or compensation 3368
from punitive damages; 3369

(9) Income of a public utility when that public utility is 3370
subject to the tax levied under section 5727.24 or 5727.30 of 3371
the Revised Code. Division (C) (9) of this section does not apply 3372
for purposes of Chapter 5745. of the Revised Code. 3373

(10) Gains from involuntary conversions, interest on 3374
federal obligations, items of income subject to a tax levied by 3375
the state and that a municipal corporation is specifically 3376
prohibited by law from taxing, and income of a decedent's estate 3377
during the period of administration except such income from the 3378
operation of a trade or business; 3379

(11) Compensation or allowances excluded from federal 3380
gross income under section 107 of the Internal Revenue Code; 3381

(12) Employee compensation that is not qualifying wages as 3382
defined in division (R) of this section; 3383

(13) Compensation paid to a person employed within the 3384
boundaries of a United States air force base under the 3385
jurisdiction of the United States air force that is used for the 3386
housing of members of the United States air force and is a 3387
center for air force operations, unless the person is subject to 3388
taxation because of residence or domicile. If the compensation 3389
is subject to taxation because of residence or domicile, tax on 3390
such income shall be payable only to the municipal corporation 3391
of residence or domicile. 3392

(14) (a) Except as provided in division (C) (14) (b) or (c) 3393
of this section, an S corporation shareholder's distributive 3394
share of net profits of the S corporation, other than any part 3395
of the distributive share of net profits that represents wages 3396
as defined in section 3121(a) of the Internal Revenue Code or 3397
net earnings from self-employment as defined in section 1402(a) 3398
of the Internal Revenue Code. 3399

(b) If, pursuant to division (H) of former section 718.01 3400
of the Revised Code as it existed before March 11, 2004, a 3401
majority of the electors of a municipal corporation voted in 3402
favor of the question at an election held on November 4, 2003, 3403
the municipal corporation may continue after 2002 to tax an S 3404
corporation shareholder's distributive share of net profits of 3405
an S corporation. 3406

(c) If, on December 6, 2002, a municipal corporation was 3407
imposing, assessing, and collecting a tax on an S corporation 3408
shareholder's distributive share of net profits of the S 3409
corporation to the extent the distributive share would be 3410
allocated or apportioned to this state under divisions (B) (1) 3411
and (2) of section 5733.05 of the Revised Code if the S 3412
corporation were a corporation subject to taxes imposed under 3413

Chapter 5733. of the Revised Code, the municipal corporation may 3414
continue to impose the tax on such distributive shares to the 3415
extent such shares would be so allocated or apportioned to this 3416
state only until December 31, 2004, unless a majority of the 3417
electors of the municipal corporation voting on the question of 3418
continuing to tax such shares after that date voted in favor of 3419
that question at an election held November 2, 2004. If a 3420
majority of those electors voted in favor of the question, the 3421
municipal corporation may continue after December 31, 2004, to 3422
impose the tax on such distributive shares only to the extent 3423
such shares would be so allocated or apportioned to this state. 3424

(d) A municipal corporation shall be deemed to have 3425
elected to tax S corporation shareholders' distributive shares 3426
of net profits of the S corporation in the hands of the 3427
shareholders if a majority of the electors of a municipal 3428
corporation voted in favor of a question at an election held 3429
under division (C) (14) (b) or (c) of this section. The municipal 3430
corporation shall specify by resolution or ordinance that the 3431
tax applies to the distributive share of a shareholder of an S 3432
corporation in the hands of the shareholder of the S 3433
corporation. 3434

(15) To the extent authorized under a resolution or 3435
ordinance adopted by a municipal corporation before January 1, 3436
2016, all or a portion of the income of individuals or a class 3437
of individuals under eighteen years of age. 3438

(16) (a) Except as provided in divisions (C) (16) (b), (c), 3439
and (d) of this section, qualifying wages described in division 3440
(B) (1) or (E) of section 718.011 of the Revised Code to the 3441
extent the qualifying wages are not subject to withholding for 3442
the municipal corporation under either of those divisions. 3443

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

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

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

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

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

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

(b) The exemption provided in division (C) (17) (a) of this

section does not apply under either of the following 3473
circumstances: 3474

(i) The individual's base of operation is located in the 3475
municipal corporation. 3476

(ii) The individual is a professional athlete, 3477
professional entertainer, or public figure, and the compensation 3478
is paid for the performance of services in the individual's 3479
capacity as a professional athlete, professional entertainer, or 3480
public figure. For purposes of division (C) (17) (b) (ii) of this 3481
section, "professional athlete," "professional entertainer," and 3482
"public figure" have the same meanings as in section 718.011 of 3483
the Revised Code. 3484

(c) Compensation to which division (C) (17) of this section 3485
applies shall be treated as earned or received at the 3486
individual's base of operation. If the individual does not have 3487
a base of operation, the compensation shall be treated as earned 3488
or received where the individual is domiciled. 3489

(d) For purposes of division (C) (17) of this section, 3490
"base of operation" means the location where an individual owns 3491
or rents an office, storefront, or similar facility to which the 3492
individual regularly reports and at which the individual 3493
regularly performs personal services for compensation. 3494

(18) Compensation paid to a person for personal services 3495
performed for a political subdivision on property owned by the 3496
political subdivision, regardless of whether the compensation is 3497
received by an employee of the subdivision or another person 3498
performing services for the subdivision under a contract with 3499
the subdivision, if the property on which services are performed 3500
is annexed to a municipal corporation pursuant to section 3501

709.023 of the Revised Code on or after March 27, 2013, unless 3502
the person is subject to such taxation because of residence. If 3503
the compensation is subject to taxation because of residence, 3504
municipal income tax shall be payable only to the municipal 3505
corporation of residence. 3506

(19) In the case of a tax administered, collected, and 3507
enforced by a municipal corporation pursuant to an agreement 3508
with the board of directors of a joint economic development 3509
district under section 715.72 of the Revised Code, the net 3510
profits of a business, and the income of the employees of that 3511
business, exempted from the tax under division (Q) of that 3512
section. 3513

(20) All of the following: 3514

(a) Income derived from disaster work conducted in this 3515
state by an out-of-state disaster business during a disaster 3516
response period pursuant to a qualifying solicitation received 3517
by the business; 3518

(b) Income of a qualifying employee described in division 3519
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 3520
such income is derived from disaster work conducted in this 3521
state by the employee during a disaster response period pursuant 3522
to a qualifying solicitation received by the employee's 3523
employer; 3524

(c) Income of a qualifying employee described in division 3525
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 3526
such income is derived from disaster work conducted in this 3527
state by the employee during a disaster response period on 3528
critical infrastructure owned or used by the employee's 3529
employer. 3530

(21) Income the taxation of which is prohibited by the 3531
constitution or laws of the United States. 3532

Any item of income that is exempt income of a pass-through 3533
entity under division (C) of this section is exempt income of 3534
each owner of the pass-through entity to the extent of that 3535
owner's distributive or proportionate share of that item of the 3536
entity's income. 3537

(D) (1) "Net profit" for a person who is an individual 3538
means the individual's net profit required to be reported on 3539
schedule C, schedule E, or schedule F reduced by any net 3540
operating loss carried forward. For the purposes of division (D) 3541
(1) of this section, the net operating loss carried forward 3542
shall be calculated and deducted in the same manner as provided 3543
in division (D) (3) of this section. 3544

(2) "Net profit" for a person other than an individual 3545
means adjusted federal taxable income reduced by any net 3546
operating loss incurred by the person in a taxable year 3547
beginning on or after January 1, 2017, subject to the 3548
limitations of division (D) (3) of this section. 3549

(3) (a) The amount of such net operating loss shall be 3550
deducted from net profit to the extent necessary to reduce 3551
municipal taxable income to zero, with any remaining unused 3552
portion of the net operating loss carried forward to not more 3553
than five consecutive taxable years following the taxable year 3554
in which the loss was incurred, but in no case for more years 3555
than necessary for the deduction to be fully utilized. 3556

(b) No person shall use the deduction allowed by division 3557
(D) (3) of this section to offset qualifying wages. 3558

(c) (i) For taxable years beginning in 2018, 2019, 2020, 3559

2021, or 2022, a person may not deduct, for purposes of an 3560
income tax levied by a municipal corporation that levies an 3561
income tax before January 1, 2016, more than fifty per cent of 3562
the amount of the deduction otherwise allowed by division (D) (3) 3563
of this section. 3564

(ii) For taxable years beginning in 2023 or thereafter, a 3565
person may deduct, for purposes of an income tax levied by a 3566
municipal corporation that levies an income tax before January 3567
1, 2016, the full amount allowed by division (D) (3) of this 3568
section without regard to the limitation of division (D) (3) (b) 3569
(i) of this section. 3570

(d) Any pre-2017 net operating loss carryforward deduction 3571
that is available may be utilized before a taxpayer may deduct 3572
any amount pursuant to division (D) (3) of this section. 3573

(e) Nothing in division (D) (3) (c) (i) of this section 3574
precludes a person from carrying forward, for use with respect 3575
to any return filed for a taxable year beginning after 2018, any 3576
amount of net operating loss that was not fully utilized by 3577
operation of division (D) (3) (c) (i) of this section. To the 3578
extent that an amount of net operating loss that was not fully 3579
utilized in one or more taxable years by operation of division 3580
(D) (3) (c) (i) of this section is carried forward for use with 3581
respect to a return filed for a taxable year beginning in 2019, 3582
2020, 2021, or 2022, the limitation described in division (D) (3) 3583
(c) (i) of this section shall apply to the amount carried 3584
forward. 3585

(4) For the purposes of this chapter, and notwithstanding 3586
division (D) (2) of this section, net profit of a disregarded 3587
entity shall not be taxable as against that disregarded entity, 3588
but shall instead be included in the net profit of the owner of 3589

the disregarded entity. 3590

(5) For the purposes of this chapter, and notwithstanding 3591
any other provision of this chapter, the net profit of a 3592
publicly traded partnership that makes the election described in 3593
division (D) (5) of this section shall be taxed as if the 3594
partnership were a C corporation, and shall not be treated as 3595
the net profit or income of any owner of the partnership. 3596

A publicly traded partnership that is treated as a 3597
partnership for federal income tax purposes and that is subject 3598
to tax on its net profits in one or more municipal corporations 3599
in this state may elect to be treated as a C corporation for 3600
municipal income tax purposes. The publicly traded partnership 3601
shall make the election in every municipal corporation in which 3602
the partnership is subject to taxation on its net profits. The 3603
election shall be made on the annual tax return filed in each 3604
such municipal corporation. The publicly traded partnership 3605
shall not be required to file the election with any municipal 3606
corporation in which the partnership is not subject to taxation 3607
on its net profits, but division (D) (5) of this section applies 3608
to all municipal corporations in which an individual owner of 3609
the partnership resides. 3610

(E) "Adjusted federal taxable income," for a person 3611
required to file as a C corporation, or for a person that has 3612
elected to be taxed as a C corporation under division (D) (5) of 3613
this section, means a C corporation's federal taxable income 3614
before net operating losses and special deductions as determined 3615
under the Internal Revenue Code, adjusted as follows: 3616

(1) Deduct intangible income to the extent included in 3617
federal taxable income. The deduction shall be allowed 3618
regardless of whether the intangible income relates to assets 3619

used in a trade or business or assets held for the production of	3620
income.	3621
(2) Add an amount equal to five per cent of intangible	3622
income deducted under division (E) (1) of this section, but	3623
excluding that portion of intangible income directly related to	3624
the sale, exchange, or other disposition of property described	3625
in section 1221 of the Internal Revenue Code;	3626
(3) Add any losses allowed as a deduction in the	3627
computation of federal taxable income if the losses directly	3628
relate to the sale, exchange, or other disposition of an asset	3629
described in section 1221 or 1231 of the Internal Revenue Code;	3630
(4) (a) Except as provided in division (E) (4) (b) of this	3631
section, deduct income and gain included in federal taxable	3632
income to the extent the income and gain directly relate to the	3633
sale, exchange, or other disposition of an asset described in	3634
section 1221 or 1231 of the Internal Revenue Code;	3635
(b) Division (E) (4) (a) of this section does not apply to	3636
the extent the income or gain is income or gain described in	3637
section 1245 or 1250 of the Internal Revenue Code.	3638
(5) Add taxes on or measured by net income allowed as a	3639
deduction in the computation of federal taxable income;	3640
(6) In the case of a real estate investment trust or	3641
regulated investment company, add all amounts with respect to	3642
dividends to, distributions to, or amounts set aside for or	3643
credited to the benefit of investors and allowed as a deduction	3644
in the computation of federal taxable income;	3645
(7) Deduct, to the extent not otherwise deducted or	3646
excluded in computing federal taxable income, any income derived	3647
from a transfer agreement or from the enterprise transferred	3648

under that agreement under section 4313.02 of the Revised Code; 3649

(8) Deduct exempt income to the extent not otherwise 3650
deducted or excluded in computing adjusted federal taxable 3651
income. 3652

(9) Deduct any net profit of a pass-through entity owned 3653
directly or indirectly by the taxpayer and included in the 3654
taxpayer's federal taxable income unless an affiliated group of 3655
corporations includes that net profit in the group's federal 3656
taxable income in accordance with division (E) (3) (b) of section 3657
718.06 of the Revised Code. 3658

(10) Add any loss incurred by a pass-through entity owned 3659
directly or indirectly by the taxpayer and included in the 3660
taxpayer's federal taxable income unless an affiliated group of 3661
corporations includes that loss in the group's federal taxable 3662
income in accordance with division (E) (3) (b) of section 718.06 3663
of the Revised Code. 3664

If the taxpayer is not a C corporation, is not a 3665
disregarded entity that has made the election described in 3666
division (L) (2) of this section, is not a publicly traded 3667
partnership that has made the election described in division (D) 3668
(5) of this section, and is not an individual, the taxpayer 3669
shall compute adjusted federal taxable income under this section 3670
as if the taxpayer were a C corporation, except guaranteed 3671
payments and other similar amounts paid or accrued to a partner, 3672
former partner, shareholder, former shareholder, member, or 3673
former member shall not be allowed as a deductible expense 3674
unless such payments are a pension or retirement benefit payment 3675
paid to a retired partner, retired shareholder, or retired 3676
member or are in consideration for the use of capital and 3677
treated as payment of interest under section 469 of the Internal 3678

Revenue Code or United States treasury regulations. Amounts paid 3679
or accrued to a qualified self-employed retirement plan with 3680
respect to a partner, former partner, shareholder, former 3681
shareholder, member, or former member of the taxpayer, amounts 3682
paid or accrued to or for health insurance for a partner, former 3683
partner, shareholder, former shareholder, member, or former 3684
member, and amounts paid or accrued to or for life insurance for 3685
a partner, former partner, shareholder, former shareholder, 3686
member, or former member shall not be allowed as a deduction. 3687

Nothing in division (E) of this section shall be construed 3688
as allowing the taxpayer to add or deduct any amount more than 3689
once or shall be construed as allowing any taxpayer to deduct 3690
any amount paid to or accrued for purposes of federal self- 3691
employment tax. 3692

(F) "Schedule C" means internal revenue service schedule C 3693
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3694
Code. 3695

(G) "Schedule E" means internal revenue service schedule E 3696
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3697
Code. 3698

(H) "Schedule F" means internal revenue service schedule F 3699
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3700
Code. 3701

(I) "Internal Revenue Code" has the same meaning as in 3702
section 5747.01 of the Revised Code. 3703

(J) "Resident" means an individual who is domiciled in the 3704
municipal corporation as determined under section 718.012 of the 3705
Revised Code. 3706

(K) "Nonresident" means an individual that is not a 3707

resident. 3708

(L) (1) "Taxpayer" means a person subject to a tax levied 3709
on income by a municipal corporation in accordance with this 3710
chapter. "Taxpayer" does not include a grantor trust or, except 3711
as provided in division (L) (2) (a) of this section, a disregarded 3712
entity. 3713

(2) (a) A single member limited liability company that is a 3714
disregarded entity for federal tax purposes may be a separate 3715
taxpayer from its single member in all Ohio municipal 3716
corporations in which it either filed as a separate taxpayer or 3717
did not file for its taxable year ending in 2003, if all of the 3718
following conditions are met: 3719

(i) The limited liability company's single member is also 3720
a limited liability company. 3721

(ii) The limited liability company and its single member 3722
were formed and doing business in one or more Ohio municipal 3723
corporations for at least five years before January 1, 2004. 3724

(iii) Not later than December 31, 2004, the limited 3725
liability company and its single member each made an election to 3726
be treated as a separate taxpayer under division (L) of this 3727
section as this section existed on December 31, 2004. 3728

(iv) The limited liability company was not formed for the 3729
purpose of evading or reducing Ohio municipal corporation income 3730
tax liability of the limited liability company or its single 3731
member. 3732

(v) The Ohio municipal corporation that was the primary 3733
place of business of the sole member of the limited liability 3734
company consented to the election. 3735

(b) For purposes of division (L) (2) (a) (v) of this section, 3736
a municipal corporation was the primary place of business of a 3737
limited liability company if, for the limited liability 3738
company's taxable year ending in 2003, its income tax liability 3739
was greater in that municipal corporation than in any other 3740
municipal corporation in Ohio, and that tax liability to that 3741
municipal corporation for its taxable year ending in 2003 was at 3742
least four hundred thousand dollars. 3743

(M) "Person" includes individuals, firms, companies, joint 3744
stock companies, business trusts, estates, trusts, partnerships, 3745
limited liability partnerships, limited liability companies, 3746
associations, C corporations, S corporations, governmental 3747
entities, and any other entity. 3748

(N) "Pass-through entity" means a partnership not treated 3749
as an association taxable as a C corporation for federal income 3750
tax purposes, a limited liability company not treated as an 3751
association taxable as a C corporation for federal income tax 3752
purposes, an S corporation, or any other class of entity from 3753
which the income or profits of the entity are given pass-through 3754
treatment for federal income tax purposes. "Pass-through entity" 3755
does not include a trust, estate, grantor of a grantor trust, or 3756
disregarded entity. 3757

(O) "S corporation" means a person that has made an 3758
election under subchapter S of Chapter 1 of Subtitle A of the 3759
Internal Revenue Code for its taxable year. 3760

(P) "Single member limited liability company" means a 3761
limited liability company that has one direct member. 3762

(Q) "Limited liability company" means a limited liability 3763
company formed under former Chapter 1705. ~~or of the Revised Code~~ 3764

as that chapter existed prior to February 11, 2022, Chapter 3765
1706. of the Revised Code, or ~~under~~ the laws of another state. 3766

(R) "Qualifying wages" means wages, as defined in section 3767
3121(a) of the Internal Revenue Code, without regard to any wage 3768
limitations, adjusted as follows: 3769

(1) Deduct the following amounts: 3770

(a) Any amount included in wages if the amount constitutes 3771
compensation attributable to a plan or program described in 3772
section 125 of the Internal Revenue Code. 3773

(b) Any amount included in wages if the amount constitutes 3774
payment on account of a disability related to sickness or an 3775
accident paid by a party unrelated to the employer, agent of an 3776
employer, or other payer. 3777

(c) Any amount attributable to a nonqualified deferred 3778
compensation plan or program described in section 3121(v) (2) (C) 3779
of the Internal Revenue Code if the compensation is included in 3780
wages and the municipal corporation has, by resolution or 3781
ordinance adopted before January 1, 2016, exempted the amount 3782
from withholding and tax. 3783

(d) Any amount included in wages if the amount arises from 3784
the sale, exchange, or other disposition of a stock option, the 3785
exercise of a stock option, or the sale, exchange, or other 3786
disposition of stock purchased under a stock option and the 3787
municipal corporation has, by resolution or ordinance adopted 3788
before January 1, 2016, exempted the amount from withholding and 3789
tax. 3790

(e) Any amount included in wages that is exempt income. 3791

(2) Add the following amounts: 3792

(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.	3793 3794
(b) Any amount not included in wages because 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 not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R) (2) (b) of this section applies only to those amounts constituting ordinary income.	3795 3796 3797 3798 3799 3800 3801 3802
(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (R) (2) (c) of this section applies only to employee contributions and employee deferrals.	3803 3804 3805 3806
(d) Any amount that is supplemental unemployment compensation benefits described in section 3402(o) (2) of the Internal Revenue Code and not included in wages.	3807 3808 3809
(e) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a) (8) of the Internal Revenue Code.	3810 3811 3812
(f) Any amount not included in wages if all of the following apply:	3813 3814
(i) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;	3815 3816 3817 3818 3819 3820 3821

(ii) For no preceding taxable year did the amount 3822
constitute wages as defined in section 3121(a) of the Internal 3823
Revenue Code; 3824

(iii) For no succeeding taxable year will the amount 3825
constitute wages; and 3826

(iv) For any taxable year the amount has not otherwise 3827
been added to wages pursuant to either division (R) (2) of this 3828
section or section 718.03 of the Revised Code, as that section 3829
existed before the effective date of H.B. 5 of the 130th general 3830
assembly, March 23, 2015. 3831

(S) "Intangible income" means income of any of the 3832
following types: income yield, interest, capital gains, 3833
dividends, or other income arising from the ownership, sale, 3834
exchange, or other disposition of intangible property including, 3835
but not limited to, investments, deposits, money, or credits as 3836
those terms are defined in Chapter 5701. of the Revised Code, 3837
and patents, copyrights, trademarks, tradenames, investments in 3838
real estate investment trusts, investments in regulated 3839
investment companies, and appreciation on deferred compensation. 3840
"Intangible income" does not include prizes, awards, or other 3841
income associated with any lottery winnings, gambling winnings, 3842
or other similar games of chance. 3843

(T) "Taxable year" means the corresponding tax reporting 3844
period as prescribed for the taxpayer under the Internal Revenue 3845
Code. 3846

(U) (1) "Tax administrator" means, subject to division (U) 3847
(2) of this section, the individual charged with direct 3848
responsibility for administration of an income tax levied by a 3849
municipal corporation in accordance with this chapter, and also 3850

includes the following: 3851

(a) A municipal corporation acting as the agent of another 3852
municipal corporation; 3853

(b) A person retained by a municipal corporation to 3854
administer a tax levied by the municipal corporation, but only 3855
if the municipal corporation does not compensate the person in 3856
whole or in part on a contingency basis; 3857

(c) The central collection agency or the regional income 3858
tax agency or their successors in interest, or another entity 3859
organized to perform functions similar to those performed by the 3860
central collection agency and the regional income tax agency. 3861

(2) "Tax administrator" does not include the tax 3862
commissioner. 3863

(3) A private individual or entity serving in any position 3864
described in division (U) (1) (b) or (c) of this section shall 3865
have no access to criminal history record information. 3866

(V) "Employer" means a person that is an employer for 3867
federal income tax purposes. 3868

(W) "Employee" means an individual who is an employee for 3869
federal income tax purposes. 3870

(X) "Other payer" means any person, other than an 3871
individual's employer or the employer's agent, that pays an 3872
individual any amount included in the federal gross income of 3873
the individual. "Other payer" includes casino operators and 3874
video lottery terminal sales agents. 3875

(Y) "Calendar quarter" means the three-month period ending 3876
on the last day of March, June, September, or December. 3877

(Z) "Form 2106" means internal revenue service form 2106	3878
filed by a taxpayer pursuant to the Internal Revenue Code.	3879
(AA) "Municipal corporation" includes a joint economic	3880
development district or joint economic development zone that	3881
levies an income tax under section 715.691, 715.70, 715.71, or	3882
715.72 of the Revised Code.	3883
(BB) "Disregarded entity" means a single member limited	3884
liability company, a qualifying subchapter S subsidiary, or	3885
another entity if the company, subsidiary, or entity is a	3886
disregarded entity for federal income tax purposes.	3887
(CC) "Generic form" means an electronic or paper form that	3888
is not prescribed by a particular municipal corporation and that	3889
is designed for reporting taxes withheld by an employer, agent	3890
of an employer, or other payer, estimated municipal income	3891
taxes, or annual municipal income tax liability or for filing a	3892
refund claim.	3893
(DD) "Tax return preparer" means any individual described	3894
in section 7701(a)(36) of the Internal Revenue Code and 26	3895
C.F.R. 301.7701-15.	3896
(EE) "Ohio business gateway" means the online computer	3897
network system ⁷ created under section 125.30 of the Revised	3898
Code, that allows persons to electronically file business reply	3899
forms with state agencies and includes <u>or</u> any successor	3900
electronic filing and payment system.	3901
(FF) "Local board of tax review" and "board of tax review"	3902
mean the entity created under section 718.11 of the Revised	3903
Code.	3904
(GG) "Net operating loss" means a loss incurred by a	3905
person in the operation of a trade or business. "Net operating	3906

loss" does not include unutilized losses resulting from basis 3907
limitations, at-risk limitations, or passive activity loss 3908
limitations. 3909

(HH) "Casino operator" and "casino facility" have the same 3910
meanings as in section 3772.01 of the Revised Code. 3911

(II) "Video lottery terminal" has the same meaning as in 3912
section 3770.21 of the Revised Code. 3913

(JJ) "Video lottery terminal sales agent" means a lottery 3914
sales agent licensed under Chapter 3770. of the Revised Code to 3915
conduct video lottery terminals on behalf of the state pursuant 3916
to section 3770.21 of the Revised Code. 3917

(KK) "Postal service" means the United States postal 3918
service. 3919

(LL) "Certified mail," "express mail," "United States 3920
mail," "postal service," and similar terms include any delivery 3921
service authorized pursuant to section 5703.056 of the Revised 3922
Code. 3923

(MM) "Postmark date," "date of postmark," and similar 3924
terms include the date recorded and marked in the manner 3925
described in division (B) (3) of section 5703.056 of the Revised 3926
Code. 3927

(NN) "Related member" means a person that, with respect to 3928
the taxpayer during all or any portion of the taxable year, is 3929
either a related entity, a component member as defined in 3930
section 1563(b) of the Internal Revenue Code, or a person to or 3931
from whom there is attribution of stock ownership in accordance 3932
with section 1563(e) of the Internal Revenue Code except, for 3933
purposes of determining whether a person is a related member 3934
under this division, "twenty per cent" shall be substituted for 3935

"5 percent" wherever "5 percent" appears in section 1563(e) of 3936
the Internal Revenue Code. 3937

(OO) "Related entity" means any of the following: 3938

(1) An individual stockholder, or a member of the 3939
stockholder's family enumerated in section 318 of the Internal 3940
Revenue Code, if the stockholder and the members of the 3941
stockholder's family own directly, indirectly, beneficially, or 3942
constructively, in the aggregate, at least fifty per cent of the 3943
value of the taxpayer's outstanding stock; 3944

(2) A stockholder, or a stockholder's partnership, estate, 3945
trust, or corporation, if the stockholder and the stockholder's 3946
partnerships, estates, trusts, or corporations own directly, 3947
indirectly, beneficially, or constructively, in the aggregate, 3948
at least fifty per cent of the value of the taxpayer's 3949
outstanding stock; 3950

(3) A corporation, or a party related to the corporation 3951
in a manner that would require an attribution of stock from the 3952
corporation to the party or from the party to the corporation 3953
under division (OO) (4) of this section, provided the taxpayer 3954
owns directly, indirectly, beneficially, or constructively, at 3955
least fifty per cent of the value of the corporation's 3956
outstanding stock; 3957

(4) The attribution rules described in section 318 of the 3958
Internal Revenue Code apply for the purpose of determining 3959
whether the ownership requirements in divisions (OO) (1) to (3) 3960
of this section have been met. 3961

(PP) (1) "Assessment" means a written finding by the tax 3962
administrator that a person has underpaid municipal income tax, 3963
or owes penalty and interest, or any combination of tax, 3964

penalty, or interest, to the municipal corporation that 3965
commences the person's time limitation for making an appeal to 3966
the local board of tax review pursuant to section 718.11 of the 3967
Revised Code, and has "ASSESSMENT" written in all capital 3968
letters at the top of such finding. 3969

(2) "Assessment" does not include an informal notice 3970
denying a request for refund issued under division (B)(3) of 3971
section 718.19 of the Revised Code, a billing statement 3972
notifying a taxpayer of current or past-due balances owed to the 3973
municipal corporation, a tax administrator's request for 3974
additional information, a notification to the taxpayer of 3975
mathematical errors, or a tax administrator's other written 3976
correspondence to a person or taxpayer that does not meet the 3977
criteria prescribed by division (PP)(1) of this section. 3978

(QQ) "Taxpayers' rights and responsibilities" means the 3979
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 3980
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 3981
Revised Code and the responsibilities of taxpayers to file, 3982
report, withhold, remit, and pay municipal income tax and 3983
otherwise comply with Chapter 718. of the Revised Code and 3984
resolutions, ordinances, and rules adopted by a municipal 3985
corporation for the imposition and administration of a municipal 3986
income tax. 3987

(RR) "Qualified municipal corporation" means a municipal 3988
corporation that, by resolution or ordinance adopted on or 3989
before December 31, 2011, adopted Ohio adjusted gross income, as 3990
defined by section 5747.01 of the Revised Code, as the income 3991
subject to tax for the purposes of imposing a municipal income 3992
tax. 3993

(SS) (1) "Pre-2017 net operating loss carryforward" means 3994

any net operating loss incurred in a taxable year beginning 3995
before January 1, 2017, to the extent such loss was permitted, 3996
by a resolution or ordinance of the municipal corporation that 3997
was adopted by the municipal corporation before January 1, 2016, 3998
to be carried forward and utilized to offset income or net 3999
profit generated in such municipal corporation in future taxable 4000
years. 4001

(2) For the purpose of calculating municipal taxable 4002
income, any pre-2017 net operating loss carryforward may be 4003
carried forward to any taxable year, including taxable years 4004
beginning in 2017 or thereafter, for the number of taxable years 4005
provided in the resolution or ordinance or until fully utilized, 4006
whichever is earlier. 4007

(TT) "Small employer" means any employer that had total 4008
revenue of less than five hundred thousand dollars during the 4009
preceding taxable year. For purposes of this division, "total 4010
revenue" means receipts of any type or kind, including, but not 4011
limited to, sales receipts; payments; rents; profits; gains, 4012
dividends, and other investment income; compensation; 4013
commissions; premiums; money; property; grants; contributions; 4014
donations; gifts; program service revenue; patient service 4015
revenue; premiums; fees, including premium fees and service 4016
fees; tuition payments; unrelated business revenue; 4017
reimbursements; any type of payment from a governmental unit, 4018
including grants and other allocations; and any other similar 4019
receipts reported for federal income tax purposes or under 4020
generally accepted accounting principles. "Small employer" does 4021
not include the federal government; any state government, 4022
including any state agency or instrumentality; any political 4023
subdivision; or any entity treated as a government for financial 4024
accounting and reporting purposes. 4025

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

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

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

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

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

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

Sec. 1111.04. (A) Prior to soliciting or engaging in trust 4055
business in this state, a trust company shall pledge to the 4056
~~treasurer of state~~ superintendent of financial institutions 4057
interest bearing securities authorized in division (B) of this 4058
section, having a par value, not including unaccrued interest, 4059
of one hundred thousand dollars, and approved by the 4060
~~superintendent of financial institutions~~. The trust company may 4061
pledge the securities either by delivery to the ~~treasurer of~~ 4062
~~state superintendent~~ or by placing the securities with a 4063
qualified trustee for safekeeping to the account of the 4064
~~treasurer of state~~ superintendent of financial institutions, the 4065
corporate fiduciary, and any other person having an interest in 4066
the securities under Chapter 1109. of the Revised Code, as their 4067
respective interests may appear and be asserted by written 4068
notice to or demand upon the qualified trustee or by order of 4069
judgment of a court. 4070

(B) Securities pledged by a trust company to satisfy the 4071
requirements of division (A) of this section shall be one or 4072
more of the following: 4073

(1) Bonds, notes, or other obligations of or guaranteed by 4074
the United States or for which the full faith and credit of the 4075
United States is pledged for the payment of principal and 4076
interest; 4077

(2) Bonds, notes, debentures, or other obligations or 4078
securities issued by any agency or instrumentality of the United 4079
States; 4080

(3) General obligations of this or any other state of the 4081
United States or any subdivision of this or any other state of 4082
the United States. 4083

(C) The ~~treasurer of state~~ superintendent of financial
institutions shall review, approve, and accept delivery of
securities pursuant to this section ~~when accompanied by the~~
~~superintendent's approval of the securities or the written~~
~~receipt of a qualified trustee describing the securities and~~
~~showing the superintendent's approval of the securities,~~ and
shall issue a written acknowledgment of the delivery of the
securities or the qualified trustee's receipt and the
superintendent's approval to the trust company.

(D) The superintendent shall approve securities to be
pledged by a trust company pursuant to this section if the
securities are all of the following:

(1) Interest bearing and of the value required by division
(A) of this section;

(2) Of one or more of the kinds authorized by division (B)
of this section and not a derivative of or merely an interest in
any of those securities;

(3) Not in default.

(E) The ~~treasurer of state~~ superintendent of financial
institutions shall, ~~with the approval of the superintendent,~~
permit a trust company to pledge securities in substitution for
securities pledged pursuant to this section and the withdrawal
of the securities substituted for so long as the securities
remaining pledged satisfy the requirements of division (A) of
this section. The ~~treasurer of state~~ superintendent shall permit
a trust company to collect interest paid on securities pledged
pursuant to this section so long as the trust company is
solvent. The ~~treasurer of state~~ superintendent shall, ~~with the~~
~~approval of the superintendent,~~ permit a trust company to

withdraw securities pledged pursuant to this section when the 4113
trust company has ceased to solicit or engage in trust business 4114
in this state. 4115

(F) For purposes of this section, a qualified trustee is a 4116
federal reserve bank, a federal home loan bank, a trust company 4117
as defined in section 1101.01 of the Revised Code, or a national 4118
bank or federal savings association that has pledged securities 4119
pursuant to this section, is authorized to accept and execute 4120
trusts, and is doing business under authority granted by the 4121
office of the comptroller of the currency. However, a national 4122
bank or federal savings association doing business under 4123
authority granted by the office of the comptroller of the 4124
currency or a trust company may not act as a qualified trustee 4125
for securities it or any of its affiliates is pledging pursuant 4126
to this section. 4127

(G) The superintendent, with the approval of the ~~treasurer~~ 4128
~~of state and the attorney general~~, shall prescribe the form of 4129
all receipts and acknowledgments provided for by this section, 4130
and upon request shall furnish a copy of each form, with the 4131
superintendent's certification attached, to each qualified 4132
trustee eligible to hold securities for safekeeping under this 4133
section. 4134

Sec. 1112.12. (A) Prior to transacting any business as a 4135
licensed family trust company, a family trust company shall 4136
pledge to the ~~treasurer of state~~ superintendent of financial 4137
institutions interest-bearing securities authorized in division 4138
(B) of this section, having a par value, not including unaccrued 4139
interest, of one hundred thousand dollars, and approved by the 4140
superintendent ~~of financial institutions~~. The family trust 4141
company may pledge the securities either by delivery to the 4142

~~treasurer of state superintendent~~ or by placing the securities 4143
with a qualified trustee for safekeeping to the account of the 4144
~~treasurer of state superintendent of financial institutions.~~ 4145

(B) Securities pledged by a family trust company to 4146
satisfy the requirements of division (A) of this section shall 4147
be one or more of the following, provided that the bonds or 4148
other obligations are rated at the time of purchase in the three 4149
highest classifications established by at least one nationally 4150
recognized ~~standard statistical rating service organization~~ and 4151
purchased through a registered securities broker or dealer: 4152

(1) Bonds, notes, or other obligations of or guaranteed by 4153
the United States or for which the full faith and credit of the 4154
United States is pledged for the payment of principal and 4155
interest; 4156

(2) Bonds, notes, debentures, or other obligations or 4157
securities issued by any agency or instrumentality of the United 4158
States. 4159

(C) The ~~treasurer of state superintendent of financial~~ 4160
~~institutions shall review, approve, and accept~~ delivery of 4161
securities pursuant to this section ~~when accompanied by the~~ 4162
~~superintendent's approval of the securities or the written~~ 4163
~~receipt of a qualified trustee describing the securities and~~ 4164
~~showing the superintendent's approval of the securities,~~ and 4165
shall issue a written acknowledgment of the delivery of the 4166
securities or the qualified trustee's receipt and the 4167
superintendent's approval to the family trust company. 4168

(D) The superintendent shall approve securities to be 4169
pledged by a family trust company pursuant to this section if 4170
the securities are all of the following: 4171

- (1) Interest-bearing and of the value required by division 4172
(A) of this section; 4173
- (2) Of one or more of the kinds authorized by division (B) 4174
of this section and not a derivative of or merely an interest in 4175
any of those securities; 4176
- (3) Not in default. 4177
- (E) ~~The treasurer of state~~ superintendent of financial 4178
institutions shall, ~~with the approval of the superintendent,~~ 4179
permit a family trust company to pledge securities in 4180
substitution for securities pledged pursuant to this section and 4181
the withdrawal of the securities substituted for so long as the 4182
securities remaining pledged satisfy the requirements of 4183
division (A) of this section. The ~~treasurer of state~~ 4184
superintendent shall permit a family trust company to collect 4185
interest paid on securities pledged pursuant to this section so 4186
long as the family trust company is solvent. The ~~treasurer of~~ 4187
~~state superintendent~~ shall, ~~with the approval of the~~ 4188
~~superintendent,~~ permit a licensed family trust company to 4189
withdraw securities pledged pursuant to this section when the 4190
family trust company has discontinued its business as a licensed 4191
family trust company in this state. 4192
- (F) For purposes of this section, a qualified trustee is a 4193
federal reserve bank, a federal home loan bank, a trust company 4194
as defined in section 1101.01 of the Revised Code, or a bank or 4195
savings association that has pledged securities pursuant to 4196
section 1111.04 of the Revised Code, is authorized to accept and 4197
execute trusts, and is doing business under authority granted by 4198
the comptroller of the currency. 4199
- (G) ~~The superintendent, with the approval of the treasurer~~ 4200

~~of state,~~ shall prescribe the form of all receipts and 4201
acknowledgments provided for by this section, and upon request 4202
shall furnish a copy of each form, with the superintendent's 4203
certification attached, to each qualified trustee eligible to 4204
hold securities for safekeeping under this section. 4205

Sec. 1315.54. (A) The attorney general may conduct 4206
investigations within or outside this state to determine if a 4207
money transmitter or person engaged in a trade or business has 4208
failed to file a report required by section 1315.53 of the 4209
Revised Code or has engaged or is engaging in an act, practice, 4210
or transaction that constitutes a violation of a provision of 4211
~~section~~sections 1315.51 to 1315.55 of the Revised Code. 4212

(B) On request of the attorney general, a money 4213
transmitter shall make the money transmitter's books and records 4214
available to the attorney general during normal business hours 4215
for inspection and examination in connection with an 4216
investigation conducted under this section. No person shall 4217
purposely fail to comply with this division. 4218

(C) Any record or other document or information obtained 4219
by the attorney general pursuant to an investigation conducted 4220
under this section is not a public record subject to section 4221
149.43 of the Revised Code and is not subject to disclosure. 4222

(D) This section does not apply to any bank, bank holding 4223
company, or affiliate of a bank or bank holding company, or to 4224
any savings and loan association, savings and loan holding 4225
company, or affiliate of a savings and loan association or 4226
savings and loan holding company that is subject to examination 4227
by the comptroller of the currency, the federal reserve, or the 4228
federal deposit insurance corporation, ~~or to any savings and~~ 4229
~~loan association, savings and loan holding company, or affiliate~~ 4230

~~of a savings and loan association or savings and loan holding
company, that is subject to examination by the office of thrift
supervision.~~ 4231
4232
4233

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of 4234
the Revised Code: 4235

(A) "Consumer transaction" means a sale, lease, 4236
assignment, award by chance, or other transfer of an item of 4237
goods, a service, a franchise, or an intangible, to an 4238
individual for purposes that are primarily personal, family, or 4239
household, or solicitation to supply any of these things. 4240
"Consumer transaction" does not include transactions between 4241
persons, defined in sections 4905.03 and 5725.01 of the Revised 4242
Code, and their customers, except for transactions involving a 4243
loan made pursuant to sections 1321.35 to 1321.48 of the Revised 4244
Code and transactions in connection with residential mortgages 4245
between loan officers, mortgage brokers, or nonbank mortgage 4246
lenders and their customers; transactions involving a home 4247
construction service contract as defined in section 4722.01 of 4248
the Revised Code; transactions between certified public 4249
accountants or public accountants and their clients; 4250
transactions between attorneys, physicians, or dentists and 4251
their clients or patients; and transactions between 4252
veterinarians and their patients that pertain to medical 4253
treatment but not ancillary services. 4254

(B) "Person" includes an individual, corporation, 4255
government, governmental subdivision or agency, business trust, 4256
estate, trust, partnership, association, cooperative, or other 4257
legal entity. 4258

(C) "Supplier" means a seller, lessor, assignor, 4259
franchisor, or other person engaged in the business of effecting 4260

or soliciting consumer transactions, whether or not the person 4261
deals directly with the consumer. If the consumer transaction is 4262
in connection with a residential mortgage, "supplier" does not 4263
include an assignee or purchaser of the loan for value, except 4264
as otherwise provided in section 1345.091 of the Revised Code. 4265
For purposes of this division, in a consumer transaction in 4266
connection with a residential mortgage, "seller" means a loan 4267
officer, mortgage broker, or nonbank mortgage lender. 4268

(D) "Consumer" means a person who engages in a consumer 4269
transaction with a supplier. 4270

(E) "Knowledge" means actual awareness, but such actual 4271
awareness may be inferred where objective manifestations 4272
indicate that the individual involved acted with such awareness. 4273

(F) "Natural gas service" means the sale of natural gas, 4274
exclusive of any distribution or ancillary service. 4275

(G) "Public telecommunications service" means the 4276
transmission by electromagnetic or other means, other than by a 4277
telephone company as defined in section 4927.01 of the Revised 4278
Code, of signs, signals, writings, images, sounds, messages, or 4279
data originating in this state regardless of actual call 4280
routing. "Public telecommunications service" excludes a system, 4281
including its construction, maintenance, or operation, for the 4282
provision of telecommunications service, or any portion of such 4283
service, by any entity for the sole and exclusive use of that 4284
entity, its parent, a subsidiary, or an affiliated entity, and 4285
not for resale, directly or indirectly; the provision of 4286
terminal equipment used to originate telecommunications service; 4287
broadcast transmission by radio, television, or satellite 4288
broadcast stations regulated by the federal government; or cable 4289
television service. 4290

(H) (1) "Loan officer" means an individual who for 4291
compensation or gain, or in anticipation of compensation or 4292
gain, takes or offers to take a residential mortgage loan 4293
application; assists or offers to assist a buyer in obtaining or 4294
applying to obtain a residential mortgage loan by, among other 4295
things, advising on loan terms, including rates, fees, and other 4296
costs; offers or negotiates terms of a residential mortgage 4297
loan; or issues or offers to issue a commitment for a 4298
residential mortgage loan. "Loan officer" also includes a 4299
mortgage loan originator as defined in section 1322.01 of the 4300
Revised Code. 4301

(2) "Loan officer" does not include an employee of a bank, 4302
savings bank, savings and loan association, credit union, or 4303
credit union service organization organized under the laws of 4304
this state, another state, or the United States; an employee of 4305
a subsidiary of such a bank, savings bank, savings and loan 4306
association, or credit union; or an employee of an affiliate 4307
that (a) controls, is controlled by, or is under common control 4308
with, such a bank, savings bank, savings and loan association, 4309
or credit union and (b) is subject to examination, supervision, 4310
and regulation, including with respect to the affiliate's 4311
compliance with applicable consumer protection requirements, by 4312
the board of governors of the federal reserve system, the 4313
comptroller of the currency, ~~the office of thrift supervision,~~ 4314
the federal deposit insurance corporation, or the national 4315
credit union administration. 4316

(I) "Residential mortgage" or "mortgage" means an 4317
obligation to pay a sum of money evidenced by a note and secured 4318
by a lien upon real property located within this state 4319
containing two or fewer residential units or on which two or 4320
fewer residential units are to be constructed and includes such 4321

an obligation on a residential condominium or cooperative unit. 4322

(J) (1) "Mortgage broker" means any of the following: 4323

(a) A person that holds that person out as being able to 4324
assist a buyer in obtaining a mortgage and charges or receives 4325
from either the buyer or lender money or other valuable 4326
consideration readily convertible into money for providing this 4327
assistance; 4328

(b) A person that solicits financial and mortgage 4329
information from the public, provides that information to a 4330
mortgage broker or a person that makes residential mortgage 4331
loans, and charges or receives from either of them money or 4332
other valuable consideration readily convertible into money for 4333
providing the information; 4334

(c) A person engaged in table-funding or warehouse-lending 4335
mortgage loans that are residential mortgage loans. 4336

(2) "Mortgage broker" does not include a bank, savings 4337
bank, savings and loan association, credit union, or credit 4338
union service organization organized under the laws of this 4339
state, another state, or the United States; a subsidiary of such 4340
a bank, savings bank, savings and loan association, or credit 4341
union; an affiliate that (a) controls, is controlled by, or is 4342
under common control with, such a bank, savings bank, savings 4343
and loan association, or credit union and (b) is subject to 4344
examination, supervision, and regulation, including with respect 4345
to the affiliate's compliance with applicable consumer 4346
protection requirements, by the board of governors of the 4347
federal reserve system, the comptroller of the currency, ~~the~~ 4348
~~office of thrift supervision,~~ the federal deposit insurance 4349
corporation, or the national credit union administration; or an 4350

employee of any such entity. 4351

(K) "Nonbank mortgage lender" means any person that 4352
engages in a consumer transaction in connection with a 4353
residential mortgage, except for a bank, savings bank, savings 4354
and loan association, credit union, or credit union service 4355
organization organized under the laws of this state, another 4356
state, or the United States; a subsidiary of such a bank, 4357
savings bank, savings and loan association, or credit union; or 4358
an affiliate that (1) controls, is controlled by, or is under 4359
common control with, such a bank, savings bank, savings and loan 4360
association, or credit union and (2) is subject to examination, 4361
supervision, and regulation, including with respect to the 4362
affiliate's compliance with applicable consumer protection 4363
requirements, by the board of governors of the federal reserve 4364
system, the comptroller of the currency, ~~the office of thrift-~~ 4365
~~supervision,~~ the federal deposit insurance corporation, or the 4366
national credit union administration. 4367

(L) For purposes of divisions (H), (J), and (K) of this 4368
section: 4369

(1) "Control" of another entity means ownership, control, 4370
or power to vote twenty-five per cent or more of the outstanding 4371
shares of any class of voting securities of the other entity, 4372
directly or indirectly or acting through one or more other 4373
persons. 4374

(2) "Credit union service organization" means a CUSO as 4375
defined in 12 C.F.R. 702.2. 4376

Sec. 1501.04. The performance cash bond refunds fund is 4377
created in the state treasury. The fund shall consist of money 4378
received by the department of natural resources from other 4379

entities as performance security. Upon the completion of work or 4380
satisfaction of terms for which the performance cash bond was 4381
required, the money shall be refunded to the pledging entity. If 4382
the performance cash bond is forfeited, the money shall be 4383
transferred to the appropriate fund within the state treasury. 4384

Sec. 1501.10. Advertisement for bids for the leasing of 4385
public service facilities in state parks shall be published in 4386
any newspaper of general circulation in Franklin county and each 4387
county in which the facility to be leased is situated. The 4388
publication shall be made once each week for four consecutive 4389
weeks prior to the date fixed for the acceptance of the bids. 4390
The notice shall set forth the pertinent facts concerning the 4391
facility to be leased and the periods of required operation 4392
during the year and shall refer to the terms and conditions that 4393
the lease shall include, which shall be on file in the office of 4394
the director of natural resources and open to public inspection, 4395
except that questionnaires and financial statements submitted 4396
under this section shall be confidential and shall not be open 4397
to public inspection. 4398

The public service facilities may be leased for a period 4399
of years that may be determined by the director, provided that 4400
the director, at the expiration of the original lease, without 4401
advertisement for bids, may grant the lessee a renewal of the 4402
lease for an additional period not to exceed four years. Leases 4403
executed under this section may contain any provisions that the 4404
director considers necessary, provided that the following 4405
provisions shall be contained in the leases: 4406

(A) The lessee shall be responsible for keeping the 4407
facilities in good condition and repair, reasonable wear and 4408
tear and damages caused by casualty or acts beyond the control 4409

of the lessee excepted. 4410

(B) The lessee shall operate the facilities for periods 4411
during the year that the director determines are necessary to 4412
satisfy the needs of the people of the state, provided that the 4413
periods of required operation shall be set forth in the notice 4414
for the acceptance of bids. 4415

(C) The lessee, upon the execution of the lease, shall 4416
furnish surety to ensure that the lessee shall perform fully all 4417
terms of the lease. The surety shall be in the form of a 4418
performance bond, an irrevocable letter of credit to the state, 4419
cash, or negotiable certificates of deposit of any bank or 4420
savings and loan association organized or transacting business 4421
in the United States. The cash, market value of the certificates 4422
of deposit, or face value of the irrevocable letter of credit 4423
shall be equal to or greater than the amount of the bond 4424
prescribed by the director in the lease. 4425

~~Immediately upon a deposit of~~ If the lessee deposits cash 4426
~~or certificates of deposit, the director~~ cash shall deliver them 4427
~~to the treasurer of state, who shall be responsible for their~~ 4428
~~safekeeping and hold them in trust for the purposes for which~~ 4429
~~they have been deposited~~ credited to the performance cash bond 4430
refunds fund created in section 1501.04 of the Revised Code. A 4431
lessee making a deposit of cash or certificates of deposit may 4432
withdraw and receive, from the ~~treasurer of state, on the~~ 4433
~~written order of the director,~~ all or any portion of the cash or 4434
certificates of deposit upon depositing with the ~~treasurer of~~ 4435
~~state cash or director~~ negotiable certificates of deposit issued 4436
by any bank organized or transacting business in this state 4437
equal in par value to the par value of the cash or certificates 4438
of deposit withdrawn. A lessee may demand and receive from the 4439

~~treasurer of state~~ director all interest or other income from 4440
any such certificates as it becomes due. 4441

The director may lease any public service facilities in 4442
state parks to the person who submits the highest and best bid 4443
under the terms set forth in this section and in accordance with 4444
the rules of the director, taking into account the financial 4445
responsibility and the ability of the lessee to operate the 4446
facilities. Bids shall be sealed and opened at a date and time 4447
certain, published in advance. 4448

This section does not apply to a lease and contract 4449
executed under section 1501.012 of the Revised Code. 4450

Sec. 1503.05. (A) The chief of the division of forestry 4451
may sell timber and other forest products from the state forest, 4452
state forest nurseries, and federal lands in accordance with the 4453
terms of an agreement under section 1503.271 of the Revised Code 4454
whenever the chief considers such a sale desirable. With the 4455
approval of the attorney general and the director of natural 4456
resources, the chief may sell portions of the state forest lands 4457
when such a sale is advantageous to the state. 4458

(B) Except as otherwise provided in this section, a timber 4459
sale agreement shall not be executed unless the person or 4460
governmental entity bidding on the sale executes and files a 4461
surety bond conditioned on completion of the timber sale in 4462
accordance with the terms of the agreement in an amount 4463
determined by the chief. All bonds shall be given in a form 4464
prescribed by the chief and shall run to the state as obligee. 4465

The chief shall not approve any bond until it is 4466
personally signed and acknowledged by both principal and surety, 4467
or as to either by the attorney in fact thereof, with a 4468

certified copy of the power of attorney attached. The chief 4469
shall not approve the bond unless there is attached a 4470
certificate of the superintendent of insurance that the company 4471
is authorized to transact a fidelity and surety business in this 4472
state. 4473

In lieu of a bond, the bidder may deposit ~~any of the~~ 4474
~~following:~~ 4475

~~(1) Cash in an amount equal to the amount of the bond;~~ 4476

~~(2) United States government securities having a par value~~ 4477
~~equal to or greater than the amount of the bond;~~ 4478

~~(3) Negotiable~~ cash, negotiable certificates of deposit, 4479
or irrevocable letters of credit issued by any bank organized or 4480
transacting business in this state having a par value equal to 4481
or greater than the amount of the bond. 4482

The cash or securities shall be deposited on the same 4483
terms as bonds. If one or more certificates of deposit are 4484
deposited in lieu of a bond, the chief shall require the bank 4485
that issued any of the certificates to pledge securities of the 4486
aggregate market value equal to the amount of the certificate or 4487
certificates that is in excess of the amount insured by the 4488
federal deposit insurance corporation. The securities to be 4489
pledged shall be those designated as eligible under section 4490
135.18 of the Revised Code. The securities shall be security for 4491
the repayment of the certificate or certificates of deposit. 4492

~~Immediately upon~~ Upon a deposit of cash, ~~securities,~~ 4493
certificates of deposit, or irrevocable letters of credit 4494
described in division (B) of this section, the chief shall 4495
~~deliver them to the treasurer of state, who shall~~ hold them in 4496
trust for the purposes for which they have been deposited. ~~The~~ 4497

~~treasurer of state is responsible for the safekeeping of the~~ 4498
~~deposits. If the bidder deposits cash, the cash shall be~~ 4499
credited to the performance cash bond refunds fund created in 4500
section 1501.04 of the Revised Code. If the bidder deposits 4501
certificates of deposit or letters of credit, the chief is 4502
responsible for the safekeeping of those certificates or 4503
letters. A bidder making a deposit of cash, ~~securities,~~ 4504
certificates of deposit, or letters of credit may withdraw and 4505
receive, ~~from the treasurer of state, on the written order of~~ 4506
~~the chief,~~ all or any portion of the cash, ~~securities,~~ 4507
certificates of deposit, or letters of credit upon depositing 4508
with the ~~treasurer of state cash, other United States government~~ 4509
~~securities, or chief~~ other negotiable certificates of deposit or 4510
irrevocable letters of credit ~~issued by any bank organized or~~ 4511
~~transacting business in this state, that are~~ equal in par value 4512
to the par value of the cash, ~~securities,~~ certificates of 4513
deposit, or letters of credit withdrawn. 4514

A bidder that deposits negotiable certificates of deposit 4515
may demand and receive from the ~~treasurer of state~~ chief all 4516
interest or other income from any such ~~securities or~~ 4517
~~certificates~~ certificate as it becomes due. If ~~securities~~ 4518
certificates so deposited with and in the possession of the 4519
~~treasurer of state~~ chief mature or are called for payment by 4520
their issuer, the ~~treasurer of state~~ chief, at the request of the 4521
bidder who deposited them, shall convert the proceeds ~~of the~~ 4522
~~redemption or payment of the securities~~ into other United States 4523
~~government securities,~~ negotiable certificates of deposit, or 4524
cash as the bidder designates. 4525

When the chief finds that a person or governmental agency 4526
has failed to comply with the conditions of the person's or 4527
~~governmental~~ agency's bond, the chief shall make a finding of 4528

that fact and declare the bond, cash, ~~securities,~~ certificates, 4529
or letters of credit forfeited. The chief thereupon shall 4530
certify the total forfeiture to the attorney general, who shall 4531
proceed to collect the amount of the bond, cash, ~~securities,~~ 4532
certificates, or letters of credit. 4533

In lieu of total forfeiture, the surety, at its option, 4534
may cause the timber sale to be completed or pay to the 4535
~~treasurer of state~~ chief the cost thereof. 4536

All money collected as a result of forfeitures of bonds, 4537
cash, ~~securities,~~ certificates, and letters of credit under this 4538
section shall be credited to the state forest fund created in 4539
this section. 4540

(C) The chief may grant easements and leases on portions 4541
of the state forest lands and state forest nurseries under terms 4542
that are advantageous to the state, and the chief may grant 4543
mineral rights on a royalty basis on those lands and nurseries, 4544
with the approval of the attorney general and the director. 4545

(D) All money received from the sale of state forest 4546
lands, or in payment for easements or leases on or as rents from 4547
those lands or from state forest nurseries, shall be paid into 4548
the state treasury to the credit of the state forest fund, which 4549
is hereby created. In addition, all money received from federal 4550
grants, payments, and reimbursements, from the sale of 4551
reforestation tree stock, from the sale of forest products, 4552
other than standing timber, and from the sale of minerals taken 4553
from the state forest lands and state forest nurseries, together 4554
with royalties from mineral rights, shall be paid into the state 4555
treasury to the credit of the state forest fund. Any other 4556
revenues derived from the operation of the state forests and 4557
related facilities or equipment also shall be paid into the 4558

state treasury to the credit of the state forest fund, as shall 4559
contributions received for the issuance of Smokey Bear license 4560
plates under section 4503.574 of the Revised Code and any other 4561
money required by law to be deposited in the fund. Any revenue 4562
generated from agreements entered into under section 1503.271 of 4563
the Revised Code shall be deposited in the fund. 4564

The state forest fund shall not be expended for any 4565
purpose other than the administration, operation, maintenance, 4566
development, or utilization of the state forests, forest 4567
nurseries, and forest programs; for facilities or equipment 4568
incident to them; for the further purchase of lands for state 4569
forest or forest nursery purposes; for wildfire suppression 4570
payments; for fire prevention purposes in the case of 4571
contributions received pursuant to section 4503.574 of the 4572
Revised Code; or for forest management projects associated with 4573
federal lands in the case of revenues received pursuant to 4574
agreements entered into under section 1503.271 of the Revised 4575
Code. 4576

(E) All money received from the sale of standing timber 4577
taken from state forest lands and state forest nurseries shall 4578
be deposited into the state treasury to the credit of the 4579
forestry holding account redistribution fund, which is hereby 4580
created. The money shall remain in the fund until they are 4581
redistributed in accordance with this division. 4582

The redistribution shall occur at least once each year. To 4583
begin the redistribution, the chief first shall determine the 4584
amount of all standing timber sold from state forest lands and 4585
state forest nurseries, together with the amount of the total 4586
sale proceeds, in each county, in each township within the 4587
county, and in each school district within the county. The chief 4588

next shall determine the amount of the direct costs that the 4589
division of forestry incurred in association with the sale of 4590
that standing timber. The amount of the direct costs shall be 4591
subtracted from the amount of the total sale proceeds and shall 4592
be transferred from the forestry holding account redistribution 4593
fund to the state forest fund. 4594

The remaining amount of the total sale proceeds equals the 4595
net value of the standing timber that was sold. The chief shall 4596
determine the net value of standing timber sold from state 4597
forest lands and state forest nurseries in each county, in each 4598
township within the county, and in each school district within 4599
the county and shall send to each county treasurer a copy of the 4600
determination at the time that money is paid to the county 4601
treasurer under this division. 4602

Thirty-five per cent of the net value of standing timber 4603
sold from state forest lands and state forest nurseries located 4604
in a county shall be transferred from the forestry holding 4605
account redistribution fund to the state forest fund. The 4606
remaining sixty-five per cent of the net value shall be 4607
transferred from the forestry holding account redistribution 4608
fund and paid to the county treasurer for the use of the general 4609
fund of that county. 4610

The county auditor shall do all of the following: 4611

(1) Retain for the use of the general fund of the county 4612
one-fourth of the amount received by the county under division 4613
(E) of this section; 4614

(2) Pay into the general fund of any township located 4615
within the county and containing such lands and nurseries one- 4616
fourth of the amount received by the county from standing timber 4617

sold from lands and nurseries located in the township; 4618

(3) Request the board of education of any school district 4619
located within the county and containing such lands and 4620
nurseries to identify which fund or funds of the district should 4621
receive the money available to the school district under 4622
division (E) (3) of this section. After receiving notice from the 4623
board, the county auditor shall pay into the fund or funds so 4624
identified one-half of the amount received by the county from 4625
standing timber sold from lands and nurseries located in the 4626
school district, distributed proportionately as identified by 4627
the board. 4628

The division of forestry shall not supply logs, lumber, or 4629
other forest products or minerals, taken from the state forest 4630
lands or state forest nurseries, to any other agency or 4631
subdivision of the state unless payment is made therefor in the 4632
amount of the actual prevailing value thereof. This section is 4633
applicable to the money so received. 4634

(F) The chief may enter into a personal service contract 4635
for consulting services to assist the chief with the sale of 4636
timber or other forest products and related inventory. 4637
Compensation for consulting services shall be paid from the 4638
proceeds of the sale of timber or other forest products and 4639
related inventory that are the subject of the personal service 4640
contract. 4641

Sec. 1509.07. (A) (1) (a) Except as provided in division (A) 4642
(1) (b) or (A) (2) of this section, an owner of any well, except 4643
an exempt Mississippian well or an exempt domestic well, shall 4644
obtain liability insurance coverage from a company authorized or 4645
approved to do business in this state in an amount of not less 4646
than one million dollars bodily injury coverage and property 4647

damage coverage to pay damages for injury to persons or damage 4648
to property caused by the drilling, operation, or plugging of 4649
all the owner's wells in this state. However, if any well is 4650
located within an urbanized area, the owner shall obtain 4651
liability insurance coverage in an amount of not less than three 4652
million dollars for bodily injury coverage and property damage 4653
coverage to pay damages for injury to persons or damage to 4654
property caused by the drilling, operation, or plugging of all 4655
of the owner's wells in this state. 4656

(b) A board of county commissioners of a county that is an 4657
owner of a well or a board of township trustees of a township 4658
that is an owner of a well may elect to satisfy the liability 4659
coverage requirements specified in division (A)(1)(a) of this 4660
section by participating in a joint self-insurance pool in 4661
accordance with the requirements established under section 4662
2744.081 of the Revised Code. Nothing in division (A)(1)(b) of 4663
this section shall be construed to allow an entity, other than a 4664
county or township, to participate in a joint self-insurance 4665
pool to satisfy the liability coverage requirements specified in 4666
division (A)(1)(a) of this section. 4667

(2) An owner of a horizontal well shall obtain liability 4668
insurance coverage from an insurer authorized to write such 4669
insurance in this state or from an insurer approved to write 4670
such insurance in this state under section 3905.33 of the 4671
Revised Code in an amount of not less than five million dollars 4672
bodily injury coverage and property damage coverage to pay 4673
damages for injury to persons or damage to property caused by 4674
the production operations of all the owner's wells in this 4675
state. The insurance policy shall include a reasonable level of 4676
coverage available for an environmental endorsement. 4677

(3) An owner shall maintain the coverage required under 4678
division (A) (1) or (2) of this section until all the owner's 4679
wells are plugged and abandoned or are transferred to an owner 4680
who has obtained insurance as required under this section and 4681
who is not under a notice of material and substantial violation 4682
or under a suspension order. The owner shall provide proof of 4683
liability insurance coverage to the chief of the division of oil 4684
and gas resources management upon request. Upon failure of the 4685
owner to provide that proof when requested, the chief may order 4686
the suspension of any outstanding permits and operations of the 4687
owner until the owner provides proof of the required insurance 4688
coverage. 4689

(B) (1) Except as otherwise provided in this section, an 4690
owner of any well, before being issued a permit under section 4691
1509.06 of the Revised Code or before operating or producing 4692
from a well, shall execute and file with the division of oil and 4693
gas resources management a surety bond conditioned on compliance 4694
with the restoration requirements of section 1509.072, the 4695
plugging requirements of section 1509.12, the permit provisions 4696
of section 1509.13 of the Revised Code, and all rules and orders 4697
of the chief relating thereto, in an amount set by rule of the 4698
chief. 4699

(2) The owner may deposit with the chief, instead of a 4700
surety bond, cash in an amount equal to the surety bond as 4701
prescribed pursuant to this section or negotiable certificates 4702
of deposit or irrevocable letters of credit, issued by any bank 4703
organized or transacting business in this state, having a cash 4704
value equal to or greater than the amount of the surety bond as 4705
prescribed pursuant to this section. Cash or certificates of 4706
deposit shall be deposited upon the same terms as those upon 4707
which surety bonds may be deposited. If the owner deposits cash, 4708

the cash shall be credited to the performance cash bond refunds 4709
fund created in section 1501.04 of the Revised Code. If the 4710
owner deposits certificates of deposit ~~are deposited with the~~ 4711
~~chief instead of a surety bond,~~ the chief shall require the bank 4712
that issued any such certificate to pledge securities of a cash 4713
value equal to the amount of the certificate that is in excess 4714
of the amount insured by ~~any of the agencies and~~ 4715
~~instrumentalities created under the "Federal Deposit Insurance~~ 4716
~~Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and~~ 4717
~~regulations adopted under it, including at least the federal~~ 4718
deposit insurance corporation. The securities shall be security 4719
for the repayment of the certificate of deposit. 4720

~~Immediately upon~~ Upon a deposit of cash, certificates of 4721
deposit, or letters of credit with the chief, the chief shall 4722
~~deliver them to the treasurer of state who shall hold them in~~ 4723
trust for the purposes for which they have been deposited. 4724

(3) Instead of a surety bond, the chief may accept proof 4725
of financial responsibility consisting of a sworn financial 4726
statement showing a net financial worth within this state equal 4727
to twice the amount of the bond for which it substitutes and, as 4728
may be required by the chief, a list of producing properties of 4729
the owner within this state or other evidence showing ability 4730
and intent to comply with the law and rules concerning 4731
restoration and plugging that may be required by rule of the 4732
chief. The owner of an exempt Mississippian well is not required 4733
to file scheduled updates of the financial documents, but shall 4734
file updates of those documents if requested to do so by the 4735
chief. The owner of a nonexempt Mississippian well shall file 4736
updates of the financial documents in accordance with a schedule 4737
established by rule of the chief. The chief, upon determining 4738
that an owner for whom the chief has accepted proof of financial 4739

responsibility instead of bond cannot demonstrate financial 4740
responsibility, shall order that the owner execute and file a 4741
bond or deposit cash, certificates of deposit, or irrevocable 4742
letters of credit as required by this section for the wells 4743
specified in the order within ten days of receipt of the order. 4744
If the order is not complied with, all wells of the owner that 4745
are specified in the order and for which no bond is filed or 4746
cash, certificates of deposit, or letters of credit are 4747
deposited shall be plugged. No owner shall fail or refuse to 4748
plug such a well. Each day on which such a well remains 4749
unplugged thereafter constitutes a separate offense. 4750

(4) The surety bond provided for in this section shall be 4751
executed by a surety company authorized to do business in this 4752
state. 4753

The chief shall not approve any bond until it is 4754
personally signed and acknowledged by both principal and surety, 4755
or as to either by the principal's or surety's attorney in fact, 4756
with a certified copy of the power of attorney attached thereto. 4757
The chief shall not approve a bond unless there is attached a 4758
certificate of the superintendent of insurance that the company 4759
is authorized to transact a fidelity and surety business in this 4760
state. 4761

All bonds shall be given in a form to be prescribed by the 4762
chief and shall run to the state as obligee. 4763

(5) An owner of an exempt Mississippian well or an exempt 4764
domestic well, in lieu of filing a surety bond, cash in an 4765
amount equal to the surety bond, certificates of deposit, 4766
irrevocable letters of credit, or a sworn financial statement, 4767
may file a one-time fee of fifty dollars, which shall be 4768
deposited in the oil and gas well plugging fund created in 4769

section 1509.071 of the Revised Code. 4770

(C) An owner, operator, producer, or other person shall 4771
not operate a well or produce from a well at any time if the 4772
owner, operator, producer, or other person has not satisfied the 4773
requirements established in this section. 4774

Sec. 1509.225. (A) Before being issued a registration 4775
certificate under section 1509.222 of the Revised Code, an 4776
applicant shall execute and file with the division of oil and 4777
gas resources management a surety bond for fifteen thousand 4778
dollars to provide compensation for damage and injury resulting 4779
from transporters' violations of sections 1509.22, 1509.222, and 4780
1509.223 of the Revised Code, all rules and orders of the chief 4781
of the division of oil and gas resources management relating 4782
thereto, and all terms and conditions of the registration 4783
certificate imposed thereunder. The applicant may deposit with 4784
the chief, in lieu of a surety bond, cash in an amount equal to 4785
the surety bond as prescribed in this section, or negotiable 4786
certificates of deposit issued by any bank organized or 4787
transacting business in this state having a cash value equal to 4788
or greater than the amount of the surety bond as prescribed in 4789
this section. Cash or certificates of deposit shall be deposited 4790
upon the same terms as those upon which surety bonds may be 4791
deposited, and the chief shall hold them in trust for the 4792
purposes for which they have been deposited. If the applicant 4793
deposits cash, the cash shall be credited to the performance 4794
cash bond refunds fund created in section 1501.04 of the Revised 4795
Code. If the applicant deposits certificates of deposit ~~are~~ 4796
~~deposited with the chief in lieu of a surety bond,~~ the chief 4797
shall require the bank that issued any such certificate to 4798
pledge securities of a cash value equal to the amount of the 4799
certificate that is in excess of the amount insured by ~~any of~~ 4800

~~the agencies and instrumentalities created under the "Federal- 4801
Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as 4802
amended, and regulations adopted under it, including at least 4803
the federal deposit insurance corporation. 4804~~

~~Such corporation. Such securities shall be security for 4805
the repayment of the certificate of deposit. Immediately upon a 4806
deposit of cash or certificates with the chief, the chief shall 4807
deliver it to the treasurer of state who shall hold it in trust 4808
for the purposes for which it has been deposited. 4809~~

(B) The surety bond provided for in this section shall be 4810
executed by a surety company authorized to do business in this 4811
state. The chief shall not approve any bond until it is 4812
personally signed and acknowledged by both principal and surety, 4813
or as to either by an attorney in fact, with a certified copy of 4814
the power of attorney attached thereto. The chief shall not 4815
approve the bond unless there is attached a certificate of the 4816
superintendent of insurance that the company is authorized to 4817
transact a fidelity and surety business in this state. All bonds 4818
shall be given in a form to be prescribed by the chief. 4819

(C) If a registered transporter is found liable for a 4820
violation of section 1509.22, 1509.222, or 1509.223 of the 4821
Revised Code or a rule, order, or term or condition of a 4822
certificate involving, in any case, damage or injury to persons 4823
or property, or both, the court may order the forfeiture of any 4824
portion of the bond, cash, or other securities required by this 4825
section in full or partial payment of damages to the person to 4826
whom the damages are due. The ~~treasurer of state and the chief~~ 4827
shall deliver the bond or any cash or other securities deposited 4828
in lieu of bond, as specified in the court's order, to the 4829
person to whom the damages are due; however, execution against 4830

the bond, cash, or other securities, if necessary, is the 4831
responsibility of the person to whom the damages are due. The 4832
chief shall not release the bond, cash, or securities required 4833
by this section except by court order or until the registration 4834
is terminated. 4835

Sec. 1514.04. (A) Upon receipt of notification from the 4836
chief of the division of mineral resources management of the 4837
chief's intent to issue an order granting a surface or in-stream 4838
mining permit to the applicant, the applicant shall file a 4839
surety bond, cash, an irrevocable letter of credit, or 4840
certificates of deposit in the amount, unless otherwise provided 4841
by rule, of ten thousand dollars. If the amount of land to be 4842
affected is more than twenty acres, the applicant also shall 4843
file a surety bond, cash, an irrevocable letter of credit, or 4844
certificates of deposit in the amount of five hundred dollars 4845
per acre of land to be affected that exceeds twenty acres. Upon 4846
receipt of notification from the chief of the chief's intent to 4847
issue an order granting an amendment to a surface or in-stream 4848
mining permit, the applicant shall file a surety bond, cash, an 4849
irrevocable letter of credit, or certificates of deposit in the 4850
amount required in this division. 4851

In the case of a surface mining permit, the bond shall be 4852
filed based on the number of acres estimated to be affected 4853
during the first year of operation under the permit. In the case 4854
of an amendment to a surface mining permit, the bond shall be 4855
filed based on the number of acres estimated to be affected 4856
during the balance of the period until the next anniversary date 4857
of the permit. 4858

In the case of an in-stream mining permit, the bond shall 4859
be filed based on the number of acres of land within the limits 4860

of the in-stream mining permit for the entire permit period. In 4861
the case of an amendment to an in-stream mining permit, the bond 4862
shall be filed based on the number of any additional acres of 4863
land to be affected within the limits of the in-stream mining 4864
permit. 4865

(B) A surety bond filed pursuant to this section and 4866
sections 1514.02 and 1514.03 of the Revised Code shall be upon 4867
the form that the chief prescribes and provides and shall be 4868
signed by the operator as principal and by a surety company 4869
authorized to transact business in the state as surety. The bond 4870
shall be payable to the state and shall be conditioned upon the 4871
faithful performance by the operator of all things to be done 4872
and performed by the operator as provided in this chapter and 4873
the rules and orders of the chief adopted or issued pursuant 4874
thereto. 4875

The operator may deposit with the chief, in lieu of a 4876
surety bond, cash in an amount equal to the surety bond as 4877
prescribed in this section or an irrevocable letter of credit or 4878
negotiable certificates of deposit issued by any bank organized 4879
or transacting business in this state having a cash value equal 4880
to or greater than the amount of the surety bond as prescribed 4881
in this section. Cash or certificates of deposit shall be 4882
deposited upon the same terms as the terms upon which surety 4883
bonds may be deposited. If the operator deposits cash, the cash 4884
shall be credited to the performance cash bond refunds fund 4885
created in section 1501.04 of the Revised Code. ~~If one or more~~ 4886
~~the operator deposits~~ certificates of deposit ~~are deposited with~~ 4887
~~the chief in lieu of a surety bond,~~ the chief shall require the 4888
bank that issued any such certificate to pledge securities of a 4889
cash value equal to the amount of the certificate, ~~or~~ 4890
~~certificates,~~ that is in excess of the amount insured by the 4891

federal deposit insurance corporation. The securities shall be 4892
security for the repayment of the certificate of deposit. 4893

(C) ~~Immediately upon~~ Upon a deposit of cash, a letter of 4894
credit, or certificates with the chief, the chief shall ~~deliver~~ 4895
~~it to the treasurer of state who shall hold it in trust for the~~ 4896
purposes for which it has been deposited. The ~~treasurer of state~~ 4897
chief shall be responsible for the safekeeping of such deposits. 4898
An operator making a deposit of cash, a letter of credit, or 4899
certificates of deposit may withdraw and receive, from the 4900
~~treasurer of state, on the written order of the chief,~~ all or 4901
any part of the cash, letter of credit, or certificates in the 4902
possession of the ~~treasurer of state~~chief, upon depositing with 4903
the ~~treasurer of state~~ cash, or chief an irrevocable letter of 4904
credit or negotiable certificates of deposit issued by any bank 4905
organized or transacting business in this state, equal in value 4906
to the value of the cash, letter of credit, or certificates 4907
withdrawn. An operator may demand and receive from the ~~treasurer~~ 4908
~~of state~~ chief all interest or other income from any 4909
certificates as it becomes due. If certificates deposited with 4910
and in the possession of the ~~treasurer of state~~ chief mature or 4911
are called for payment by the issuer thereof, the ~~treasurer of~~ 4912
~~state~~chief, at the request of the operator who deposited them, 4913
shall convert the proceeds of the redemption or payment of the 4914
certificates into such other negotiable certificates of deposit 4915
issued by any bank organized or transacting business in this 4916
state or cash, as may be designated by the operator. 4917

(D) A governmental agency, as defined in division (A) of 4918
section 1514.022 of the Revised Code, or a board or commission 4919
that derives its authority from a governmental agency shall not 4920
require a surface or in-stream mining operator to file a surety 4921
bond or any other form of financial assurance for the 4922

reclamation of land to be affected by a surface or in-stream 4923
mining operation authorized under this chapter. 4924

Sec. 1514.05. (A) At any time within the period allowed an 4925
operator by section 1514.02 of the Revised Code to reclaim an 4926
area of land affected by surface or in-stream mining, the 4927
operator may file a request, on a form provided by the chief of 4928
the division of mineral resources management, for inspection of 4929
the area of land upon which the reclamation, other than any 4930
required planting, is completed. The request shall include all 4931
of the following: 4932

(1) The location of the area and number of acres; 4933

(2) The permit number; 4934

(3) A map showing the location of the acres reclaimed, 4935
prepared and certified in accordance with division (A)(11) or 4936
(12) of section 1514.02 of the Revised Code, as appropriate. In 4937
the case of an in-stream mining operation, the map also shall 4938
include, as applicable, the information required under division 4939
(A)(18) of section 1514.02 of the Revised Code. 4940

The chief shall make an inspection and evaluation of the 4941
reclamation of the area of land for which the request was 4942
submitted within ninety days after receipt of the request or, if 4943
the operator fails to complete the reclamation or file the 4944
request as required, as soon as the chief learns of the default. 4945
Thereupon, if the chief approves the reclamation, other than any 4946
required planting, as meeting the requirements of this chapter, 4947
rules adopted thereunder, any orders issued during the mining or 4948
reclamation, and the specifications of the plan for mining and 4949
reclaiming, the chief shall issue an order to the operator and 4950
the operator's surety releasing them from liability for one-half 4951

of the total amount of their surety bond on deposit to ensure 4952
reclamation for the area upon which reclamation is completed. If 4953
the operator has deposited cash, an irrevocable letter of 4954
credit, or certificates of deposit in lieu of a surety bond to 4955
ensure reclamation, the chief shall ~~issue an order~~ deliver to 4956
the operator ~~releasing or the operator's authorized agent one-~~ 4957
half of the amount so held ~~and promptly shall transmit a-~~ 4958
~~certified copy of the order to the treasurer of state. Upon-~~ 4959

~~presentation of the order to the treasurer of state by the~~ 4960
~~operator to whom it was issued, or by the operator's authorized~~ 4961
~~agent, the treasurer of state shall deliver to the operator or~~ 4962
~~the operator's authorized agent the cash, irrevocable letter of~~ 4963
~~credit, or certificates of deposit designated in the order.~~ 4964

If the chief does not approve the reclamation, other than 4965
any required planting, the chief shall notify the operator by 4966
certified mail. The notice shall be an order stating the reasons 4967
for unacceptability, ordering further actions to be taken, and 4968
setting a time limit for compliance. If the operator does not 4969
comply with the order within the time limit specified, the chief 4970
may order an extension of time for compliance after determining 4971
that the operator's noncompliance is for good cause, resulting 4972
from developments partially or wholly beyond the operator's 4973
control. If the operator complies within the time limit or the 4974
extension of time granted for compliance, the chief shall order 4975
release of the performance bond in the same manner as in the 4976
case of approval of reclamation, other than any required 4977
planting, by the chief, and the ~~treasurer of state~~ chief shall 4978
proceed as in that case. If the operator does not comply within 4979
the time limit and the chief does not order an extension, or if 4980
the chief orders an extension of time and the operator does not 4981
comply within the extension of time granted for compliance, the 4982

chief shall issue another order declaring that the operator has 4983
failed to reclaim and, if the operator's permit has not already 4984
expired or been revoked, revoking the operator's permit. The 4985
chief shall thereupon proceed under division (C) of this 4986
section. 4987

(B) At any time within the period allowed an operator by 4988
section 1514.02 of the Revised Code to reclaim an area affected 4989
by surface mining, the operator may file a request, on a form 4990
provided by the chief, for inspection of the area of land on 4991
which all reclamation, including the successful establishment of 4992
any required planting, is completed. The request shall include 4993
all of the following: 4994

(1) The location of the area and number of acres; 4995

(2) The permit number; 4996

(3) The type and date of any required planting of 4997
vegetative cover and the degree of success of growth; 4998

(4) A map showing the location of the acres reclaimed, 4999
prepared and certified in accordance with division (A) (11) or 5000
(12) of section 1514.02 of the Revised Code, as appropriate. In 5001
the case of an in-stream mining operation, the map also shall 5002
include the information required under division (A) (18) of 5003
section 1514.02 of the Revised Code. 5004

The chief shall make an inspection and evaluation of the 5005
reclamation of the area of land for which the request was 5006
submitted within ninety days after receipt of the request or, if 5007
the operator fails to complete the reclamation or file the 5008
request as required, as soon as the chief learns of the default. 5009
Thereupon, if the chief finds that the reclamation meets the 5010
requirements of this chapter, rules adopted under it, any orders 5011

issued during the mining and reclamation, and the specifications 5012
of the plan for mining and reclaiming and decides to release any 5013
remaining performance bond on deposit to ensure reclamation of 5014
the area on which reclamation is completed, within ten days of 5015
completing the inspection and evaluation, the chief shall order 5016
release of the remaining performance bond in the same manner as 5017
in the case of approval of reclamation other than required 5018
planting, and the ~~treasurer of state~~chief shall proceed as in 5019
that case. 5020

If the chief does not approve the reclamation performed by 5021
the operator, the chief shall notify the operator by certified 5022
mail within ninety days of the filing of the application for 5023
inspection or of the date when the chief learns of the default. 5024
The notice shall be an order stating the reasons for 5025
unacceptability, ordering further actions to be taken, and 5026
setting a time limit for compliance. If the operator does not 5027
comply with the order within the time limit specified, the chief 5028
may order an extension of time for compliance after determining 5029
that the operator's noncompliance is for good cause, resulting 5030
from developments partially or wholly beyond the operator's 5031
control. If the operator complies within the time limit or the 5032
extension of time granted for compliance, the chief shall order 5033
release of the remaining performance bond in the same manner as 5034
in the case of approval of reclamation by the chief, and the 5035
~~treasurer of state~~chief shall proceed as in that case. If the 5036
operator does not comply within the time limit and the chief 5037
does not order an extension, or if the chief orders an extension 5038
of time and the operator does not comply within the extension of 5039
time granted for compliance, the chief shall issue another order 5040
declaring that the operator has failed to reclaim and, if the 5041
operator's permit has not already expired or been revoked, 5042

revoking the operator's permit. The chief then shall proceed 5043
under division (C) of this section. 5044

(C) Upon issuing an order under division (A) or (B) of 5045
this section declaring that the operator has failed to reclaim, 5046
the chief shall make a finding as to the number and location of 5047
the acres of land that the operator has failed to reclaim in the 5048
manner required by this chapter. The chief shall order the 5049
release of the performance bond in the amount of five hundred 5050
dollars per acre for those acres that the chief finds to have 5051
been reclaimed in the manner required by this chapter. The 5052
release shall be ordered in the same manner as in the case of 5053
other approval of reclamation by the chief, and the ~~treasurer of~~ 5054
~~state~~ chief shall proceed as in that case. If the operator has on 5055
deposit cash, an irrevocable letter of credit, or certificates 5056
of deposit to ensure reclamation of the area of the land 5057
affected, the chief at the same time shall issue an order 5058
declaring that the remaining cash, irrevocable letter of credit, 5059
or certificates of deposit are the property of the state and are 5060
available for use by the chief in performing reclamation of the 5061
area and shall proceed in accordance with section 1514.06 of the 5062
Revised Code. 5063

If the operator has on deposit a surety bond to ensure 5064
reclamation of the area of land affected, the chief shall notify 5065
the surety in writing of the operator's default and shall 5066
request the surety to perform the surety's obligation and that 5067
of the operator. The surety, within ten days after receipt of 5068
the notice, shall notify the chief as to whether it intends to 5069
perform those obligations. 5070

If the surety chooses to perform, it shall arrange for 5071
work to begin within thirty days of the day on which it notifies 5072

the chief of its decision. If the surety completes the work as 5073
required by this chapter, the chief shall issue an order to the 5074
surety releasing the surety from liability under the bond in the 5075
same manner as if the surety were an operator proceeding under 5076
this section. If, after the surety begins the work, the chief 5077
determines that the surety is not carrying the work forward with 5078
reasonable progress, or that it is improperly performing the 5079
work, or that it has abandoned the work or otherwise failed to 5080
perform its obligation and that of the operator, the chief shall 5081
issue an order terminating the right of the surety to perform 5082
the work and demanding payment of the amount due as required by 5083
this chapter. 5084

If the surety chooses not to perform and so notifies the 5085
chief, does not respond to the chief's notice within ten days of 5086
receipt thereof, or fails to begin work within thirty days of 5087
the day it timely notifies the chief of its decision to perform 5088
its obligation and that of the operator, the chief shall issue 5089
an order terminating the right of the surety to perform the work 5090
and demanding payment of the amount due, as required by this 5091
chapter. 5092

Upon receipt of an order of the chief demanding payment of 5093
the amount due, the surety immediately shall deposit with the 5094
chief cash in the full amount due under the order for deposit 5095
with the ~~treasurer of state~~ chief. If the surety fails to make an 5096
immediate deposit, the chief shall certify it to the attorney 5097
general for collection. When the chief has issued an order 5098
terminating the right of the surety and has the cash on deposit, 5099
the cash is the property of the state and is available for use 5100
by the chief, who shall proceed in accordance with section 5101
1514.06 of the Revised Code. 5102

Sec. 1521.061. (A) (1) Except as otherwise provided in this 5103
section, the chief of the division of water resources shall not 5104
issue a construction permit under section 1521.06 of the Revised 5105
Code unless the person or governmental agency applying for the 5106
permit executes and files a surety bond conditioned on 5107
completion of the dam or levee in accordance with the terms of 5108
the permit and the plans and specifications approved by the 5109
chief. Except as provided in division (A) (2) of this section, 5110
the surety bond shall equal: 5111

(a) \$50,000 for the first \$500,000 of the estimated cost 5112
of the project; plus 5113

(b) Twenty-five per cent of the estimated cost for the 5114
next \$4,500,000 of the estimated cost of the project; plus 5115

(c) Ten per cent of the estimated cost that exceeds 5116
\$5,000,000. 5117

(2) The chief may reduce the amount of the required surety 5118
bond to the amount equal to the cost estimate of construction 5119
activities necessary to render the dam nonhazardous if the cost 5120
estimate is provided by the applicant and approved by the chief. 5121

(B) If a permittee requests an extension of the time 5122
period during which a construction permit is valid in accordance 5123
with rules adopted under section 1521.06 of the Revised Code, 5124
the chief shall determine whether the revised construction cost 5125
estimate provided with the request exceeds the original 5126
construction cost estimate that was filed with the chief by more 5127
than twenty-five per cent. If the revised construction cost 5128
estimate exceeds the original construction cost estimate by more 5129
than twenty-five per cent, the chief may require an additional 5130
surety bond to be filed in an amount determined in accordance 5131

with division (A) of this section based on the revised 5132
construction cost estimate. 5133

(C) The chief shall not approve any bond until it is 5134
personally signed and acknowledged by both principal and surety, 5135
or as to either by the attorney in fact thereof, with a 5136
certified copy of the power of attorney attached. The chief 5137
shall not approve the bond unless there is attached a 5138
certificate of the superintendent of insurance that the company 5139
is authorized to transact a fidelity and surety business in this 5140
state. 5141

All bonds shall be given in a form prescribed by the chief 5142
and shall run to the state as obligee. 5143

(D) (1) The applicant may deposit, in lieu of a bond, cash 5144
in an amount equal to the amount of the bond or ~~United States~~ 5145
~~government securities or~~ negotiable certificates of deposit 5146
issued by any bank organized or transacting business in this 5147
state having a par value equal to or greater than the amount of 5148
the bond. Such cash or securities shall be deposited upon the 5149
same terms as bonds. If one or more certificates of deposit are 5150
deposited in lieu of a bond, the chief shall require the bank 5151
that issued any such certificate to pledge securities of the 5152
aggregate market value equal to the amount of the certificate 5153
that is in excess of the amount insured by the federal deposit 5154
insurance corporation. The securities to be pledged shall be 5155
those designated as eligible under section 135.18 of the Revised 5156
Code. The securities shall be security for the repayment of the 5157
certificate of deposit. 5158

(2) ~~Immediately upon~~ Upon a deposit of cash, ~~securities,~~ 5159
or certificates of deposit, the chief shall ~~deliver them to the~~ 5160
~~treasurer of state, who shall hold them in trust for the~~ 5161

purposes for which they have been deposited. ~~The treasurer of~~ 5162
~~state is responsible for the safekeeping of such deposits. If~~ 5163
the applicant deposits cash, the cash shall be credited to the 5164
performance cash bond refunds fund created in section 1501.04 of 5165
the Revised Code. An applicant making a deposit of cash, ~~—~~ 5166
~~securities,~~ or certificates of deposit may withdraw and receive, — 5167
~~from the treasurer of state, on the written order of the chief,~~ 5168
all or any portion of the cash, ~~securities,~~ or certificates of 5169
deposit, ~~upon depositing with the treasurer of state cash, chief~~ 5170
other ~~United States government securities, or negotiable~~ 5171
certificates of deposit issued by any bank organized or 5172
transacting business in this state equal in par value to the par 5173
value of the cash, ~~securities,~~ or certificates of deposit 5174
withdrawn. An applicant may demand and receive from the 5175
~~treasurer of state chief~~ all interest or other income from any 5176
such ~~securities or certificates~~ as it becomes due. If ~~securities—~~ 5177
certificates so deposited with and in the possession of the 5178
~~treasurer of state chief~~ mature or are called for payment by the 5179
issuer thereof, the ~~treasurer of state chief,~~ at the request of 5180
the applicant who deposited them, shall convert the proceeds of 5181
the redemption or payment of the ~~securities certificates~~ into 5182
~~such other United States government securities,~~ negotiable 5183
certificates of deposit issued by any bank organized or 5184
transacting business in this state, or cash as the applicant 5185
designates. 5186

(E) (1) When the chief finds that a person or governmental 5187
agency has failed to comply with the conditions of the person's 5188
or agency's bond, the chief shall make a finding of that fact 5189
and declare the bond, cash, ~~securities,~~ or certificates of 5190
deposit forfeited in the amount set by rule of the chief. The 5191
chief shall thereupon certify the total forfeiture to the 5192

attorney general, who shall proceed to collect that amount. 5193

(2) In lieu of total forfeiture, the surety, at its 5194
option, may cause the dam or levee to be completed as required 5195
by section 1521.06 of the Revised Code and rules of the chief, 5196
or otherwise rendered nonhazardous, or pay to the ~~treasurer of~~ 5197
~~state chief~~ the cost thereof. 5198

(F) (1) All moneys collected on account of forfeitures of 5199
bonds, cash, ~~securities~~, and certificates of deposit under this 5200
section shall be credited to the dam safety fund created in 5201
section 1521.06 of the Revised Code. The chief shall make 5202
expenditures from the fund to complete dams and levees for which 5203
bonds have been forfeited or to otherwise render them 5204
nonhazardous. 5205

(2) Expenditures from the fund for those purposes shall be 5206
made pursuant to contracts entered into by the chief with 5207
persons who agree to furnish all of the materials, equipment, 5208
work, and labor as specified and provided in the contract. 5209

(G) A surety bond shall not be required for a permit for a 5210
dam or levee that is to be designed and constructed by an agency 5211
of the United States government, if the agency files with the 5212
chief written assurance of the agency's financial responsibility 5213
for the structure for one year following the chief's approval of 5214
the completed construction provided for under division (E) of 5215
section 1521.06 of the Revised Code. 5216

Sec. 1548.06. (A) (1) Application for a certificate of 5217
title for a watercraft or outboard motor shall be made upon a 5218
form prescribed by the chief of the division of parks and 5219
watercraft and shall be sworn to before a notary public or other 5220
officer empowered to administer oaths. The application shall be 5221

filed with the clerk of any court of common pleas. An 5222
application for a certificate of title may be filed 5223
electronically by any electronic means approved by the chief in 5224
any county with the clerk of the court of common pleas of that 5225
county. The application shall be accompanied by the fee 5226
prescribed in section 1548.10 of the Revised Code. The fee shall 5227
be retained by the clerk who issues the certificate of title and 5228
shall be distributed in accordance with that section. If a clerk 5229
of a court of common pleas, other than the clerk of the court of 5230
common pleas of an applicant's county of residence, issues a 5231
certificate of title to the applicant, the clerk shall transmit 5232
data related to the transaction to the automated title 5233
processing system. 5234

(2) If a certificate of title previously has been issued 5235
for the watercraft or outboard motor, the application for a 5236
certificate of title also shall be accompanied by the 5237
certificate of title duly assigned unless otherwise provided in 5238
this chapter. If a certificate of title previously has not been 5239
issued for the watercraft or outboard motor in this state, the 5240
application, unless otherwise provided in this chapter, shall be 5241
accompanied by a manufacturer's or importer's certificate; by a 5242
sworn statement of ownership if the watercraft or outboard motor 5243
was purchased by the applicant on or before October 9, 1963, or 5244
if the watercraft is less than fourteen feet long with a 5245
permanently affixed mechanical means of propulsion and was 5246
purchased by the applicant on or before January 1, 2000; or by a 5247
certificate of title, bill of sale, or other evidence of 5248
ownership required by the law of another state from which the 5249
watercraft or outboard motor was brought into this state. 5250
Evidence of ownership of a watercraft or outboard motor for 5251
which an Ohio certificate of title previously has not been 5252

issued and which watercraft or outboard motor does not have 5253
permanently affixed to it a manufacturer's serial number shall 5254
be accompanied by the certificate of assignment of a hull 5255
identification number assigned by the chief as provided in 5256
section 1548.07 of the Revised Code. 5257

(3) The clerk shall retain the evidence of title presented 5258
by the applicant and on which the certificate of title is 5259
issued, except that, if an application for a certificate of 5260
title is filed electronically, by a vendor on behalf of a 5261
purchaser of a watercraft or outboard motor, the clerk shall 5262
retain the completed electronic record to which the vendor 5263
converted the certificate of title application and other 5264
required documents. The chief, after consultation with the 5265
attorney general, shall adopt rules that govern the location at 5266
which, and the manner in which, are stored the actual 5267
application and all other documents relating to the sale of a 5268
watercraft or outboard motor when a vendor files the application 5269
for a certificate of title electronically on behalf of a 5270
purchaser. 5271

(B) The clerk shall use reasonable diligence in 5272
ascertaining whether the facts in the application are true by 5273
checking the application and documents accompanying it or the 5274
electronic record to which a vendor converted the application 5275
and accompanying documents with the records of watercraft and 5276
outboard motors in the clerk's office. If the clerk is satisfied 5277
that the applicant is the owner of the watercraft or outboard 5278
motor and that the application is in the proper form, the clerk 5279
shall issue a physical certificate of title over the clerk's 5280
signature and sealed with the clerk's seal unless the applicant 5281
specifically requests the clerk not to issue a physical 5282
certificate of title and instead to issue an electronic 5283

certificate of title. However, if the evidence indicates and an 5284
investigation shows that one or more Ohio titles already exist 5285
for the watercraft or outboard motor, the chief may cause the 5286
redundant title or titles to be canceled. 5287

(C) In the case of the sale of a watercraft or outboard 5288
motor by a vendor to a general purchaser or user, the 5289
certificate of title shall be obtained in the name of the 5290
purchaser by the vendor upon application signed by the 5291
purchaser. In all other cases, the certificate shall be obtained 5292
by the purchaser. In all cases of transfer of watercraft or 5293
outboard motors, the application for certificate of title shall 5294
be filed within thirty days after the later of the date of 5295
purchase or assignment of ownership of the watercraft or 5296
outboard motor. If the application for certificate of title is 5297
not filed within thirty days after the later of the date of 5298
purchase or assignment of ownership of the watercraft or 5299
outboard motor, the clerk shall charge a late penalty fee of 5300
five dollars in addition to the fee prescribed by section 5301
1548.10 of the Revised Code. The clerk shall retain the entire 5302
amount of each late penalty fee. 5303

(D) The clerk shall refuse to accept an application for 5304
certificate of title unless the applicant either tenders with 5305
the application payment of all taxes levied by or pursuant to 5306
Chapter 5739. or 5741. of the Revised Code based on the 5307
applicant's county of residence less, in the case of a sale by a 5308
vendor, any discount to which the vendor is entitled under 5309
section 5739.12 of the Revised Code, or submits any of the 5310
following: 5311

(1) A receipt issued by the tax commissioner or a clerk of 5312
courts showing payment of the tax; 5313

(2) A copy of the unit certificate of exemption completed 5314
by the purchaser at the time of sale as provided in section 5315
5739.03 of the Revised Code; 5316

(3) An exemption certificate, in a form prescribed by the 5317
tax commissioner, that specifies why the purchase is not subject 5318
to the tax imposed by Chapter 5739. or 5741. of the Revised 5319
Code. 5320

Payment of the tax shall be in accordance with rules 5321
issued by the tax commissioner, and the clerk shall issue a 5322
receipt in the form prescribed by the tax commissioner to any 5323
applicant who tenders payment of the tax with the application 5324
for the certificate of title. 5325

(E) (1) For receiving and disbursing the taxes paid to the 5326
clerk by a resident of the clerk's county, the clerk may retain 5327
a poundage fee of one and one one-hundredth per cent of the 5328
taxes collected, which shall be paid into the certificate of 5329
title administration fund created by section 325.33 of the 5330
Revised Code. The clerk shall not retain a poundage fee from 5331
payments of taxes by persons who do not reside in the clerk's 5332
county. 5333

(2) A clerk, however, may retain from the taxes paid to 5334
the clerk an amount equal to the poundage fees associated with 5335
certificates of title issued by other clerks of courts of common 5336
pleas to applicants who reside in the first clerk's county. The 5337
chief of the division of parks and watercraft, in consultation 5338
with the tax commissioner and the clerks of the courts of common 5339
pleas, shall develop a report from the automated title 5340
processing system that informs each clerk of the amount of the 5341
poundage fees that the clerk is permitted to retain from those 5342
taxes because of certificates of title issued by the clerks of 5343

other counties to applicants who reside in the first clerk's 5344
county. 5345

(F) In the case of casual sales of watercraft or outboard 5346
motors that are subject to the tax imposed by Chapter 5739. or 5347
5741. of the Revised Code, the purchase price for the purpose of 5348
determining the tax shall be the purchase price on an affidavit 5349
executed and filed with the clerk by the vendor on a form to be 5350
prescribed by the chief, which shall be prima-facie evidence of 5351
the price for the determination of the tax. In addition to the 5352
information required by section 1548.08 of the Revised Code, 5353
each certificate of title shall contain in boldlettering the 5354
following notification and statements: "WARNING TO TRANSFEROR 5355
AND TRANSFEREE (SELLER AND BUYER). You are required by law to 5356
state the true selling price. A false statement is a violation 5357
of section 2921.13 of the Revised Code and is punishable by six 5358
months imprisonment or a fine of up to one thousand dollars, or 5359
both. All transfers are audited by the department of taxation. 5360
The seller and buyer must provide any information requested by 5361
the department of taxation. The buyer may be assessed any 5362
additional tax found to be due." 5363

(G) Each county clerk of courts shall forward to the 5364
~~treasurer of state~~ tax commissioner all sales and use tax 5365
collections resulting from sales of titled watercraft and 5366
outboard motors during a calendar week on or before the Friday 5367
following the close of that week. If, on any Friday, the offices 5368
of the clerk of courts or the state are not open for business, 5369
the tax shall be forwarded to the ~~treasurer of state~~ 5370
commissioner on or before the next day on which the offices are 5371
open. Every remittance of tax under this division shall be 5372
accompanied by a remittance report in such form as the ~~tax~~ 5373
commissioner prescribes. ~~Upon receipt of a tax remittance and~~ 5374

~~remittance report, the treasurer of state shall date stamp the~~ 5375
~~report and forward it to the tax commissioner.~~ If the tax due 5376
for any week is not remitted by a clerk of courts as required 5377
under this division, the clerk shall forfeit the poundage fees 5378
for the sales made during that week. The ~~treasurer of state~~ 5379
commissioner may require the clerks of courts to transmit tax 5380
collections and remittance reports electronically. 5381

(H) For purposes of a transfer of a certificate of title, 5382
if the clerk is satisfied that a secured party has discharged a 5383
lien but has not canceled the lien notation with a clerk, the 5384
clerk may cancel the lien notation on the automated title 5385
processing system and notify the clerk of the county of origin. 5386

(I) Every clerk shall have the capability to transact by 5387
electronic means all procedures and transactions relating to the 5388
issuance of watercraft or outboard motor certificates of title 5389
that are described in the Revised Code as being accomplished by 5390
electronic means. 5391

Sec. 1733.04. (A) In addition to the authority conferred 5392
by section 1701.13 of the Revised Code, but subject to any 5393
limitations contained in sections 1733.01 to 1733.45 of the 5394
Revised Code, and its articles and regulations, a credit union 5395
may do any of the following: 5396

(1) Make loans as provided in section 1733.25 of the 5397
Revised Code; 5398

(2) Invest its money as provided in section 1733.30 of the 5399
Revised Code; 5400

(3) If authorized by the code of regulations, rebate to 5401
the borrowing members a portion of the member's interest paid to 5402
the credit union; 5403

(4) If authorized by the regulations, charge a membership or entrance fee;	5404 5405
(5) Purchase group savings life insurance and group credit life insurance;	5406 5407
(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;	5408 5409
(7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.	5410 5411 5412 5413 5414 5415 5416 5417 5418 5419 5420 5421
(8) Participate in and pledge assets in connection with the business-linked deposit program programs under sections 135.77 to 135.774 of the Revised Code, the agricultural linked deposit program under sections 135.71 to 135.76 of the Revised Code, and the adoption linked deposit program under sections 135.79 to 135.796 <u>135.61 to 135.66</u> of the Revised Code.	5422 5423 5424 5425 5426 5427
(B) The authority of a credit union shall be subject to the following:	5428 5429
(1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without prior specific authorization by the superintendent of	5430 5431 5432

credit unions. 5433

(2) A credit union may not pay a commission or other 5434
compensation to any person for securing members or for the sale 5435
of its shares, except that reasonable incentives may be made 5436
available directly to members or potential members to promote 5437
thrift. 5438

(C) (1) A credit union may have service facilities other 5439
than its home office. 5440

(2) Real estate may be acquired by lease, purchase, or 5441
otherwise as necessary and to the extent required for use of the 5442
credit union presently and in the future operation of its office 5443
or headquarters, and in case of a purchase of real estate, the 5444
superintendent must first be notified in writing prior to the 5445
purchase of the real estate. Nothing herein contained shall be 5446
deemed to prohibit a credit union from taking title to real 5447
estate in connection with a default in the payment of a loan, 5448
provided that title to such real estate shall not be held by the 5449
credit union for more than two years without the prior written 5450
approval of the superintendent. A credit union also may lease 5451
space in any real estate it acquires in accordance with rules 5452
adopted by the superintendent. 5453

(D) (1) As used in division (D) of this section: 5454

(a) "School" means an elementary or secondary school. 5455

(b) "Student" means a child enrolled in a school. 5456

(c) "Student branch" means the designation provided to the 5457
credit union for the in-school services and financial education 5458
offered to students. 5459

(2) A credit union, upon agreement with a school board, in 5460

the case of a public school, or the governing authority, in the 5461
case of a nonpublic school, and with the permission of the 5462
superintendent, may open and maintain a student branch. 5463

(3) Notwithstanding any other provision of this section, 5464
any student enrolled in the school maintaining a student branch 5465
who is not otherwise qualified for membership in the credit 5466
union maintaining the student branch is qualified to be a member 5467
of that student branch. 5468

(4) The student's membership in the student branch expires 5469
upon the student's graduation from secondary school. 5470

(5) The student branch is for the express use of students 5471
and may not be used by faculty, staff, or lineal ancestors or 5472
~~descendants~~ descendants of students. 5473

(6) Faculty, staff, or lineal ancestors or ~~descendants~~ 5474
descendants of students are not eligible for membership in the 5475
credit union maintaining the student branch unless otherwise 5476
qualified by this section to be members. 5477

(7) The superintendent may adopt rules appropriate to the 5478
formation and operation of student branches. 5479

(E) A credit union may guarantee the signature of a member 5480
in connection with a transaction involving tangible or 5481
intangible property in which a member has or seeks to acquire an 5482
interest. 5483

Sec. 1733.24. (A) A credit union is authorized to receive 5484
funds for deposit in share accounts, share draft accounts, and 5485
share certificates from its members, from other credit unions, 5486
and from an officer, employee, or agent of the federal, state, 5487
or local governments, or political subdivisions of the state, in 5488
accordance with such terms, rates, and conditions as may be 5489

established by its board of directors, and for purposes of the 5490
~~agricultural-linked deposit program~~ programs created under 5491
sections ~~135.71 to 135.76 of the Revised Code, the business-~~ 5492
~~linked deposit program created under sections 135.77 to 135.774-~~ 5493
~~of the Revised Code, and the adoption linked deposit program-~~ 5494
~~under sections 135.79 to 135.796~~ 135.61 to 135.66 of the Revised 5495
Code. 5496

(B) The shares and share accounts of the credit union may 5497
be of one or more classes, as designated by the board of 5498
directors, subject to approval of the superintendent of credit 5499
unions based on rules that shall assure equitable distribution 5500
of dividends among classes, considering costs and advantages of 5501
each class to the members of the credit union, including without 5502
limitation special services rendered, length of ownership, 5503
minimum investment, conditions of repurchase, and other 5504
appropriate standards or combinations thereof. In the event the 5505
articles of incorporation of the credit union indicate the 5506
authorized number of shares to be unlimited, the designation of 5507
classification of shares and share accounts of the credit union 5508
may be effected by the board of directors, subject to the 5509
approval of the superintendent, and does not require amendment 5510
of the articles of incorporation. All shares of the credit union 5511
shall have a par value per share as set by the board of 5512
directors. Redemptions and liquidating dividends shall be 5513
prorated to each member on the basis of the price paid the 5514
credit union for such share, irrespective of the class of such 5515
shares. 5516

(C) (1) Each credit union shall have one class of shares 5517
designated as "membership share." The membership shares, or if a 5518
credit union has but one class of shares, then all of the shares 5519
of the credit union, shall have a par value as set by the board 5520

of directors. 5521

(2) Two or more persons that are eligible for membership 5522
that have jointly subscribed for one or more shares under a 5523
joint account each may be admitted to membership. 5524

(D) A credit union need not issue certificates for any or 5525
all of its classes of shares but irrespective of whether 5526
certificates are issued, a registry of shares must be kept, 5527
including all of the transactions of the credit union pertaining 5528
to such shares. 5529

(E) A credit union is authorized to maintain share draft 5530
accounts in accordance with rules prescribed by the 5531
superintendent. The credit union may pay dividends on share 5532
draft accounts, may pay dividends at different rates on 5533
different types of share draft accounts, and may permit the 5534
owners of such share draft accounts to make withdrawals by 5535
negotiable or transferable instruments or other orders for the 5536
purpose of making transfers to third parties. 5537

(F) Unless otherwise provided by written agreement of the 5538
parties, the rights, responsibilities, and liabilities attaching 5539
to a share draft withdrawn from, transferred to, or otherwise 5540
handled by a credit union are defined in and governed by 5541
Chapters 1303. and 1304. of the Revised Code, as if the credit 5542
union were a bank. 5543

(G) Unless otherwise provided in the articles or 5544
regulations, a member may designate any person or persons to own 5545
or hold shares, or share accounts with the member in joint 5546
tenancy with right of survivorship and not as tenants in common. 5547

(H) Shares or share accounts may be issued in the name of 5548
a custodian under the Ohio transfers to minors act, a member in 5549

trust for a beneficiary, a fiduciary or custodian in trust for a 5550
member beneficiary, or a fiduciary or custodian in trust upon 5551
the death of a member. Redemption of such shares or payment of 5552
such share accounts to a member, to the extent of the payment, 5553
discharges the liability of the credit union to the member and 5554
the beneficiary, and the credit union shall be under no 5555
obligation to see to the application of the payment. Unless 5556
prior to the death of a member, the member has notified the 5557
credit union in writing in a form approved by the credit union 5558
of a different beneficiary to receive the proceeds of such 5559
shares or share accounts, then the proceeds shall be paid to the 5560
beneficiary or to the beneficiary's parent or legal 5561
representative. Any payment made pursuant to written 5562
instructions of the member or pursuant to the provisions herein 5563
contained shall be a valid and sufficient release and discharge 5564
of the credit union in connection with any such share or share 5565
accounts. 5566

(I) (1) Except as otherwise provided in the articles or 5567
regulations, and subject to the provisions thereof, a minor may 5568
purchase shares, share accounts, or other depository 5569
instruments, and except for qualification as a voting member, 5570
the credit union may deal with the minor with respect to shares, 5571
share accounts, or other depository instruments owned by the 5572
minor as if the minor were a person of legal age. 5573

(2) If shares, share accounts, or other depository 5574
instruments are issued in the name of a minor, redemption of any 5575
part or all of the shares or withdrawal of funds by payment to 5576
the minor of the shares or funds and any declared dividends or 5577
interest releases the credit union from all obligation to the 5578
minor as to the shares reduced or funds withdrawn. 5579

(J) The regulations may require advance written notice of 5580
a member's intention to withdraw the member's shares. Such 5581
advance notice shall not exceed sixty days. 5582

(K) Notwithstanding any provision of law to the contrary, 5583
funds deposited in a share account, share certificate, or in any 5584
other manner pursuant to a program offered by a credit union to 5585
promote consumer savings do not constitute valuable 5586
consideration for purposes of a scheme of chance under Chapter 5587
2915. of the Revised Code. 5588

Sec. 1735.03. No title guarantee and trust company shall 5589
do business until it has deposited with the ~~treasurer of state~~ 5590
superintendent of insurance fifty thousand dollars, in 5591
securities permitted by sections 3925.05, 3925.06, and 3925.08 5592
of the Revised Code. The ~~treasurer of state~~ superintendent shall 5593
hold such securities deposited with ~~him~~ the superintendent as 5594
security for the faithful performance of all guarantees entered 5595
into and all trusts accepted by such company, but so long as it 5596
continues solvent ~~he~~ the superintendent shall permit it to 5597
collect the interest of, or dividends or distributions on, its 5598
securities so deposited, and to withdraw any of such securities 5599
on depositing with ~~him~~ the superintendent cash or other 5600
securities of the kind specified in this section so as to 5601
maintain the value of such deposit at fifty thousand dollars. 5602

If such a company has made such deposits with the 5603
~~treasurer of state~~ superintendent of insurance, it may request 5604
~~him~~ the superintendent to return to it securities held by ~~him~~ 5605
the superintendent in such deposit in excess of the amount 5606
required, and ~~he~~ the superintendent shall then surrender such 5607
excess to the company, taking proper receipts therefor. 5608

Sec. 2109.37. (A) Except as otherwise provided by law, 5609

including division (D) of this section, or by the instrument 5610
creating the trust, a fiduciary having funds belonging to a 5611
trust that are to be invested may invest them in the following: 5612

(1) Bonds or other obligations of the United States or of 5613
this state; 5614

(2) Bonds or other interest-bearing obligations of any 5615
county, municipal corporation, school district, or other legally 5616
constituted political taxing subdivision within the state, 5617
provided that the county, municipal corporation, school 5618
district, or other subdivision has not defaulted in the payment 5619
of the interest on any of its bonds or interest-bearing 5620
obligations, for more than one hundred twenty days during the 5621
ten years immediately preceding the investment by the fiduciary 5622
in the bonds or other obligations, and provided that the county, 5623
municipal corporation, school district, or other subdivision, is 5624
not, at the time of the investment, in default in the payment of 5625
principal or interest on any of its bonds or other interest- 5626
bearing obligations; 5627

(3) Bonds or other interest-bearing obligations of any 5628
other state of the United States which, within twenty years 5629
prior to the making of that investment, has not defaulted for 5630
more than ninety days in the payment of principal or interest on 5631
any of its bonds or other interest-bearing obligations; 5632

(4) Any bonds issued by or for federal land banks and any 5633
debentures issued by or for federal intermediate credit banks 5634
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 5635
U.S.C.A. 641, as amended; or any debentures issued by or for 5636
banks for cooperatives under the "Farm Credit Act of 1933," 48 5637
Stat. 257, 12 U.S.C.A. 131, as amended; 5638

(5) Notes that are: (a) secured by a first mortgage on 5639
real property held in fee and located in the state, improved by 5640
a unit designed principally for residential use for not more 5641
than four families or by a combination of that dwelling unit and 5642
business property, the area designed or used for nonresidential 5643
purposes not to exceed fifty per cent of the total floor area; 5644
(b) secured by a first mortgage on real property held in fee and 5645
located in the state, improved with a building designed for 5646
residential use for more than four families or with a building 5647
used primarily for business purposes, if the unpaid principal of 5648
the notes secured by that mortgage does not exceed ten per cent 5649
of the value of the estate or trust or does not exceed five 5650
thousand dollars, whichever is greater; or (c) secured by a 5651
first mortgage on an improved farm held in fee and located in 5652
the state, provided that the mortgage requires that the 5653
buildings on the mortgaged property shall be well insured 5654
against loss by fire, and so kept, for the benefit of the 5655
mortgagee, until the debt is paid, and provided that the unpaid 5656
principal of the notes secured by the mortgage shall not exceed 5657
fifty per cent of the fair value of the mortgaged real property 5658
at the time the investment is made, and the notes shall be 5659
payable not more than five years after the date on which the 5660
investment in them is made; except that the unpaid principal of 5661
the notes may equal sixty per cent of the fair value of the 5662
mortgaged real property at the time the investment is made, and 5663
may be payable over a period of fifteen years following the date 5664
of the investment by the fiduciary if regular installment 5665
payments are required sufficient to amortize four per cent or 5666
more of the principal of the outstanding notes per annum and if 5667
the unpaid principal and interest become due and payable at the 5668
option of the holder upon any default in the payment of any 5669
installment of interest or principal upon the notes, or of 5670

taxes, assessments, or insurance premiums upon the mortgaged 5671
premises or upon the failure to cure any such default within any 5672
grace period provided in the notes not exceeding ninety days in 5673
duration; 5674

(6) Life, endowment, or annuity contracts of legal reserve 5675
life insurance companies regulated by sections 3907.01 to 5676
3907.21, 3909.01 to 3909.17, 3911.01 to 3911.24, 3913.01 to 5677
3913.10, 3915.01 to 3915.15, and 3917.01 to 3917.05 of the 5678
Revised Code, and licensed by the superintendent of insurance to 5679
transact business within the state, provided that the purchase 5680
of contracts authorized by this division shall be limited to 5681
executors or the successors to their powers when specifically 5682
authorized by will and to guardians and trustees, which 5683
contracts may be issued on the life of a ward, a beneficiary of 5684
a trust fund, or according to a will, or upon the life of a 5685
person in whom the ward or beneficiary has an insurable interest 5686
and the contracts shall be drawn by the insuring company so that 5687
the proceeds shall be the sole property of the person whose 5688
funds are so invested; 5689

(7) Notes or bonds secured by mortgages and insured by the 5690
federal housing administrator or debentures issued by that 5691
administrator; 5692

(8) Obligations issued by a federal home loan bank created 5693
under the "Federal Home Loan Bank Act of 1932," 47 Stat. 725, 12 5694
U.S.C.A. 1421, as amended; 5695

(9) Shares and certificates or other evidences of deposits 5696
issued by a federal savings and loan association organized and 5697
incorporated under the "Home Owners' Loan Act of 1933," 48 Stat. 5698
128, 12 U.S.C.A. 1461, as amended, to the extent and only to the 5699
extent that those shares or certificates or other evidences of 5700

deposits are insured pursuant to the "Financial Institutions 5701
Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 5702
12 U.S.C.A. 1811, as amended; 5703

(10) Bonds issued by the home owners' loan corporation 5704
created under the "Home Owners' Act of 1933," 48 Stat. 128, 12 5705
U.S.C.A. 1461, as amended; 5706

(11) Obligations issued by the national mortgage 5707
association created under the "National Housing Act," 48 Stat. 5708
1246 (1934), 12 U.S.C.A. 1701, as amended; 5709

(12) Shares and certificates or other evidences of 5710
deposits issued by a domestic savings and loan association 5711
organized under the laws of the state, which association has 5712
obtained insurance of accounts pursuant to the "Financial 5713
Institutions Reform, Recovery, and Enforcement Act of 1989," 103 5714
Stat. 183, 12 U.S.C.A. 1811, as amended, or as may be otherwise 5715
provided by law, only to the extent that the evidences of 5716
deposits are insured under that act, as amended; 5717

(13) Shares and certificates or other evidences of 5718
deposits issued by a domestic savings and loan association 5719
organized under the laws of the state, provided that no 5720
fiduciary may invest the deposits except with the approval of 5721
the probate court, and then in an amount not to exceed the 5722
amount that the fiduciary is permitted to invest under division 5723
(A) (12) of this section; 5724

(14) In savings accounts in, or certificates or other 5725
evidences of deposits issued by, a national bank located in the 5726
state or a state bank located in and organized under the laws of 5727
the state or a state credit union located and organized under 5728
the laws of the state or a federal credit union located in the 5729

state by depositing the funds in the bank or credit union, and 5730
the national or state bank or the federal or state credit union 5731
when itself acting in a fiduciary capacity may deposit the funds 5732
in savings accounts in, or certificates or other evidences of 5733
deposits issued by, its own savings department or any bank 5734
subsidiary corporation owned or controlled by the bank holding 5735
company that owns or controls the national or state bank; 5736
provided that no deposit shall be made by any fiduciary, 5737
individual or corporate, unless the deposits of the depository 5738
bank are insured by the federal deposit insurance corporation 5739
created under the "Federal Deposit Insurance Corporation Act of 5740
1933," 48 Stat. 162, 12 U.S.C. 264, as amended, or provided that 5741
no deposit shall be made by any fiduciary, individual or 5742
corporate, unless the deposits of the depository credit union 5743
are insured by the national credit union administration created 5744
under the "Federal Credit Union Act of 1934," 48 Stat. 1216, 12 5745
U.S.C. 1751, as amended, or the deposits of the depository 5746
credit union are insured by a share guaranty corporation as 5747
defined in Chapter 1761. of the Revised Code, and provided that 5748
the deposit of the funds of any one trust in those savings 5749
accounts in, or certificates or other evidences of deposits 5750
issued by, any one bank or credit union shall not exceed the sum 5751
insured under those acts, as amended, or under Chapter 1761. of 5752
the Revised Code; 5753

(15) Obligations consisting of notes, bonds, debentures, 5754
or equipment trust certificates issued under an indenture that 5755
are the direct obligations, or in the case of equipment trust 5756
certificates are secured by direct obligations, of a railroad or 5757
industrial corporation, or a corporation engaged directly and 5758
primarily in the production, transportation, distribution, or 5759
sale of electricity or gas, or the operation of telephone or 5760

telegraph systems or waterworks, or in some combination of them; 5761
provided that the obligor corporation is one that is 5762
incorporated under the laws of the United States, any state, the 5763
District of Columbia, or foreign government, and the obligations 5764
are rated at the time of purchase in the highest or next highest 5765
classification established by at least two ~~standard~~statistical 5766
rating ~~services~~organizations selected from a list of the 5767
~~standard~~statistical rating ~~services~~organizations that shall be 5768
prescribed by the superintendent of financial institutions; 5769
provided that every such list shall be certified by the 5770
superintendent to the clerk of each probate court in the state, 5771
and shall continue in effect until a different list is 5772
prescribed and certified as provided in this division; 5773

(16) Obligations issued, assumed, or guaranteed by the 5774
international finance corporation or by the international bank 5775
for reconstruction and development, the Asian development bank, 5776
the inter-American development bank, the African development 5777
bank, or other similar development bank in which the president, 5778
as authorized by congress and on behalf of the United States, 5779
has accepted membership, provided that the obligations are rated 5780
at the time of purchase in the highest or next highest 5781
classification established by at least one ~~standard~~statistical 5782
rating ~~service~~organization selected from a list of ~~standard~~statistical 5783
rating ~~services~~organizations that shall be 5784
prescribed by the superintendent of financial institutions; 5785

(17) Securities of any investment company, as defined in 5786
and registered under sections 3 and 8 of the "Investment Company 5787
Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8, that 5788
are invested exclusively in forms of investment or in 5789
instruments that are fully collateralized by forms of investment 5790
in which the fiduciary is permitted to invest pursuant to 5791

divisions (A) (1) to (16) of this section, provided that, in 5792
addition to those forms of investment, the investment company 5793
may, for the purpose of reducing risk of loss or of stabilizing 5794
investment returns, engage in hedging transactions. 5795

(B) No administrator or executor may invest funds 5796
belonging to an estate in any asset other than a direct 5797
obligation of the United States that has a maturity date not 5798
exceeding one year from the date of investment, or other than in 5799
a short-term investment fund that is invested exclusively in 5800
obligations of the United States or of its agencies, or 5801
primarily in those obligations and otherwise only in variable 5802
demand notes, corporate money market instruments including, but 5803
not limited to, commercial paper, or fully collateralized 5804
repurchase agreements or other evidences of indebtedness that 5805
are payable on demand or generally have a maturity date not 5806
exceeding ninety-one days from the date of investment, except 5807
with the approval of the probate court or with the permission of 5808
the instruments creating the trust. 5809

(C) (1) In addition to the investments allowed by this 5810
section, a guardian or trustee, with the approval of the court, 5811
may invest funds belonging to the trust in productive real 5812
property located within the state, provided that neither the 5813
guardian nor the trustee nor any member of the family of either 5814
has any interest in the real property or in the proceeds of the 5815
purchase price. The title to any real property so purchased by a 5816
guardian shall be taken in the name of the ward. 5817

(2) Notwithstanding the provisions of division (C) (1) of 5818
this section, the court may permit the funds to be used to 5819
purchase or acquire a home for the ward or an interest in a home 5820
for the ward in which a member of the ward's family may have an 5821

interest. After the filing of the petition by a guardian or a conservator for authority to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest, the matter shall be set for a hearing before the probate court.

(D) If the fiduciary is a trustee appointed by and accountable to the probate court, the fiduciary shall invest the trust's assets pursuant to the requirements and standards set forth in the Ohio Uniform Prudent Investor Act.

Sec. 2109.372. (A) As used in this section:

(1) "Short term trust-quality investment fund" means a short term investment fund that meets both of the following conditions:

(a) The fund may be either a collective investment fund established in accordance with section 1111.14 of the Revised Code or a registered investment company, including any affiliated investment company whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same registered investment company or affiliated investment company.

(b) The fund is invested in any one or more of the following manners:

(i) In obligations of the United States or of its agencies;

(ii) In obligations of one or more of the states of the United States or their political subdivisions;

(iii) In obligations of foreign governments or states;

(iv) In variable demand notes, corporate money market

instruments including, but not limited to, commercial paper 5850
rated at the time of purchase in either of the two highest 5851
classifications established by at least one nationally 5852
recognized ~~standard~~ statistical rating service organization; 5853

(v) Deposits in banks, savings banks, or savings and loan 5854
associations, whose deposits are insured by the federal deposit 5855
insurance corporation, or in credit unions insured by the 5856
national credit union administration or by a credit union share 5857
guaranty corporation established under Chapter 1761. of the 5858
Revised Code, if the rate of interest paid on those deposits is 5859
at least equal to the rate of interest generally paid by those 5860
banks, savings banks, savings and loan associations, or credit 5861
unions on deposits of similar terms or amounts; 5862

(vi) In fully collateralized repurchase agreements or 5863
other evidences of indebtedness that are of trust quality and 5864
are payable on demand or have a maturity date consistent with 5865
the purpose of the fund and the duty of fiduciary prudence. 5866

(2) "Registered investment company" means any investment 5867
company that is defined in and registered under sections 3 and 8 5868
of the "Investment Company Act of 1940," 54 Stat. 789, 15 5869
U.S.C.A. 80a-3 and 80a-8. 5870

(3) "Affiliated investment company" has the same meaning 5871
as in division (E) (1) of section 1111.13 of the Revised Code. 5872

(B) A fiduciary is not required to invest cash that 5873
belongs to the trust and may hold that cash for the period prior 5874
to distribution if either of the following applies: 5875

(1) The fiduciary reasonably expects to do either of the 5876
following: 5877

(a) Distribute the cash to beneficiaries of the trust on a 5878

quarterly or more frequent basis;	5879
(b) Use the cash for the payment of debts, taxes, or	5880
expenses of administration within the ninety-day period	5881
following the receipt of the cash by the fiduciary.	5882
(2) Determined on the basis of the facilities available to	5883
the fiduciary and the amount of the income that reasonably could	5884
be earned by the investment of the cash, the amount of the cash	5885
does not justify the administrative burden or expense associated	5886
with its investment.	5887
(C) If a fiduciary wishes to hold funds that belong to the	5888
trust in liquid form and division (B) of this section does not	5889
apply, the fiduciary may so hold the funds as long as they are	5890
temporarily invested as described in division (D) of this	5891
section.	5892
(D) (1) A fiduciary may make a temporary investment of cash	5893
that the fiduciary may hold uninvested in accordance with	5894
division (B) of this section, and shall make a temporary	5895
investment of funds held in liquid form pursuant to division (C)	5896
of this section, in any of the following investments, unless the	5897
governing instrument provides for other investments in which the	5898
temporary investment of cash or funds is permitted:	5899
(a) A short term trust-quality investment fund;	5900
(b) Direct obligations of the United States or of its	5901
agencies;	5902
(c) A deposit with a bank, savings bank, savings and loan	5903
association, or credit union, including a deposit with the	5904
fiduciary itself or any bank subsidiary corporation owned or	5905
controlled by the bank holding company that owns or controls the	5906
fiduciary, whose deposits are insured by the federal deposit	5907

insurance corporation, if the rate of interest paid on that 5908
deposit is at least equal to the rate of interest generally paid 5909
by that bank, savings bank, savings and loan association, or 5910
credit union on deposits of similar terms or amounts. 5911

(2) A fiduciary that makes a temporary investment of cash 5912
or funds pursuant to division (D)(1) of this section may charge 5913
a reasonable fee for the services associated with that 5914
investment. The fee shall be in addition to the compensation to 5915
which the fiduciary is entitled for ordinary fiduciary services. 5916

(3) Fiduciaries that make one or more temporary 5917
investments of cash or funds pursuant to division (D)(1) of this 5918
section shall provide to the beneficiaries of the trusts 5919
involved, that are currently receiving income or have a right to 5920
receive income, a written disclosure of their temporary 5921
investment practices and, if applicable, the method of computing 5922
reasonable fees for their temporary investment services pursuant 5923
to division (D)(2) of this section. Fiduciaries may comply with 5924
this requirement in any appropriate written document, including, 5925
but not limited to, any periodic statement or account. 5926

(4) A fiduciary that makes a temporary investment of cash 5927
or funds in an affiliated investment company pursuant to 5928
division (D)(1)(a) of this section shall, when providing any 5929
periodic account statements of its temporary investment 5930
practices, report the net asset value of the shares comprising 5931
the investment in the affiliated investment company. 5932

(5) If a fiduciary that makes a temporary investment of 5933
cash or funds in an affiliated investment company pursuant to 5934
division (D)(1)(a) of this section invests in any mutual fund, 5935
the fiduciary shall provide to the beneficiaries of the trust 5936
involved, that are currently receiving income or have a right to 5937

receive income, a written disclosure, in at least ten-point 5938
boldface type, that the mutual fund is not insured or guaranteed 5939
by the federal deposit insurance corporation or by any other 5940
government agency or government-sponsored agency of the federal 5941
government or of this state. 5942

Sec. 2109.44. (A) Fiduciaries shall not buy from or sell 5943
to themselves and shall not have in their individual capacities 5944
any dealings with the estate, except as expressly authorized by 5945
the instrument creating the trust and then only with the 5946
approval of the probate court in each instance. No corporate 5947
fiduciary, as defined in section 1101.01 of the Revised Code, 5948
that is not subject to examination or regulatory oversight by 5949
the superintendent of financial institutions, ~~or~~ the comptroller 5950
of the currency, ~~or the office of thrift supervision~~ shall be 5951
permitted to deal with the estate, any power in the instrument 5952
creating the trust to the contrary notwithstanding. This section 5953
does not prohibit a fiduciary from making an advancement if the 5954
advancement has been expressly authorized by the instrument 5955
creating the trust or if the probate court approves or from 5956
engaging in any act authorized by this chapter. 5957

(B) The fiduciary may petition the court for authority to 5958
purchase property of the estate if all of the following 5959
requirements are met: 5960

(1) Written consent to the purchase is signed by the 5961
following: 5962

(a) Each known heir whose interest in the estate would be 5963
affected by the proposed purchase; 5964

(b) Each known devisee whose interest in the estate would 5965
be affected by the proposed purchase. 5966

(2) The written consents are filed with the court. 5967

(3) The purchase is shown to be to the advantage of the 5968
estate. 5969

(C) The court shall deliver notice of the hearing on the 5970
petition to the heirs, devisees, or legatees of the estate or 5971
any interested person. 5972

Sec. 3314.50. No community school shall initiate 5973
operation, ~~on or after the effective date of this amendment,~~ 5974
unless the governing authority of the school has posted a bond 5975
in the amount of fifty thousand dollars with the auditor of 5976
state. The bond shall be used, in the event the school closes, 5977
to pay the auditor of state any moneys owed or that become owed 5978
by the school for the costs of audits conducted by the auditor 5979
of state or a public accountant under Chapter 117. of the 5980
Revised Code. 5981

The department of education shall notify the auditor of 5982
state of the proposed initiation of operations of any community 5983
school and shall provide the auditor of state with the 5984
certification of the sponsor of the community school of the 5985
compliance by the community school with all legal preconditions 5986
to the initiation of its operations, including compliance with 5987
this section. 5988

In lieu of the bond, ~~the governing authority of the~~ 5989
~~school, the school's sponsor,~~ or an operator that has a contract 5990
with the school may ~~deposit with the auditor of state cash in~~ 5991
~~the amount of fifty thousand dollars as guarantee of payment~~ 5992
~~under the provisions of this section. In lieu of a bond or a~~ 5993
~~cash deposit, the school's sponsor or an operator that has a~~ 5994
~~contract with the school may~~ provide a written guarantee of 5995

payment, which shall obligate the school's sponsor or the 5996
operator that provides the written guarantee to pay the cost of 5997
audits of the school under this section up to the amount of 5998
fifty thousand dollars. Any such written guarantee shall be 5999
binding upon any successor entity that enters into a contract to 6000
sponsor or to operate the school, and any such entity, as a 6001
condition of its undertaking shall acknowledge and accept such 6002
obligation. 6003

In the event that a sponsor or operator has provided a 6004
written guarantee under this section, and, subsequent to the 6005
provision of the guarantee, the governing authority of the 6006
school posts a bond under this section, ~~or the governing~~ 6007
~~authority of the school, a sponsor, or an operator provides a~~ 6008
~~cash deposit of fifty thousand dollars as required,~~ the written 6009
guarantee shall cease to be of further effect. 6010

~~As soon as it is practicable to do so after the filing of~~ 6011
~~a bond or the deposit of cash, the auditor of state shall~~ 6012
~~deliver the bond or cash to the treasurer of state, who shall~~ 6013
~~hold it in trust for the purposes prescribed in this section.~~ 6014
~~The treasurer of state shall be responsible for the safekeeping~~ 6015
~~of all bonds filed or cash deposited under this section.~~ The 6016
auditor of state shall notify the department of education when 6017
the school's governing authority has filed the bond, ~~deposited~~ 6018
~~the cash guarantee,~~ or submitted a written guarantee of payment. 6019

When the auditor of state conducts an audit of a community 6020
school that has closed and is subject to the requirements of 6021
this section, the auditor of state shall certify the amount of 6022
forfeiture to the ~~treasurer of state~~ attorney general, who shall 6023
assess the bond for the costs of the audit ~~or shall pay money~~ 6024
~~from the named insurer or from the school's cash deposit for the~~ 6025

~~costs of the audit~~ to reimburse the auditor of state or public 6026
accountant for costs incurred in conducting audits of the 6027
school. 6028

To the extent that the amount of the bond ~~or the cash~~ 6029
~~deposit~~ is not needed to cover audit costs, the bond shall be of 6030
no further effect, ~~and any cash balance shall be refunded by the~~ 6031
~~treasurer of state to the entity which provided the bond.~~ When 6032
the auditor of state conducts an audit of a community school 6033
that has closed and is subject to the requirements of this 6034
section, and, as to which, a written guarantee has been given 6035
under this section, the entity that provided the guarantee shall 6036
be solely and fully liable for any such audit costs, and shall 6037
promptly pay the costs of the audit up to fifty thousand 6038
dollars. 6039

No community school that is subject to the provisions of 6040
this section shall maintain or continue its operations absent 6041
the ongoing provision of a bond, ~~a cash deposit,~~ or a written 6042
guarantee as required by this section. 6043

Sec. 3366.05. The issuing authority, as an eligible not- 6044
for-profit holder of federal education loans, may act as an 6045
eligible not-for-profit servicer of certain student loans owned 6046
by the federal government under Section 2212 of the "Health Care 6047
and Education Reconciliation Act of 2010," Pub. L. No. 111-152. 6048
The issuing authority is authorized to take such actions and to 6049
enter into such contracts and to execute all instruments 6050
necessary or appropriate to act as an eligible not-for-profit 6051
servicer. Notwithstanding division (C) of section 3366.03 and 6052
division (B) of section 3366.04 of the Revised Code, revenues 6053
received by the issuing authority under this section shall be 6054
deposited in an account in the custody of the treasurer of state 6055

that is not part of the state treasury and shall be used to pay 6056
administrative costs incurred by the issuing authority. 6057
Unexpended amounts shall be deposited in the state treasury and 6058
credited, as determined by the treasurer of state, to the 6059
treasurer of state's administrative fund created under section 6060
113.20 of the Revised Code or the treasurer's information 6061
technology reserve fund created under section 113.22 of the 6062
Revised Code. 6063

Sec. 3737.945. Moneys in the funds of the petroleum 6064
underground storage tank release compensation board, except as 6065
otherwise provided in any resolution authorizing the issuance of 6066
its revenue bonds or in any trust agreement securing the same, 6067
in excess of current needs, may be invested by the board in 6068
notes, bonds, or other obligations of the United States, or of 6069
any agency or instrumentality thereof, or in obligations of this 6070
state or any political subdivision thereof, or the treasurer of 6071
state's investment pool authorized under section 135.45 of the 6072
Revised Code. Income from all such investments of moneys in any 6073
fund shall be credited to such funds as the board determines, 6074
subject to the provisions of any resolution or trust agreement, 6075
and the investments may be sold as the board determines. 6076

Sec. 3903.73. All securities deposited with the 6077
superintendent of insurance shall be ~~deposited by him with the~~ 6078
~~treasurer of state, and the treasurer of state shall not deliver~~ 6079
~~such securities or coupons attached thereto, except upon the~~ 6080
~~written order of~~ held by the superintendent for the purpose 6081
intended. No security shall be accepted for deposit by the 6082
superintendent unless it is of par value and market value of one 6083
thousand dollars or more. 6084

Sec. 3905.32. For each initial license issued under 6085

section 3905.30 of the Revised Code and renewal of that license, 6086
the superintendent of insurance shall collect one hundred 6087
dollars. ~~The renewal fee shall be paid to the treasurer of~~ 6088
~~state.~~ 6089

Sec. 3916.01. As used in this chapter: 6090

(A) "Advertising" means any written, electronic, or 6091
printed communication or any communication by means of recorded 6092
telephone messages or transmitted on radio, television, the 6093
internet, or similar communications media, including, but not 6094
limited to, film strips, motion pictures, and videos, that is 6095
published, disseminated, circulated, or placed directly or 6096
indirectly before the public in this state for the purpose of 6097
creating an interest in or inducing a person to purchase or 6098
sell, assign, devise, bequest, or transfer the death benefit or 6099
ownership of a policy pursuant to a viatical settlement 6100
contract. 6101

(B) "Business of viatical settlements" means an activity 6102
involved, but not limited to, in the offering, solicitation, 6103
negotiation, procurement, effectuation, purchasing, investing, 6104
financing, monitoring, tracking, underwriting, selling, 6105
transferring, assigning, pledging, or hypothecating or in any 6106
other manner acquiring an interest in a policy by means of 6107
viatical settlement contracts. 6108

(C) "Chronically ill" means having been certified within 6109
the preceding twelve-month period by a licensed health 6110
professional as: 6111

(1) Being unable to perform, without substantial 6112
assistance from another individual, at least two activities of 6113
daily living, including, but not limited to, eating, toileting, 6114

transferring, bathing, dressing, or continence for at least 6115
ninety days due to a loss of functional capacity; or 6116

(2) Requiring substantial supervision to protect the 6117
individual from threats to health and safety due to severe 6118
cognitive impairment; or 6119

(3) Having a level of disability similar to that described 6120
in division (C) (1) of this section, as determined under 6121
regulations prescribed by the United States secretary of the 6122
treasury in consultation with the United States secretary of 6123
health and human services. 6124

(D) "Escrow agent" means an independent third-party person 6125
who, pursuant to a written agreement signed by the viatical 6126
settlement provider and viator, provides escrow services related 6127
to the acquisition of a policy pursuant to a viatical settlement 6128
contract. "Escrow agent" does not include any person associated 6129
with, affiliated with, or under the control of a person licensed 6130
under this chapter or described in division (C) of section 6131
3916.02 of the Revised Code. 6132

(E) (1) "Financing entity" means an underwriter, placement 6133
agent, lender, purchaser of securities, purchaser of a policy 6134
from a viatical settlement provider, credit enhancer, or any 6135
other person that has a direct ownership interest in a policy 6136
that is the subject of a viatical settlement contract and to 6137
which both of the following apply: 6138

(a) Its principal activity related to the transaction is 6139
providing funds to effect the business of viatical settlements 6140
or the purchase of one or more viaticated policies. 6141

(b) It has an agreement in writing with one or more 6142
licensed viatical settlement providers to finance the 6143

acquisition of viatical settlement contracts. 6144

(2) "Financing entity" does not include a non-accredited 6145
investor or viatical settlement purchaser. 6146

(F) "Recklessly" has the same meaning as in section 6147
2901.22 of the Revised Code. 6148

(G) "Defraud" has the same meaning as in section 2913.01 6149
of the Revised Code. 6150

(H) "Life expectancy" means an opinion or evaluation as to 6151
how long a particular person is going to live. 6152

(I) Notwithstanding section 1.59 of the Revised Code, 6153
"person" means a natural person or a legal entity, including, 6154
but not limited to, an individual, partnership, limited 6155
liability company, limited liability partnership, association, 6156
trust, business trust, or corporation. 6157

(J) "Policy" means an individual or group policy, group 6158
certificate, or other contract or arrangement of life insurance 6159
affecting the rights of a resident of this state or bearing a 6160
reasonable relation to this state, regardless of whether 6161
delivered or issued for delivery in this state. 6162

(K) "Related provider trust" means a titling trust or any 6163
other trust established by a licensed viatical settlement 6164
provider or a financing entity for the sole purpose of holding 6165
ownership or beneficial interest in purchased policies in 6166
connection with a financing transaction, provided that the trust 6167
has a written agreement with the licensed viatical settlement 6168
provider under which the licensed viatical settlement provider 6169
is responsible for ensuring compliance with all statutory and 6170
regulatory requirements and under which the trust agrees to make 6171
all records and files related to viatical settlement 6172

transactions available to the superintendent of insurance as if 6173
those records and files were maintained directly by the licensed 6174
viatical settlement provider. 6175

(L) "Special purpose entity" means a corporation, 6176
partnership, trust, limited liability company or other similar 6177
entity formed solely for one of the following purposes: 6178

(i) To provide access, either directly or indirectly, to 6179
institutional capital markets for a financing entity or licensed 6180
viatical settlement provider; 6181

(ii) In connection with a transaction in which the 6182
securities in the special purpose entity are acquired by 6183
qualified institutional buyers. 6184

(M) "Terminally ill" means certified by a physician as 6185
having an illness or physical condition that can reasonably be 6186
expected to result in death in twenty-four months or less. 6187

(N) "Viatical settlement broker" means a person that, on 6188
behalf of a viator and for a fee, commission, or other valuable 6189
consideration, offers or attempts to negotiate viatical 6190
settlements between a viator and one or more viatical settlement 6191
providers or viatical settlement brokers. "Viatical settlement 6192
broker" does not include an attorney, a certified public 6193
accountant, or a financial planner accredited by a nationally 6194
recognized accreditation agency, who is retained to represent 6195
the viator, whose compensation is not paid directly or 6196
indirectly by the viatical settlement provider or purchaser. 6197

(O) (1) "Viatical settlement contract" means any of the 6198
following: 6199

(a) A written agreement between a viator and a viatical 6200
settlement provider that establishes the terms under which 6201

compensation or anything of value, that is less than the 6202
expected death benefit of the policy is or will be paid in 6203
return for the viator's present or future assignment, transfer, 6204
sale, release, devise, or bequest of the death benefit or 6205
ownership of any portion of the policy or any beneficial 6206
interest in the policy or its ownership; 6207

(b) The transfer or acquisition for compensation or 6208
anything of value for ownership or beneficial interest in a 6209
trust or an interest in another person that owns such a policy 6210
if the trust or other person was formed or availed of for the 6211
principal purpose of acquiring one or more life insurance 6212
policies; 6213

(c) A premium finance loan made for a policy by a lender 6214
to a viator on, before, or after the date of issuance of the 6215
policy in either of the following situations: 6216

(i) The viator or the insured receives a guarantee of the 6217
viatical settlement value of the policy. 6218

(ii) The viator or the insured agrees on, before, or after 6219
the issuance of the policy to sell the policy or any portion of 6220
the policy's death benefit. 6221

(2) "Viatical settlement contracts" include but are not 6222
limited to contracts that are commonly termed "life settlement 6223
contracts" and "senior settlement contracts." 6224

(3) "Viatical settlement contract" does not include any of 6225
the following unless part of a plan, scheme, device, or artifice 6226
to avoid the application of this chapter: 6227

(a) A policy loan or accelerated death benefit made by the 6228
insurer pursuant to the policy's terms whether issued with the 6229
original policy or a rider; 6230

(b) Loan proceeds that are used solely to pay premiums for 6231
the policy and the costs of the loan including interest, 6232
arrangement fees, utilization fees and similar fees, closing 6233
costs, legal fees and expenses, trustee fees and expenses, and 6234
third-party collateral provider fees and expenses, including 6235
fees payable to letter of credit issuers; 6236

(c) A loan made by a regulated financial institution in 6237
which the lender takes an interest in a policy solely to secure 6238
repayment of a loan or, if there is a default on the loan and 6239
the policy is transferred, the transfer of such a policy by the 6240
lender, provided that neither the default itself nor the 6241
transfer is pursuant to an agreement or understanding with any 6242
other person for the purpose of evading regulation under this 6243
chapter; 6244

(d) A premium finance loan made by a lender that does not 6245
violate sections 1321.71 to 1321.83 of the Revised Code, if the 6246
premium finance loan is not described in division (O) (1) (c) of 6247
this section; 6248

(e) An agreement where all parties are closely related to 6249
the insured by blood or law or have a lawful substantial 6250
economic interest in the continued life, health, and bodily 6251
safety of the person insured, or are persons or trusts 6252
established primarily for the benefit of such parties; 6253

(f) Any designation, consent, or agreement by an insured 6254
who is an employee of an employer in connection with the 6255
purchase by the employer, or trust established by the employer, 6256
of life insurance on the life of the employee as described in 6257
section 3911.091 of the Revised Code; 6258

(g) Any business succession planning arrangement 6259

including, but not limited to all of the following if the 6260
arrangements are bona fide arrangements: 6261

(i) An arrangement between one or more shareholders in a 6262
corporation or between a corporation and one or more of its 6263
shareholders or one or more persons or trusts established by its 6264
shareholders; 6265

(ii) An arrangement between one or more partners in a 6266
partnership or between a partnership and one or more of its 6267
partners or one or more trusts established by its partners; 6268

(iii) An arrangement between one or more members in a 6269
limited liability company or between a limited liability company 6270
and one or more of its members or one or more trusts established 6271
by its members. 6272

(h) An agreement entered into by a service recipient, a 6273
trust established by the service recipient and a service 6274
provider, or a trust established by the service provider who 6275
performs significant services for the service recipient's trade 6276
or business; 6277

(i) An arrangement or agreement with a special purpose 6278
entity; 6279

(j) Any other contract, transaction, or arrangement 6280
exempted from the definition of viatical settlement contract by 6281
rule adopted by the superintendent based on the superintendent's 6282
determination that the contract, transaction, or arrangement is 6283
not of the type regulated by this chapter. 6284

(P) (1) "Viatical settlement provider" means a person, 6285
other than a viator, that enters into or effectuates a viatical 6286
settlement contract. 6287

(2) "Viatical settlement provider" does not include any of the following:	6288 6289
(a) A bank, savings bank, savings and loan association, credit union, or other regulated financial institution that takes an assignment of a policy solely as a collateral for a loan;	6290 6291 6292 6293
(b) A premium finance company exempted under section 1321.72 of the Revised Code from the licensure requirements of section 3921.73 of the Revised Code that takes an assignment of a policy solely as collateral for a premium finance loan;	6294 6295 6296 6297
(c) The issuer of a policy;	6298
(d) An individual who enters into or effectuates not more than one viatical settlement contract in any calendar year for the transfer of life insurance policies for any value less than the expected death benefit;	6299 6300 6301 6302
(e) An authorized or eligible insurer that provides stop loss coverage or financial guarantee insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;	6303 6304 6305 6306
(f) A financing entity;	6307
(g) A special purpose entity;	6308
(h) A related provider trust;	6309
(i) A viatical settlement purchaser;	6310
(j) Any other person the superintendent determines is not consistent with the definition of viatical settlement provider.	6311 6312
(Q) "Viaticated policy" means a policy that has been acquired by a viatical settlement provider pursuant to a	6313 6314

viatical settlement contract. 6315

(R) "Viator" means the owner of a policy or a certificate 6316
holder under a group policy that has not previously been 6317
viaticated who, in return for compensation or anything of value 6318
that is less than the expected death benefit of the policy or 6319
certificate, assigns, transfers, sells, releases, devises, or 6320
bequests the death benefit or ownership of any portion of the 6321
policy or certificate of insurance. For the purposes of this 6322
chapter, a "viator" is not limited to an owner of a policy or a 6323
certificate holder under a group policy insuring the life of an 6324
individual who is terminally or chronically ill except where 6325
specifically addressed. "Viator" does not include any of the 6326
following: 6327

- (1) A licensee under this chapter; 6328
- (2) A qualified institutional buyer; 6329
- (3) A financing entity; 6330
- (4) A special purpose entity; 6331
- (5) A related provider trust. 6332

(S) "Viatical settlement purchaser" means a person who 6333
provides a sum of money as consideration for a policy or an 6334
interest in the death benefits of a policy from a viatical 6335
settlement provider that is the subject of a viatical settlement 6336
contract, or a person who owns, acquires, or is entitled to a 6337
beneficial interest in a trust or person that owns a viatical 6338
settlement contract or is the beneficiary of a policy that is 6339
the subject of a viatical settlement contract, for the purpose 6340
of deriving an economic benefit. "Viatical settlement purchaser" 6341
does not include any of the following: 6342

(1) A licensee under this chapter;	6343
(2) A qualified institutional buyer;	6344
(3) A financing entity;	6345
(4) A special purpose entity;	6346
(5) A related provider trust.	6347
(T) "Qualified institutional buyer" has the same meaning	6348
as in 17 C.F.R. 230.144A as that regulation exists on the	6349
effective date of this amendment <u>September 11, 2008.</u>	6350
(U) "Licensee" means a person licensed as a viatical	6351
settlement provider or viatical settlement broker under this	6352
chapter.	6353
(V) "NAIC" means the national association of insurance	6354
commissioners.	6355
(X) "Regulated financial institution" means a bank, a	6356
savings association, or credit union operating under authority	6357
granted by the superintendent of financial institutions, the	6358
regulatory authority of any other state of the United States,	6359
the office of thrift supervision, the national credit union	6360
administration, or the office of the comptroller of the	6361
currency.	6362
(W) (1) "Stranger-originated life insurance," or "STOLI,"	6363
means a practice, arrangement, or agreement initiated at or	6364
prior to the issuance of a policy that includes both of the	6365
following:	6366
(a) The purchase or acquisition of a policy primarily	6367
benefiting one or more persons who, at the time of issuance of	6368
the policy, lack insurable interest in the person insured under	6369

the policy; 6370

(b) The transfer at any time of the legal or beneficial 6371
ownership of the policy or benefits of the policy or both, in 6372
whole or in part, including through an assumption or forgiveness 6373
of a loan to fund premiums. 6374

(2) "Stranger-originated life insurance" also includes 6375
trusts or other persons that are created to give the appearance 6376
of insurable interest and are used to initiate one or more 6377
policies for investors but violate insurable interest laws and 6378
the prohibition against wagering on life. 6379

(3) "Stranger-originated life insurance" does not include 6380
viatical settlement transactions specifically described in 6381
division (0) (3) of this section. 6382

Sec. 3925.26. When a company organized under section 6383
3925.25 of the Revised Code desires to do business in another 6384
state, by the laws of which, to qualify it therefor, it must 6385
make a deposit of securities assigned in trust for the benefit 6386
of its policyholders with an officer of this state, the 6387
~~treasurer of state~~ superintendent of insurance shall receive 6388
such deposit and issue therefor to the company ~~his~~ a receipt, 6389
giving a pertinent description of the securities and a 6390
certificate of their market value. ~~The treasurer of state shall~~ 6391
~~issue a like certificate to the superintendent of insurance, who~~ 6392
~~shall place it on file in his office.~~ Such company may exchange 6393
these securities for other like securities, in whole or in part, 6394
as far as its business requires, and it may wholly withdraw them 6395
if it discontinues business in such other state. ~~Such changes or~~ 6396
~~withdrawals of securities shall at once be certified by the~~ 6397
~~treasurer of state to the superintendent.~~ 6398

Sec. 4141.241. (A) (1) Any nonprofit organization described 6399
in division (X) of section 4141.01 of the Revised Code, which 6400
becomes subject to this chapter on or after January 1, 1972, 6401
shall pay contributions under section 4141.25 of the Revised 6402
Code, unless it elects, in accordance with this division, to pay 6403
to the director of job and family services for deposit in the 6404
unemployment compensation fund an amount in lieu of 6405
contributions equal to the amount of regular benefits plus one 6406
half of extended benefits paid from that fund that is 6407
attributable to service in the employ of the nonprofit 6408
organization to individuals whose service, during the base 6409
period of the claims, was within the effective period of such 6410
election. 6411

(2) Any nonprofit organization which becomes subject to 6412
this chapter after January 1, 1972, may elect to become liable 6413
for payments in lieu of contributions for a period of not less 6414
than the remainder of that calendar year and the next calendar 6415
year, beginning with the date on which such subjectivity begins, 6416
by filing a written notice of its election with the director not 6417
later than thirty days immediately following the date of the 6418
determination of such subjectivity. 6419

(3) Any nonprofit organization which makes an election in 6420
accordance with this division will continue to be liable for 6421
payments in lieu of contributions for the period described in 6422
this division and until it files with the director a written 6423
notice terminating its election. The notice shall be filed not 6424
later than thirty days prior to the beginning of the calendar 6425
year for which the termination is to become effective. 6426

(4) Any nonprofit organization which has been paying 6427
contributions for a period subsequent to January 1, 1972, may 6428

change to a reimbursable basis by filing with the director, not 6429
later than thirty days prior to the beginning of any calendar 6430
year, a written notice of election to become liable for payments 6431
in lieu of contributions. The election shall not be terminable 6432
by the organization during that calendar year and the next 6433
calendar year. 6434

(5) The director, in accordance with any rules the 6435
director prescribes, shall notify each nonprofit organization of 6436
any determination which the director may make of its status as 6437
an employer and of the effective date of any election which it 6438
makes and of any termination of the election. Any determinations 6439
shall be subject to reconsideration, appeal, and review in 6440
accordance with section 4141.26 of the Revised Code. 6441

(B) Except as provided in division (I) of section 4141.29 6442
of the Revised Code, benefits based on service with a nonprofit 6443
organization granted a reimbursing status under this section 6444
shall be payable in the same amount, on the same terms, and 6445
subject to the same conditions, as benefits payable on the basis 6446
of other service subject to this chapter. Payments in lieu of 6447
contributions shall be made in accordance with this division and 6448
division (D) of section 4141.24 of the Revised Code. 6449

(1) (a) At the end of each calendar quarter, or at the end 6450
of any other period as determined by the director under division 6451
(D) (4) of section 4141.24 of the Revised Code, the director 6452
shall bill each nonprofit organization or group of such 6453
organizations which has elected to make payments in lieu of 6454
contributions for an amount equal to the full amount of regular 6455
benefits plus one half of the amount of extended benefits paid 6456
during such quarter or other prescribed period which is 6457
attributable to service in the employ of such organization. 6458

(b) In the computation of the amount of benefits to be charged to employers liable for payments in lieu of contributions, all benefits attributable to service described in division (B) (1) (a) of this section shall be computed and charged to such organization as described in division (D) of section 4141.24 of the Revised Code, and, except as provided in division (D) (2) of section 4141.24 of the Revised Code, no portion of the amount may be charged to the mutualized account established by division (B) of section 4141.25 of the Revised Code.

(c) The director may prescribe regulations under which organizations, which have elected to make payments in lieu of contributions, may request permission to make such payments in equal installments throughout the year with an adjustment at the end of the year for any excess or shortage of the amount of such installment payments compared with the total amount of benefits actually charged the organization's account during the year. In making any adjustment, where the total installment payments are less than the actual benefits charged, the organization shall be liable for payment of the unpaid balance in accordance with division (B) (2) of this section. If the total installment payments exceed the actual benefits charged, all or part of the excess may, at the discretion of the director, be refunded or retained in the fund as part of the payments which may be required in the next year.

(2) Payment of any bill rendered under division (B) (1) of this section shall be made not later than thirty days after the bill was mailed to the last known address of the organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with division (B) (4) of this section.

(3) Payments made by an organization under this section 6489
shall not be deducted or deductible, in whole or in part, from 6490
the remuneration of individuals in the employ of the 6491
organization. 6492

(4) An organization may file an application for review and 6493
redetermination of the amounts appearing on any bill rendered to 6494
such organization under division (B)(1) of this section. The 6495
application shall be filed and determined under division (D)(4) 6496
of section 4141.24 of the Revised Code. 6497

(5) Past-due payments of amounts in lieu of contributions 6498
shall be subject to the same interest rates and collection 6499
procedures that apply to past-due contributions under sections 6500
4141.23 and ~~414.27~~ 4141.27 of the Revised Code. In case of 6501
failure to file a required quarterly report within the time 6502
prescribed by the director, the nonprofit organization shall be 6503
subject to a forfeiture pursuant to section 4141.20 of the 6504
Revised Code for each quarterly report that is not timely filed. 6505

All interest and forfeitures collected under this division 6506
shall be paid into the unemployment compensation special 6507
administrative fund as provided in section 4141.11 of the 6508
Revised Code. 6509

(6) All payments in lieu of contributions collected under 6510
this section shall be paid into the unemployment compensation 6511
fund as provided in section 4141.09 of the Revised Code. Any 6512
refunds of such payments shall be paid from the unemployment 6513
compensation fund, as provided in section 4141.09 of the Revised 6514
Code. 6515

(C)(1) Any nonprofit organization, or group of such 6516
organizations approved under division (D) of this section, that 6517

elects to become liable for payments in lieu of contributions 6518
shall be required within thirty days after the effective date of 6519
its election, to execute and file with the director a surety 6520
bond approved by the director ~~or it may elect instead to deposit~~ 6521
~~with the director approved municipal or other bonds, or approved~~ 6522
~~securities, or a combination thereof, or other forms of~~ 6523
~~collateral security approved by the director.~~ 6524

(2) (a) The amount of the bond ~~or deposit~~ required shall be 6525
equal to three per cent of the organization's wages paid for 6526
employment as defined in section 4141.01 of the Revised Code 6527
that would have been taxable had the organization been a subject 6528
employer during the four calendar quarters immediately preceding 6529
the effective date of the election, or the amount established by 6530
the director within the limitation provided in division ~~(C) (2)~~ 6531
~~(d) (C) (2) (c)~~ of this section, whichever is the less. The 6532
effective date of the amount of the bond ~~or other collateral~~ 6533
~~security~~ required after the employer initially is determined by 6534
the director to be liable for payments in lieu of contributions 6535
shall be the renewal date ~~in the case of a the bond or the~~ 6536
~~biennial anniversary of the effective date of election in the~~ 6537
~~case of deposit of securities or other forms of collateral~~ 6538
~~security approved by the director, whichever date shall be most~~ 6539
~~recent and applicable.~~ If the nonprofit organization did not pay 6540
wages in each of such four calendar quarters, the amount of the 6541
bond or deposit shall be as determined by the director under 6542
regulations prescribed for this purpose. 6543

(b) Any bond ~~or other form of collateral security approved~~ 6544
~~by the director~~ deposited under this division shall be in force 6545
for a period of not less than two calendar years and shall be 6546
renewed with the approval of the director, at such times as the 6547
director may prescribe, but not less frequently than at two-year 6548

intervals as long as the organization continues to be liable for 6549
payments in lieu of contributions. The director shall require 6550
adjustments to be made in a previously filed bond ~~or other form~~ 6551
~~of collateral security~~ as the director considers appropriate. If 6552
the bond ~~or other form of collateral security~~ is to be 6553
increased, the adjusted bond ~~or collateral security~~ shall be 6554
filed by the organization within thirty days of the date that 6555
notice of the required adjustment was mailed or otherwise 6556
delivered to it. Failure by any organization covered by such 6557
bond ~~or collateral security~~ to pay the full amount of payments 6558
in lieu of contributions when due, together with any applicable 6559
interest provided for in division (B) (5) of this section, shall 6560
render the surety liable on the bond ~~or collateral security~~ to 6561
the extent of the bond ~~or collateral security~~, as though the 6562
surety was the organization. 6563

~~(c) Any securities accepted in lieu of surety bond by the~~ 6564
~~director shall be deposited with the treasurer of state who~~ 6565
~~shall have custody thereof and retain the same in the treasurer~~ 6566
~~of state's possession, or release them, according to conditions~~ 6567
~~prescribed by regulations of the director. Income from the~~ 6568
~~securities, held in custody by the treasurer of state, shall~~ 6569
~~accrue to the benefit of the depositor and shall be distributed~~ 6570
~~to the depositor in the absence of any notification from the~~ 6571
~~director that the depositor is in default on any payment owed to~~ 6572
~~the director. The director may require the sale of any such~~ 6573
~~bonds to the extent necessary to satisfy any unpaid payments in~~ 6574
~~lieu of contributions, together with any applicable interest or~~ 6575
~~forfeitures provided for in division (B) (5) of this section. The~~ 6576
~~director shall require the employer within thirty days following~~ 6577
~~any sale of deposited securities, under this subdivision, to~~ 6578
~~deposit additional securities, surety bond, or combination of~~ 6579

~~both, to make whole the employer's security deposit at the 6580
approved level. Any cash remaining from the sale of such 6581
securities may, at the discretion of the director, be refunded 6582
in whole or in part, or be paid into the unemployment 6583
compensation fund to cover future payments required of the 6584
organization. 6585~~

~~(d) The required bond or deposit for any nonprofit 6586
organization, or group of such organizations approved by the 6587
director under division (D) of this section, that is determined 6588
by the director to be liable for payments in lieu of 6589
contributions effective beginning on and after January 1, 1996, 6590
but prior to January 1, 1998, and the required bond or deposit 6591
for any renewed elections under division (C) (2) (b) of this 6592
section effective during that period shall not exceed one 6593
million two hundred fifty thousand dollars. The required bond or 6594
deposit for any nonprofit organization, or group of such 6595
organizations approved by the director under division (D) of 6596
this section, that is determined to be liable for payments in 6597
lieu of contributions effective on and after January 1, 1998, 6598
and the required bond or deposit for any renewed elections 6599
effective on and after January 1, 1998, shall not exceed two 6600
million dollars. 6601~~

~~(3) If any nonprofit organization fails to file a bond or 6602
make a deposit, or to file a bond in an increased amount or to 6603
make whole the amount of a previously made deposit, as provided 6604
under this division, the director may terminate the 6605
organization's election to make payments in lieu of 6606
contributions effective for the quarter following such failure 6607
and the termination shall continue for not less than the 6608
remainder of that calendar year and the next calendar year, 6609
beginning with the quarter in which the termination becomes 6610~~

effective; except that the director may extend for good cause 6611
the applicable filing, ~~deposit, or adjustment~~ period by not more 6612
than thirty days. 6613

(D) (1) Two or more nonprofit organizations that have 6614
become liable for payments in lieu of contributions, in 6615
accordance with division (A) of this section, may file a joint 6616
application to the director for the establishment of the group 6617
account for the purpose of sharing the cost of benefits paid 6618
that are attributable to service in the employ of those 6619
employers. Notwithstanding division (E) of section 4141.242 of 6620
the Revised Code, hospitals operated by this state or a 6621
political subdivision may participate in a group account with 6622
nonprofit organizations under the procedures set forth in this 6623
section. Each application shall identify and authorize a group 6624
representative to act as the group's agent for the purposes of 6625
this division. 6626

(2) Upon the director's approval of the application, the 6627
director shall establish a group account for the employers 6628
effective as of the beginning of the calendar quarter in which 6629
the director receives the application and shall notify the 6630
group's representative of the effective date of the account. The 6631
account shall remain in effect for not less than two years and 6632
thereafter until terminated by the director or upon application 6633
by the group. 6634

(3) Upon establishment of the account, each member of the 6635
group shall be liable, in the event that the group 6636
representative fails to pay any bill issued to it pursuant to 6637
division (B) of this section, for payments in lieu of 6638
contributions with respect to each calendar quarter in the 6639
amount that bears the same ratio to the total benefits paid in 6640

the quarter that are attributable to service performed in the 6641
employ of all members of the group as the total wages paid for 6642
service in employment by the member in the quarter bear to the 6643
total wages paid during the quarter for service performed in the 6644
employ of all members of the group. 6645

(4) The director shall adopt regulations as considered 6646
necessary with respect to the following: applications for 6647
establishment, bonding, maintenance, and termination of group 6648
accounts that are authorized by this section; addition of new 6649
members to and withdrawal of active members from such accounts; 6650
and the determination of the amounts that are payable under this 6651
division by the group representative and in the event of default 6652
in payment by the group representative, members of the group, 6653
and the time and manner of payments. 6654

Sec. 4505.06. (A) (1) Application for a certificate of 6655
title shall be made in a form prescribed by the registrar of 6656
motor vehicles and shall be sworn to before a notary public or 6657
other officer empowered to administer oaths. The application 6658
shall be filed with the clerk of any court of common pleas. An 6659
application for a certificate of title may be filed 6660
electronically by any electronic means approved by the registrar 6661
in any county with the clerk of the court of common pleas of 6662
that county. Any payments required by this chapter shall be 6663
considered as accompanying any electronically transmitted 6664
application when payment actually is received by the clerk. 6665
Payment of any fee or taxes may be made by electronic transfer 6666
of funds. 6667

(2) The application for a certificate of title shall be 6668
accompanied by the fee prescribed in section 4505.09 of the 6669
Revised Code. The fee shall be retained by the clerk who issues 6670

the certificate of title and shall be distributed in accordance 6671
with that section. If a clerk of a court of common pleas, other 6672
than the clerk of the court of common pleas of an applicant's 6673
county of residence, issues a certificate of title to the 6674
applicant, the clerk shall transmit data related to the 6675
transaction to the automated title processing system. 6676

(3) If a certificate of title previously has been issued 6677
for a motor vehicle in this state, the application for a 6678
certificate of title also shall be accompanied by that 6679
certificate of title duly assigned, unless otherwise provided in 6680
this chapter. If a certificate of title previously has not been 6681
issued for the motor vehicle in this state, the application, 6682
unless otherwise provided in this chapter, shall be accompanied 6683
by a manufacturer's or importer's certificate or by a 6684
certificate of title of another state from which the motor 6685
vehicle was brought into this state. If the application refers 6686
to a motor vehicle last previously registered in another state, 6687
the application also shall be accompanied by the physical 6688
inspection certificate required by section 4505.061 of the 6689
Revised Code. If the application is made by two persons 6690
regarding a motor vehicle in which they wish to establish joint 6691
ownership with right of survivorship, they may do so as provided 6692
in section 2131.12 of the Revised Code. If the applicant 6693
requests a designation of the motor vehicle in beneficiary form 6694
so that upon the death of the owner of the motor vehicle, 6695
ownership of the motor vehicle will pass to a designated 6696
transfer-on-death beneficiary or beneficiaries, the applicant 6697
may do so as provided in section 2131.13 of the Revised Code. A 6698
person who establishes ownership of a motor vehicle that is 6699
transferable on death in accordance with section 2131.13 of the 6700
Revised Code may terminate that type of ownership or change the 6701

designation of the transfer-on-death beneficiary or 6702
beneficiaries by applying for a certificate of title pursuant to 6703
this section. The clerk shall retain the evidence of title 6704
presented by the applicant and on which the certificate of title 6705
is issued, except that, if an application for a certificate of 6706
title is filed electronically by an electronic motor vehicle 6707
dealer on behalf of the purchaser of a motor vehicle, the clerk 6708
shall retain the completed electronic record to which the dealer 6709
converted the certificate of title application and other 6710
required documents. The registrar, after consultation with the 6711
attorney general, shall adopt rules that govern the location at 6712
which, and the manner in which, are stored the actual 6713
application and all other documents relating to the transfer of 6714
a motor vehicle when an electronic motor vehicle dealer files 6715
the application for a certificate of title electronically on 6716
behalf of the purchaser. Not later than December 31, 2017, the 6717
registrar shall arrange for a service that enables all 6718
electronic motor vehicle dealers to file applications for 6719
certificates of title on behalf of purchasers of motor vehicles 6720
electronically by transferring the applications directly from 6721
the computer systems of the dealers to the clerk. 6722

The clerk shall use reasonable diligence in ascertaining 6723
whether or not the facts in the application for a certificate of 6724
title are true by checking the application and documents 6725
accompanying it or the electronic record to which a dealer 6726
converted the application and accompanying documents with the 6727
records of motor vehicles in the clerk's office. If the clerk is 6728
satisfied that the applicant is the owner of the motor vehicle 6729
and that the application is in the proper form, the clerk, 6730
within five business days after the application is filed and 6731
except as provided in section 4505.021 of the Revised Code, 6732

shall issue a physical certificate of title over the clerk's 6733
signature and sealed with the clerk's seal, unless the applicant 6734
specifically requests the clerk not to issue a physical 6735
certificate of title and instead to issue an electronic 6736
certificate of title. For purposes of the transfer of a 6737
certificate of title, if the clerk is satisfied that the secured 6738
party has duly discharged a lien notation but has not canceled 6739
the lien notation with a clerk, the clerk may cancel the lien 6740
notation on the automated title processing system and notify the 6741
clerk of the county of origin. 6742

(4) In the case of the sale of a motor vehicle to a 6743
general buyer or user by a dealer, by a motor vehicle leasing 6744
dealer selling the motor vehicle to the lessee or, in a case in 6745
which the leasing dealer subleased the motor vehicle, the 6746
sublessee, at the end of the lease agreement or sublease 6747
agreement, or by a manufactured housing broker, the certificate 6748
of title shall be obtained in the name of the buyer by the 6749
dealer, leasing dealer, or manufactured housing broker, as the 6750
case may be, upon application signed by the buyer. The 6751
certificate of title shall be issued, or the process of entering 6752
the certificate of title application information into the 6753
automated title processing system if a physical certificate of 6754
title is not to be issued shall be completed, within five 6755
business days after the application for title is filed with the 6756
clerk. If the buyer of the motor vehicle previously leased the 6757
motor vehicle and is buying the motor vehicle at the end of the 6758
lease pursuant to that lease, the certificate of title shall be 6759
obtained in the name of the buyer by the motor vehicle leasing 6760
dealer who previously leased the motor vehicle to the buyer or 6761
by the motor vehicle leasing dealer who subleased the motor 6762
vehicle to the buyer under a sublease agreement. 6763

In all other cases, except as provided in section 4505.032 6764
and division (D) (2) of section 4505.11 of the Revised Code, such 6765
certificates shall be obtained by the buyer. 6766

(5) (a) (i) If the certificate of title is being obtained in 6767
the name of the buyer by a motor vehicle dealer or motor vehicle 6768
leasing dealer and there is a security interest to be noted on 6769
the certificate of title, the dealer or leasing dealer shall 6770
submit the application for the certificate of title and payment 6771
of the applicable tax to a clerk within seven business days 6772
after the later of the delivery of the motor vehicle to the 6773
buyer or the date the dealer or leasing dealer obtains the 6774
manufacturer's or importer's certificate, or certificate of 6775
title issued in the name of the dealer or leasing dealer, for 6776
the motor vehicle. Submission of the application for the 6777
certificate of title and payment of the applicable tax within 6778
the required seven business days may be indicated by postmark or 6779
receipt by a clerk within that period. 6780

(ii) Upon receipt of the certificate of title with the 6781
security interest noted on its face, the dealer or leasing 6782
dealer shall forward the certificate of title to the secured 6783
party at the location noted in the financing documents or 6784
otherwise specified by the secured party. 6785

(iii) A motor vehicle dealer or motor vehicle leasing 6786
dealer is liable to a secured party for a late fee of ten 6787
dollars per day for each certificate of title application and 6788
payment of the applicable tax that is submitted to a clerk more 6789
than seven business days but less than twenty-one days after the 6790
later of the delivery of the motor vehicle to the buyer or the 6791
date the dealer or leasing dealer obtains the manufacturer's or 6792
importer's certificate, or certificate of title issued in the 6793

name of the dealer or leasing dealer, for the motor vehicle and, 6794
from then on, twenty-five dollars per day until the application 6795
and applicable tax are submitted to a clerk. 6796

(b) In all cases of transfer of a motor vehicle except the 6797
transfer of a manufactured home or mobile home, the application 6798
for certificate of title shall be filed within thirty days after 6799
the assignment or delivery of the motor vehicle. 6800

(c) An application for a certificate of title for a new 6801
manufactured home shall be filed within thirty days after the 6802
delivery of the new manufactured home to the purchaser. The date 6803
of the delivery shall be the date on which an occupancy permit 6804
for the manufactured home is delivered to the purchaser of the 6805
home by the appropriate legal authority. 6806

(d) An application for a certificate of title for a used 6807
manufactured home or a used mobile home shall be filed as 6808
follows: 6809

(i) If a certificate of title for the used manufactured 6810
home or used mobile home was issued to the motor vehicle dealer 6811
prior to the sale of the manufactured or mobile home to the 6812
purchaser, the application for certificate of title shall be 6813
filed within thirty days after the date on which an occupancy 6814
permit for the manufactured or mobile home is delivered to the 6815
purchaser by the appropriate legal authority. 6816

(ii) If the motor vehicle dealer has been designated by a 6817
secured party to display the manufactured or mobile home for 6818
sale, or to sell the manufactured or mobile home under section 6819
4505.20 of the Revised Code, but the certificate of title has 6820
not been transferred by the secured party to the motor vehicle 6821
dealer, and the dealer has complied with the requirements of 6822

division (A) of section 4505.181 of the Revised Code, the 6823
application for certificate of title shall be filed within 6824
thirty days after the date on which the motor vehicle dealer 6825
obtains the certificate of title for the home from the secured 6826
party or the date on which an occupancy permit for the 6827
manufactured or mobile home is delivered to the purchaser by the 6828
appropriate legal authority, whichever occurs later. 6829

(6) If an application for a certificate of title is not 6830
filed within the period specified in division (A) (5) (b), (c), or 6831
(d) of this section, the clerk shall collect a fee of five 6832
dollars for the issuance of the certificate, except that no such 6833
fee shall be required from a motor vehicle salvage dealer, as 6834
defined in division (A) of section 4738.01 of the Revised Code, 6835
who immediately surrenders the certificate of title for 6836
cancellation. The fee shall be in addition to all other fees 6837
established by this chapter, and shall be retained by the clerk. 6838
The registrar shall provide, on the certificate of title form 6839
prescribed by section 4505.07 of the Revised Code, language 6840
necessary to give evidence of the date on which the assignment 6841
or delivery of the motor vehicle was made. 6842

(7) As used in division (A) of this section, "lease 6843
agreement," "lessee," and "sublease agreement" have the same 6844
meanings as in section 4505.04 of the Revised Code and "new 6845
manufactured home," "used manufactured home," and "used mobile 6846
home" have the same meanings as in section 5739.0210 of the 6847
Revised Code. 6848

(B) (1) The clerk, except as provided in this section, 6849
shall refuse to accept for filing any application for a 6850
certificate of title and shall refuse to issue a certificate of 6851
title unless the dealer or the applicant, in cases in which the 6852

certificate shall be obtained by the buyer, submits with the 6853
application payment of the tax levied by or pursuant to Chapters 6854
5739. and 5741. of the Revised Code based on the purchaser's 6855
county of residence. Upon payment of the tax in accordance with 6856
division (E) of this section, the clerk shall issue a receipt 6857
prescribed by the registrar and agreed upon by the tax 6858
commissioner showing payment of the tax or a receipt issued by 6859
the commissioner showing the payment of the tax. When submitting 6860
payment of the tax to the clerk, a dealer shall retain any 6861
discount to which the dealer is entitled under section 5739.12 6862
of the Revised Code. 6863

(2) For receiving and disbursing such taxes paid to the 6864
clerk by a resident of the clerk's county, the clerk may retain 6865
a poundage fee of one and one one-hundredth per cent, and the 6866
clerk shall pay the poundage fee into the certificate of title 6867
administration fund created by section 325.33 of the Revised 6868
Code. The clerk shall not retain a poundage fee from payments of 6869
taxes by persons who do not reside in the clerk's county. 6870

A clerk, however, may retain from the taxes paid to the 6871
clerk an amount equal to the poundage fees associated with 6872
certificates of title issued by other clerks of courts of common 6873
pleas to applicants who reside in the first clerk's county. The 6874
registrar, in consultation with the tax commissioner and the 6875
clerks of the courts of common pleas, shall develop a report 6876
from the automated title processing system that informs each 6877
clerk of the amount of the poundage fees that the clerk is 6878
permitted to retain from those taxes because of certificates of 6879
title issued by the clerks of other counties to applicants who 6880
reside in the first clerk's county. 6881

(3) In the case of casual sales of motor vehicles, as 6882

defined in section 4517.01 of the Revised Code, the price for 6883
the purpose of determining the tax shall be the purchase price 6884
on the assigned certificate of title, or assignment form 6885
prescribed by the registrar, executed by the seller and filed 6886
with the clerk by the buyer on a form to be prescribed by the 6887
registrar, which shall be prima-facie evidence of the amount for 6888
the determination of the tax. 6889

(4) Each county clerk shall forward to the ~~treasurer of~~ 6890
~~state registrar of motor vehicles~~ all sales and use tax 6891
collections resulting from sales of motor vehicles, off-highway 6892
motorcycles, and all-purpose vehicles during a calendar week on 6893
or before the Friday following the close of that week. If, on 6894
any Friday, the offices of the clerk of courts or the state are 6895
not open for business, the tax shall be forwarded to the 6896
~~treasurer of state registrar~~ on or before the next day on which 6897
the offices are open. Every remittance of tax under division (B) 6898
(4) of this section shall be accompanied by a remittance report 6899
in such form as the tax commissioner prescribes. Upon receipt of 6900
a tax remittance and remittance report, the ~~treasurer of state~~ 6901
~~registrar~~ shall date stamp the report and forward it to the tax 6902
commissioner. If the tax due for any week is not remitted by a 6903
clerk of courts as required under division (B) (4) of this 6904
section, the commissioner may require the clerk to forfeit the 6905
poundage fees for the sales made during that week. The ~~treasurer~~ 6906
~~of state registrar~~ may require the clerks of courts to transmit 6907
tax collections and remittance reports electronically. 6908

(C) (1) If the transferor indicates on the certificate of 6909
title that the odometer reflects mileage in excess of the 6910
designed mechanical limit of the odometer, the clerk shall enter 6911
the phrase "exceeds mechanical limits" following the mileage 6912
designation. If the transferor indicates on the certificate of 6913

title that the odometer reading is not the actual mileage, the 6914
clerk shall enter the phrase "nonactual: warning - odometer 6915
discrepancy" following the mileage designation. The clerk shall 6916
use reasonable care in transferring the information supplied by 6917
the transferor, but is not liable for any errors or omissions of 6918
the clerk or those of the clerk's deputies in the performance of 6919
the clerk's duties created by this chapter. 6920

The registrar shall prescribe an affidavit in which the 6921
transferor shall swear to the true selling price and, except as 6922
provided in this division, the true odometer reading of the 6923
motor vehicle. The registrar may prescribe an affidavit in which 6924
the seller and buyer provide information pertaining to the 6925
odometer reading of the motor vehicle in addition to that 6926
required by this section, as such information may be required by 6927
the United States secretary of transportation by rule prescribed 6928
under authority of subchapter IV of the "Motor Vehicle 6929
Information and Cost Savings Act," 86 Stat. 961 (1972), 15 6930
U.S.C. 1981. 6931

(2) Division (C)(1) of this section does not require the 6932
giving of information concerning the odometer and odometer 6933
reading of a motor vehicle when ownership of a motor vehicle is 6934
being transferred as a result of a bequest, under the laws of 6935
intestate succession, to a survivor pursuant to section 2106.18, 6936
2131.12, or 4505.10 of the Revised Code, to a transfer-on-death 6937
beneficiary or beneficiaries pursuant to section 2131.13 of the 6938
Revised Code, in connection with the creation of a security 6939
interest or for a vehicle with a gross vehicle weight rating of 6940
more than sixteen thousand pounds. 6941

(D) When the transfer to the applicant was made in some 6942
other state or in interstate commerce, the clerk, except as 6943

provided in this section, shall refuse to issue any certificate 6944
of title unless the tax imposed by or pursuant to Chapter 5741. 6945
of the Revised Code based on the purchaser's county of residence 6946
has been paid as evidenced by a receipt issued by the tax 6947
commissioner, or unless the applicant submits with the 6948
application payment of the tax. Upon payment of the tax in 6949
accordance with division (E) of this section, the clerk shall 6950
issue a receipt prescribed by the registrar and agreed upon by 6951
the tax commissioner, showing payment of the tax. 6952

For receiving and disbursing such taxes paid to the clerk 6953
by a resident of the clerk's county, the clerk may retain a 6954
poundage fee of one and one one-hundredth per cent. The clerk 6955
shall not retain a poundage fee from payments of taxes by 6956
persons who do not reside in the clerk's county. 6957

A clerk, however, may retain from the taxes paid to the 6958
clerk an amount equal to the poundage fees associated with 6959
certificates of title issued by other clerks of courts of common 6960
pleas to applicants who reside in the first clerk's county. The 6961
registrar, in consultation with the tax commissioner and the 6962
clerks of the courts of common pleas, shall develop a report 6963
from the automated title processing system that informs each 6964
clerk of the amount of the poundage fees that the clerk is 6965
permitted to retain from those taxes because of certificates of 6966
title issued by the clerks of other counties to applicants who 6967
reside in the first clerk's county. 6968

When the vendor is not regularly engaged in the business 6969
of selling motor vehicles, the vendor shall not be required to 6970
purchase a vendor's license or make reports concerning those 6971
sales. 6972

(E) The clerk shall accept any payment of a tax in cash, 6973

or by cashier's check, certified check, draft, money order, or 6974
teller check issued by any insured financial institution payable 6975
to the clerk and submitted with an application for a certificate 6976
of title under division (B) or (D) of this section. The clerk 6977
also may accept payment of the tax by corporate, business, or 6978
personal check, credit card, electronic transfer or wire 6979
transfer, debit card, or any other accepted form of payment made 6980
payable to the clerk. The clerk may require bonds, guarantees, 6981
or letters of credit to ensure the collection of corporate, 6982
business, or personal checks. Any service fee charged by a third 6983
party to a clerk for the use of any form of payment may be paid 6984
by the clerk from the certificate of title administration fund 6985
created in section 325.33 of the Revised Code, or may be 6986
assessed by the clerk upon the applicant as an additional fee. 6987
Upon collection, the additional fees shall be paid by the clerk 6988
into that certificate of title administration fund. 6989

The clerk shall make a good faith effort to collect any 6990
payment of taxes due but not made because the payment was 6991
returned or dishonored, but the clerk is not personally liable 6992
for the payment of uncollected taxes or uncollected fees. The 6993
clerk shall notify the tax commissioner of any such payment of 6994
taxes that is due but not made and shall furnish the information 6995
to the commissioner that the commissioner requires. The clerk 6996
shall deduct the amount of taxes due but not paid from the 6997
clerk's periodic remittance of tax payments, in accordance with 6998
procedures agreed upon by the tax commissioner. The commissioner 6999
may collect taxes due by assessment in the manner provided in 7000
section 5739.13 of the Revised Code. 7001

Any person who presents payment that is returned or 7002
dishonored for any reason is liable to the clerk for payment of 7003
a penalty over and above the amount of the taxes due. The clerk 7004

shall determine the amount of the penalty, and the penalty shall 7005
be no greater than that amount necessary to compensate the clerk 7006
for banking charges, legal fees, or other expenses incurred by 7007
the clerk in collecting the returned or dishonored payment. The 7008
remedies and procedures provided in this section are in addition 7009
to any other available civil or criminal remedies. Subsequently 7010
collected penalties, poundage fees, and title fees, less any 7011
title fee due the state, from returned or dishonored payments 7012
collected by the clerk shall be paid into the certificate of 7013
title administration fund. Subsequently collected taxes, less 7014
poundage fees, shall be sent by the clerk to the ~~treasurer of~~ 7015
~~state registrar of motor vehicles~~ at the next scheduled periodic 7016
remittance of tax payments, with information as the commissioner 7017
may require. The clerk may abate all or any part of any penalty 7018
assessed under this division. 7019

(F) In the following cases, the clerk shall accept for 7020
filing an application and shall issue a certificate of title 7021
without requiring payment or evidence of payment of the tax: 7022

(1) When the purchaser is this state or any of its 7023
political subdivisions, a church, or an organization whose 7024
purchases are exempted by section 5739.02 of the Revised Code; 7025

(2) When the transaction in this state is not a retail 7026
sale as defined by section 5739.01 of the Revised Code; 7027

(3) When the purchase is outside this state or in 7028
interstate commerce and the purpose of the purchaser is not to 7029
use, store, or consume within the meaning of section 5741.01 of 7030
the Revised Code; 7031

(4) When the purchaser is the federal government; 7032

(5) When the motor vehicle was purchased outside this 7033

state for use outside this state; 7034

(6) When the motor vehicle is purchased by a nonresident 7035
under the circumstances described in division (B)(1) of section 7036
5739.029 of the Revised Code, and upon presentation of a copy of 7037
the statement provided by that section, and a copy of the 7038
exemption certificate provided by section 5739.03 of the Revised 7039
Code. 7040

(G) An application, as prescribed by the registrar and 7041
agreed to by the tax commissioner, shall be filled out and sworn 7042
to by the buyer of a motor vehicle in a casual sale. The 7043
application shall contain the following notice in bold 7044
lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND 7045
BUYER): You are required by law to state the true selling price. 7046
A false statement is in violation of section 2921.13 of the 7047
Revised Code and is punishable by six months' imprisonment or a 7048
fine of up to one thousand dollars, or both. All transfers are 7049
audited by the department of taxation. The seller and buyer must 7050
provide any information requested by the department of taxation. 7051
The buyer may be assessed any additional tax found to be due." 7052

(H) For sales of manufactured homes or mobile homes 7053
occurring on or after January 1, 2000, the clerk shall accept 7054
for filing, pursuant to Chapter 5739. of the Revised Code, an 7055
application for a certificate of title for a manufactured home 7056
or mobile home without requiring payment of any tax pursuant to 7057
section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised 7058
Code, or a receipt issued by the tax commissioner showing 7059
payment of the tax. For sales of manufactured homes or mobile 7060
homes occurring on or after January 1, 2000, the applicant shall 7061
pay to the clerk an additional fee of five dollars for each 7062
certificate of title issued by the clerk for a manufactured or 7063

mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H) (3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4509.101. (A) (1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A) (1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A) (2) (b) and (c) of this section, a class (F) suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B) (6) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the

person, but only if the person presents proof of financial 7094
responsibility and is enrolled in a reinstatement fee payment 7095
plan pursuant to section 4510.10 of the Revised Code. 7096

(b) If, within five years of the violation, the person's 7097
operating privileges are again suspended and the person's 7098
license again is impounded for a violation of division (A) (1) of 7099
this section, a class C suspension of the person's driver's 7100
license, commercial driver's license, temporary instruction 7101
permit, probationary license, or nonresident operating privilege 7102
for the period of time specified in division (B) (3) of section 7103
4510.02 of the Revised Code. The court may grant limited driving 7104
privileges to the person only if the person presents proof of 7105
financial responsibility and has complied with division (A) (5) 7106
of this section, and no court may grant limited driving 7107
privileges for the first fifteen days of the suspension. 7108

(c) If, within five years of the violation, the person's 7109
operating privileges are suspended and the person's license is 7110
impounded two or more times for a violation of division (A) (1) 7111
of this section, a class B suspension of the person's driver's 7112
license, commercial driver's license, temporary instruction 7113
permit, probationary license, or nonresident operating privilege 7114
for the period of time specified in division (B) (2) of section 7115
4510.02 of the Revised Code. The court may grant limited driving 7116
privileges to the person only if the person presents proof of 7117
financial responsibility and has complied with division (A) (5) 7118
of this section, except that no court may grant limited driving 7119
privileges for the first thirty days of the suspension. 7120

(d) In addition to the suspension of an owner's license 7121
under division (A) (2) (a), (b), or (c) of this section, the 7122
suspension of the rights of the owner to register the motor 7123

vehicle and the impoundment of the owner's certificate of 7124
registration and license plates until the owner complies with 7125
division (A) (5) of this section. 7126

The clerk of court shall waive the cost of filing a 7127
petition for limited driving privileges if, pursuant to section 7128
2323.311 of the Revised Code, the petitioner applies to be 7129
qualified as an indigent litigant and the court approves the 7130
application. 7131

(3) A person to whom this state has issued a certificate 7132
of registration for a motor vehicle or a license to operate a 7133
motor vehicle or who is determined to have operated any motor 7134
vehicle or permitted the operation in this state of a motor 7135
vehicle owned by the person shall be required to verify the 7136
existence of proof of financial responsibility covering the 7137
operation of the motor vehicle or the person's operation of the 7138
motor vehicle under either of the following circumstances: 7139

(a) The person or a motor vehicle owned by the person is 7140
involved in a traffic accident that requires the filing of an 7141
accident report under section 4509.06 of the Revised Code. 7142

(b) The person receives a traffic ticket indicating that 7143
proof of the maintenance of financial responsibility was not 7144
produced upon the request of a peace officer or state highway 7145
patrol trooper made in accordance with division (D) (2) of this 7146
section. 7147

(4) An order of the registrar that suspends and impounds a 7148
license or registration, or both, shall state the date on or 7149
before which the person is required to surrender the person's 7150
license or certificate of registration and license plates. The 7151
person is deemed to have surrendered the license or certificate 7152

of registration and license plates, in compliance with the 7153
order, if the person does either of the following: 7154

(a) On or before the date specified in the order, 7155
personally delivers the license or certificate of registration 7156
and license plates, or causes the delivery of the items, to the 7157
registrar; 7158

(b) Mails the license or certificate of registration and 7159
license plates to the registrar in an envelope or container 7160
bearing a postmark showing a date no later than the date 7161
specified in the order. 7162

(5) Except as provided in division (L) of this section, 7163
the registrar shall not restore any operating privileges or 7164
registration rights suspended under this section, return any 7165
license, certificate of registration, or license plates 7166
impounded under this section, or reissue license plates under 7167
section 4503.232 of the Revised Code, if the registrar destroyed 7168
the impounded license plates under that section, or reissue a 7169
license under section 4510.52 of the Revised Code, if the 7170
registrar destroyed the suspended license under that section, 7171
unless the rights are not subject to suspension or revocation 7172
under any other law and unless the person, in addition to 7173
complying with all other conditions required by law for 7174
reinstatement of the operating privileges or registration 7175
rights, complies with all of the following: 7176

(a) Pays to the registrar or an eligible deputy registrar 7177
a financial responsibility reinstatement fee of one hundred 7178
dollars for the first violation of division (A)(1) of this 7179
section, three hundred dollars for a second violation of that 7180
division, and six hundred dollars for a third or subsequent 7181
violation of that division; 7182

(b) If the person has not voluntarily surrendered the license, certificate, or license plates in compliance with the order, pays to the registrar or an eligible deputy registrar a financial responsibility nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and continuously maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code;

(d) Pays a deputy registrar a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, any nonvoluntary compliance fee, and two dollars of the service fee to the registrar in the manner the registrar shall determine.

(B) (1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G) (1) (a) of this section or shall present proof of financial responsibility through use of an electronic wireless communications device as permitted by division (G) (1) (b) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A) (1) of this section, the registrar shall do all of the following:

(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A) (2) (d) of this section, of the certificate of registration and license plates of any owner who has violated division (A) (1) of this section;

(b) Order the suspension required under division (A) (2) 7212
(a), (b), or (c) of this section of the license of any operator 7213
or owner who has violated division (A) (1) of this section; 7214

(c) Record the name and address of the person whose 7215
certificate of registration and license plates have been 7216
impounded or are under an order of impoundment, or whose license 7217
has been suspended or is under an order of suspension; the 7218
serial number of the person's license; the serial numbers of the 7219
person's certificate of registration and license plates; and the 7220
person's social security account number, if assigned, or, where 7221
the motor vehicle is used for hire or principally in connection 7222
with any established business, the person's federal taxpayer 7223
identification number. The information shall be recorded in such 7224
a manner that it becomes a part of the person's permanent 7225
record, and assists the registrar in monitoring compliance with 7226
the orders of suspension or impoundment. 7227

(d) Send written notification to every person to whom the 7228
order pertains, at the person's last known address as shown on 7229
the records of the bureau. The person, within ten days after the 7230
date of the mailing of the notification, shall surrender to the 7231
registrar, in a manner set forth in division (A) (4) of this 7232
section, any certificate of registration and registration plates 7233
under an order of impoundment, or any license under an order of 7234
suspension. 7235

(2) The registrar shall issue any order under division (B) 7236
(1) of this section without a hearing. Any person adversely 7237
affected by the order, within ten days after the issuance of the 7238
order, may request an administrative hearing before the 7239
registrar, who shall provide the person with an opportunity for 7240
a hearing in accordance with this paragraph. A request for a 7241

hearing does not operate as a suspension of the order. The scope 7242
of the hearing shall be limited to whether the person in fact 7243
demonstrated to the registrar proof of financial responsibility 7244
in accordance with this section. The registrar shall determine 7245
the date, time, and place of any hearing, provided that the 7246
hearing shall be held, and an order issued or findings made, 7247
within thirty days after the registrar receives a request for a 7248
hearing. If requested by the person in writing, the registrar 7249
may designate as the place of hearing the county seat of the 7250
county in which the person resides or a place within fifty miles 7251
of the person's residence. The person shall pay the cost of the 7252
hearing before the registrar, if the registrar's order of 7253
suspension or impoundment is upheld. 7254

(C) Any order of suspension or impoundment issued under 7255
this section or division (B) of section 4509.37 of the Revised 7256
Code may be terminated at any time if the registrar determines 7257
upon a showing of proof of financial responsibility that the 7258
operator or owner of the motor vehicle was in compliance with 7259
division (A)(1) of this section at the time of the traffic 7260
offense, motor vehicle inspection, or accident that resulted in 7261
the order against the person. A determination may be made 7262
without a hearing. This division does not apply unless the 7263
person shows good cause for the person's failure to present 7264
satisfactory proof of financial responsibility to the registrar 7265
prior to the issuance of the order. 7266

(D)(1)(a) For the purpose of enforcing this section, every 7267
peace officer is deemed an agent of the registrar. 7268

(b) Any peace officer who, in the performance of the peace 7269
officer's duties as authorized by law, becomes aware of a person 7270
whose license is under an order of suspension, or whose 7271

certificate of registration and license plates are under an 7272
order of impoundment, pursuant to this section, may confiscate 7273
the license, certificate of registration, and license plates, 7274
and return them to the registrar. 7275

(2) A peace officer shall request the owner or operator of 7276
a motor vehicle to produce proof of financial responsibility in 7277
a manner described in division (G) of this section at the time 7278
the peace officer acts to enforce the traffic laws of this state 7279
and during motor vehicle inspections conducted pursuant to 7280
section 4513.02 of the Revised Code. 7281

(3) A peace officer shall indicate on every traffic ticket 7282
whether the person receiving the traffic ticket produced proof 7283
of the maintenance of financial responsibility in response to 7284
the officer's request under division (D)(2) of this section. The 7285
peace officer shall inform every person who receives a traffic 7286
ticket and who has failed to produce proof of the maintenance of 7287
financial responsibility that the person must submit proof to 7288
the traffic violations bureau with any payment of a fine and 7289
costs for the ticketed violation or, if the person is to appear 7290
in court for the violation, the person must submit proof to the 7291
court. 7292

(4) (a) If a person who has failed to produce proof of the 7293
maintenance of financial responsibility appears in court for a 7294
ticketed violation, the court may permit the defendant to 7295
present evidence of proof of financial responsibility to the 7296
court at such time and in such manner as the court determines to 7297
be necessary or appropriate. In a manner prescribed by the 7298
registrar, the clerk of courts shall provide the registrar with 7299
the identity of any person who fails to submit proof of the 7300
maintenance of financial responsibility pursuant to division (D) 7301

(3) of this section. 7302

(b) If a person who has failed to produce proof of the 7303
maintenance of financial responsibility also fails to submit 7304
that proof to the traffic violations bureau with payment of a 7305
fine and costs for the ticketed violation, the traffic 7306
violations bureau, in a manner prescribed by the registrar, 7307
shall notify the registrar of the identity of that person. 7308

(5) (a) Upon receiving notice from a clerk of courts or 7309
traffic violations bureau pursuant to division (D) (4) of this 7310
section, the registrar shall order the suspension of the license 7311
of the person required under division (A) (2) (a), (b), or (c) of 7312
this section and the impoundment of the person's certificate of 7313
registration and license plates required under division (A) (2) 7314
(d) of this section, effective thirty days after the date of the 7315
mailing of notification. The registrar also shall notify the 7316
person that the person must present the registrar with proof of 7317
financial responsibility in accordance with this section, 7318
surrender to the registrar the person's certificate of 7319
registration, license plates, and license, or submit a statement 7320
subject to section 2921.13 of the Revised Code that the person 7321
did not operate or permit the operation of the motor vehicle at 7322
the time of the offense. Notification shall be in writing and 7323
shall be sent to the person at the person's last known address 7324
as shown on the records of the bureau of motor vehicles. The 7325
person, within fifteen days after the date of the mailing of 7326
notification, shall present proof of financial responsibility, 7327
surrender the certificate of registration, license plates, and 7328
license to the registrar in a manner set forth in division (A) 7329
(4) of this section, or submit the statement required under this 7330
section together with other information the person considers 7331
appropriate. 7332

If the registrar does not receive proof or the person does not surrender the certificate of registration, license plates, and license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person and the impoundment of the person's certificate of registration and license plates to take effect.

(b) In the case of a person who presents, within the fifteen-day period, proof of financial responsibility, the registrar shall terminate the order of suspension and the impoundment of the registration and license plates required under division (A) (2) (d) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

(c) Any person adversely affected by the order of the registrar under division (D) (5) (a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall

pay the cost of the hearing before the registrar, if the 7364
registrar's order of suspension or impoundment under division 7365
(D) (5) (a) or (b) of this section is upheld. 7366

(6) A peace officer may charge an owner or operator of a 7367
motor vehicle with a violation of section 4510.16 of the Revised 7368
Code when the owner or operator fails to show proof of the 7369
maintenance of financial responsibility pursuant to a peace 7370
officer's request under division (D) (2) of this section, if a 7371
check of the owner or operator's driving record indicates that 7372
the owner or operator, at the time of the operation of the motor 7373
vehicle, is required to file and maintain proof of financial 7374
responsibility under section 4509.45 of the Revised Code for a 7375
previous violation of this chapter. 7376

(7) Any forms used by law enforcement agencies in 7377
administering this section shall be prescribed, supplied, and 7378
paid for by the registrar. 7379

(8) No peace officer, law enforcement agency employing a 7380
peace officer, or political subdivision or governmental agency 7381
that employs a peace officer shall be liable in a civil action 7382
for damages or loss to persons arising out of the performance of 7383
any duty required or authorized by this section. 7384

(9) As used in this section, "peace officer" has the 7385
meaning set forth in section 2935.01 of the Revised Code. 7386

(E) All fees, except court costs, fees paid to a deputy 7387
registrar, and those portions of the financial responsibility 7388
reinstatement fees as otherwise specified in this division, 7389
collected under this section shall be paid into the state 7390
treasury to the credit of the public safety - highway purposes 7391
fund established in section 4501.06 of the Revised Code and used 7392

to cover costs incurred by the bureau in the administration of 7393
this section and sections 4503.20, 4507.212, and 4509.81 of the 7394
Revised Code, and by any law enforcement agency employing any 7395
peace officer who returns any license, certificate of 7396
registration, and license plates to the registrar pursuant to 7397
division (C) of this section. 7398

Of each financial responsibility reinstatement fee the 7399
registrar collects pursuant to division (A) (5) (a) of this 7400
section or receives from a deputy registrar under division (A) 7401
(5) (d) of this section, the registrar shall deposit twenty-five 7402
dollars of each one-hundred-dollar reinstatement fee, fifty 7403
dollars of each three-hundred-dollar reinstatement fee, and one 7404
hundred dollars of each six-hundred-dollar reinstatement fee 7405
into the state treasury to the credit of the indigent defense 7406
support fund created by section 120.08 of the Revised Code. 7407

(F) Chapter 119. of the Revised Code applies to this 7408
section only to the extent that any provision in that chapter is 7409
not clearly inconsistent with this section. 7410

(G) (1) (a) The registrar, court, traffic violations bureau, 7411
or peace officer may require proof of financial responsibility 7412
to be demonstrated by use of a standard form prescribed by the 7413
registrar. If the use of a standard form is not required, a 7414
person may demonstrate proof of financial responsibility under 7415
this section by presenting to the traffic violations bureau, 7416
court, registrar, or peace officer any of the following 7417
documents or a copy of the documents: 7418

(i) A financial responsibility identification card as 7419
provided in section 4509.103 of the Revised Code; 7420

(ii) A certificate of proof of financial responsibility on 7421

a form provided and approved by the registrar for the filing of 7422
an accident report required to be filed under section 4509.06 of 7423
the Revised Code; 7424

(iii) A policy of liability insurance, a declaration page 7425
of a policy of liability insurance, or liability bond, if the 7426
policy or bond complies with section 4509.20 or sections 4509.49 7427
to 4509.61 of the Revised Code; 7428

(iv) A bond or certification of the issuance of a bond as 7429
provided in section 4509.59 of the Revised Code; 7430

(v) A certificate of deposit of money ~~or securities~~ as 7431
provided in section 4509.62 of the Revised Code; 7432

(vi) A certificate of self-insurance as provided in 7433
section 4509.72 of the Revised Code. 7434

(b) A person also may present proof of financial 7435
responsibility under this section to the traffic violations 7436
bureau, court, registrar, or peace officer through use of an 7437
electronic wireless communications device as specified under 7438
section 4509.103 of the Revised Code. 7439

(2) If a person fails to demonstrate proof of financial 7440
responsibility in a manner described in division (G)(1) of this 7441
section, the person may demonstrate proof of financial 7442
responsibility under this section by any other method that the 7443
court or the bureau, by reason of circumstances in a particular 7444
case, may consider appropriate. 7445

(3) A motor carrier certificated by the interstate 7446
commerce commission or by the public utilities commission may 7447
demonstrate proof of financial responsibility by providing a 7448
statement designating the motor carrier's operating authority 7449
and averring that the insurance coverage required by the 7450

certificating authority is in full force and effect. 7451

(4) (a) A finding by the registrar or court that a person 7452
is covered by proof of financial responsibility in the form of 7453
an insurance policy or surety bond is not binding upon the named 7454
insurer or surety or any of its officers, employees, agents, or 7455
representatives and has no legal effect except for the purpose 7456
of administering this section. 7457

(b) The preparation and delivery of a financial 7458
responsibility identification card or any other document 7459
authorized to be used as proof of financial responsibility and 7460
the generation and delivery of proof of financial responsibility 7461
to an electronic wireless communications device that is 7462
displayed on the device as text or images does not do any of the 7463
following: 7464

(i) Create any liability or estoppel against an insurer or 7465
surety, or any of its officers, employees, agents, or 7466
representatives; 7467

(ii) Constitute an admission of the existence of, or of 7468
any liability or coverage under, any policy or bond; 7469

(iii) Waive any defenses or counterclaims available to an 7470
insurer, surety, agent, employee, or representative in an action 7471
commenced by an insured or third-party claimant upon a cause of 7472
action alleged to have arisen under an insurance policy or 7473
surety bond or by reason of the preparation and delivery of a 7474
document for use as proof of financial responsibility or the 7475
generation and delivery of proof of financial responsibility to 7476
an electronic wireless communications device. 7477

(c) Whenever it is determined by a final judgment in a 7478
judicial proceeding that an insurer or surety, which has been 7479

named on a document or displayed on an electronic wireless 7480
communications device accepted by a court or the registrar as 7481
proof of financial responsibility covering the operation of a 7482
motor vehicle at the time of an accident or offense, is not 7483
liable to pay a judgment for injuries or damages resulting from 7484
such operation, the registrar, notwithstanding any previous 7485
contrary finding, shall forthwith suspend the operating 7486
privileges and registration rights of the person against whom 7487
the judgment was rendered as provided in division (A) (2) of this 7488
section. 7489

(H) In order for any document or display of text or images 7490
on an electronic wireless communications device described in 7491
division (G) (1) of this section to be used for the demonstration 7492
of proof of financial responsibility under this section, the 7493
document or words or images shall state the name of the insured 7494
or obligor, the name of the insurer or surety company, and the 7495
effective and expiration dates of the financial responsibility, 7496
and designate by explicit description or by appropriate 7497
reference all motor vehicles covered which may include a 7498
reference to fleet insurance coverage. 7499

(I) For purposes of this section, "owner" does not include 7500
a licensed motor vehicle leasing dealer as defined in section 7501
4517.01 of the Revised Code, but does include a motor vehicle 7502
renting dealer as defined in section 4549.65 of the Revised 7503
Code. Nothing in this section or in section 4509.51 of the 7504
Revised Code shall be construed to prohibit a motor vehicle 7505
renting dealer from entering into a contractual agreement with a 7506
person whereby the person renting the motor vehicle agrees to be 7507
solely responsible for maintaining proof of financial 7508
responsibility, in accordance with this section, with respect to 7509
the operation, maintenance, or use of the motor vehicle during 7510

the period of the motor vehicle's rental. 7511

(J) The purpose of this section is to require the 7512
maintenance of proof of financial responsibility with respect to 7513
the operation of motor vehicles on the highways of this state, 7514
so as to minimize those situations in which persons are not 7515
compensated for injuries and damages sustained in motor vehicle 7516
accidents. The general assembly finds that this section contains 7517
reasonable civil penalties and procedures for achieving this 7518
purpose. 7519

(K) Nothing in this section shall be construed to be 7520
subject to section 4509.78 of the Revised Code. 7521

(L) (1) The registrar may terminate any suspension imposed 7522
under this section and not require the owner to comply with 7523
divisions (A) (5) (a), (b), and (c) of this section if the 7524
registrar with or without a hearing determines that the owner of 7525
the vehicle has established by clear and convincing evidence 7526
that all of the following apply: 7527

(a) The owner customarily maintains proof of financial 7528
responsibility. 7529

(b) Proof of financial responsibility was not in effect 7530
for the vehicle on the date in question for one of the following 7531
reasons: 7532

(i) The vehicle was inoperable. 7533

(ii) The vehicle is operated only seasonally, and the date 7534
in question was outside the season of operation. 7535

(iii) A person other than the vehicle owner or driver was 7536
at fault for the lapse of proof of financial responsibility 7537
through no fault of the owner or driver. 7538

(iv) The lapse of proof of financial responsibility was 7539
caused by excusable neglect under circumstances that are not 7540
likely to recur and do not suggest a purpose to evade the 7541
requirements of this chapter. 7542

(2) The registrar may grant an owner or driver relief for 7543
a reason specified in division (L)(1)(b)(iii) or (iv) of this 7544
section only if the owner or driver has not previously been 7545
granted relief under division (L)(1)(b)(iii) or (iv) of this 7546
section. 7547

(M) The registrar shall adopt rules in accordance with 7548
Chapter 119. of the Revised Code that are necessary to 7549
administer and enforce this section. The rules shall include 7550
procedures for the surrender of license plates upon failure to 7551
maintain proof of financial responsibility and provisions 7552
relating to reinstatement of registration rights, acceptable 7553
forms of proof of financial responsibility, the use of an 7554
electronic wireless communications device to present proof of 7555
financial responsibility, and verification of the existence of 7556
financial responsibility during the period of registration. 7557

(N)(1) When a person utilizes an electronic wireless 7558
communications device to present proof of financial 7559
responsibility, only the evidence of financial responsibility 7560
displayed on the device shall be viewed by the registrar, peace 7561
officer, employee or official of the traffic violations bureau, 7562
or the court. No other content of the device shall be viewed for 7563
purposes of obtaining proof of financial responsibility. 7564

(2) When a person provides an electronic wireless 7565
communications device to the registrar, a peace officer, an 7566
employee or official of a traffic violations bureau, or the 7567
court, the person assumes the risk of any resulting damage to 7568

the device unless the registrar, peace officer, employee, or 7569
official, or court personnel purposely, knowingly, or recklessly 7570
commits an action that results in damage to the device. 7571

Sec. 4509.45. (A) As used in this section, "electronic 7572
wireless communications device" has the same meaning as in 7573
section 4509.103 of the Revised Code. 7574

(B) Proof of financial responsibility when required under 7575
section 4509.101, 4509.33, 4509.34, 4509.38, 4509.40, 4509.42, 7576
4509.44, or 4510.038 of the Revised Code may be given by filing 7577
any of the following: 7578

(1) A financial responsibility identification card as 7579
provided in section 4509.104 of the Revised Code; 7580

(2) A certificate of insurance as provided in section 7581
4509.46 or 4509.47 of the Revised Code; 7582

(3) A bond as provided in section 4509.59 of the Revised 7583
Code; 7584

(4) A certificate of deposit of money ~~or securities~~ as 7585
provided in section 4509.62 of the Revised Code; 7586

(5) A certificate of self-insurance, as provided in 7587
section 4509.72 of the Revised Code, supplemented by an 7588
agreement by the self-insurer that, with respect to accidents 7589
occurring while the certificate is in force, the self-insurer 7590
will pay the same amounts that an insurer would have been 7591
obligated to pay under an owner's motor vehicle liability policy 7592
if it had issued such a policy to the self-insurer. 7593

(C) When proof of financial responsibility is required to 7594
be given under section 4509.101 of the Revised Code, such proof 7595
also may be given through use of an electronic wireless 7596

communications device as provided in that section. 7597

(D) Proof under division (B) of this section shall be 7598
filed and maintained for five years from the date of the 7599
registrar's imposition of a class A, B, or C suspension of 7600
operating privileges and shall be filed and maintained for three 7601
years from the date of the registrar's imposition of a class D, 7602
E, or F suspension of operating privileges. Proof of financial 7603
responsibility that is required to be filed and maintained with 7604
the registrar during a period of suspension of operating 7605
privileges described in this division shall not be given through 7606
the use of an electronic wireless communications device. 7607

Sec. 4509.62. ~~Proof~~ A person may effectuate proof of 7608
financial responsibility ~~may be evidenced by the certificate of~~ 7609
~~the treasurer of state that the person named therein has~~ 7610
~~deposited with him~~ depositing with the registrar of motor 7611
vehicles thirty thousand dollars in money ~~or bonds of the United~~ 7612
~~States, of this state, or of a political subdivision of this~~ 7613
~~state at their par or face value. The treasurer of state~~ 7614
registrar shall not accept any such deposit ~~and issue a~~ 7615
~~certificate therefor and the registrar shall not accept such~~ 7616
~~certificate~~ unless it is accompanied by evidence that there are 7617
no unsatisfied judgments against the depositor in the county 7618
where the depositor resides. 7619

The financial responsibility custodial fund is created, 7620
which shall be in the custody of the treasurer of state but 7621
shall not be part of the state treasury. All money deposited 7622
under this section shall be credited to that fund. 7623

Sec. 4509.63. The deposit provided for in section 4509.62 7624
of the Revised Code shall be held by the ~~treasurer of state~~ 7625
registrar of motor vehicles to satisfy, in accordance with 7626

sections 4509.01 to 4509.78, inclusive, of the Revised Code, any 7627
execution on a judgment, against the person making the deposit, 7628
for damages, including damages for care and loss of services, 7629
because of bodily injury to or death of any person, or for 7630
damages because of injury to property, including the loss of use 7631
thereof, resulting from the ownership, maintenance, or use of a 7632
motor vehicle after such deposit was made. Money ~~or securities~~ 7633
so deposited shall not be subject to attachment or execution 7634
unless such attachment or execution arises out of a suit for 7635
damages as described in this section. 7636

Sec. 4509.65. The registrar of motor vehicles shall 7637
consent to the cancellation of any bond or certificate of 7638
insurance or ~~the registrar shall direct and the treasurer of~~ 7639
~~state shall~~ return any money ~~or securities~~ to the person 7640
entitled thereto upon the substitution and acceptance of other 7641
adequate proof of financial responsibility in accordance with 7642
sections 4509.01 to 4509.78, inclusive, of the Revised Code. 7643

Sec. 4509.67. (A) The registrar of motor vehicles shall, 7644
upon request, consent to the immediate cancellation of any bond 7645
or certificate of insurance, ~~or shall direct and the treasurer~~ 7646
~~of state shall~~ return to the person entitled any money ~~or~~ 7647
~~securities~~ deposited under sections 4509.01 to 4509.78 of the 7648
Revised Code, as proof of financial responsibility, or ~~the~~ 7649
~~registrar shall~~ waive the requirement of filing proof, in any of 7650
the following events: 7651

(1) At any time after three years from the date such proof 7652
was required when, during the three years preceding the request, 7653
the registrar has not received record of a conviction or bail 7654
forfeiture which would require or permit the suspension or 7655
revocation of the license, registration or nonresident's 7656

operating privilege of the person by or for whom such proof was 7657
furnished and the person's motor vehicle registration has not 7658
been suspended for a violation of section 4509.101 of the 7659
Revised Code; 7660

(2) In the event of the death of the person on whose 7661
behalf such proof was filed or the permanent incapacity of such 7662
person to operate a motor vehicle; 7663

(3) In the event the person who has given proof surrenders 7664
his the person's license and registration to the registrar. 7665

(B) The registrar shall not consent to the cancellation of 7666
any bond or the return of any money ~~or securities~~ if any action 7667
for damages upon a liability covered by such proof is pending, 7668
or any judgment upon any such liability is unsatisfied, or in 7669
the event the person who has filed such bond or deposited such 7670
money ~~or securities~~ has within two years immediately preceding 7671
such request been involved as a driver or owner in any ~~motor-~~ 7672
~~vehicle~~ motor vehicle accident resulting in injury to the person 7673
or property of others. An affidavit of the applicant as to the 7674
nonexistence of such facts, or that he the applicant has been 7675
released from all liability, or has been finally adjudicated not 7676
liable, for such injury may be accepted as evidence thereof in 7677
the absence of evidence to the contrary in the records of the 7678
registrar. 7679

(C) Whenever any person whose proof has been canceled or 7680
returned under division (A) (3) of this section applies for a 7681
license or registration within a period of three years from the 7682
date proof was originally required, any such application shall 7683
be refused unless the applicant re-establishes proof of 7684
financial responsibility for the remainder of the three-year 7685
period. 7686

Sec. 4710.03. Nothing in this chapter applies to any of	7687
the following:	7688
(A) The federal national mortgage association; the federal	7689
home loan mortgage corporation; a bank, bank holding company,	7690
trust company, savings and loan association, credit union,	7691
savings bank, or credit card bank, that is regulated by the	7692
office of the comptroller of currency, office of thrift	7693
supervision, federal reserve, federal deposit insurance	7694
corporation, national credit union administration, or division	7695
of financial institutions; or to subsidiaries of any of these	7696
entities;	7697
(B) Debt adjusting incurred in the practice of law in this	7698
state;	7699
(C) A person that incidentally engages in debt adjusting	7700
to adjust the indebtedness owed to that person;	7701
(D) A registrant as defined in section 1321.51 of the	7702
Revised Code;	7703
(E) A registrant or licensee as both are defined in	7704
section 1322.01 of the Revised Code.	7705
Sec. 4749.01. As used in this chapter:	7706
(A) "Private investigator" means any person who engages in	7707
the business of private investigation.	7708
(B) "Business of private investigation" means, except when	7709
performed by one excluded under division (H) of this section,	7710
the conducting, for hire, in person or through a partner or	7711
employees, of any investigation relevant to any crime or wrong	7712
done or threatened, or to obtain information on the identity,	7713
habits, conduct, movements, whereabouts, affiliations,	7714

transactions, reputation, credibility, or character of any 7715
person, or to locate and recover lost or stolen property, or to 7716
determine the cause of or responsibility for any libel or 7717
slander, or any fire, accident, or damage to property, or to 7718
secure evidence for use in any legislative, administrative, or 7719
judicial investigation or proceeding. 7720

(C) "Security guard provider" means any person who engages 7721
in the business of security services. 7722

(D) "Business of security services" means either of the 7723
following: 7724

(1) Furnishing, for hire, watchpersons, guards, private 7725
patrol officers, or other persons whose primary duties are to 7726
protect persons or property; 7727

(2) Furnishing, for hire, guard dogs, or armored motor 7728
vehicle security services, in connection with the protection of 7729
persons or property. 7730

(E) "Class A license" means a license issued under section 7731
4749.03 of the Revised Code that qualifies the person issued the 7732
license to engage in the business of private investigation and 7733
the business of security services. 7734

(F) "Class B license" means a license issued under section 7735
4749.03 of the Revised Code that qualifies the person issued the 7736
license to engage only in the business of private investigation. 7737

(G) "Class C license" means a license issued under section 7738
4749.03 of the Revised Code that qualifies the person issued the 7739
license to engage only in the business of security services. 7740

(H) "Private investigator," "business of private 7741
investigation," "security guard provider," and "business of 7742

security services" do not include: 7743

(1) Public officers and employees whose official duties 7744
require them to engage in investigatory activities; 7745

(2) Attorneys at law or any expert hired by an attorney at 7746
law for consultation or litigation purposes; 7747

(3) A consumer reporting agency, as defined in the "Fair 7748
Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 7749
amended, provided that the consumer reporting agency is in 7750
compliance with the requirements of that act and that the 7751
agency's activities are confined to any of the following: 7752

(a) The issuance of consumer credit reports; 7753

(b) The conducting of limited background investigations 7754
that pertain only to a client's prospective tenant and that are 7755
engaged in with the prior written consent of the prospective 7756
tenant; 7757

(c) The business of pre-employment background 7758
investigation. As used in division (H) (3) (c) of this section, 7759
"business of pre-employment background investigation" means, and 7760
is limited to, furnishing for hire, in person or through a 7761
partner or employees, the conducting of limited background 7762
investigations, in-person interviews, telephone interviews, or 7763
written inquiries that pertain only to a client's prospective 7764
employee and the employee's employment and that are engaged in 7765
with the prior written consent of the prospective employee. 7766

(4) Certified public insurance adjusters that hold a 7767
certificate of authority issued pursuant to sections 3951.01 to 7768
3951.09 of the Revised Code, while the adjuster is investigating 7769
the cause of or responsibility for a fire, accident, or other 7770
damage to property with respect to a claim or claims for loss or 7771

damage under a policy of insurance covering real or personal property;	7772 7773
(5) Personnel placement services and persons who act as employees of such entities engaged in investigating matters related to personnel placement activities;	7774 7775 7776
(6) An employee in the regular course of the employee's employment, engaged in investigating matters pertinent to the business of the employee's employer or protecting property in the possession of the employee's employer, provided the employer is deducting all applicable state and federal employment taxes on behalf of the employee and neither the employer nor the employee is employed by, associated with, or acting for or on behalf of any private investigator or security guard provider;	7777 7778 7779 7780 7781 7782 7783 7784
(7) Any better business bureau or similar organization or any of its employees while engaged in the maintenance of the quality of business activities relating to consumer sales and services;	7785 7786 7787 7788
(8) An accountant who is registered or certified under Chapter 4701. of the Revised Code or any of the accountant's employees while engaged in activities for which the accountant is certified or registered;	7789 7790 7791 7792
(9) Any person who, for hire or otherwise, conducts genealogical research in this state.	7793 7794
As used in division (H) (9) of this section, "genealogical research" means the determination of the origins and descent of families, including the identification of individuals, their family relationships, and the biographical details of their lives. "Genealogical research" does not include furnishing for hire services for locating missing persons or natural or birth	7795 7796 7797 7798 7799 7800

parents or children. 7801

(10) Any person residing in this state who conducts 7802
research for the purpose of locating the last known owner of 7803
unclaimed funds, provided that the person is in compliance with 7804
Chapter 169. of the Revised Code and rules adopted thereunder. 7805
The exemption set forth in division (H) (10) of this section 7806
applies only to the extent that the person is conducting 7807
research for the purpose of locating the last known owner of 7808
unclaimed funds. 7809

As used in division (H) (10) of this section, "owner" and 7810
"unclaimed funds" have the same meanings as in section 169.01 of 7811
the Revised Code. 7812

(11) A professional engineer who is registered under 7813
Chapter 4733. of the Revised Code or any of his employees. 7814

As used in division (H) (11) of this section and 7815
notwithstanding division (I) of this section, "employee" has the 7816
same meaning as in section 4101.01 of the Revised Code. 7817

(12) Any person residing in this state who, for hire or 7818
otherwise, conducts research for the purpose of locating persons 7819
to whom the state of Ohio owes money in the form of warrants, as 7820
defined in ~~division (S) of~~ section 131.01 of the Revised Code, 7821
that the state voided but subsequently reissues. 7822

(13) An independent insurance adjuster who, as an 7823
individual, an independent contractor, an employee of an 7824
independent contractor, adjustment bureau association, 7825
corporation, insurer, partnership, local recording agent, 7826
managing general agent, or self-insurer, engages in the business 7827
of independent insurance adjustment, or any person who 7828
supervises the handling of claims except while acting as an 7829

employee of an insurer licensed in this state while handling 7830
claims pertaining to specific policies written by that insurer. 7831

As used in division (H)(13) of this section, "independent 7832
insurance adjustment" means conducting investigations to 7833
determine the cause of or circumstances concerning a fire, 7834
accident, bodily injury, or damage to real or personal property; 7835
determining the extent of damage of that fire, accident, injury, 7836
or property damage; securing evidence for use in a legislative, 7837
administrative, or judicial investigation or proceeding, 7838
adjusting losses; and adjusting or settling claims, including 7839
the investigation, adjustment, denial, establishment of damages, 7840
negotiation, settlement, or payment of claims in connection with 7841
insurance contractors, self-insured programs, or other similar 7842
insurance programs. "Independent adjuster" does not include 7843
either of the following: 7844

(a) An attorney who adjusts insurance losses incidental to 7845
the practice of law and who does not advertise or represent that 7846
the attorney is an independent insurance adjuster; 7847

(b) A licensed agent or general agent of an insurer 7848
licensed in this state who processes undisputed or uncontested 7849
losses for insurers under policies issued by that agent or 7850
general agent. 7851

(14) Except for a commissioned peace officer who engages 7852
in the business of private investigation or compensates others 7853
who engage in the business of private investigation or the 7854
business of security services or both, any commissioned peace 7855
officer as defined in division (B) of section 2935.01 of the 7856
Revised Code. 7857

(I) "Employee" means every person who may be required or 7858

directed by any employer, in consideration of direct or indirect 7859
gain or profit, to engage in any employment, or to go, or work, 7860
or be at any time in any place of employment, provided that the 7861
employer of the employee deducts all applicable state and 7862
federal employment taxes on behalf of the employee. 7863

Sec. 4763.13. (A) In engaging in appraisal activities, a 7864
person certified, registered, or licensed under this chapter 7865
shall comply with the applicable standards prescribed by the 7866
board of governors of the federal reserve system, the federal 7867
deposit insurance corporation, the comptroller of the currency, 7868
~~the office of thrift supervision,~~ the national credit union 7869
administration, and the resolution trust corporation in 7870
connection with federally related transactions under the 7871
jurisdiction of the applicable agency or instrumentality. A 7872
certificate holder, registrant, and licensee also shall comply 7873
with the uniform standards of professional appraisal practice, 7874
as adopted by the appraisal standards board of the appraisal 7875
foundation and such other standards adopted by the real estate 7876
appraiser board, to the extent that those standards do not 7877
conflict with applicable federal standards in connection with a 7878
particular federally related transaction. 7879

(B) The terms "state-licensed residential real estate 7880
appraiser," "state-certified residential real estate appraiser," 7881
"state-certified general real estate appraiser," and "state- 7882
registered real estate appraiser assistant" shall be used to 7883
refer only to those persons who have been issued the applicable 7884
certificate, registration, or license or renewal certificate, 7885
registration, or license pursuant to this chapter. None of these 7886
terms shall be used following or in connection with the name or 7887
signature of a partnership, corporation, or association or in a 7888
manner that could be interpreted as referring to a person other 7889

than the person to whom the certificate, registration, or 7890
license has been issued. No person shall fail to comply with 7891
this division. 7892

(C) No person, other than a certificate holder, a 7893
registrant, or a licensee, shall assume or use a title, 7894
designation, or abbreviation that is likely to create the 7895
impression that the person possesses certification, 7896
registration, or licensure under this chapter, provided that 7897
professional designations containing the term "certified 7898
appraiser" and being used on or before July 26, 1989, shall not 7899
be construed as being misleading under this division. No person 7900
other than a person certified or licensed under this chapter 7901
shall describe or refer to an appraisal or other evaluation of 7902
real estate located in this state as being certified. 7903

(D) The terms "state-certified or state-licensed real 7904
estate appraisal report," "state-certified or state-licensed 7905
appraisal report," or "state-certified or state-licensed 7906
appraisal" shall be used to refer only to those real estate 7907
appraisals conducted by a certificate holder or licensee as a 7908
disinterested and unbiased third party provided that the 7909
certificate holder or licensee provides certification with the 7910
appraisal report and provided further that if a licensee is 7911
providing the appraisal, such terms shall only be used if the 7912
licensee is acting within the scope of the licensee's license. 7913
No person shall fail to comply with this division. 7914

(E) Nothing in this chapter shall preclude a partnership, 7915
corporation, or association which employs, retains, or engages 7916
the services of a certificate holder or licensee to advertise 7917
that the partnership, corporation, or association offers state- 7918
certified or state-licensed appraisals through a certificate 7919

holder or licensee if the advertisement clearly states such fact 7920
in accordance with guidelines for such advertisements 7921
established by rule of the real estate appraiser board. 7922

(F) Except as otherwise provided in section 4763.19 of the 7923
Revised Code, nothing in this chapter shall preclude a person 7924
who is not licensed or certified under this chapter from 7925
appraising real estate for compensation. 7926

Sec. 5725.17. (A) In addition to any other penalty imposed 7927
by this chapter or Chapter 5703. of the Revised Code, the 7928
following penalties shall apply: 7929

(1) If a dealer in intangibles fails to make and furnish 7930
to the tax commissioner the report required by section 5725.14 7931
of the Revised Code, within the time fixed by that section, a 7932
penalty shall be imposed equal to the greater of fifty dollars 7933
per month or fraction of a month, not to exceed five hundred 7934
dollars, or five per cent per month or fraction of a month, not 7935
to exceed fifty per cent, of the tax required to be shown on the 7936
report, for each month or fraction of a month elapsing between 7937
the due date, including extensions of the due date, and the date 7938
on which the report is filed. 7939

(2) If a dealer in intangibles fails to pay any amounts of 7940
the tax levied by division (D) of section 5707.03 of the Revised 7941
Code by the dates prescribed for payment, a penalty shall be 7942
imposed equal to the greater of ~~the penalty due under division-~~ 7943
~~(F) of section 5725.22 of the Revised Code, for which this~~ 7944
penalty shall be a substitute (a) five per cent of the taxes due, 7945
if payment is made within ten calendar days of the date shown on 7946
the tax bill, or ten per cent of the taxes due, if payment is 7947
not made within ten days of such date, or (b) two times the 7948
interest charged under section 5725.221 of the Revised Code for 7949

the delinquent payment. 7950

(3) If a dealer in intangibles submits a report required 7951
by section 5725.14 of the Revised Code that is marked, defaced, 7952
or otherwise designed by the dealer to be a frivolous protest or 7953
an attempt to delay or impede the administration of the tax 7954
levied by division (D) of section 5707.03 of the Revised Code, a 7955
penalty shall be imposed equal to the greater of one hundred 7956
dollars or twenty-five per cent of the tax required to be shown 7957
on the report. 7958

(4) If a dealer in intangibles makes a fraudulent attempt 7959
to evade the reporting or payment of the tax levied by division 7960
(D) of section 5707.03 of the Revised Code, a penalty shall be 7961
imposed equal to the greater of one thousand dollars or one 7962
hundred per cent of the tax required to be shown on the report 7963
required by section 5725.14 of the Revised Code. 7964

(5) If any person makes a false or fraudulent claim for 7965
abatement or refund of the tax levied by division (D) of section 7966
5707.03 of the Revised Code, a penalty shall be imposed equal to 7967
the greater of one thousand dollars or one hundred per cent of 7968
the claim. The penalty imposed by this division, any abatement 7969
or refund on the claim, and interest on any refund from the date 7970
of the refund, may be assessed under section 5725.15 of the 7971
Revised Code or added by the tax commissioner as tax, penalty, 7972
and interest due from the tax levied by division (D) of section 7973
5707.03 of the Revised Code, without regard to whether the 7974
person making the claim is otherwise subject to the tax, and 7975
without regard to any time limitation for assessment. 7976

(B) Each penalty imposed under division (A) of this 7977
section shall be in addition to any other penalty imposed under 7978
that division. All or part of any penalty imposed under division 7979

(A) of this section may be abated by the commissioner. 7980

Sec. 5725.22. (A) The treasurer of state shall maintain an 7981
~~intangible property tax list of taxes levied by section 5707.03~~ 7982
~~of the Revised Code and certified by the tax commissioner~~ 7983
~~pursuant to sections 5711.13, 5725.08, 5725.16, and 5727.15 of~~ 7984
~~the Revised Code, and a separate list of taxes levied by section~~ 7985
5725.18 of the Revised Code and certified for assessment by the 7986
superintendent of insurance pursuant to section 5725.20 of the 7987
Revised Code. 7988

~~(B)(1) With respect to taxes levied under section 5725.18~~ 7989
~~of the Revised Code, the treasurer of state, upon receipt of an~~ 7990
~~assessment, shall compute the taxes at the rates prescribed by~~ 7991
~~law and enter the taxes on the proper tax list.~~ (B) The 7992
treasurer of state shall collect, and the taxpayer shall pay, 7993
all ~~such~~ taxes levied under section 5725.18 of the Revised Code 7994
and any interest applicable thereto. Payments may be made ~~by~~ 7995
~~mail, in person,~~ electronically or by any other means authorized 7996
by the treasurer of state. ~~The~~ Whenever the superintendent of 7997
insurance submits an electronic call for data, the treasurer of 7998
state shall render a daily itemized statement electronically 7999
submit to the superintendent ~~of insurance of the data requested,~~ 8000
including the amount of taxes collected and the name of the 8001
domestic insurance company from whom collected. The treasurer of 8002
state may adopt rules concerning the methods and timeliness of 8003
payments under this division. 8004

~~(2) With respect to taxes levied under section 5707.03 of~~ 8005
~~the Revised Code, any assessment certified to the treasurer of~~ 8006
~~state shall reflect the taxes computed at the rates prescribed~~ 8007
~~by law. Upon receipt of such an assessment, the treasurer shall~~ 8008
~~enter the taxes on the proper tax list. The tax commissioner~~ 8009

~~shall collect, and the taxpayer shall pay, all such taxes and 8010
any interest applicable thereto. Payments may be made by mail, 8011
in person, or by any other means authorized by the commissioner. 8012
The commissioner shall immediately forward to the treasurer any 8013
payments received under this division, together with any 8014
information necessary for the treasurer to properly credit such 8015
payments. The commissioner may adopt rules concerning the method 8016
and timeliness of payments under this division. 8017~~

(C) Each tax bill issued pursuant to this section shall 8018
separately reflect the taxes due, interest, if any, due date, 8019
and any other information considered necessary. ~~With respect to 8020
taxes levied under section 5725.18 of the Revised Code, the The 8021
last day on which payment may be made without penalty shall be 8022
the fifteenth day of June, unless that day is not a business day 8023
as defined in section 5709.40 of the Revised Code, in which case 8024
the payment may be made on the next business day. ~~With respect 8025
to taxes levied under section 5707.03 of the Revised Code, the 8026
last day on which payment may be made without penalty shall be 8027
at least twenty but not more than thirty days from the date of 8028
mailing the tax bill. The treasurer of state or tax 8029
commissioner, as appropriate, shall issue the tax bill and, if 8030
the tax bill is issued by mail, the mailing thereof shall be 8031
prima facie evidence of receipt thereof by the taxpayer to the 8032
taxpayer electronically through the department of insurance's 8033
web site. 8034~~~~

The treasurer ~~or commissioner, as appropriate, of state 8035
shall refund taxes as provided in this section, but no refund 8036
shall be made to a taxpayer having a delinquent claim certified 8037
pursuant to this section that remains unpaid. The treasurer ~~or 8038
commissioner of state~~ may consult the attorney general regarding 8039
such claims. Refunds shall be paid from the tax refund fund 8040~~

created by section 5703.052 of the Revised Code. 8041

(D) (1) ~~Within twenty days after receipt of any preliminary~~ 8042
~~assessment of taxes levied under section 5725.18 of the Revised~~ 8043
~~Code. Unless an exigency exists,~~ the treasurer of state shall 8044
issue a tax bill within twenty days after receipt of an 8045
assessment certified by the superintendent of insurance under 8046
section 5725.20 of the Revised Code, but if such ~~preliminary~~ 8047
assessment reflects a late filed tax return, the treasurer of 8048
state shall add interest as provided in division (A) of section 8049
5725.221 of the Revised Code and issue a tax bill. In the case 8050
of an exigency, the treasurer of state shall issue the tax bill 8051
as soon as possible and may extend the due date for payment of 8052
the tax prescribed by division (C) of this section. 8053

(2) After receipt of any amended or final assessment of 8054
taxes ~~levied under section 5725.18 of the Revised Code~~ received 8055
from the superintendent of insurance pursuant to section 5725.20 8056
of the Revised Code, the treasurer of state shall ascertain the 8057
difference between the total taxes computed on such assessment 8058
and the total taxes computed on the most recent assessment 8059
certified for the same tax year. If the difference is a 8060
deficiency, the treasurer of state shall add interest as 8061
provided in division (B) (1) of section 5725.221 of the Revised 8062
Code and issue a tax bill, with payment due thirty days after 8063
the date of the bill is issued. ~~Unless an exigency exists, the~~ 8064
~~treasurer shall issue the tax bill on or before the fifteenth~~ 8065
~~day of May. In the case of an exigency, the treasurer shall~~ 8066
~~issue the tax bill as soon as possible after the fifteenth day~~ 8067
~~of May and may extend the due date for payment of the tax~~ 8068
~~prescribed by division (C) of this section.~~ If the difference is 8069
an excess, the treasurer of state shall add interest as provided 8070
in division (B) (2) of section 5725.221 of the Revised Code and 8071

certify the name of the taxpayer and the amount to be refunded 8072
to the director of budget and management for payment to the 8073
taxpayer. If the taxpayer has a deficiency for one tax year and 8074
an excess for another tax year, or any combination thereof for 8075
more than two tax years, the treasurer of state may determine 8076
the net result after adding interest, if applicable, and, 8077
depending on such result, proceed to issue a tax bill or certify 8078
a refund. 8079

~~(E) (1) Except as provided in division (E) (2) of this 8080
section, within twenty days after certifying to the treasurer of 8081
state an amended or final assessment, or a preliminary 8082
assessment of a dealer in intangibles that has failed to file a 8083
report or disclose taxable property, the tax commissioner shall 8084
ascertain the difference between the total taxes computed on 8085
such assessment and the total taxes computed on the most recent 8086
assessment certified for the same tax year, if any. If the 8087
difference is a deficiency, the commissioner shall add interest 8088
as provided in division (B) (1) of section 5725.221 of the 8089
Revised Code and issue a tax bill. If the difference is an 8090
excess, the commissioner shall add interest as provided in 8091
division (B) (2) of section 5725.221 of the Revised Code and 8092
certify the name of the taxpayer and the amount to be refunded 8093
to the director of budget and management for payment to the 8094
taxpayer. If the taxpayer has a deficiency for one tax year and 8095
excess for another tax year, or any combination thereof for more 8096
than two tax years, the commissioner may determine the net 8097
result after adding interest, if applicable, and, depending on 8098
such result, proceed to mail a tax bill or certify a refund. 8099~~

~~(2) The tax commissioner may issue a tax bill for any 8100
deficiency resulting from an assessment at the time the 8101
commissioner issues the assessment. 8102~~

~~(F) With respect to taxes levied under section 5707.03 of the Revised Code, if a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill but makes payment within ten calendar days of such date, the tax commissioner shall add a penalty equal to five per cent of the taxes due. If payment is not made within ten days of such date, the commissioner shall add a penalty equal to ten per cent of the taxes due. The commissioner shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. For each claim certified by the commissioner, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.~~

~~(G) With respect to taxes levied under section 5725.18 of the Revised Code, if~~ (E) If a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill issued by the treasurer of state, the treasurer of state shall add a penalty equal to five hundred dollars for each month the taxpayer fails to pay all taxes and interest due. The treasurer of state may add an additional penalty, not to exceed ten per cent of the taxes and interest due, if the taxpayer fails to demonstrate that the taxpayer made a good faith effort to pay all taxes and interest on or before the due date shown on the tax bill. The treasurer of state shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. The attorney general shall transmit a copy of each claim certified by the treasurer of state to the superintendent of insurance. For each claim certified by the treasurer of state, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.

Sec. 5727.25. (A) Except as provided in division (B) of 8134
this section, within forty-five days after the last day of 8135
March, June, September, and December, each natural gas company 8136
or combined company subject to the excise tax imposed by section 8137
5727.24 of the Revised Code shall file a return with the tax 8138
commissioner, in such form as the ~~tax~~-commissioner prescribes, 8139
and pay the full amount of the tax due on its taxable gross 8140
receipts for the preceding calendar quarter, ~~except that the~~ 8141
~~first payment of this tax shall be made on or before November~~ 8142
~~15, 2000, for the five-month period of May 1, 2000, to September~~ 8143
~~30, 2000.~~ All payments made under this division shall be made ~~by~~ 8144
~~electronic funds transfer~~ electronically in accordance with 8145
section 5727.311 of the Revised Code. 8146

(B) Any natural gas company or combined company subject to 8147
the excise tax imposed by this section that has an annual tax 8148
liability for the preceding calendar year ending on the thirty- 8149
first day of December of less than three hundred twenty-five 8150
thousand dollars may elect to file an annual return with the tax 8151
commissioner, in such form as the ~~tax~~-commissioner prescribes, 8152
for the next year. A company that elects to file an annual 8153
return for the calendar year shall file the return and remit the 8154
taxes due on its taxable gross receipts within forty-five days 8155
after the thirty-first day of December. ~~The first payment of the~~ 8156
~~tax under this division shall be made on or before February 14,~~ 8157
~~2001, for the period of May 1, 2000, to December 31, 2000.~~ The 8158
minimum tax for a natural gas company or combined company 8159
subject to this division shall be fifty dollars, and the company 8160
shall not be required to remit the tax due ~~by electronic funds~~ 8161
~~transfer~~ electronically. 8162

(C) A return required to be filed under division (A) or 8163
(B) of this section shall show the amount of tax due from the 8164

company for the period covered by the return and any other 8165
information as prescribed by the tax commissioner. A return 8166
shall be considered filed when received by the ~~tax~~ commissioner. 8167
The commissioner may extend the time for making and filing 8168
returns and paying the tax. 8169

(D) Any natural gas company or combined company that fails 8170
to file a return or pay the full amount of the tax due within 8171
the period prescribed under this section shall pay an additional 8172
charge of fifty dollars or ten per cent of the tax required to 8173
be paid for the reporting period, whichever is greater. If any 8174
tax due is not paid timely in accordance with this section, the 8175
company liable for the tax shall pay interest, calculated at the 8176
rate per annum prescribed by section 5703.47 of the Revised 8177
Code, from the date the tax payment was due to the date of 8178
payment or to the date an assessment was issued, whichever 8179
occurs first. The tax commissioner may collect any additional 8180
charge or interest imposed by this section by assessment in the 8181
manner provided in section 5727.26 of the Revised Code. The 8182
commissioner may abate all or a portion of the additional charge 8183
and may adopt rules governing such abatements. 8184

~~(E) The tax commissioner shall immediately forward to the~~ 8185
~~treasurer of state any amounts that the commissioner receives~~ 8186
~~under this section.~~ The taxes, additional charges, penalties, 8187
and interest collected under sections 5727.24 to 5727.29 of the 8188
Revised Code shall be credited in accordance with section 8189
5727.45 of the Revised Code. 8190

Sec. 5727.31. (A) Each public utility subject to the 8191
excise tax imposed by section 5727.30 of the Revised Code, 8192
annually, on or before the first day of August, shall file with 8193
the tax commissioner a statement in such form as the 8194

commissioner prescribes and shall pay any amount due. 8195

(B) (1) Annually, on or before the fifteenth day of October 8196
of the current year, each public utility whose estimated excise 8197
taxes for the current year as based upon the statement required 8198
to be filed in that year by division (A) of this section are one 8199
thousand dollars or more shall file with the commissioner a 8200
report, in such form as the commissioner prescribes, showing the 8201
amount of excise tax estimated to be charged or levied pursuant 8202
to law for the current year upon the basis of such annual 8203
statement, and shall remit a portion of the estimated excise 8204
taxes shown to be due by the report. The portion of the 8205
estimated excise taxes due at the time the report is filed shall 8206
be one-third of its total excise taxes estimated to be charged 8207
or levied for the current year based upon the annual statement 8208
filed under division (A) of this section. 8209

(2) Annually, on or before the first day of March and 8210
June, each public utility whose excise taxes as based upon its 8211
last preceding annual statement filed under division (A) of this 8212
section prior to the first day of January were one thousand 8213
dollars or more shall file with the commissioner a report, in 8214
such form as the commissioner prescribes, showing the amount of 8215
excise tax charged or levied pursuant to law upon the basis of 8216
such annual statement, and shall remit a portion of the excise 8217
taxes shown to be due by each such report. The portion of the 8218
excise taxes due at the time each such report is filed shall be 8219
one-third of its total excise taxes so charged or levied based 8220
upon such annual statement. 8221

(C) Any public utility subject to the excise taxes imposed 8222
by section 5727.30 of the Revised Code whose tax as certified 8223
under section 5727.38 of the Revised Code in a year equals or 8224

exceeds the amount specified for that year in section 5727.311 8225
of the Revised Code shall make the payments required under this 8226
section in the second ensuing and each succeeding year in the 8227
manner prescribed by section 5727.311 of the Revised Code, 8228
except as otherwise prescribed by that section. 8229

(D) (1) For purposes of this section, a report required to 8230
be filed under division (B) of this section is considered filed 8231
when it is received by the tax commissioner. 8232

(2) For purposes of this section and sections 5727.311 and 8233
5727.42 of the Revised Code, remittance of an excise tax 8234
required to be made under this section is considered to be made 8235
when the remittance is received by the ~~treasurer of state or tax~~ 8236
commissioner, or when credited to an account designated by the 8237
treasurer of state for the receipt of tax remittances. 8238

Sec. 5727.311. (A) Any public utility subject to an excise 8239
tax imposed by section 5727.30 of the Revised Code whose tax 8240
equals or exceeds fifty thousand dollars shall make each payment 8241
required under division (B) of section 5727.31 of the Revised 8242
Code for the second ensuing and each succeeding year ~~by~~ 8243
~~electronic funds transfer electronically~~ as prescribed by 8244
division (C) of this section. 8245

If the tax in each of two consecutive years is less than 8246
fifty thousand dollars, the public utility is relieved of the 8247
requirement to remit taxes ~~by electronic funds transfer~~ 8248
electronically for the year that next follows the second of the 8249
consecutive years in which the tax certified is less than fifty 8250
thousand dollars, and is relieved of that requirement for each 8251
succeeding year unless the tax in a subsequent year equals or 8252
exceeds fifty thousand dollars. 8253

(B) The tax commissioner shall notify each public utility 8254
required by this section or section 5727.25 of the Revised Code 8255
to remit taxes ~~by electronic funds transfer~~ electronically of 8256
the public utility's obligation to do so ~~and shall maintain an~~ 8257
~~updated list of those public utilities~~. Failure by the tax- 8258
commissioner to notify a public utility subject to this section 8259
to remit taxes ~~by electronic funds transfer~~ electronically does 8260
not relieve the public utility of its obligation to remit taxes 8261
~~by electronic funds transfer~~ in that manner. 8262

(C) Public utilities required by this section or section 8263
5727.25 of the Revised Code to remit periodic payments ~~by~~ 8264
~~electronic funds transfer~~ electronically shall remit such 8265
payments ~~to the treasurer of state in the manner prescribed by~~ 8266
~~rules adopted by the treasurer of state under section 113.061 of~~ 8267
~~the Revised Code~~ in the manner prescribed by the tax 8268
commissioner. The electronic payment of public utility excise 8269
taxes ~~by electronic funds transfer~~ does not affect a public 8270
utility's obligation to file the annual statement and periodic 8271
reports in the manner and at the times prescribed by section 8272
5727.31 of the Revised Code. 8273

A public utility required by this section or section 8274
5727.25 of the Revised Code to remit taxes ~~by electronic funds~~ 8275
~~transfer~~ electronically may apply to the ~~tax~~ commissioner in the 8276
manner prescribed by the commissioner to be excused from that 8277
requirement. The commissioner may excuse the public utility from 8278
electronic remittance ~~by electronic funds transfer~~ for good 8279
cause shown for the period of time requested by the public 8280
utility or for a portion of that period. The commissioner shall 8281
notify the public utility of the commissioner's decision as soon 8282
as is practicable. 8283

(D) If a public utility required by this section or 8284
section 5727.25 of the Revised Code to remit taxes ~~by electronic~~ 8285
~~funds transfer electronically~~ remits those taxes by some means 8286
other than ~~by electronic funds transfer electronically~~ as 8287
prescribed by this section ~~and the rules adopted by the~~ 8288
~~treasurer of state~~, and the tax commissioner determines that the 8289
failure to remit taxes as required was not due to reasonable 8290
cause or was due to willful neglect, the commissioner may impose 8291
an additional charge on the public utility equal to five per 8292
cent of the amount of the taxes required to be paid ~~by~~ 8293
~~electronic funds transfer electronically~~, but not to exceed five 8294
thousand dollars. Any additional charge imposed under this 8295
section is in addition to any other penalty or charge imposed 8296
under this chapter, and shall be considered as revenue arising 8297
from excise taxes imposed by this chapter. 8298

No additional charge shall be assessed under this division 8299
against a public utility that has been notified of its 8300
obligation to remit taxes electronically under this section and 8301
that remits its first two tax payments after such notification 8302
by some other means ~~other than electronic funds transfer~~. The 8303
additional charge may be assessed upon the remittance of any 8304
subsequent tax payment that the public utility remits by some 8305
means other than ~~electronic funds transfer~~ electronically. 8306

Sec. 5727.42. (A) ~~The treasurer of state shall notify the~~ 8307
~~tax commissioner of any payment of the excise tax imposed by~~ 8308
~~section 5727.30 of the Revised Code.~~ The tax commissioner shall 8309
collect the excise tax imposed by section 5727.30 of the Revised 8310
Code and the taxpayer shall pay all taxes and any penalties 8311
thereon. Payments of the tax may be made by mail, in person, ~~by~~ 8312
~~electronic funds transfer electronically~~ if required to do so by 8313
section 5727.311 of the Revised Code, or by any other means 8314

authorized by the commissioner. The commissioner may adopt rules 8315
concerning the methods and timeliness of payment. 8316

(B) Each tax assessment issued pursuant to this section 8317
shall separately reflect the taxes and any penalty due, and any 8318
other information considered necessary. The commissioner shall 8319
mail the assessment to the taxpayer, and the mailing of it shall 8320
be prima-facie evidence of receipt thereof by the taxpayer. 8321

(C) The commissioner shall refund taxes levied and 8322
payments made for the tax imposed by section 5727.30 of the 8323
Revised Code as provided in this section, but no refund shall be 8324
made to a taxpayer having a delinquent claim certified pursuant 8325
to this section that remains unpaid. The commissioner may 8326
consult the attorney general regarding such claims. 8327

(D) After receiving any excise tax annual statement for 8328
the tax imposed by section 5727.30 of the Revised Code, the 8329
commissioner shall: 8330

(1) Ascertain the difference between the total taxes owed 8331
and the sum of all payments made for that year. 8332

(2) If the difference is a deficiency, the commissioner 8333
shall issue an assessment. 8334

(3) If the difference is an excess, the commissioner shall 8335
~~notify the director of budget and management and~~ issue a refund 8336
of that amount to the taxpayer. If the amount of the refund is 8337
less than that claimed by the taxpayer, the taxpayer, within 8338
sixty days of the issuance of the refund, may provide to the 8339
commissioner additional information to support the claim or may 8340
request a hearing. Upon receiving such information or request 8341
within that time, the commissioner shall follow the same 8342
procedures set forth in divisions (C) and (D) of section 5703.70 8343

of the Revised Code for the determination of refund 8344
applications. 8345

If the taxpayer has a deficiency for one tax year and an 8346
excess for another tax year, or any combination thereof for more 8347
than two years, the commissioner may determine the net result 8348
and, depending on such result, proceed to issue an assessment or 8349
certify a refund. 8350

(E) If a taxpayer fails to pay the amount of taxes 8351
required to be paid, or fails to make an estimated payment on or 8352
before the due date prescribed in division (B) of section 8353
5727.31 of the Revised Code, the commissioner shall impose a 8354
penalty in the amount of fifteen per cent of the unpaid amount, 8355
and the commissioner shall issue an assessment for the unpaid 8356
amount and penalty. Unless a timely petition for reassessment is 8357
filed under section 5727.47 of the Revised Code, the attorney 8358
general shall proceed to collect the delinquent taxes and 8359
penalties thereon in the manner prescribed by law and notify the 8360
commissioner of all collections. 8361

Sec. 5727.47. (A) Notice of each assessment certified or 8362
issued pursuant to section 5727.23 or 5727.38 of the Revised 8363
Code shall be mailed to the public utility, and its mailing 8364
shall be prima-facie evidence of its receipt by the public 8365
utility to which it is addressed. With the notice, the tax 8366
commissioner shall provide instructions on how to petition for 8367
reassessment and request a hearing on the petition. If a public 8368
utility objects to such an assessment, it may file with the 8369
commissioner, either personally or by certified mail, within 8370
sixty days after the mailing of the notice of assessment a 8371
written petition for reassessment signed by the utility's 8372
authorized agent having knowledge of the facts. The date the 8373

commissioner receives the petition shall be considered the date 8374
of filing. The petition shall indicate the utility's objections, 8375
but additional objections may be raised in writing if received 8376
by the commissioner prior to the date shown on the final 8377
determination. 8378

In the case of a petition seeking a reduction in taxable 8379
value filed with respect to an assessment certified under 8380
section 5727.23 of the Revised Code, the petitioner shall state 8381
in the petition the total amount of reduction in taxable value 8382
sought by the petitioner. If the petitioner objects to the 8383
percentage of true value at which taxable property is assessed 8384
by the commissioner, the petitioner shall state in the petition 8385
the total amount of reduction in taxable value sought both with 8386
and without regard to the objection pertaining to the percentage 8387
of true value at which its taxable property is assessed. If a 8388
petitioner objects to the commissioner's apportionment of the 8389
taxable value of the petitioner's taxable property, the 8390
petitioner shall distinctly state in the petition that the 8391
petitioner objects to the commissioner's apportionment, and, 8392
within forty-five days after filing the petition for 8393
reassessment, shall submit the petitioner's proposed 8394
apportionment of the taxable value of its taxable property among 8395
taxing districts. If a petitioner that objects to the 8396
commissioner's apportionment fails to state its objections to 8397
that apportionment in its petition for reassessment or fails to 8398
submit its proposed apportionment within forty-five days after 8399
filing the petition for reassessment, the commissioner shall 8400
dismiss the petitioner's objection to the commissioner's 8401
apportionment, and the taxable value of the petitioner's taxable 8402
property, subject to any adjustment to taxable value pursuant to 8403
the petition or appeal, shall be apportioned in the manner used 8404

by the commissioner in the preliminary or amended preliminary 8405
assessment certified under section 5727.23 of the Revised Code. 8406

If an additional objection seeking a reduction in taxable 8407
value in excess of the reduction stated in the original petition 8408
is properly and timely raised with respect to an assessment 8409
issued under section 5727.23 of the Revised Code, the petitioner 8410
shall state the total amount of the reduction in taxable value 8411
sought in the additional objection both with and without regard 8412
to any reduction in taxable value pertaining to the percentage 8413
of true value at which taxable property is assessed. If a 8414
petitioner fails to state the reduction in taxable value sought 8415
in the original petition or in additional objections properly 8416
raised after the petition is filed, the commissioner shall 8417
notify the petitioner of the failure ~~by certified mail~~ in the 8418
manner provided in section 5703.37 of the Revised Code. If the 8419
petitioner fails to notify the commissioner in writing of the 8420
reduction in taxable value sought in the petition or in an 8421
additional objection within thirty days after receiving the 8422
commissioner's notice, the commissioner shall dismiss the 8423
petition or the additional objection in which that reduction is 8424
sought. 8425

(B) (1) Subject to divisions (B) (2) and (3) of this 8426
section, a public utility filing a petition for reassessment 8427
regarding an assessment certified or issued under section 8428
5727.23 or 5727.38 of the Revised Code shall pay the tax with 8429
respect to the assessment objected to as required by law. The 8430
acceptance of any tax payment by the ~~treasurer of state,~~ tax 8431
commissioner, or any county treasurer shall not prejudice any 8432
claim for taxes on final determination by the commissioner or 8433
final decision by the board of tax appeals or any court. 8434

(2) If a public utility properly and timely files a petition for reassessment regarding an assessment certified under section 5727.23 of the Revised Code, the petitioner shall pay the tax as prescribed by divisions (B) (2) (a), (b), and (c) of this section:

(a) If the petitioner does not object to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the part of the tax otherwise due on the taxable value that the petitioner seeks to have reduced, subject to division (B) (2) (c) of this section.

(b) If the petitioner objects to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the tax otherwise due on the part of the taxable value apportioned to any taxing district that the petitioner objects to, subject to division (B) (2) (c) of this section. If, pursuant to division (A) of this section, the petitioner has, in a proper and timely manner, apportioned taxable value to a taxing district to which the commissioner did not apportion the petitioner's taxable value, the petitioner shall pay the tax due on the taxable value that the petitioner has apportioned to the taxing district, subject to division (B) (2) (c) of this section.

(c) If a petitioner objects to the percentage of true value at which taxable property is assessed by the commissioner, the petitioner shall pay the tax due on the basis of the percentage of true value at which the public utility's taxable property is assessed by the commissioner. In any case, the petitioner's payment of tax shall not be less than the amount of tax due based on the taxable value reflected on the last appeal

notice issued by the commissioner under division (C) of this 8465
section. Until the county auditor receives notification under 8466
division (E) of this section and proceeds under section 5727.471 8467
of the Revised Code to issue any refund that is found to be due, 8468
the county auditor shall not issue a refund for any increase in 8469
the reduction in taxable value that is sought by a petitioner 8470
later than forty-five days after the petitioner files the 8471
original petition as required under division (A) of this 8472
section. 8473

(3) Any part of the tax that, under division (B) (2) (a) or 8474
(b) of this section, is not paid shall be collected upon receipt 8475
of the notification as provided in section 5727.471 of the 8476
Revised Code with interest thereon computed in the same manner 8477
as interest is computed under division (E) of section 5715.19 of 8478
the Revised Code, subject to any correction of the assessment by 8479
the commissioner under division (E) of this section or the final 8480
judgment of the board of tax appeals or a court to which the 8481
board's final judgment is appealed. The penalty imposed under 8482
section 323.121 of the Revised Code shall apply only to the 8483
unpaid portion of the tax if the petitioner's tax payment is 8484
less than the amount of tax due based on the taxable value 8485
reflected on the last appeal notice issued by the commissioner 8486
under division (C) of this section. 8487

(C) Upon receipt of a properly filed petition for 8488
reassessment with respect to an assessment certified under 8489
section 5727.23 of the Revised Code, the tax commissioner shall 8490
notify the treasurer of state or the auditor of each county to 8491
which the assessment objected to has been certified. In the case 8492
of a petition with respect to an assessment certified under 8493
section 5727.23 of the Revised Code, the commissioner shall 8494
issue an appeal notice within thirty days after receiving the 8495

amount of the taxable value reduction and apportionment changes 8496
sought by the petitioner in the original petition or in any 8497
additional objections properly and timely raised by the 8498
petitioner. The appeal notice shall indicate the amount of the 8499
reduction in taxable value sought in the petition or in the 8500
additional objections and the extent to which the reduction in 8501
taxable value and any change in apportionment requested by the 8502
petitioner would affect the commissioner's apportionment of the 8503
taxable value among taxing districts in the county as shown in 8504
the assessment. If a petitioner is seeking a reduction in 8505
taxable value on the basis of a lower percentage of true value 8506
than the percentage at which the commissioner assessed the 8507
petitioner's taxable property, the appeal notice shall indicate 8508
the reduction in taxable value sought by the petitioner without 8509
regard to the reduction sought on the basis of the lower 8510
percentage and shall indicate that the petitioner is required to 8511
pay tax on the reduced taxable value determined without regard 8512
to the reduction sought on the basis of a lower percentage of 8513
true value, as provided under division (B) (2) (c) of this 8514
section. The appeal notice shall include a statement that the 8515
reduced taxable value and the apportionment indicated in the 8516
notice are not final and are subject to adjustment by the 8517
commissioner or by the board of tax appeals or a court on 8518
appeal. If the commissioner finds an error in the appeal notice, 8519
the commissioner may amend the notice, but the notice is only 8520
for informational and tax payment purposes; the notice is not 8521
subject to appeal by any person. The commissioner also shall 8522
mail a copy of the appeal notice to the petitioner. Upon the 8523
request of a taxing authority, the county auditor may disclose 8524
to the taxing authority the extent to which a reduction in 8525
taxable value sought by a petitioner would affect the 8526
apportionment of taxable value to the taxing district or 8527

districts under the taxing authority's jurisdiction, but such a 8528
disclosure does not constitute a notice required by law to be 8529
given for the purpose of section 5717.02 of the Revised Code. 8530

(D) If the petitioner requests a hearing on the petition, 8531
the tax commissioner shall assign a time and place for the 8532
hearing on the petition and notify the petitioner of such time 8533
and place, but the commissioner may continue the hearing from 8534
time to time as necessary. 8535

(E) The tax commissioner may make corrections to the 8536
assessment as the commissioner finds proper. The commissioner 8537
shall serve a copy of the commissioner's final determination on 8538
the petitioner in the manner provided in section 5703.37 of the 8539
Revised Code. The commissioner's decision in the matter shall be 8540
final, subject to appeal under section 5717.02 of the Revised 8541
Code. With respect to a final determination issued for an 8542
assessment certified under section 5727.23 of the Revised Code, 8543
the commissioner also shall transmit a copy of the final 8544
determination to the applicable county auditor. In the absence 8545
of any further appeal, or when a decision of the board of tax 8546
appeals or of any court to which the decision has been appealed 8547
becomes final, the commissioner shall notify the public utility 8548
and, as appropriate, shall proceed under section 5727.42 of the 8549
Revised Code, or notify the applicable county auditor, who shall 8550
proceed under section 5727.471 of the Revised Code. 8551

The notification made under this division is not subject 8552
to further appeal. 8553

(F) On appeal, no adjustment shall be made in the tax 8554
commissioner's assessment certified under section 5727.23 of the 8555
Revised Code that reduces the taxable value of a petitioner's 8556
taxable property by an amount that exceeds the reduction sought 8557

by the petitioner in its petition for reassessment or in any 8558
additional objections properly and timely raised after the 8559
petition is filed with the commissioner. 8560

Sec. 5727.53. The taxes, fees, and penalties provided by 8561
this chapter that are remitted to the ~~treasurer of state tax~~ 8562
commissioner may be recovered by an action brought in the name 8563
of the state in the court of common pleas of Franklin county, or 8564
of any county in which such public utility is doing business, or 8565
in which the line of any railroad company is located, and such 8566
court of common pleas shall have jurisdiction of the action 8567
regardless of the amount involved. The attorney general, on 8568
request of the tax commissioner, shall institute such action in 8569
the court of common pleas of Franklin county or of any of such 8570
counties the commissioner directs. Sums recovered in any such 8571
action shall be paid into the state treasury in the same manner 8572
as the tax. 8573

Sec. 5727.81. (A) For the purpose of raising revenue to 8574
fund the needs of this state and its local governments, an 8575
excise tax is hereby levied and imposed on an electric 8576
distribution company for all electricity distributed by such 8577
company at the following rates per kilowatt hour of electricity 8578
distributed in a thirty-day period by the company through a 8579
meter of an end user in this state: 8580

8581

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A	KILOWATT HOURS DISTRIBUTED	RATE PER
B	TO AN END USER	KILOWATT HOUR

C	For the first 2,000	\$.00465
D	For the next 2,001 to 15,000	\$.00419
E	For 15,001 and above	\$.00363

If no meter is used to measure the kilowatt hours of electricity distributed by the company, the rates shall apply to the estimated kilowatt hours of electricity distributed to an unmetered location in this state.

The electric distribution company shall base the monthly tax on the kilowatt hours of electricity distributed to an end user through the meter of the end user that is not measured for a thirty-day period by dividing the days in the measurement period into the total kilowatt hours measured during the measurement period to obtain a daily average usage. The tax shall be determined by obtaining the sum of divisions (A) (1), (2), and (3) of this section and multiplying that amount by the number of days in the measurement period:

(1) Multiplying \$0.00465 per kilowatt hour for the first sixty-seven kilowatt hours distributed using a daily average;

(2) Multiplying \$0.00419 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average;

(3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the tax commissioner in accordance with section 5727.82 of the Revised Code, unless required to remit each tax payment ~~by electronic funds transfer to the treasurer of state~~ electronically in

accordance with section 5727.83 of the Revised Code. 8606

Only the distribution of electricity through a meter of an 8607
end user in this state shall be used by the electric 8608
distribution company to compute the amount or estimated amount 8609
of tax due. In the event a meter is not actually read for a 8610
measurement period, the estimated kilowatt hours distributed by 8611
an electric distribution company to bill for its distribution 8612
charges shall be used. 8613

(B) Except as provided in division (C) of this section, 8614
each electric distribution company shall pay the tax imposed by 8615
this section in all of the following circumstances: 8616

(1) The electricity is distributed by the company through 8617
a meter of an end user in this state; 8618

(2) The company is distributing electricity through a 8619
meter located in another state, but the electricity is consumed 8620
in this state in the manner prescribed by the tax commissioner; 8621

(3) The company is distributing electricity in this state 8622
without the use of a meter, but the electricity is consumed in 8623
this state as estimated and in the manner prescribed by the tax 8624
commissioner. 8625

(C) (1) As used in division (C) of this section: 8626

(a) "Total price of electricity" means the aggregate value 8627
in money of anything paid or transferred, or promised to be paid 8628
or transferred, to obtain electricity or electric service, 8629
including but not limited to the value paid or promised to be 8630
paid for the transmission or distribution of electricity and for 8631
transition costs as described in Chapter 4928. of the Revised 8632
Code. 8633

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request by an applicant for registration as a self-assessing purchaser under this division. ~~For the meter reading period including July 1, 2008, through the meter reading period including December 31, 2010, such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and a percentage of the total price of all electricity distributed to that meter or location equal to three and one-half per cent. For the meter reading period including January 1, 2011, and thereafter, such~~ Such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00257 per kilowatt hour for the first five hundred

million kilowatt hours, and \$.001832 per kilowatt hour for each 8665
kilowatt hour in excess of five hundred million kilowatt hours, 8666
distributed to that meter or location during the registration 8667
year. 8668

A qualified end user that receives electricity through a 8669
meter of an end user in this state or through more than one 8670
meter at a single location in this state and that consumes, over 8671
the course of the previous calendar year, more than forty-five 8672
million kilowatt hours in other than its qualifying 8673
manufacturing process, may elect to self-assess the tax as 8674
allowed by this division with respect to the electricity used in 8675
other than its qualifying manufacturing process. 8676

Payment of the tax shall be made directly to the tax 8677
commissioner in accordance with divisions (A) (4) and (5) of 8678
section 5727.82 of the Revised Code, or ~~the treasurer of state~~ 8679
in accordance with section 5727.83 of the Revised Code. If the 8680
electric distribution company serving the self-assessing 8681
purchaser is a municipal electric utility and the purchaser is 8682
within the municipal corporation's corporate limits, payment 8683
shall be made to such municipal corporation's general fund and 8684
reports shall be filed in accordance with divisions (A) (4) and 8685
(5) of section 5727.82 of the Revised Code, except that 8686
"municipal corporation" shall be substituted for ~~"treasurer of~~ 8687
~~state" and "tax commissioner."~~ A self-assessing purchaser that 8688
pays the excise tax as provided in this division shall not be 8689
required to pay the tax to the electric distribution company 8690
from which its electricity is distributed. If a self-assessing 8691
purchaser's receipt of electricity is not subject to the tax as 8692
measured under this division, the tax on the receipt of such 8693
electricity shall be measured and paid as provided in division 8694
(A) of this section. 8695

(3) In the case of the acquisition of a package, unless 8696
the elements of the package are separately stated isolating the 8697
total price of electricity from the price of the remaining 8698
elements of the package, the tax imposed under this section 8699
applies to the entire price of the package. If the elements of 8700
the package are separately stated, the tax imposed under this 8701
section applies to the total price of the electricity. 8702

(4) Any electric supplier that sells electricity as part 8703
of a package shall separately state to the purchaser the total 8704
price of the electricity and, upon request by the tax 8705
commissioner, the total price of each of the other elements of 8706
the package. 8707

(5) The tax commissioner may adopt rules relating to the 8708
computation of the total price of electricity with respect to 8709
self-assessing purchasers, which may include rules to establish 8710
the total price of electricity purchased as part of a package. 8711

(6) An annual application for registration as a self- 8712
assessing purchaser shall be made for each qualifying meter or 8713
location on a form prescribed by the tax commissioner. The 8714
registration year begins on the first day of May and ends on the 8715
following thirtieth day of April. Persons may apply after the 8716
first day of May for the remainder of the registration year. In 8717
the case of an applicant applying on the basis of an estimated 8718
consumption of forty-five million kilowatt hours over the course 8719
of the succeeding twelve months, the applicant shall provide 8720
such information as the tax commissioner considers to be 8721
necessary to estimate such consumption. At the time of making 8722
the application and by the first day of May of each year, a 8723
self-assessing purchaser shall pay a fee of five hundred dollars 8724
to the tax commissioner, ~~or to the treasurer of state as~~ 8725

~~provided in section 5727.83 of the Revised Code,~~ for each 8726
qualifying meter or location. The tax commissioner shall 8727
immediately pay to the treasurer of state all amounts that the 8728
tax commissioner receives under this section. The treasurer of 8729
state shall deposit such amounts into the kilowatt hour excise 8730
tax administration fund, which is hereby created in the state 8731
treasury. Money in the fund shall be used to defray the tax 8732
commissioner's cost in administering the tax owed under section 8733
5727.81 of the Revised Code by self-assessing purchasers. After 8734
the application is approved by the tax commissioner, the 8735
registration shall remain in effect for the current registration 8736
year, or until canceled by the registrant upon written 8737
notification to the commissioner of the election to pay the tax 8738
in accordance with division (A) of this section, or until 8739
canceled by the tax commissioner for not paying the tax or fee 8740
under division (C) of this section or for not meeting the 8741
qualifications in division (C)(2) of this section. The tax 8742
commissioner shall give written notice to the electric 8743
distribution company from which electricity is delivered to a 8744
self-assessing purchaser of the purchaser's self-assessing 8745
status, and the electric distribution company is relieved of the 8746
obligation to pay the tax imposed by division (A) of this 8747
section for electricity distributed to that self-assessing 8748
purchaser until it is notified by the tax commissioner that the 8749
self-assessing purchaser's registration is canceled. Within 8750
fifteen days of notification of the canceled registration, the 8751
electric distribution company shall be responsible for payment 8752
of the tax imposed by division (A) of this section on 8753
electricity distributed to a purchaser that is no longer 8754
registered as a self-assessing purchaser. A self-assessing 8755
purchaser with a canceled registration must file a report and 8756
remit the tax imposed by division (A) of this section on all 8757

electricity it receives for any measurement period prior to the 8758
tax being reported and paid by the electric distribution 8759
company. A self-assessing purchaser whose registration is 8760
canceled by the tax commissioner is not eligible to register as 8761
a self-assessing purchaser for two years after the registration 8762
is canceled. 8763

(7) If the tax commissioner cancels the self-assessing 8764
registration of a purchaser registered on the basis of its 8765
estimated consumption because the purchaser does not consume at 8766
least forty-five million kilowatt hours of electricity over the 8767
course of the twelve-month period for which the estimate was 8768
made, the tax commissioner shall assess and collect from the 8769
purchaser the difference between (a) the amount of tax that 8770
would have been payable under division (A) of this section on 8771
the electricity distributed to the purchaser during that period 8772
and (b) the amount of tax paid by the purchaser on such 8773
electricity pursuant to division (C) (2) of this section. The 8774
assessment shall be paid within sixty days after the tax 8775
commissioner issues it, regardless of whether the purchaser 8776
files a petition for reassessment under section 5727.89 of the 8777
Revised Code covering that period. If the purchaser does not pay 8778
the assessment within the time prescribed, the amount assessed 8779
is subject to the additional charge and the interest prescribed 8780
by divisions (B) and (C) of section 5727.82 of the Revised Code, 8781
and is subject to assessment under section 5727.89 of the 8782
Revised Code. If the purchaser is a qualified end user, division 8783
(C) (7) of this section applies only to electricity it consumes 8784
in other than its qualifying manufacturing process. 8785

(D) The tax imposed by this section does not apply to: 8786

(1) The distribution or obtaining of any kilowatt hours of 8787

electricity to or by any of the following: 8788

(a) The federal government; 8789

(b) An end user located at a federal facility that uses 8790
electricity for the enrichment of uranium; 8791

(c) A qualified regeneration meter; 8792

(d) An end user for any day the end user is a qualified 8793
end user; 8794

(e) An end user if the electricity is generated by an 8795
electric generation facility that is primarily dedicated to 8796
providing electricity to the electric-consuming facilities of 8797
the end user, that is sized so as to not exceed one hundred per 8798
cent of the customer-generator's annual requirements for 8799
electric energy at the time of interconnection, that is 8800
physically interconnected and integrated with the electric- 8801
consuming facilities of the end user, and that is located on the 8802
same property on which the end user's electric-consuming 8803
facilities are situated or on property that is contiguous to the 8804
property on which the end user's electric-consuming facilities 8805
are situated. 8806

(2) Kilowatt hours of electricity generated by a self- 8807
generator if the electric generating facility is sized so as not 8808
to exceed one hundred per cent of the customer-generator's 8809
annual requirements for electric energy at the time of 8810
interconnection. 8811

The exemption under division (D) (1) (d) of this section for 8812
a qualified end user only applies to the manufacturing location 8813
where the qualified end user uses electricity in a chlor-alkali 8814
manufacturing process or where the qualified end user uses more 8815
than three million kilowatt hours per day in an electrochemical 8816

manufacturing process. As used in division (D) of this section, 8817
"customer-generator" and "self-generator" have the same meanings 8818
as in section 4928.01 of the Revised Code. 8819

(E) All revenue arising from the tax imposed by this 8820
section shall be credited to the general revenue fund except as 8821
provided by division (C) of this section and section 5727.82 of 8822
the Revised Code. 8823

Sec. 5727.811. (A) For the purpose of raising revenue to 8824
fund the needs of this state and its local governments, an 8825
excise tax is hereby levied on every natural gas distribution 8826
company for all natural gas volumes billed by, or on behalf of, 8827
the company ~~beginning with the measurement period that includes~~ 8828
~~July 1, 2001~~. Except as provided in divisions (C) or (D) of this 8829
section, the tax shall be levied at the following rates per MCF 8830
of natural gas distributed by the company through a meter of an 8831
end user in this state: 8832

8833

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A	MCF DISTRIBUTED TO AN END USER	RATE PER MCF
B	For the first 100 MCF per month	\$.1593
C	For the next 101 to 2000 MCF per month	\$.0877
D	For 2001 and above MCF per month	\$.0411

If no meter is used to measure the MCF of natural gas 8834
distributed by the company, the rates shall apply to the 8835
estimated MCF of natural gas distributed to an unmetered 8836

location in this state. 8837

(B) A natural gas distribution company shall base the tax 8838
on the MCF of natural gas distributed to an end user through the 8839
meter of the end user in this state that is estimated to be 8840
consumed by the end user as reflected on the end user's customer 8841
statement from the natural gas distribution company. ~~Until~~ 8842
~~January 1, 2003, the natural gas distribution company shall pay~~ 8843
~~the tax levied by this section to the treasurer of state in~~ 8844
~~accordance with section 5727.82 of the Revised Code. Beginning~~ 8845
~~January 1, 2003, the~~ The natural gas distribution company shall 8846
pay the tax levied by this section to the tax commissioner in 8847
accordance with section 5727.82 of the Revised Code unless 8848
required to remit payment ~~to the treasurer of state in~~ 8849
accordance with section 5727.83 of the Revised Code. 8850

(C) A natural gas distribution company with seventy 8851
thousand customers or less may elect to apply the rates 8852
specified in division (A) of this section to the aggregate of 8853
the natural gas distributed by the company through the meter of 8854
all its customers in this state, and upon such election, this 8855
method shall be used to determine the amount of tax to be paid 8856
by such company. 8857

(D) A natural gas distribution company shall pay the tax 8858
imposed by this section at the rate of \$.02 per MCF of natural 8859
gas distributed by the company through the meter of a flex 8860
customer. The natural gas distribution company correspondingly 8861
shall reduce the per MCF rate that it charges the flex customer 8862
for natural gas distribution services by \$.02 per MCF of natural 8863
gas distributed to the flex customer. 8864

(E) Except as provided in division (F) of this section, 8865
each natural gas distribution company shall pay the tax imposed 8866

by this section in all of the following circumstances: 8867

(1) The natural gas is distributed by the company through 8868
a meter of an end user in this state; 8869

(2) The natural gas distribution company is distributing 8870
natural gas through a meter located in another state, but the 8871
natural gas is consumed in this state in the manner prescribed 8872
by the tax commissioner; 8873

(3) The natural gas distribution company is distributing 8874
natural gas in this state without the use of a meter, but the 8875
natural gas is consumed in this state as estimated and in the 8876
manner prescribed by the tax commissioner. 8877

(F) The tax levied by this section does not apply to the 8878
distribution of natural gas to the federal government, or 8879
natural gas produced by an end user in this state that is 8880
consumed by that end user or its affiliates and is not 8881
distributed through the facilities of a natural gas company. 8882

(G) All revenue arising from the tax imposed by this 8883
section shall be credited to the general revenue fund. 8884

Sec. 5727.82. (A) (1) Except as provided in divisions (A) 8885
(3) and (D) of this section, by the twentieth day of each month, 8886
each electric distribution company required to pay the tax 8887
imposed by section 5727.81 of the Revised Code shall file with 8888
the tax commissioner a return as prescribed by the tax 8889
commissioner and shall make payment of the full amount of tax 8890
due for the preceding month. ~~The first payment of this tax shall~~ 8891
~~be made on or before June 20, 2001.~~ The electric distribution 8892
company shall make payment to the tax commissioner unless 8893
required to remit ~~each tax the payment by electronic funds~~ 8894
~~transfer to the treasurer of state electronically~~ as provided in 8895

section 5727.83 of the Revised Code. 8896

(2) By the twentieth day of May, August, November, and 8897
February, each natural gas distribution company required to pay 8898
the tax imposed by section 5727.811 of the Revised Code shall 8899
file with the tax commissioner a return as prescribed by the tax 8900
commissioner and shall make payment to the tax commissioner, ~~or~~ 8901
~~to the treasurer of state as provided in section 5727.83 of the~~ 8902
~~Revised Code,~~ of the full amount of tax due for the preceding 8903
quarter. ~~The first payment of this tax shall be made on or~~ 8904
~~before November 20, 2001, for the quarter ending September 30,~~ 8905
~~2001.~~ 8906

(3) If the electric distribution company required to pay 8907
the tax imposed by section 5727.81 of the Revised Code is a 8908
municipal electric utility, it may retain in its general fund 8909
that portion of the tax on the kilowatt hours distributed to end 8910
users located within the boundaries of the municipal 8911
corporation. However, the municipal electric utility shall make 8912
payment in accordance with division (A)(1) of this section of 8913
the tax due on the kilowatt hours distributed to end users 8914
located outside the boundaries of the municipal corporation. 8915

(4) By the twentieth day of each month, each self- 8916
assessing purchaser that under division (C) of section 5727.81 8917
of the Revised Code pays directly to the tax commissioner ~~or the~~ 8918
~~treasurer of state~~ the tax imposed by section 5727.81 of the 8919
Revised Code shall file with the tax commissioner a return as 8920
prescribed by the tax commissioner and shall make payment of the 8921
full amount of the tax due for the preceding month. 8922

(5) As prescribed by the tax commissioner, a return shall 8923
be signed by the company or self-assessing purchaser required to 8924
file it, or an authorized employee, officer, or agent of the 8925

company or purchaser. The return shall be deemed filed when 8926
received by the tax commissioner. 8927

(B) Any natural gas distribution company, electric 8928
distribution company, or self-assessing purchaser required by 8929
this section to file a return who fails to file it and pay the 8930
tax within the period prescribed shall pay an additional charge 8931
of fifty dollars or ten per cent of the tax required to be paid 8932
for the reporting period, whichever is greater. The tax 8933
commissioner may collect the additional charge by assessment 8934
pursuant to section 5727.89 of the Revised Code. The 8935
commissioner may abate all or a portion of the additional charge 8936
and may adopt rules governing such abatements. 8937

(C) If any tax due is not paid timely in accordance with 8938
this section, the natural gas distribution company, electric 8939
distribution company, or self-assessing purchaser liable for the 8940
tax shall pay interest, calculated at the rate per annum 8941
prescribed by section 5703.47 of the Revised Code, from the date 8942
the tax payment was due to the date of payment or to the date an 8943
assessment is issued, whichever occurs first. Interest shall be 8944
paid in the same manner as the tax, and the commissioner may 8945
collect the interest by assessment pursuant to section 5727.89 8946
of the Revised Code. 8947

(D) Not later than the tenth day of each month, a 8948
qualified end user not making the election to self-assess under 8949
division (C) of section 5727.81 of the Revised Code shall report 8950
in writing to the electric distribution company that distributes 8951
electricity to the end user the kilowatt hours that were 8952
consumed as a qualified end user in a qualifying manufacturing 8953
process for the prior month and the number of days, if any, on 8954
which the end user was not a qualified end user. For each 8955

calendar day during that month, a qualified end user shall 8956
report the kilowatt hours that were not used in a qualifying 8957
manufacturing process. For each calendar day the end user was 8958
not a qualified end user, the end user shall report in writing 8959
to the electric distribution company the total number of 8960
kilowatt hours used on that day, and the electric distribution 8961
company shall pay the tax imposed under section 5727.81 of the 8962
Revised Code on each kilowatt hour that was not distributed to a 8963
qualified end user in a qualifying manufacturing process. The 8964
electric distribution company may rely in good faith on a 8965
qualified end user's report filed under this division. If it is 8966
determined that the end user was not a qualified end user for 8967
any calendar day or the quantity of electricity used by the 8968
qualified end user in a qualifying manufacturing process was 8969
overstated, the tax commissioner shall assess and collect any 8970
tax imposed under section 5727.81 of the Revised Code directly 8971
from the qualified end user. As requested by the commissioner, 8972
each end user reporting to an electric distribution company that 8973
it is a qualified end user shall provide documentation to the 8974
commissioner that establishes the volume of electricity consumed 8975
daily by the qualified end user and the total number of kilowatt 8976
hours consumed in a qualifying manufacturing process. 8977

~~(E) The tax commissioner shall immediately pay to the 8978
treasurer of state all amounts that the tax commissioner 8979
receives under this section. The treasurer of state shall credit 8980
such amounts in accordance with this chapter. 8981~~

Sec. 5727.83. (A) A natural gas distribution company, an 8982
electric distribution company, or a self-assessing purchaser 8983
shall remit each tax payment ~~by electronic funds transfer~~ 8984
electronically as prescribed by divisions (B) and (C) of this 8985
section. 8986

The tax commissioner shall notify each natural gas 8987
distribution company, electric distribution company, and self- 8988
assessing purchaser of the obligation to remit taxes ~~by~~ 8989
~~electronic funds transfer, shall maintain an updated list of~~ 8990
~~those companies and purchasers, and shall timely certify to the~~ 8991
~~treasurer of state the list and any additions thereto or~~ 8992
~~deletions therefrom~~electronically by using the Ohio business 8993
gateway, as defined in section 718.01 of the Revised Code, or 8994
another means of electronic payment. Failure by the tax- 8995
commissioner to notify a company or self-assessing purchaser 8996
subject to this section to remit taxes ~~by electronic funds~~ 8997
~~transfer~~electronically does not relieve the company or self- 8998
assessing purchaser of its obligation to remit taxes in that 8999
manner. 9000

(B) A natural gas distribution company, an electric 9001
distribution company, or a self-assessing purchaser required by 9002
this section to remit payments ~~by electronic funds transfer~~ 9003
electronically shall remit such payments ~~to the treasurer of~~ 9004
~~state in the manner prescribed by rules adopted by the treasurer~~ 9005
~~of state under section 113.061 of the Revised Code, and on or~~ 9006
before the dates specified under section 5727.82 of the Revised 9007
Code. The payment of taxes ~~by electronic funds transfer~~ 9008
electronically does not affect a company's or self-assessing 9009
purchaser's obligation to file a return as required under 9010
section 5727.82 of the Revised Code. 9011

(C) A natural gas distribution company, an electric 9012
distribution company, or a self-assessing purchaser required by 9013
this section to remit taxes ~~by electronic funds transfer~~ 9014
electronically may apply to the ~~treasurer of state tax~~ 9015
commissioner in the manner prescribed by the ~~treasurer of state~~ 9016
commissioner to be excused from that requirement. The ~~treasurer~~ 9017

~~of state commissioner~~ may excuse the company or self-assessing purchaser from electronic remittance ~~by electronic funds transfer~~ for good cause shown for the period of time requested by the company or self-assessing purchaser or for a portion of that period. The ~~treasurer of state~~ commissioner shall notify the ~~tax commissioner and the~~ company or self-assessing purchaser of the ~~treasurer of state's~~ commissioner's decision as soon as is practicable.

(D) If a natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit taxes ~~by electronic funds transfer~~ electronically remits those taxes by some means other than ~~by electronic funds transfer~~ electronically as prescribed by this section ~~and the rules adopted by the treasurer of state,~~ and the ~~treasurer of state~~ tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the ~~treasurer of state~~ shall notify the ~~tax commissioner of the failure to remit by electronic funds transfer~~ and shall provide the ~~commissioner~~ with any information used in making that determination. The ~~tax~~ commissioner may collect an additional charge by assessment in the manner prescribed by section 5727.89 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid ~~by electronic funds transfer~~ electronically, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from the tax imposed under this chapter. The ~~tax~~ commissioner may abate all or a portion of such a charge and may adopt rules governing such abatements.

No additional charge shall be assessed under this division

against a natural gas distribution company, an electric 9049
distribution company, or a self-assessing purchaser that has 9050
been notified of its obligation to remit taxes electronically 9051
under this section and that remits its first two tax payments 9052
after such notification by some other means ~~other than~~ 9053
~~electronic funds transfer~~. The additional charge may be assessed 9054
upon the remittance of any subsequent tax payment that the 9055
company or purchaser remits by some means other than ~~electronic~~ 9056
~~funds transfer~~electronically. 9057

Sec. 5733.022. (A) Subject to division (C) of this 9058
section, if a taxpayer's total liability for taxes imposed by 9059
section 5733.06 of the Revised Code, after reduction for all 9060
nonrefundable credits allowed the taxpayer, ~~for tax year 1992 or~~ 9061
~~1993 exceeds one hundred thousand dollars, the taxpayer shall~~ 9062
~~remit each tax payment for tax year 1994 to the treasurer of~~ 9063
~~state by electronic funds transfer as prescribed by divisions~~ 9064
~~(B) and (C) of this section. Subject to division (C) of this~~ 9065
~~section, if a taxpayer's total liability for taxes, after~~ 9066
~~reduction for all nonrefundable credits allowed the taxpayer,~~ 9067
~~exceeds one hundred thousand dollars for tax year 1993, the~~ 9068
~~taxpayer shall remit each tax payment for tax year 1995 by~~ 9069
~~electronic funds transfer as prescribed by divisions (B) and (C)~~ 9070
~~of this section. If a taxpayer's total liability for taxes,~~ 9071
~~after reduction for all nonrefundable credits allowed the~~ 9072
~~taxpayer, exceeds seventy-five thousand dollars for tax year~~ 9073
~~1994, the taxpayer shall remit each tax payment for tax year~~ 9074
~~1996 by electronic funds transfer as prescribed by divisions (B)~~ 9075
~~and (C) of this section. For tax year 1997 and any succeeding~~ 9076
~~tax year, if a taxpayer's total liability for taxes, after~~ 9077
~~reduction for all nonrefundable credits allowed the taxpayer,~~ 9078
exceeds fifty thousand dollars ~~for the second preceding tax~~ 9079

year, the taxpayer shall remit each tax payment for the tax year 9080
~~by electronic funds transfer electronically~~ as prescribed by 9081
divisions (B) and (C) of this section. 9082

The tax commissioner shall notify each taxpayer required 9083
to remit taxes ~~by electronic funds transfer electronically~~ of 9084
the taxpayer's obligation to do so, ~~shall maintain an updated~~ 9085
~~list of those taxpayers, and shall provide the list and any~~ 9086
~~additions thereto or deletions therefrom to the treasurer of~~ 9087
~~state.~~ Failure by the ~~tax~~ commissioner to notify a taxpayer 9088
subject to this section to remit taxes ~~by electronic funds~~ 9089
~~transfer electronically~~ does not relieve the taxpayer of its 9090
obligation to remit taxes ~~by electronic funds transfer~~ in that 9091
manner. 9092

(B) Taxpayers required by this section to remit payments 9093
~~by electronic funds transfer electronically~~ shall remit such 9094
payments ~~to the treasurer of state~~ in the manner prescribed by 9095
rules adopted by the treasurer under section 113.061 of the 9096
Revised Code the tax commissioner. 9097

Except as otherwise provided in this paragraph, the 9098
electronic payment of taxes ~~by electronic funds transfer~~ does 9099
not affect a taxpayer's obligation to file the annual 9100
corporation report or the declaration of estimated tax report as 9101
required under sections 5733.02 and 5733.021 of the Revised 9102
Code. ~~If the taxpayer remits estimated tax payments in a manner,~~ 9103
~~designated by rule of the treasurer of state, that permits the~~ 9104
~~inclusion of all information necessary for the treasurer of~~ 9105
~~state to process the tax payment, the taxpayer need not file the~~ 9106
~~declaration of estimated tax report as required by section~~ 9107
~~5733.021 of the Revised Code.~~ 9108

(C) If two or more taxpayers have elected or are required 9109

to file a combined report under section 5733.052 of the Revised Code, the tax liability of those taxpayers for purposes of division (A) of this section is the aggregate tax liability of those taxpayers after reduction for nonrefundable credits allowed the taxpayers.

(D) A taxpayer required by this section to remit taxes ~~by electronic funds transfer~~ electronically may apply to the ~~treasurer of state~~ tax commissioner in the manner prescribed by the ~~treasurer~~ commissioner to be excused from that requirement. The ~~treasurer of state~~ commissioner may excuse the taxpayer from electronic remittance ~~by electronic funds transfer~~ for good cause shown for the period of time requested by the taxpayer or for a portion of that period. The ~~treasurer~~ commissioner shall notify the ~~tax commissioner~~ and the taxpayer of the ~~treasurer's~~ commissioner's decision as soon as is practicable.

(E) If a taxpayer required by this section to remit taxes ~~by electronic funds transfer~~ electronically remits those taxes by some means other than ~~by electronic funds transfer~~ electronically as prescribed by this section ~~and the rules adopted by the treasurer of state,~~ and the ~~treasurer~~ tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the ~~treasurer~~ shall notify the ~~tax commissioner~~ of the failure to remit ~~by electronic funds transfer~~ and shall provide the ~~commissioner~~ with any information used in making that determination. The ~~tax~~ commissioner may collect an additional charge by assessment in the manner prescribed by section 5733.11 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes or estimated tax payments required to be paid ~~by~~ electronically, but shall not exceed five thousand dollars. Any additional charge assessed under this

section is in addition to any other penalty or charge imposed 9141
under this chapter, and shall be considered as revenue arising 9142
from the taxes imposed under this chapter. The ~~tax~~ commissioner 9143
may remit all or a portion of such a charge and may adopt rules 9144
governing such remission. 9145

No additional charge shall be assessed under this division 9146
against a taxpayer that has been notified of its obligation to 9147
remit taxes electronically under this section and that remits 9148
its first two tax payments after such notification by some other 9149
~~means other than electronic funds transfer~~. The additional 9150
charge may be assessed upon the remittance of any subsequent tax 9151
payment that the taxpayer remits by some means other than 9152
~~electronic funds transfer~~electronically. 9153

Sec. 5735.03. Except as provided in division (C) (2) of 9154
section 5735.02 of the Revised Code, every motor fuel dealer 9155
shall file with the tax commissioner a surety bond of not less 9156
than five thousand dollars, but may be required by the tax 9157
commissioner to submit a surety bond equal to three months' 9158
average tax liability, on a form approved by and with a surety 9159
satisfactory to the commissioner, upon which the motor fuel 9160
dealer shall be the principal obligor and the state shall be the 9161
obligee, conditioned upon the prompt filing of true reports and 9162
the payment by the motor fuel dealer to the ~~treasurer of state~~ 9163
commissioner of all motor fuel excise taxes levied by the state, 9164
provided that after notice is received from the state by the 9165
surety of the delinquency of any taxes, if the surety pays the 9166
taxes within thirty days after the receipt of the notice no 9167
penalties or interest shall be charged against the surety. If 9168
the surety does not pay the taxes within thirty days, but does 9169
pay within ninety days from the date of the receipt of notice 9170
from the state by the surety, no penalty shall be assessed 9171

against the surety but the surety shall pay interest at the rate 9172
of six per cent per annum on the unpaid taxes from the date the 9173
taxes are due and payable. If the surety does not pay within 9174
ninety days then the surety shall be liable for interest and 9175
penalties, and the tax commissioner may cancel all bonds issued 9176
by the surety. 9177

The commissioner may increase or reduce the amount of the 9178
bond required to be filed by any licensed motor fuel dealer. If 9179
the commissioner finds that it is necessary to increase the bond 9180
to assure payment of the tax, the bond may be increased to an 9181
amount equal to three months/average liability or fifty thousand 9182
dollars, whichever is greater. 9183

If liability upon the bond thus filed by the motor fuel 9184
dealer with the commissioner is discharged or reduced, whether 9185
by judgment rendered, payment made, or otherwise, or if, in the 9186
opinion of the commissioner any surety on the bond theretofore 9187
given has become unsatisfactory or unacceptable, the 9188
commissioner may require the motor fuel dealer to file a new 9189
bond with satisfactory sureties in the same amount, and if a new 9190
bond is not filed the commissioner shall forthwith cancel the 9191
license of the motor fuel dealer. If a new bond is furnished by 9192
the motor fuel dealer, the commissioner shall cancel and 9193
surrender the bond of the motor fuel dealer for which the new 9194
bond is substituted. 9195

A surety on a bond furnished by a motor fuel dealer shall 9196
be released from all liability to the state accruing on the bond 9197
after the expiration of sixty days from the date upon which the 9198
surety lodges with the commissioner a written request to be 9199
released. The request shall not operate to release the surety 9200
from any liability already accrued, or which accrues before the 9201

expiration of the sixty-day period. The commissioner shall 9202
promptly on receipt of notice of the request notify the motor 9203
fuel dealer who furnished the bond and, unless the motor fuel 9204
dealer on or before the expiration of the sixty-day period files 9205
with the commissioner a new bond with a surety satisfactory to 9206
the commissioner in the amount and form provided in this 9207
section, the commissioner shall forthwith cancel the license of 9208
the motor fuel dealer. If the new bond is furnished by said 9209
motor fuel dealer, the commissioner shall cancel and surrender 9210
the bond of the motor fuel dealer for which the new bond is 9211
substituted. 9212

The commissioner, in lieu of any surety bond required by 9213
this section, may accept a deposit by a motor fuel dealer of 9214
cash. Any cash thus accepted shall be deposited with the 9215
~~treasurer of state~~ commissioner to be held by the ~~treasurer of~~ 9216
~~state, in the same manner as other cash required to be deposited~~ 9217
~~with the treasurer of state under the laws of the state,~~ for the 9218
account of such motor fuel dealer and subject to any lawful 9219
claim of the state for any excise tax upon motor fuel, and 9220
penalties and interest thereon levied by the laws of this state. 9221
The state shall have a lien upon cash thus deposited for the 9222
amount of any motor fuel excise taxes and penalty and interest 9223
due to the state from the motor fuel dealer in whose behalf they 9224
were deposited. The amount of cash to be thus accepted shall in 9225
all respects be determined in the same manner as provided in 9226
this section for the amount of surety bonds. Any cash deposited 9227
shall be subject to levy upon execution to satisfy any judgment 9228
secured in any action by the state to recover any motor fuel 9229
excise taxes, and penalties and interest found to be due to the 9230
state from such motor fuel dealer. The cash shall be released by 9231
the ~~treasurer of state~~ commissioner upon ~~certificate of the~~ 9232

~~commissioner a determination~~ that the license of the motor fuel 9233
dealer in whose behalf they have been deposited has been 9234
canceled or that other security has been accepted in lieu 9235
thereof, and that the state asserts no claim thereto. 9236

Sec. 5735.062. (A) If the tax commissioner so requires, 9237
the dealer shall remit each monthly tax payment electronically 9238
as prescribed by division (B) of this section. 9239

The commissioner shall notify each dealer required to 9240
remit taxes electronically of the dealer's obligation to do so. 9241
Failure by the commissioner to notify a dealer subject to this 9242
section to remit taxes electronically does not relieve the 9243
dealer of its obligation to remit taxes electronically. 9244

(B) Dealers required by division (A) of this section to 9245
remit payments electronically shall remit such payments ~~to the~~ 9246
~~treasurer of state in the manner prescribed by rules adopted by~~ 9247
~~the treasurer under section 113.061 of the Revised Code or~~ 9248
through the ~~department of taxation's web site~~Ohio business 9249
gateway, as defined in section 718.01 of the Revised Code, or in 9250
another manner as prescribed by the commissioner. Required 9251
payments shall be remitted on or before the dates specified 9252
under section 5735.06 of the Revised Code. The payment of taxes 9253
electronically does not affect a dealer's obligation to file the 9254
monthly return as required under section 5735.06 of the Revised 9255
Code. 9256

A dealer required by this section to remit taxes 9257
electronically may apply to the commissioner to be excused from 9258
that requirement. The commissioner may excuse the dealer from 9259
the electronic remittance requirement for good cause shown for 9260
the period of time requested by the dealer or for a portion of 9261
that period. 9262

(C) If a dealer required by this section to remit taxes 9263
electronically fails to do so, the commissioner may impose a 9264
penalty on the dealer not to exceed one of the following: 9265

(1) For the first return period the dealer fails to remit 9266
taxes electronically, the greater of twenty-five dollars or five 9267
per cent of the amount of the payment required to be remitted; 9268

(2) For the second or any subsequent return period the 9269
dealer fails to remit taxes electronically, the greater of fifty 9270
dollars or ten per cent of the amount of the payment required to 9271
be remitted. 9272

The penalty imposed under division (C) of this section is 9273
in addition to any other penalty imposed under this chapter and 9274
shall be considered as revenue arising from the taxes imposed 9275
under this chapter. A penalty may be collected by assessment in 9276
the manner prescribed by section 5735.12 of the Revised Code. 9277
The commissioner may abate all or a portion of a penalty. 9278

(D) The commissioner may adopt rules necessary to 9279
administer this section. 9280

Sec. 5739.031. (A) Upon application, the tax commissioner 9281
may issue a direct payment permit that authorizes a consumer to 9282
pay the sales tax levied by or pursuant to section 5739.02, 9283
5739.021, 5739.023, or 5739.026 of the Revised Code or the use 9284
tax levied by or pursuant to section 5741.02, 5741.021, 9285
5741.022, or 5741.023 of the Revised Code directly to the state 9286
and waives the collection of the tax by the vendor or seller if 9287
payment directly to the state would improve compliance and 9288
increase the efficiency of the administration of the tax. The 9289
commissioner may adopt rules establishing the criteria for the 9290
issuance of such permits. 9291

(B) Each permit holder, on or before the twenty-third day 9292
of each month, shall make and file with the ~~treasurer of state~~ 9293
tax commissioner a return for the preceding month in such form 9294
as is prescribed by the ~~tax~~ commissioner and shall pay the tax 9295
shown on the return to be due. The return shall show the sum of 9296
the prices of taxable merchandise used and taxable services 9297
received, the amount of tax due from the permit holder, and such 9298
other information as the commissioner deems necessary. The 9299
commissioner, upon written request by the permit holder, may 9300
extend the time for making and filing returns and paying the 9301
tax. If the commissioner determines that a permit holder's tax 9302
liability is not such as to merit monthly filing, the 9303
commissioner may authorize the permit holder to file returns and 9304
pay the tax at less frequent intervals. ~~The treasurer of state~~ 9305
~~shall show on the return the date it was filed and the amount of~~ 9306
~~the payment remitted to the treasurer. Thereafter, the treasurer~~ 9307
~~immediately shall transmit all returns filed under this section~~ 9308
~~to the tax commissioner.~~ 9309

Any permit holder required to file a return and pay the 9310
tax under this section whose total payment for any calendar year 9311
equals or exceeds the amount shown in section 5739.032 of the 9312
Revised Code shall make each payment required by this section in 9313
the second ensuing and each succeeding year ~~by electronic funds~~ 9314
~~transfer electronically~~ as prescribed by, and on or before the 9315
dates specified in, section 5739.032 of the Revised Code, except 9316
as otherwise prescribed by that section. 9317

(C) For purposes of reporting and remitting the tax, the 9318
price of tangible personal property or services purchased by, or 9319
of tangible personal property produced by, the permit holder 9320
shall be determined under division (G) of section 5741.01 of the 9321
Revised Code. Except as otherwise provided in division (E) of 9322

section 5739.033 of the Revised Code, the situs of any purchase 9323
transaction made by the permit holder is the location where the 9324
tangible personal property or service is received by the permit 9325
holder. 9326

(D) It shall be the duty of every permit holder required 9327
to make a return and pay its tax under this section to keep and 9328
preserve suitable records of purchases together with invoices of 9329
purchases, bills of lading, asset ledgers, depreciation 9330
schedules, transfer journals, and such other primary and 9331
secondary records and documents in such form as the commissioner 9332
requires. All such records and other documents shall be open 9333
during business hours to the inspection of the tax commissioner, 9334
and shall be preserved for a period of four years, unless the 9335
commissioner, in writing, has authorized their destruction or 9336
disposal at an earlier date, or by order or by reason of a 9337
waiver of the four-year time limitation pursuant to section 9338
5739.16 of the Revised Code requires that they be kept longer. 9339

(E) A permit granted pursuant to this section shall 9340
continue to be valid until surrendered by the holder or canceled 9341
for cause by the tax commissioner. 9342

(F) Persons who hold a direct payment permit that has not 9343
been canceled shall not be required to issue exemption 9344
certificates and shall not be required to pay the tax as 9345
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 9346
Revised Code. Such persons shall notify vendors and sellers from 9347
whom purchases of tangible personal property or services are 9348
made, of their direct payment permit number and that the tax is 9349
being paid directly to the state. Upon receipt of such notice, 9350
such vendor or seller shall be absolved from all duties and 9351
liabilities imposed by section 5739.03 or 5741.04 of the Revised 9352

Code with respect to sales of tangible personal property or 9353
services to such permit holder. 9354

Vendors and sellers who make sales upon which the tax is 9355
not collected by reason of the provisions of this section shall 9356
maintain records in such manner that the amount involved and 9357
identity of the purchaser may be ascertained. The receipts from 9358
such sales shall not be subject to the tax levied in section 9359
5739.10 of the Revised Code. 9360

Upon the cancellation or surrender of a direct payment 9361
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 9362
of the Revised Code shall immediately apply to all purchases 9363
made subsequent to such cancellation or surrender by the person 9364
who previously held such permit, and such person shall so notify 9365
vendors and sellers from whom purchases of tangible personal 9366
property or services are made, in writing, prior to or at the 9367
time of the first purchase after such cancellation or surrender. 9368
Upon receipt of such notice, the vendor shall be subject to the 9369
provisions of sections 5739.03 and 5739.10 of the Revised Code 9370
and the seller shall be subject to the provisions of section 9371
5741.04 of the Revised Code, with respect to all sales 9372
subsequently made to such person. Failure of any such person to 9373
notify vendors or sellers from whom purchases of tangible 9374
personal property or services are made of the cancellation or 9375
surrender of a direct payment permit shall be considered as a 9376
refusal to pay the tax by the person required to issue such 9377
notice. 9378

Sec. 5739.032. (A) If the total amount of tax required to 9379
be paid by a permit holder under section 5739.031 of the Revised 9380
Code for any calendar year equals or exceeds seventy-five 9381
thousand dollars, the permit holder shall remit each monthly tax 9382

payment in the second ensuing and each succeeding year ~~by~~ 9383
~~electronic funds transfer electronically~~ as prescribed by 9384
division (B) of this section. 9385

If a permit holder's tax payment for each of two 9386
consecutive years is less than seventy-five thousand dollars, 9387
the permit holder is relieved of the requirement to remit taxes 9388
~~by electronic funds transfer electronically~~ for the year that 9389
next follows the second of the consecutive years in which the 9390
tax payment is less than that amount, and is relieved of that 9391
requirement for each succeeding year, unless the tax payment in 9392
a subsequent year equals or exceeds seventy-five thousand 9393
dollars. 9394

~~The tax commissioner shall notify each permit holder~~ 9395
~~required to remit taxes by electronic funds transfer of the~~ 9396
~~permit holder's obligation to do so, shall maintain an updated~~ 9397
~~list of those permit holders, and shall timely certify the list~~ 9398
~~and any additions thereto or deletions therefrom to the~~ 9399
~~treasurer of state. Failure by the tax commissioner to notify a~~ 9400
permit holder subject to this section to remit taxes ~~by~~ 9401
~~electronic funds transfer electronically~~ does not relieve the 9402
permit holder of its obligation to remit taxes ~~by electronic~~ 9403
~~funds transfer in that manner.~~ 9404

(B) Permit holders required by division (A) of this 9405
section to remit payments ~~by electronic funds transfer~~ 9406
~~electronically~~ shall remit such payments ~~to the treasurer of~~ 9407
~~state in the manner prescribed by this section and rules adopted~~ 9408
~~by the treasurer of state under section 113.061 of the Revised~~ 9409
~~Code by using the Ohio business gateway, as defined in section~~ 9410
~~718.01 of the Revised Code, or another means of electronic~~ 9411
payment, and as follows: 9412

(1) On or before the twenty-third day of each month, a 9413
permit holder shall remit an amount equal to seventy-five per 9414
cent of the anticipated tax liability for that month. 9415

(2) On or before the twenty-third day of each month, a 9416
permit holder shall report the taxes due for the previous month 9417
and shall remit that amount, less any amounts paid for that 9418
month as required by division (B) (1) of this section. 9419

The electronic payment of taxes ~~by electronic funds~~ 9420
~~transfer~~ does not affect a permit holder's obligation to file 9421
the monthly return as required under section 5739.031 of the 9422
Revised Code. 9423

~~(C) A permit holder required by this section to remit~~ 9424
~~taxes by electronic funds transfer may apply to the treasurer of~~ 9425
~~state in the manner prescribed by the treasurer of state to be~~ 9426
~~excused from that requirement. The treasurer of state may excuse~~ 9427
~~the permit holder from remittance by electronic funds transfer~~ 9428
~~for good cause shown for the period of time requested by the~~ 9429
~~permit holder or for a portion of that period. The treasurer of~~ 9430
~~state shall notify the tax commissioner and the permit holder of~~ 9431
~~the treasurer of state's decision as soon as is practicable.~~ 9432

~~(D) (1) (a)~~ (C) (1) (a) If a permit holder that is required to 9433
remit payments under division (B) of this section fails to make 9434
a payment, or makes a payment under division (B) (1) of this 9435
section that is less than seventy-five per cent of the actual 9436
liability for that month, the commissioner may impose an 9437
additional charge not to exceed five per cent of that unpaid 9438
amount. 9439

(b) Division ~~(D) (1) (a)~~ (C) (1) (a) of this section does not 9440
apply if the permit holder's payment under division (B) (1) of 9441

this section is equal to or greater than seventy-five per cent 9442
of the permit holder's reported liability for the same month in 9443
the immediately preceding calendar year. 9444

(2) If a permit holder required by this section to remit 9445
taxes ~~by electronic funds transfer~~ electronically remits those 9446
taxes by some means other than ~~by electronic funds transfer~~ 9447
electronically as prescribed by this section ~~and the rules~~ 9448
~~adopted by the treasurer of state,~~ and the tax commissioner 9449
determines that such failure was not due to reasonable cause or 9450
was due to willful neglect, the commissioner may impose an 9451
additional charge not to exceed the lesser of five per cent of 9452
the amount of the taxes required to be paid ~~by electronic funds~~ 9453
~~transfer~~ electronically or five thousand dollars. 9454

(3) Any additional charge imposed under division ~~(D) (1)~~ 9455
(C) (1) or (2) of this section is in addition to any other 9456
penalty or charge imposed under this chapter, and shall be 9457
considered as revenue arising from taxes imposed under this 9458
chapter. An additional charge may be collected by assessment in 9459
the manner prescribed by section 5739.13 of the Revised Code. 9460
The tax commissioner may waive all or a portion of such a charge 9461
and may adopt rules governing such waiver. 9462

No additional charge shall be imposed under division ~~(D)~~ 9463
~~(2)~~ (C) (2) of this section against a permit holder that has been 9464
notified of its obligation to remit taxes electronically under 9465
this section and that remits its first two tax payments after 9466
such notification by some other means ~~other than electronic~~ 9467
~~funds transfer~~. The additional charge may be imposed upon the 9468
remittance of any subsequent tax payment that the permit holder 9469
remits by some means other than ~~electronic funds~~ 9470
~~transfer~~ electronically. 9471

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor 9472
has paid taxes to the ~~treasurer of state or the treasurer of~~ 9473
~~state's agent, or to the~~ tax commissioner or the commissioner's 9474
agent, the commissioner shall refund to the vendor the amount of 9475
taxes paid, and any penalties assessed with respect to such 9476
taxes, if the vendor has refunded to the consumer the full 9477
amount of taxes the consumer paid illegally or erroneously or if 9478
the vendor has illegally or erroneously billed the consumer but 9479
has not collected the taxes from the consumer. 9480

(B) When, pursuant to this chapter, a consumer has paid 9481
taxes directly to the ~~treasurer of state or the treasurer of~~ 9482
~~state's agent, or to the~~ tax commissioner or the commissioner's 9483
agent, and the payment or assessment was illegal or erroneous, 9484
the commissioner shall refund to the consumer the full amount of 9485
illegal or erroneous taxes paid and any penalties assessed with 9486
respect to such taxes. 9487

(C) The commissioner shall refund to the consumer amounts 9488
paid illegally or erroneously to a vendor only if: 9489

(1) The commissioner has not refunded the tax to the 9490
vendor and the vendor has not refunded the tax to the consumer; 9491
or 9492

(2) The consumer has received a refund from a manufacturer 9493
or other person, other than the vendor, of the full purchase 9494
price, but not the tax, paid to the vendor in settlement of a 9495
complaint by the consumer about the property or service 9496
purchased. 9497

The commissioner may require the consumer to obtain or the 9498
vendor to provide a written statement confirming that the vendor 9499
has not refunded the tax to the consumer and has not filed an 9500

application for refund of the tax with the commissioner. 9501

(D) Subject to division (E) of this section, an 9502
application for refund shall be filed with the tax commissioner 9503
on the form prescribed by the commissioner within four years 9504
from the date of the illegal or erroneous payment, unless the 9505
vendor or consumer waives the time limitation under division (A) 9506
(3) of section 5739.16 of the Revised Code. If the time 9507
limitation is waived, the refund application period shall be 9508
extended for the same period as the waiver. 9509

(E) An application for refund shall be filed in accordance 9510
with division (D) of this section unless a person is subject to 9511
an assessment that is subject to the time limit of division (B) 9512
of section 5703.58 of the Revised Code for amounts not reported 9513
and paid between the four-year time limit described in division 9514
(D) of this section and the seven-year limit described in 9515
division (B) of section 5703.58 of the Revised Code, in which 9516
case the person may file an application within six months after 9517
the date the assessment is issued. Any refund allowed under this 9518
division shall not exceed the amount of the assessment due for 9519
the same period. 9520

(F) On the filing of an application for a refund, the 9521
commissioner shall determine the amount of refund to which the 9522
applicant is entitled. If the amount is not less than that 9523
claimed, the commissioner shall certify that amount to the 9524
director of budget and management and the treasurer of state for 9525
payment from the tax refund fund created by section 5703.052 of 9526
the Revised Code. If the amount is less than that claimed, the 9527
commissioner shall proceed in accordance with section 5703.70 of 9528
the Revised Code. 9529

(G) When a refund is granted under this section, it shall 9530

include interest thereon as provided by section 5739.132 of the Revised Code.

Sec. 5743.05. The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. Each stamp that is to be affixed to a package of cigarettes shall be sold for the amount of tax due on that package, except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of such tax due, as a commission for affixing and canceling the stamps.

The commissioner, by rule, shall authorize the delivery of stamps to wholesale dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the ~~treasurer of state~~ ~~or the~~ commissioner within thirty days or the following twenty-third day of June, whichever comes first for stamps delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall not require that the dealer file such a bond but shall require payment for the stamps within thirty days after purchase of the stamps or the following twenty-third day of June, whichever comes first. Each stamp that is sold to a dealer not required to file a bond shall be sold for the amount of tax due on that package of cigarettes. The maximum amount that may be sold on credit to a dealer not

required to file a bond shall equal one hundred ten per cent of 9562
the dealer's average monthly purchases over the preceding 9563
calendar year. The maximum amount shall be adjusted to reflect 9564
any changes in the tax rate and may be adjusted, upon 9565
application to the commissioner by the dealer, to reflect 9566
changes in the business operations of the dealer. The maximum 9567
amount shall be applicable to the period between the first day 9568
of July to the following twenty-third day of June. Payment by a 9569
dealer not required to file a bond shall be remitted by 9570
electronic funds transfer as prescribed by section 5743.051 of 9571
the Revised Code. If a dealer not required to file a bond fails 9572
to make the payment in full within the required payment period, 9573
the commissioner shall not thereafter sell stamps to that dealer 9574
until the dealer pays the outstanding amount, including penalty 9575
and interest on that amount as prescribed in this chapter, and 9576
the commissioner thereafter may require the dealer to file a 9577
bond until the dealer is restored to good standing. The 9578
commissioner shall limit delivery of stamps on credit to the 9579
period running from the first day of July of the fiscal year 9580
until the twenty-third day of the following June. Any discount 9581
allowed as a commission for affixing and canceling stamps shall 9582
be allowed with respect to sales of stamps on credit. 9583

The commissioner shall redeem and pay for any destroyed, 9584
unused, or spoiled tax stamps at their net value, and shall 9585
refund to wholesale dealers the net amount of state and county 9586
taxes paid erroneously or paid on cigarettes that have been sold 9587
in interstate or foreign commerce or that have become unsalable, 9588
and the net amount of county taxes that were paid on cigarettes 9589
that have been sold at retail or for retail sale outside a 9590
taxing county. 9591

An application for a refund of tax shall be filed with the 9592

commissioner, on the form prescribed by the commissioner for 9593
that purpose, within three years from the date the tax stamps 9594
are destroyed or spoiled, from the date of the erroneous 9595
payment, or from the date that cigarettes on which taxes have 9596
been paid have been sold in interstate or foreign commerce or 9597
have become unsalable. 9598

On the filing of the application, the commissioner shall 9599
determine the amount of refund to which the applicant is 9600
entitled, payable from receipts of the state tax, and, if 9601
applicable, payable from receipts of a county tax. If the amount 9602
is not less than that claimed, the commissioner shall certify 9603
the amount to the director of budget and management and 9604
treasurer of state for payment from the tax refund fund created 9605
by section 5703.052 of the Revised Code. If the amount is less 9606
than that claimed, the commissioner shall proceed in accordance 9607
with section 5703.70 of the Revised Code. 9608

If a refund is granted for payment of an illegal or 9609
erroneous assessment issued by the department, the refund shall 9610
include interest on the amount of the refund from the date of 9611
the overpayment. The interest shall be computed at the rate per 9612
annum prescribed by section 5703.47 of the Revised Code. 9613

Sec. 5743.051. This section applies to any wholesale or 9614
retail cigarette dealer required by section 5743.05 of the 9615
Revised Code to remit payment for tax stamps ~~by electronic funds~~ 9616
~~transfer~~electronically. The tax commissioner shall notify each 9617
dealer of the dealer's obligation to do so and shall maintain an 9618
updated list of those dealers. Failure by the ~~tax~~ commissioner 9619
to notify a dealer subject to this section to remit taxes ~~by~~ 9620
~~electronic funds transfer~~electronically does not relieve the 9621
dealer of its obligation to remit taxes ~~by electronic funds~~ 9622

~~transfer~~in that manner. 9623

A dealer required to remit payments ~~by electronic funds~~ 9624
~~transfer electronically~~ shall remit such payments to the 9625
~~treasurer of state commissioner~~ in the manner ~~prescribed by~~ 9626
~~rules adopted by the treasurer of state under section 113.061 of~~ 9627
~~the Revised Code approved by the commissioner~~ and within the 9628
time prescribed for such a dealer by section 5743.05 of the 9629
Revised Code. 9630

A dealer required to remit taxes ~~by electronic funds~~ 9631
~~transfer electronically~~ may apply to the ~~tax~~ commissioner in the 9632
manner prescribed by the ~~tax~~ commissioner to be excused from 9633
that requirement. The ~~tax~~ commissioner may excuse the dealer 9634
from electronic remittance ~~by electronic funds transfer~~ for good 9635
cause shown for the period of time requested by the dealer or 9636
for a portion of that period. 9637

If a dealer required to remit taxes ~~by electronic funds~~ 9638
~~transfer electronically~~ remits those taxes by some other means, 9639
~~the treasurer of state shall notify the tax commissioner of the~~ 9640
~~failure to remit by electronic funds transfer. If and~~ the ~~tax~~ 9641
commissioner determines that such failure was not due to 9642
reasonable cause or was due to willful neglect, the ~~tax~~ 9643
commissioner may collect an additional charge by assessment in 9644
the manner prescribed by section 5743.081 of the Revised Code. 9645
The additional charge shall equal five per cent of the amount of 9646
the taxes required to be paid ~~by electronic funds transfer~~ 9647
electronically but shall not exceed five thousand dollars. Any 9648
additional charge assessed under this section is in addition to 9649
any other penalty or charge imposed under this chapter and shall 9650
be considered as revenue arising from taxes imposed under this 9651
chapter. The ~~tax~~ commissioner may abate all or a portion of such 9652

a charge and may adopt rules governing such remissions. 9653

No additional charge shall be assessed under this section 9654
against a dealer that has been notified of its obligation to 9655
remit taxes electronically under this section and that remits 9656
its first two tax payments after such notification by some other 9657
~~means other than electronic funds transfer~~. The additional 9658
charge may be assessed upon the remittance of any subsequent tax 9659
payment that the dealer remits by some means other than 9660
~~electronic funds transfer~~electronically. 9661

Sec. 5743.15. (A) Except as otherwise provided in this 9662
division, no person shall engage in this state in the wholesale 9663
or retail business of trafficking in cigarettes or in the 9664
business of a manufacturer or importer of cigarettes without 9665
having a license to conduct each such activity issued by a 9666
county auditor under division (B) of this section or the tax 9667
commissioner under divisions (C) and (F) of this section. On 9668
dissolution of a partnership by death, the surviving partner may 9669
operate under the license of the partnership until expiration of 9670
the license, and the heirs or legal representatives of deceased 9671
persons, and receivers and trustees in bankruptcy appointed by 9672
any competent authority, may operate under the license of the 9673
person succeeded in possession by such heir, representative, 9674
receiver, or trustee in bankruptcy if the partner or successor 9675
notifies the issuer of the license of the dissolution or 9676
succession within thirty days after the dissolution or 9677
succession. 9678

(B) (1) Each applicant for a license to engage in the 9679
retail business of trafficking in cigarettes under this section, 9680
annually, on or before the ~~fourth Monday of May~~first day of 9681
June, shall make and deliver to the county auditor of the county 9682

in which the applicant desires to engage in the retail business 9683
of trafficking in cigarettes, upon a blank form furnished by 9684
such auditor for that purpose, a statement showing the name of 9685
the applicant, each physical place in the county where the 9686
applicant's business is conducted, the nature of the business, 9687
and any other information the tax commissioner requires in the 9688
form of statement prescribed by the commissioner. If the 9689
applicant is a firm, partnership, or association other than a 9690
corporation, the application shall state the name and address of 9691
each of its members. If the applicant is a corporation, the 9692
application shall state the name and address of each of its 9693
officers. At the time of making the application required by this 9694
section, every person desiring to engage in the retail business 9695
of trafficking in cigarettes shall pay an application fee in the 9696
sum of one hundred twenty-five dollars for each physical place 9697
where the person proposes to carry on such business. Each place 9698
of business shall be deemed such space, under lease or license 9699
to, or under the control of, or under the supervision of the 9700
applicant, as is contained in one or more contiguous, adjacent, 9701
or adjoining buildings constituting an industrial plant or a 9702
place of business operated by, or under the control of, one 9703
person, or under one roof and connected by doors, halls, 9704
stairways, or elevators, which space may contain any number of 9705
points at which cigarettes are offered for sale, provided that 9706
each additional point at which cigarettes are offered for sale 9707
shall be listed in the application. 9708

(2) Upon receipt of the application and exhibition of the 9709
county treasurer's receipt showing the payment of the 9710
application fee, the county auditor shall issue to the applicant 9711
a license for each place of business designated in the 9712
application, authorizing the applicant to engage in such 9713

business at such place for one year commencing on the ~~fourth-~~ 9714
~~Monday of May~~first day of June. The form of the license shall be 9715
prescribed by the commissioner. A duplicate license may be 9716
obtained from the county auditor upon payment of a five-dollar 9717
fee if the original license is lost, destroyed, or defaced. When 9718
an application is filed after the ~~fourth Monday of May~~first day 9719
of June, the application fee required to be paid shall be 9720
proportioned in amount to the remainder of the license year, 9721
except that it shall not be less than twenty-five dollars in any 9722
one year. 9723

(3) The holder of a retail dealer's cigarette license may 9724
transfer the license to a place of business within the same 9725
county other than that designated on the license on condition 9726
that the licensee's ownership interest and business structure 9727
remain unchanged, and that the licensee applies to the county 9728
auditor therefor, upon forms approved by the commissioner and 9729
the payment of a fee of five dollars into the county treasury. 9730

(C) (1) Each applicant for a license to engage in the 9731
wholesale business of trafficking in cigarettes under this 9732
section, annually, on or before the ~~fourth Monday in May~~first 9733
day of June, shall make and deliver to the tax commissioner, 9734
upon a blank form furnished by the commissioner for that 9735
purpose, a statement showing the name of the applicant, physical 9736
street address where the applicant's business is conducted, the 9737
nature of the business, and any other information required by 9738
the commissioner. If the applicant is a firm, partnership, or 9739
association other than a corporation, the applicant shall state 9740
the name and address of each of its members. If the applicant is 9741
a corporation, the applicant shall state the name and address of 9742
each of its officers. At the time of making the application 9743
required by this section, every person desiring to engage in the 9744

wholesale business of trafficking in cigarettes shall pay an 9745
application fee of one thousand dollars for each physical place 9746
where the person proposes to carry on such business. Each place 9747
of business shall be deemed such space, under lease or license 9748
to, or under the control of, or under the supervision of the 9749
applicant, as is contained in one or more contiguous, adjacent, 9750
or adjoining buildings constituting an industrial plant or a 9751
place of business operated by, or under the control of, one 9752
person, or under one roof and connected by doors, halls, 9753
stairways, or elevators. A duplicate license may be obtained 9754
from the commissioner upon payment of a twenty-five-dollar fee 9755
if the original license is lost, destroyed, or defaced. 9756

(2) Upon receipt of the application and payment of any 9757
application fee required by this section, the commissioner shall 9758
verify that the applicant is not in violation of any provision 9759
of Chapter 1346. or Title LVII of the Revised Code. The 9760
commissioner shall also verify that the applicant has filed any 9761
returns, submitted any information, and paid any outstanding 9762
taxes, charges, or fees as required for any tax, charge, or fee 9763
administered by the commissioner, to the extent that the 9764
commissioner is aware of the returns, information, or payments 9765
at the time of the application. Upon approval, the commissioner 9766
shall issue to the applicant a license for each physical place 9767
of business designated in the application authorizing the 9768
applicant to engage in business at that location for one year 9769
commencing on the ~~fourth Monday in May~~first day of June. For 9770
licenses issued after the ~~fourth Monday in May~~first day of June, 9771
the application fee shall be reduced proportionately by the 9772
remainder of the twelve-month period for which the license is 9773
issued, except that the application fee required to be paid 9774
under this section shall be not less than two hundred dollars in 9775

any one year. 9776

(3) The holder of a wholesale dealer cigarette license may 9777
transfer the license to a place of business other than that 9778
designated on the license on condition that the licensee's 9779
ownership or business structure remains unchanged, and that the 9780
licensee applies to the commissioner for such a transfer upon a 9781
form promulgated by the commissioner and pays a fee of twenty- 9782
five dollars, which shall be deposited into the cigarette tax 9783
enforcement fund created in division (E) of this section. 9784

(D) (1) The wholesale cigarette license application fees 9785
collected under this section shall be paid into the cigarette 9786
tax enforcement fund. 9787

(2) The retail cigarette license application fees 9788
collected under this section shall be distributed as follows: 9789

(a) Thirty per cent shall be paid upon the warrant of the 9790
county auditor into the treasury of the municipal corporation or 9791
township in which the places of business for which the tax 9792
revenue was received are located; 9793

(b) Ten per cent shall be credited to the general fund of 9794
the county; 9795

(c) Sixty per cent shall be paid into the cigarette tax 9796
enforcement fund. 9797

(3) The remainder of the revenues and fines collected 9798
under this section and the penal laws relating to cigarettes 9799
shall be distributed as follows: 9800

(a) Three-fourths shall be paid upon the warrant of the 9801
county auditor into the treasury of the municipal corporation or 9802
township in which the place of business, on account of which the 9803

revenues and fines were received, is located; 9804

(b) One-fourth shall be credited to the general fund of 9805
the county. 9806

(E) There is hereby created within the state treasury the 9807
cigarette tax enforcement fund for the purpose of providing 9808
funds to assist in paying the costs of enforcing sections 9809
1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 9810

The portion of cigarette license application fees received 9811
by a county auditor during the annual application period that 9812
ends on the ~~fourth Monday in May~~ first day of June and that is 9813
required to be deposited in the cigarette tax enforcement fund 9814
shall be sent to the ~~treasurer of state~~ tax commissioner by the 9815
thirtieth day of June each year accompanied by the form 9816
prescribed by the tax commissioner. The portion of cigarette 9817
license application fees received by each county auditor after 9818
the ~~fourth Monday in May~~ first day of June and that is required 9819
to be deposited in the cigarette tax enforcement fund shall be 9820
sent to the ~~treasurer of state~~ commissioner by the last day of 9821
the month following the month in which such fees were collected. 9822

(F) (1) Every person who desires to engage in the business 9823
of a manufacturer or importer of cigarettes shall, annually, on 9824
or before the ~~fourth Monday of May~~ first day of June, make and 9825
deliver to the tax commissioner, upon a blank form furnished by 9826
the commissioner for that purpose, a statement showing the name 9827
of the applicant, the nature of the applicant's business, and 9828
any other information required by the commissioner. If the 9829
applicant is a firm, partnership, or association other than a 9830
corporation, the applicant shall state the name and address of 9831
each of its members. If the applicant is a corporation, the 9832
applicant shall state the name and address of each of its 9833

officers. 9834

(2) Upon receipt of the application required under this 9835
section, the commissioner shall verify that the applicant is not 9836
in violation of any provision of Chapter 1346. of the Revised 9837
Code. The commissioner shall also verify that the applicant has 9838
filed any returns, submitted any information, and paid any 9839
outstanding taxes, charges, or fees as required for any tax, 9840
charge, or fee administered by the commissioner, to the extent 9841
that the commissioner is aware of the returns, information, 9842
taxes, charges, or fees at the time of the application. Upon 9843
approval, the commissioner shall issue to the applicant a 9844
license authorizing the applicant to engage in the business of 9845
manufacturer or importer, whichever the case may be, for one 9846
year commencing on the ~~fourth Monday of May~~first day of June. 9847

(3) The issuing of a license under division (F)(1) of this 9848
section to a manufacturer does not excuse a manufacturer from 9849
the certification process required under section 1346.05 of the 9850
Revised Code. A manufacturer who is issued a license under 9851
division (F)(1) of this section and who is not listed on the 9852
directory required under section 1346.05 of the Revised Code 9853
shall not be permitted to sell cigarettes in this state other 9854
than to a licensed cigarette wholesaler for sale outside this 9855
state. Such a manufacturer shall provide documentation to the 9856
commissioner evidencing that the cigarettes are legal for sale 9857
in another state. 9858

(G) The tax commissioner may adopt rules necessary to 9859
administer this section. 9860

Sec. 5745.03. (A) For each taxable year, each taxpayer 9861
shall file an annual report with the tax commissioner not later 9862
than the fifteenth day of the fourth month after the end of the 9863

taxpayer's taxable year, and shall remit with that report the 9864
amount of tax due as shown on the report less the amount paid 9865
for the year under section 5745.04 of the Revised Code. The 9866
remittance shall be made in the form prescribed by the ~~tax-~~ 9867
commissioner. If the amount payable with the report exceeds one 9868
thousand dollars, the taxpayer shall remit the amount ~~by-~~ 9869
~~electronic funds transfer as electronically in a manner~~ 9870
prescribed by the ~~treasurer of state~~commissioner. The ~~tax-~~ 9871
commissioner shall ~~immediately forward to the treasurer of state-~~ 9872
~~all amounts that the tax commissioner receives pursuant to this-~~ 9873
~~chapter. The treasurer of state shall credit~~ ninety-eight and 9874
one-half per cent of such remittances to the municipal income 9875
tax fund, which is hereby created in the state treasury, and 9876
credit the remainder to the municipal income tax administrative 9877
fund, which is hereby created in the state treasury. 9878

(B) Any taxpayer that has been granted an extension for 9879
filing a federal income tax return may request an extension for 9880
filing the return required under this section by filing with the 9881
tax commissioner a copy of the taxpayer's request for the 9882
federal filing extension. The request shall be filed not later 9883
than the last day for filing the return as required under 9884
division (A) of this section. If such a request is properly and 9885
timely filed, the ~~tax-~~commissioner shall extend the last day for 9886
filing the return required under this section for the same 9887
period for which the federal filing extension was granted. The 9888
~~tax-~~commissioner may deny the filing extension request only if 9889
the taxpayer fails to timely file the request, fails to file a 9890
copy of the federal extension request, owes past due taxes, 9891
interest, or penalty under this chapter, or has failed to file a 9892
required report or other document for a prior taxable year. The 9893
granting of an extension under this section does not extend the 9894

last day for paying taxes without penalty pursuant to this 9895
chapter unless the ~~tax~~-commissioner extends the payment date. 9896

(C) The annual report shall include statements of the 9897
following facts as of the last day of the taxpayer's taxable 9898
year: 9899

(1) The name of the taxpayer; 9900

(2) The name of the state or country under the laws of 9901
which it is incorporated; 9902

(3) The location of its principal office in this state 9903
and, in the case of a taxpayer organized under the laws of 9904
another state, the principal place of business in this state and 9905
the name and address of the officer or agent of the taxpayer in 9906
charge of the business conducted in this state; 9907

(4) The names of the president, secretary, treasurer, and 9908
statutory agent in this state, with the post-office address of 9909
each; 9910

(5) The date on which the taxpayer's taxable year begins 9911
and ends; 9912

(6) The taxpayer's federal taxable income during the 9913
taxpayer's taxable year; 9914

(7) Any other information the tax commissioner requires 9915
for the proper administration of this chapter. 9916

(D) The tax commissioner may require any reports required 9917
under this chapter to be filed in an electronic format. 9918

(E) A municipal corporation may not require a taxpayer 9919
required to file a report under this section to file a report of 9920
the taxpayer's income, but a municipal corporation may require a 9921

taxpayer to report to the municipal corporation the value of the 9922
taxpayer's real and tangible personal property situated in the 9923
municipal corporation, compensation paid by the taxpayer to its 9924
employees in the municipal corporation, and sales made in the 9925
municipal corporation by the taxpayer, to the extent necessary 9926
for the municipal corporation to compute the taxpayer's 9927
municipal property, payroll, and sales factors for the municipal 9928
corporation. 9929

(F) On or before the thirty-first day of January each 9930
year, each municipal corporation imposing a tax on income shall 9931
certify to the tax commissioner the rate of the tax in effect on 9932
the first day of January of that year. If any municipal 9933
corporation fails to certify its income tax rate as required by 9934
this division, the ~~tax~~-commissioner shall notify the director of 9935
budget and management, who, upon receiving such notification, 9936
shall withhold from each payment made to the municipal 9937
corporation under section 5745.05 of the Revised Code fifty per 9938
cent of the amount of the payment otherwise due the municipal 9939
corporation under that section as computed on the basis of the 9940
tax rate most recently certified until the municipal corporation 9941
certifies the tax rate in effect on the first day of January of 9942
that year. 9943

The tax rate used to determine the tax payable to a 9944
municipal corporation under this section for a taxpayer's 9945
taxable year shall be the tax rate in effect in a municipal 9946
corporation on the first day of January in that taxable year. If 9947
a taxpayer's taxable year is for a period less than twelve 9948
months that does not include the first day of January, the tax 9949
rate used to determine the tax payable to a municipal 9950
corporation under this section for the taxpayer's taxable year 9951
shall be the tax rate in effect in a municipal corporation on 9952

the first day of January in the preceding taxable year. 9953

Sec. 5745.04. (A) As used in this section, "combined tax 9954
liability" means the total of a taxpayer's income tax 9955
liabilities to all municipal corporations in this state for a 9956
taxable year. 9957

(B) ~~Beginning with its taxable year beginning in 2003,~~ 9958
~~each~~ Each taxpayer shall file a declaration of estimated tax 9959
report with, and remit estimated taxes to, the tax commissioner, 9960
payable to the treasurer of state, at the times and in the 9961
amounts prescribed in divisions (B)(1) to (4) of this section. 9962
~~This division also applies to a taxpayer having a taxable year~~ 9963
~~consisting of fewer than twelve months, at least one of which is~~ 9964
~~in 2002, that ends before January 1, 2003.~~ The first taxable 9965
year a taxpayer is subject to this chapter, the estimated taxes 9966
the taxpayer is required to remit under this section shall be 9967
based solely on the current taxable year and not on the 9968
liability for the preceding taxable year. 9969

(1) Not less than twenty-five per cent of the combined tax 9970
liability for the preceding taxable year or twenty per cent of 9971
the combined tax liability for the current taxable year shall 9972
have been remitted not later than the fifteenth day of the 9973
fourth month after the end of the preceding taxable year. 9974

(2) Not less than fifty per cent of the combined tax 9975
liability for the preceding taxable year or forty per cent of 9976
the combined tax liability for the current taxable year shall 9977
have been remitted not later than the fifteenth day of the sixth 9978
month after the end of the preceding taxable year. 9979

(3) Not less than seventy-five per cent of the combined 9980
tax liability for the preceding taxable year or sixty per cent 9981

of the combined tax liability for the current taxable year shall 9982
have been remitted not later than the fifteenth day of the ninth 9983
month after the end of the preceding taxable year. 9984

(4) Not less than one hundred per cent of the combined tax 9985
liability for the preceding taxable year or eighty per cent of 9986
the combined tax liability for the current taxable year shall 9987
have been remitted not later than the fifteenth day of the 9988
twelfth month after the end of the preceding taxable year. 9989

(C) Each taxpayer shall report on the declaration of 9990
estimated tax report the portion of the remittance that the 9991
taxpayer estimates that it owes to each municipal corporation 9992
for the taxable year. 9993

(D) Upon receiving a declaration of estimated tax report 9994
and remittance of estimated taxes under this section, the tax 9995
commissioner shall ~~immediately forward to the treasurer of state~~ 9996
~~such remittance. The treasurer of state shall credit ninety-~~ 9997
eight and one-half per cent of the remittance to the municipal 9998
income tax fund and credit the remainder to the municipal income 9999
tax administrative fund. 10000

(E) If any remittance of estimated taxes is for one 10001
thousand dollars or more, the taxpayer shall make the remittance 10002
~~by electronic funds transfer electronically~~ as prescribed by 10003
section ~~5745.04~~ 5745.041 of the Revised Code. 10004

(F) Notwithstanding section 5745.08 or 5745.09 of the 10005
Revised Code, no penalty or interest shall be imposed on a 10006
taxpayer if the declaration of estimated tax report is properly 10007
filed, and the estimated tax is paid, within the time prescribed 10008
by division (B) of this section. 10009

Sec. 5745.041. Any taxpayer required by section 5745.03 or 10010

5745.04 of the Revised Code to remit tax payments ~~by electronic funds transfer electronically~~ shall remit such payments ~~to the treasurer of state in the manner prescribed by rules adopted by the treasurer under section 113.061 of the Revised Code~~ in the manner prescribed by the tax commissioner. Except as otherwise provided in this paragraph, the payment of taxes ~~by electronic funds transfer electronically~~ does not affect a taxpayer's obligation to file reports under this chapter. ~~If a taxpayer remits estimated tax payments in a manner, designated by rule of the treasurer of state, that permits the inclusion of all information necessary for the treasurer of state to process the payment, the taxpayer is not required to file the declaration of estimated tax report as otherwise required under section 5745.04 of the Revised Code.~~

~~The treasurer of state, in consultation with the tax commissioner, may adopt rules governing the format for reporting and paying estimated taxes by electronic funds transfer.~~

A taxpayer required to remit taxes ~~by electronic funds transfer electronically~~ may apply to the ~~treasurer of state tax commissioner~~ in the manner prescribed by the treasurer commissioner to be excused from that requirement. The ~~treasurer of state commissioner~~ may excuse the taxpayer from the requirement for good cause shown for the period of time requested by the taxpayer or for a portion of that period. ~~The treasurer shall notify the tax commissioner and the taxpayer of the treasurer's decision as soon as is practicable.~~

If a taxpayer required by this section to remit taxes ~~by electronic funds transfer electronically~~ remits those taxes by some means other than ~~by electronic funds transfer electronically~~ as prescribed by this section ~~and the rules~~

~~adopted by the treasurer of state, and the treasurer-~~ 10041
~~commissioner~~ determines that such failure was not due to 10042
reasonable cause or was due to willful neglect, the ~~treasurer-~~ 10043
~~shall notify the tax commissioner of the failure to remit by-~~ 10044
~~electronic funds transfer and shall provide the commissioner-~~ 10045
~~with any information used in making that determination. The tax-~~ 10046
commissioner may collect an additional charge by assessment in 10047
the manner prescribed by section 5745.12 of the Revised Code. 10048
The additional charge shall equal five per cent of the amount of 10049
the taxes or estimated tax payments required to be paid ~~by-~~ 10050
~~electronic funds transfer~~electronically, but shall not exceed 10051
five thousand dollars. Any additional charge assessed under this 10052
section is in addition to any other penalty or charge imposed 10053
under this chapter, and shall be considered as revenue arising 10054
from municipal income taxes collected under this chapter. The 10055
~~tax~~-commissioner may remit all or a portion of such a charge and 10056
may adopt rules governing such remission. 10057

No additional charge shall be assessed under this section 10058
against a taxpayer that has been notified of its obligation to 10059
remit taxes electronically under this section and that remits 10060
its first two tax payments after such notification by some other 10061
~~means other than electronic funds transfer~~. The additional 10062
charge may be assessed upon the remittance of any subsequent tax 10063
payment that the taxpayer remits by some means other than 10064
~~electronic funds transfer~~electronically. 10065

Sec. 5747.059. (A) This section applies only to reduce a 10066
taxpayer's aggregate tax liability under section 5747.02 of the 10067
Revised Code. 10068

(B) There is hereby allowed a refundable credit against a 10069
taxpayer's aggregate tax liability under section 5747.02 of the 10070

Revised Code. This credit shall be equal to the taxpayer's 10071
proportionate share of the lesser of either the tax due or the 10072
tax paid under section 5733.41 or 5747.41 of the Revised Code by 10073
any qualifying entity as defined in section 5733.40 of the 10074
Revised Code for the qualifying taxable year of the qualifying 10075
entity which ends in the taxable year of the taxpayer. 10076

(C) The taxpayer shall claim the credit for the taxpayer's 10077
taxable year in which ends the qualifying entity's qualifying 10078
taxable year. For purposes of making tax payments under this 10079
chapter, taxes equal to the amount of the credit shall be 10080
considered to be paid by the taxpayer to this state on the day 10081
that the qualifying entity pays to the ~~treasurer of state tax~~ 10082
commissioner the amount due pursuant to section 5733.41 and 10083
sections 5747.41 to 5747.453 of the Revised Code with respect to 10084
and for the taxpayer. 10085

(D) In claiming the credit and determining the taxpayer's 10086
proportionate share of the tax due and the tax paid by any 10087
qualifying entity, the taxpayer shall follow the concepts set 10088
forth in subchapters J and K of the Internal Revenue Code. 10089

(E) The credit shall be claimed in the order required 10090
under section 5747.98 of the Revised Code. If the amount of the 10091
credit under this section exceeds the aggregate amount of tax 10092
otherwise due under section 5747.02 of the Revised Code after 10093
deduction of all other credits in that order, the taxpayer is 10094
entitled to a refund of the excess. 10095

Sec. 5747.07. (A) As used in this section: 10096

(1) "Partial weekly withholding period" means a period 10097
during which an employer directly, indirectly, or constructively 10098
pays compensation to, or credits compensation to the benefit of, 10099

an employee, and that consists of a consecutive Saturday, 10100
Sunday, Monday, and Tuesday or a consecutive Wednesday, 10101
Thursday, and Friday. There are two partial weekly withholding 10102
periods each week, except that a partial weekly withholding 10103
period cannot extend from one calendar year into the next 10104
calendar year; if the first day of January falls on a day other 10105
than Saturday or Wednesday, the partial weekly withholding 10106
period ends on the thirty-first day of December and there are 10107
three partial weekly withholding periods during that week. 10108

(2) "Undeposited taxes" means the taxes an employer is 10109
required to deduct and withhold from an employee's compensation 10110
pursuant to section 5747.06 of the Revised Code that have not 10111
been remitted to the tax commissioner pursuant to this section 10112
or ~~to the treasurer of state pursuant to~~ section 5747.072 of the 10113
Revised Code. 10114

(3) A "week" begins on Saturday and concludes at the end 10115
of the following Friday. 10116

(4) "Professional employer organization," "professional 10117
employer organization agreement," and "professional employer 10118
organization reporting entity" have the same meanings as in 10119
section 4125.01 of the Revised Code. 10120

(5) "Alternate employer organization" and "alternate 10121
employer organization agreement" have the same meanings as in 10122
section 4133.01 of the Revised Code. 10123

(6) "Client employer" has the same meaning as in section 10124
4125.01 of the Revised Code in the context of a professional 10125
employer organization or a professional employer organization 10126
reporting entity, or the same meaning as in section 4133.01 of 10127
the Revised Code in the context of an alternate employer 10128

organization. 10129

(B) Except as provided in divisions (C) and (D) of this 10130
section and in division (A) of section 5747.072 of the Revised 10131
Code, every employer required to deduct and withhold any amount 10132
under section 5747.06 of the Revised Code shall file a return 10133
and shall pay the amount required by law as follows: 10134

(1) An employer who accumulates or is required to 10135
accumulate undeposited taxes of one hundred thousand dollars or 10136
more during a partial weekly withholding period shall make the 10137
payment of the undeposited taxes by the close of the first 10138
banking day after the day on which the accumulation reaches one 10139
hundred thousand dollars. If required under division (I) of this 10140
section, the payment shall be made ~~by electronic funds transfer~~ 10141
electronically under section 5747.072 of the Revised Code. 10142

(2) Except as required by division (B) (1) of this section, 10143
an employer whose actual or required payments under this section 10144
were at least eighty-four thousand dollars during the twelve- 10145
month period ending on the thirtieth day of June of the 10146
preceding calendar year shall make the payment of undeposited 10147
taxes within three banking days after the close of a partial 10148
weekly withholding period during which the employer was required 10149
to deduct and withhold any amount under this chapter. If 10150
required under division (I) of this section, the payment shall 10151
be made ~~by electronic funds transfer~~ electronically under 10152
section 5747.072 of the Revised Code. 10153

(3) Except as required by divisions (B) (1) and (2) of this 10154
section, if an employer's actual or required payments were more 10155
than two thousand dollars during the twelve-month period ending 10156
on the thirtieth day of June of the preceding calendar year, the 10157
employer shall make the payment of undeposited taxes for each 10158

month during which they were required to be withheld no later 10159
than fifteen days following the last day of that month. The 10160
employer shall file the return prescribed by the tax 10161
commissioner with the payment. 10162

(4) Except as required by divisions (B)(1), (2), and (3) 10163
of this section, an employer shall make the payment of 10164
undeposited taxes for each calendar quarter during which they 10165
were required to be withheld no later than the last day of the 10166
month following the last day of March, June, September, and 10167
December each year. The employer shall file the return 10168
prescribed by the tax commissioner with the payment. 10169

(C) The return and payment schedules prescribed by 10170
divisions (B)(1) and (2) of this section do not apply to the 10171
return and payment of undeposited school district income taxes 10172
arising from taxes levied pursuant to Chapter 5748. of the 10173
Revised Code. Undeposited school district income taxes shall be 10174
returned and paid pursuant to divisions (B)(3) and (4) of this 10175
section, as applicable. 10176

(D)(1) The requirements of division (B) of this section 10177
are met if the amount paid is not less than ninety-five per cent 10178
of the actual tax withheld or required to be withheld for the 10179
prior quarterly, monthly, or partial weekly withholding period, 10180
and the underpayment is not due to willful neglect. Any 10181
underpayment of withheld tax shall be paid within thirty days of 10182
the date on which the withheld tax was due without regard to 10183
division (D)(1) of this section. An employer described in 10184
division (B)(1) or (2) of this section shall make the payment ~~by~~ 10185
~~electronic funds transfer~~ electronically under section 5747.072 10186
of the Revised Code. 10187

(2) If the tax commissioner believes that quarterly or 10188

monthly payments would result in a delay that might jeopardize 10189
the remittance of withholding payments, the commissioner may 10190
order that the payments be made weekly, or more frequently if 10191
necessary, and the payments shall be made no later than three 10192
banking days following the close of the period for which the 10193
jeopardy order is made. An order requiring weekly or more 10194
frequent payments shall be delivered to the employer ~~personally~~ 10195
~~or by certified mail~~ in the manner provided in section 5703.37 10196
of the Revised Code and remains in effect until the commissioner 10197
notifies the employer to the contrary. 10198

(3) If compelling circumstances exist concerning the 10199
remittance of undeposited taxes, the commissioner may order the 10200
employer to make payments under any of the payment schedules 10201
under division (B) of this section. The order shall be delivered 10202
to the employer ~~personally or by certified mail~~ in the manner 10203
provided in section 5703.37 of the Revised Code and shall remain 10204
in effect until the commissioner notifies the employer to the 10205
contrary. For purposes of division (D) (3) of this section, 10206
"compelling circumstances" exist if either or both of the 10207
following are true: 10208

(a) Based upon annualization of payments made or required 10209
to be made during the preceding calendar year and during the 10210
current calendar year, the employer would be required for the 10211
next calendar year to make payments under division (B) (2) of 10212
this section. 10213

(b) Based upon annualization of payments made or required 10214
to be made during the current calendar year, the employer would 10215
be required for the next calendar year to make payments under 10216
division (B) (2) of this section. 10217

(E) (1) ~~An employer described in division (B) (1) or (2) of~~ 10218

~~this section shall file, not later than the last day of the~~ 10219
~~month following the end of each calendar quarter, a return~~ 10220
~~covering, but not limited to, both the actual amount deducted~~ 10221
~~and withheld and the amount required to be deducted and withheld~~ 10222
~~for the tax imposed under section 5747.02 of the Revised Code~~ 10223
~~during each partial weekly withholding period or portion of a~~ 10224
~~partial weekly withholding period during that quarter. The~~ 10225
~~employer shall file the quarterly return even if the aggregate~~ 10226
~~amount required to be deducted and withheld for the quarter is~~ 10227
~~zero dollars. At the time of filing the return, the employer~~ 10228
~~shall pay any amounts of undeposited taxes for the quarter,~~ 10229
~~whether actually deducted and withheld or required to be~~ 10230
~~deducted and withheld, that have not been previously paid. If~~ 10231
~~required under division (I) of this section, the payment shall~~ 10232
~~be made by electronic funds transfer. The tax commissioner shall~~ 10233
~~prescribe the form and other requirements of the quarterly~~ 10234
~~return.~~ 10235

~~(2)~~In addition to other returns required to be filed and 10236
payments required to be made under this section, every employer 10237
required to deduct and withhold taxes shall file, not later than 10238
the thirty-first day of January of each year, an annual return 10239
covering, but not limited to, both the aggregate amount deducted 10240
and withheld and the aggregate amount required to be deducted 10241
and withheld during the entire preceding year for the tax 10242
imposed under section 5747.02 of the Revised Code and for each 10243
tax imposed under Chapter 5748. of the Revised Code. At the time 10244
of filing that return, the employer shall pay over any amounts 10245
of undeposited taxes for the preceding year, whether actually 10246
deducted and withheld or required to be deducted and withheld, 10247
that have not been previously paid. The employer shall make the 10248
annual report, to each employee and to the tax commissioner, of 10249

the compensation paid and each tax withheld, as the commissioner
by rule may prescribe. 10250
10251

(2) Each employer required to deduct and withhold any tax 10252
is liable for the payment of that amount required to be deducted 10253
and withheld, whether or not the tax has in fact been withheld, 10254
unless the failure to withhold was based upon the employer's 10255
good faith in reliance upon the statement of the employee as to 10256
liability, and the amount shall be deemed to be a special fund 10257
in trust for the general revenue fund. 10258

(F) Each employer shall file with the employer's annual 10259
return the following items of information on employees for whom 10260
withholding is required under section 5747.06 of the Revised 10261
Code: 10262

(1) The full name of each employee, the employee's 10263
address, the employee's school district of residence, and in the 10264
case of a nonresident employee, the employee's principal county 10265
of employment; 10266

(2) The social security number of each employee; 10267

(3) The total amount of compensation paid before any 10268
deductions to each employee for the period for which the annual 10269
return is made; 10270

(4) The amount of the tax imposed by section 5747.02 of 10271
the Revised Code and the amount of each tax imposed under 10272
Chapter 5748. of the Revised Code withheld from the compensation 10273
of the employee for the period for which the annual return is 10274
made. The commissioner may extend upon good cause the period for 10275
filing any notice or return required to be filed under this 10276
section and may adopt rules relating to extensions of time. If 10277
the extension results in an extension of time for the payment of 10278

the amounts withheld with respect to which the return is filed, 10279
the employer shall pay, at the time the amount withheld is paid, 10280
an amount of interest computed at the rate per annum prescribed 10281
by section 5703.47 of the Revised Code on that amount withheld, 10282
from the day that amount was originally required to be paid to 10283
the day of actual payment or to the day an assessment is issued 10284
under section 5747.13 of the Revised Code, whichever occurs 10285
first. 10286

(5) In addition to all other interest charges and 10287
penalties imposed, all amounts of taxes withheld or required to 10288
be withheld and remaining unpaid after the day the amounts are 10289
required to be paid shall bear interest from the date prescribed 10290
for payment at the rate per annum prescribed by section 5703.47 10291
of the Revised Code on the amount unpaid, in addition to the 10292
amount withheld, until paid or until the day an assessment is 10293
issued under section 5747.13 of the Revised Code, whichever 10294
occurs first. 10295

(G) An employee of a corporation, limited liability 10296
company, or business trust having control or supervision of or 10297
charged with the responsibility of filing the report and making 10298
payment, or an officer, member, manager, or trustee of a 10299
corporation, limited liability company, or business trust who is 10300
responsible for the execution of the corporation's, limited 10301
liability company's, or business trust's fiscal 10302
responsibilities, shall be personally liable for failure to file 10303
the report or pay the tax due as required by this section. The 10304
dissolution, termination, or bankruptcy of a corporation, 10305
limited liability company, or business trust does not discharge 10306
a responsible officer's, member's, manager's, employee's, or 10307
trustee's liability for a failure of the corporation, limited 10308
liability company, or business trust to file returns or pay tax 10309

due. 10310

(H) If an employer required to deduct and withhold income 10311
tax from compensation and to pay that tax to the state under 10312
sections 5747.06 and 5747.07 of the Revised Code sells the 10313
employer's business or stock of merchandise or quits the 10314
employer's business, the taxes required to be deducted and 10315
withheld and paid to the state pursuant to those sections prior 10316
to that time, together with any interest and penalties imposed 10317
on those taxes, become due and payable immediately, and that 10318
person shall make a final return within fifteen days after the 10319
date of selling or quitting business. The employer's successor 10320
shall withhold a sufficient amount of the purchase money to 10321
cover the amount of the taxes, interest, and penalties due and 10322
unpaid, until the former owner produces a receipt from the tax 10323
commissioner showing that the taxes, interest, and penalties 10324
have been paid or a certificate indicating that no such taxes 10325
are due. If the purchaser of the business or stock of 10326
merchandise fails to withhold purchase money, the purchaser 10327
shall be personally liable for the payment of the taxes, 10328
interest, and penalties accrued and unpaid during the operation 10329
of the business by the former owner. If the amount of taxes, 10330
interest, and penalties outstanding at the time of the purchase 10331
exceeds the total purchase money, the tax commissioner in the 10332
commissioner's discretion may adjust the liability of the seller 10333
or the responsibility of the purchaser to pay that liability to 10334
maximize the collection of withholding tax revenue. 10335

(I) An employer whose actual or required payments under 10336
this section exceeded eighty-four thousand dollars during the 10337
twelve-month period ending on the thirtieth day of June of the 10338
preceding calendar year shall make all payments required by this 10339
section for the year ~~by electronic funds transfer electronically~~ 10340

under section 5747.072 of the Revised Code. 10341

(J) (1) Every professional employer organization, 10342
professional employer organization reporting entity, and 10343
alternate employer organization shall file a report with the tax 10344
commissioner within thirty days after commencing business in 10345
this state that includes all of the following information: 10346

(a) The name, address, number the employer receives from 10347
the secretary of state to do business in this state, if 10348
applicable, and federal employer identification number of each 10349
client employer of the organization or entity; 10350

(b) The date that each client employer became a client of 10351
the organization or entity; 10352

(c) The names and mailing addresses of the chief executive 10353
officer and the chief financial officer of each client employer 10354
for taxation of the client employer. 10355

(2) Beginning with the calendar quarter ending after a 10356
professional employer organization, professional employer 10357
organization reporting entity, or alternate employer 10358
organization files the report required under division (J) (1) of 10359
this section, and every calendar quarter thereafter, the 10360
organization or entity shall file an updated report with the tax 10361
commissioner. The organization or entity shall file the updated 10362
report not later than the last day of the month following the 10363
end of the calendar quarter and shall include all of the 10364
following information in the report: 10365

(a) If an entity became a client employer of the 10366
professional employer organization, professional employer 10367
organization reporting entity, or alternate employer 10368
organization at any time during the calendar quarter, all of the 10369

information required under division (J)(1) of this section for 10370
each new client employer; 10371

(b) If an entity terminated the professional employer 10372
organization agreement or the alternate employer organization 10373
agreement between the entity and the professional employer 10374
organization, professional employer organization reporting 10375
entity, or alternate employer organization, as applicable, at 10376
any time during the calendar quarter, the information described 10377
in division (J)(1)(a) of this section for that entity, the date 10378
during the calendar quarter that the entity ceased being a 10379
client of the organization or reporting entity, if applicable, 10380
or the date the entity ceased business operations in this state, 10381
if applicable; 10382

(c) If the name or mailing address of the chief executive 10383
officer or the chief financial officer of a client employer has 10384
changed since the professional employer organization, 10385
professional employer organization reporting entity, or 10386
alternate employer organization previously submitted a report 10387
under division (J)(1) or (2) of this section, the updated name 10388
or mailing address, or both, of the chief executive officer or 10389
the chief financial officer, as applicable; 10390

(d) If none of the events described in divisions (J)(2)(a) 10391
to (c) of this section occurred during the calendar quarter, a 10392
statement of that fact. 10393

Sec. 5747.072. (A) Any employer required by section 10394
5747.07 of the Revised Code to remit undeposited taxes ~~by~~ 10395
~~electronic funds transfer electronically~~ shall do so ~~in the~~ 10396
~~manner prescribed by rules adopted by the treasurer of state~~ 10397
~~under section 113.061 of the Revised Code and by using the Ohio~~ 10398
business gateway, as defined in section 718.01 of the Revised 10399

Code, or another means of electronic payment on or before the 10400
dates specified under that ~~division~~section. The tax commissioner 10401
shall notify each such employer of the employer's obligation to 10402
remit undeposited taxes ~~by electronic funds transfer, shall~~ 10403
~~maintain an updated list of those employers, and shall provide~~ 10404
~~the list and any additions thereto or deletions therefrom to the~~ 10405
~~treasurer of state~~electronically. Failure by the ~~tax~~ 10406
commissioner to notify an employer subject to this section to 10407
remit taxes ~~by electronic funds transfer~~electronically does not 10408
relieve the employer of its obligation to remit taxes ~~by~~ 10409
~~electronic funds transfer~~in that manner. 10410

~~Except as otherwise provided in this paragraph, the~~ The 10411
~~payment of taxes by electronic funds transfer~~ electronically 10412
does not affect an employer's obligation to file the ~~quarterly~~ 10413
~~return as required under division (E)(1) of section 5747.07 of~~ 10414
~~the Revised Code or the annual return as required under~~ 10415
divisions ~~(E)(2)~~ (E) and (F) of ~~that~~ section 5747.07 of the 10416
Revised Code. ~~If the employer remits estimated tax payments in a~~ 10417
~~manner, designated by the treasurer of state, that permits the~~ 10418
~~inclusion of all information necessary for the treasurer of~~ 10419
~~state to process the tax payment, the employer need not file the~~ 10420
~~return required under division (B) of section 5747.07 of the~~ 10421
~~Revised Code. The treasurer of state, in consultation with the~~ 10422
~~tax commissioner, may adopt rules governing the format for~~ 10423
~~filing the returns under section 5747.07 of the Revised Code by~~ 10424
~~employers who remit undeposited taxes by electronic funds~~ 10425
~~transfer. The rules may permit the filing of returns at less~~ 10426
~~frequent intervals than required by that division if the~~ 10427
~~treasurer of state and the tax commissioner determine that~~ 10428
~~remittance by electronic funds transfer warrants less frequent~~ 10429
~~filing of returns.~~ 10430

An employer required by this section to remit taxes ~~by~~ 10431
~~electronic funds transfer~~ electronically may apply to the 10432
~~treasurer of state~~ commissioner to be excused from that 10433
requirement. The ~~treasurer of state~~ commissioner may excuse the 10434
employer from electronic remittance ~~by electronic funds transfer~~ 10435
for good cause shown for the period of time requested by the 10436
employer or a portion of that period. The ~~treasurer~~ commissioner 10437
shall notify the ~~tax commissioner~~ and the employer of the 10438
~~treasurer's~~ commissioner's decision as soon as is practicable. 10439

(B) If an employer required by this section to remit 10440
undeposited taxes ~~by electronic funds transfer~~ electronically 10441
remits those taxes by some other means ~~other than electronic~~ 10442
~~funds transfer as prescribed by the rules adopted by the~~ 10443
~~treasurer of state~~, and the ~~treasurer~~ tax commissioner 10444
determines that such failure was not due to reasonable cause or 10445
was due to willful neglect, the ~~treasurer shall notify the tax~~ 10446
~~commissioner of the failure to remit by electronic funds~~ 10447
~~transfer and shall provide the commissioner with any information~~ 10448
~~used in making that determination. The tax commissioner may~~ 10449
collect an additional charge by assessment in the manner 10450
prescribed by section 5747.13 of the Revised Code. The 10451
additional charge shall equal five per cent of the amount of the 10452
undeposited taxes, but shall not exceed five thousand dollars. 10453
Any additional charge assessed under this section is in addition 10454
to any other penalty or charge imposed by this chapter, and 10455
shall be considered as revenue arising from the taxes imposed by 10456
this chapter. The ~~tax~~ commissioner may remit all or a portion of 10457
such a charge and may adopt rules governing such remission. 10458

No additional charge shall be assessed under this division 10459
against an employer that has been notified of its obligation to 10460
remit taxes electronically under this section and that remits 10461

its first two tax payments after such notification by some other 10462
~~means other than electronic funds transfer~~. The additional 10463
charge may be assessed upon the remittance of any subsequent tax 10464
payment that the employer remits by some means other than 10465
~~electronic funds transfer~~electronically. 10466

Sec. 5747.42. (A) In addition to the other returns 10467
required to be filed and other remittances required to be made 10468
pursuant to this chapter, every qualifying entity or electing 10469
pass-through entity that is subject to the tax imposed by 10470
section 5733.41, 5747.38, or 5747.41 of the Revised Code shall 10471
file an annual return as follows: 10472

(1) For a qualifying entity, on or before the fifteenth 10473
day of the fourth month following the end of the entity's 10474
qualifying taxable year; 10475

(2) For an electing pass-through entity, on or before the 10476
fifteenth day of April following the end of the entity's taxable 10477
year that ends in the preceding calendar year. 10478

Each entity shall also remit to the tax commissioner, with 10479
the remittance made payable to the treasurer of state, the 10480
amount of the taxes shown to be due on the return, less the 10481
amount paid for the taxable year on a declaration of estimated 10482
tax report filed by the taxpayer as provided by section 5747.43 10483
of the Revised Code. Remittance shall be made in the form 10484
prescribed by the tax commissioner, including ~~electronic funds~~ 10485
~~transfer~~electronically if required by section 5747.44 of the 10486
Revised Code. 10487

A domestic qualifying entity shall not dissolve, and a 10488
foreign qualifying entity shall not withdraw or retire from 10489
business in this state, without filing the tax returns and 10490

paying the taxes charged for the year in which such dissolution 10491
or withdrawal occurs. 10492

(B) The tax commissioner shall furnish qualifying entities 10493
or electing pass-through entities, upon request, copies of the 10494
forms prescribed by the commissioner for the purpose of making 10495
the returns required by sections 5747.42 to 5747.453 of the 10496
Revised Code. 10497

(C) The annual return required by this section shall be 10498
signed by the applicable entity's trustee or other fiduciary, or 10499
president, vice-president, secretary, treasurer, general 10500
manager, general partner, superintendent, or managing agent in 10501
this state. The annual return shall contain the facts, figures, 10502
computations, and attachments that result in the tax charged by 10503
section 5733.41, 5747.38, or 5747.41 of the Revised Code. Each 10504
entity also shall file with its annual return all of the 10505
following: 10506

(1) In the case of the tax charged by section 5733.41 or 10507
5747.41 of the Revised Code, the full name and address of each 10508
qualifying investor or qualifying beneficiary unless the 10509
qualifying entity submits such information in accordance with 10510
division (D) of this section; 10511

(2) In the case of the tax charged by section 5733.41 or 10512
5747.41 of the Revised Code, the social security number, federal 10513
employer identification number, or other identifying number of 10514
each qualifying investor or qualifying beneficiary, unless the 10515
taxpayer submits that information in accordance with division 10516
(D) of this section; 10517

(3) In the case of the tax charged by section 5747.38 of 10518
the Revised Code, the full name and address and the social 10519

security number, federal employer identification number, or 10520
other identifying number of each owner of the electing pass- 10521
through entity, unless the entity submits such information in 10522
accordance with division (D) of this section; 10523

(4) The amount of tax imposed by sections 5733.41 and 10524
5747.41 or by section 5747.38 of the Revised Code, and the 10525
amount of the tax paid by the entity, for the applicable taxable 10526
year covered by the annual return; 10527

(5) The amount of tax imposed by sections 5733.41 and 10528
5747.41 or by section 5747.38 of the Revised Code that is 10529
attributable to each qualifying investor, qualifying 10530
beneficiary, or owner, as applicable, unless the entity submits 10531
this information in accordance with division (D) of this 10532
section. 10533

(D) On the date the annual return is due, including 10534
extensions of time, if any, the applicable entity may be 10535
required by rule to transmit electronically or by magnetic media 10536
the information set forth in division (C) of this section. The 10537
tax commissioner may adopt rules governing the format for the 10538
transmission of such information. The tax commissioner may 10539
exempt an entity or a class of entities from the requirements 10540
imposed by this division. 10541

(E) Upon good cause shown, the tax commissioner may extend 10542
the period for filing any return required to be filed under this 10543
section or section 5747.43 or 5747.44 of the Revised Code and 10544
for transmitting any information required to be transmitted 10545
under those sections. The tax commissioner may adopt rules 10546
relating to extensions of time to file and to transmit. At the 10547
time an entity pays any tax imposed under section 5733.41, 10548
5747.38, or 5747.41 of the Revised Code or estimated tax as 10549

required under section 5747.43 of the Revised Code, the entity 10550
also shall pay interest computed at the rate per annum 10551
prescribed by section 5703.47 of the Revised Code on that tax or 10552
estimated tax, from the time the tax or estimated tax originally 10553
was required to be paid, without consideration of any filing 10554
extensions, to the time of actual payment. Nothing in this 10555
division shall be construed to abate, modify, or limit the 10556
imposition of any penalties imposed for the failure to timely 10557
pay taxes under this chapter or Chapter 5733. of the Revised 10558
Code without consideration of any filing extensions. 10559

Sec. 5747.44. (A) If a qualifying entity's or an electing 10560
pass-through entity's total liability for taxes imposed under 10561
sections 5733.41 and 5747.41 or under section 5747.38 of the 10562
Revised Code exceeds one hundred eighty thousand dollars for the 10563
second preceding taxable year or qualifying taxable year, as 10564
applicable, the entity shall make all payments required under 10565
sections 5747.42 and 5747.43 or under section 5747.38 of the 10566
Revised Code ~~by electronic funds transfer as electronically in~~ 10567
~~the manner prescribed by this section and rules adopted by the~~ 10568
~~treasurer of state under section 113.061 of the Revised Code~~the 10569
tax commissioner. 10570

The tax commissioner shall notify each qualifying entity 10571
and electing pass-through entity required to remit taxes ~~by~~ 10572
~~electronic funds transfer electronically~~ of the entity's 10573
obligation to do so, ~~shall maintain an updated list of those~~ 10574
~~entities, and shall provide the list and any additions thereto~~ 10575
~~or deletions therefrom to the treasurer of state.~~ Failure by the 10576
~~tax~~ commissioner to notify an entity subject to this section to 10577
remit taxes ~~by electronic funds transfer electronically~~ does not 10578
relieve the entity of its obligation to remit taxes ~~by~~ 10579
~~electronic funds transfer~~in that manner. 10580

(B) Except as otherwise provided in this division, the 10581
payment of taxes ~~by electronic funds transfer electronically~~ 10582
does not affect a qualifying entity's or an electing pass- 10583
through entity's obligation to file the returns required under 10584
sections 5747.42 and 5747.43 of the Revised Code. ~~The treasurer-~~ 10585
~~of state, in consultation with the tax commissioner, may adopt-~~ 10586
~~rules in addition to the rules adopted under section 113.061 of~~ 10587
~~the Revised Code governing the format for filing returns by~~ 10588
~~qualifying entities and electing pass-through entities that~~ 10589
~~remit taxes by electronic funds transfer. The rules may provide~~ 10590
~~for the filing of returns at less frequent intervals than~~ 10591
~~otherwise required if the treasurer of state and the tax~~ 10592
~~commissioner determine that remittance by electronic funds~~ 10593
~~transfer warrants less frequent filing of returns.~~ 10594

(C) A qualifying entity or an electing pass-through entity 10595
required by this section to remit taxes ~~by electronic funds~~ 10596
~~transfer electronically~~ may apply to the ~~treasurer of state tax~~ 10597
~~commissioner~~ in the manner prescribed by the ~~treasurer of state~~ 10598
~~commissioner~~ to be excused from that requirement. The ~~treasurer-~~ 10599
~~of state commissioner~~ may excuse the entity from electronic 10600
remittance ~~by electronic funds transfer~~ for good cause shown for 10601
the period of time requested by the entity or for a portion of 10602
that period. The ~~treasurer of state~~ commissioner shall notify 10603
~~the tax commissioner and the entity of the treasurer of state's~~ 10604
commissioner's decision as soon as is practicable. 10605

(D) If a qualifying entity or an electing pass-through 10606
entity required by this section to remit taxes ~~by electronic~~ 10607
~~funds transfer electronically~~ remits those taxes by some means 10608
other than ~~by electronic funds transfer electronically~~ as 10609
prescribed by this section ~~and the rules adopted by the~~ 10610
~~treasurer of state, and the treasurer of state tax commissioner~~ 10611

determines that such failure was not due to reasonable cause or 10612
was due to willful neglect, the ~~treasurer of state shall notify~~ 10613
~~the tax commissioner of the failure to remit by electronic funds~~ 10614
~~transfer and shall provide the commissioner with any information~~ 10615
~~used in making that determination. The tax commissioner may~~ 10616
collect an additional charge by assessment in the manner 10617
prescribed by section 5747.13 of the Revised Code. The 10618
additional charge shall equal five per cent of the amount of the 10619
taxes required to be paid ~~by electronic funds~~ 10620
~~transfer~~electronically, but shall not exceed five thousand 10621
dollars. Any additional charge assessed under this section is in 10622
addition to any other penalty or charge imposed under this 10623
chapter or Chapter 5733. of the Revised Code, and shall be 10624
considered as revenue arising from the taxes imposed under 10625
sections 5733.41 and 5747.41 or under section 5747.38 of the 10626
Revised Code. The ~~tax~~ commissioner may remit all or a portion of 10627
such a charge and may adopt rules governing such remission. 10628

No additional charge shall be assessed under this division 10629
against a qualifying entity or an electing pass-through entity 10630
that has been notified of its obligation to remit taxes 10631
electronically under this section and that remits its first two 10632
tax payments after such notification by some other means ~~other~~ 10633
~~than electronic funds transfer~~. The additional charge may be 10634
assessed upon the remittance of any subsequent tax payment that 10635
the entity remits by some means other than ~~electronic funds~~ 10636
~~transfer~~electronically. 10637

Sec. 5747.451. (A) The mere retirement from business or 10638
voluntary dissolution of a domestic or foreign qualifying entity 10639
or electing pass-through entity does not exempt it from the 10640
requirements to make reports as required under sections 5747.42 10641
to 5747.44 or to pay the taxes imposed under section 5733.41, 10642

5747.38, or 5747.41 of the Revised Code. If any qualifying 10643
entity or electing pass-through entity subject to the taxes 10644
imposed under section 5733.41, 5747.38, or 5747.41 of the 10645
Revised Code sells its business or stock of merchandise or quits 10646
its business, the taxes required to be paid prior to that time, 10647
together with any interest or penalty thereon, become due and 10648
payable immediately, and the entity shall make a final return 10649
within fifteen days after the date of selling or quitting 10650
business. The successor of the qualifying entity or electing 10651
pass-through entity shall withhold a sufficient amount of the 10652
purchase money to cover the amount of such taxes, interest, and 10653
penalties due and unpaid until the entity produces a receipt 10654
from the tax commissioner showing that the taxes, interest, and 10655
penalties have been paid, or a certificate indicating that no 10656
taxes are due. If the purchaser of the business or stock of 10657
goods fails to withhold purchase money, the purchaser is 10658
personally liable for the payment of the taxes, interest, and 10659
penalties accrued and unpaid during the operation of the 10660
business by the entity. If the amount of those taxes, interest, 10661
and penalty unpaid at the time of the purchase exceeds the total 10662
purchase money, the tax commissioner may adjust the entity's 10663
liability for those taxes, interest, and penalty, or adjust the 10664
responsibility of the purchaser to pay that liability, in a 10665
manner calculated to maximize the collection of those 10666
liabilities. 10667

(B) Annually, on the last day of each qualifying taxable 10668
year of a qualifying entity or taxable year of an electing pass- 10669
through entity, the taxes imposed under section 5733.41, 10670
5747.38, or 5747.41 of the Revised Code, together with any 10671
penalties subsequently accruing thereon, become a lien on all 10672
property in this state of the entity, whether such property is 10673

employed by the entity in the prosecution of its business or is 10674
in the hands of an assignee, trustee, or receiver for the 10675
benefit of the entity's creditors and investors. The lien shall 10676
continue until those taxes, together with any penalties 10677
subsequently accruing, are paid. 10678

Upon failure of such a qualifying entity or an electing 10679
pass-through entity to pay those taxes on the day fixed for 10680
payment, ~~the treasurer of state shall thereupon notify the tax-~~ 10681
~~commissioner, and the tax commissioner may file,~~ in the office 10682
of the county recorder in each county in this state in which the 10683
entity owns or has a beneficial interest in real estate, notice 10684
of the lien containing a brief description of such real estate. 10685
No fee shall be charged for such a filing. The lien is not valid 10686
as against any mortgagee, purchaser, or judgment creditor whose 10687
rights have attached prior to the time the notice is so filed in 10688
the county in which the real estate which is the subject of such 10689
mortgage, purchase, or judgment lien is located. The notice 10690
shall be recorded in the official records kept by the county 10691
recorder and indexed under the name of the entity charged with 10692
the tax. When the tax, together with any penalties subsequently 10693
accruing thereon, have been paid, the tax commissioner shall 10694
furnish to the entity an acknowledgment of such payment that the 10695
entity may record with the county recorder of each county in 10696
which notice of such lien has been filed, for which recording 10697
the county recorder shall charge and receive a fee of two 10698
dollars. 10699

(C) In addition to all other remedies for the collection 10700
of any taxes or penalties due under law, whenever any taxes, 10701
interest, or penalties due from any qualifying entity or 10702
electing pass-through entity under section 5733.41 of the 10703
Revised Code or this chapter have remained unpaid for a period 10704

of ninety days, or whenever any qualifying entity or electing 10705
pass-through entity has failed for a period of ninety days to 10706
make any report or return required by law, or to pay any penalty 10707
for failure to make or file such report or return, the attorney 10708
general, upon the request of the tax commissioner, shall file a 10709
petition in the court of common pleas in the county of the state 10710
in which such entity has its principal place of business for a 10711
judgment for the amount of the taxes, interest, or penalties 10712
appearing to be due, the enforcement of any lien in favor of the 10713
state, and an injunction to restrain such entity and its 10714
officers, directors, and managing agents from the transaction of 10715
any business within this state, other than such acts as are 10716
incidental to liquidation or winding up, until the payment of 10717
such taxes, interest, and penalties, and the costs of the 10718
proceeding fixed by the court, or the making and filing of such 10719
report or return. 10720

The petition shall be in the name of the state. Any of the 10721
qualifying entities or electing pass-through entities having its 10722
principal places of business in the county may be joined in one 10723
suit. On the motion of the attorney general, the court of common 10724
pleas shall enter an order requiring all defendants to answer by 10725
a day certain, and may appoint a special master commissioner to 10726
take testimony, with such other power and authority as the court 10727
confers, and permitting process to be served by registered mail 10728
and by publication in a newspaper of general circulation in the 10729
county, which publication need not be made more than once, 10730
setting forth the name of each delinquent entity, the matter in 10731
which the entity is delinquent, the names of its officers, 10732
directors, and managing agents, if set forth in the petition, 10733
and the amount of any taxes, fees, or penalties claimed to be 10734
owing by the entity. 10735

All or any of the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of any qualifying entity or electing pass-through entity may be joined as defendants with such entity.

If it appears to the court upon hearing that any qualifying entity or electing pass-through entity that is a party to the proceeding is indebted to the state for taxes imposed under section 5733.41, 5747.38, or 5747.41 of the Revised Code, or interest or penalties thereon, judgment shall be entered therefor with interest; and if it appears that any qualifying entity or electing pass-through entity has failed to make or file any report or return, a mandatory injunction may be issued against the entity, its trustees or other fiduciaries, officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, interest, and penalties.

If the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of a qualifying entity or an electing pass-through entity are not made parties in the first instance, and a judgment or an injunction is rendered or issued against the entity, those officers, directors, investors, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this division, a statement of the tax commissioner, or the secretary of state, when duly

certified, shall be prima-facie evidence of the amount of taxes, 10766
interest, or penalties due from any qualifying entity or 10767
electing pass-through entity, or of the failure of any such 10768
entity to file with the commissioner or the secretary of state 10769
any report required by law, and any such certificate of the 10770
commissioner or the secretary of state may be required in 10771
evidence in any such proceeding. 10772

On the application of any defendant and for good cause 10773
shown, the court may order a separate hearing of the issues as 10774
to any defendant. 10775

The costs of the proceeding shall be apportioned among the 10776
parties as the court deems proper. 10777

The court in such proceeding may make, enter, and enforce 10778
such other judgments and orders and grant such other relief as 10779
is necessary or incidental to the enforcement of the claims and 10780
lien of the state. 10781

In the performance of the duties enjoined upon the 10782
attorney general by this division, the attorney general may 10783
direct any prosecuting attorney to bring an action, as 10784
authorized by this division, in the name of the state with 10785
respect to any delinquent qualifying entities or delinquent 10786
electing pass-through entities within the prosecuting attorney's 10787
county, and like proceedings and orders shall be had as if such 10788
action were instituted by the attorney general. 10789

(D) If any qualifying entity or electing pass-through 10790
entity fails to make and file the reports or returns required 10791
under this chapter, or to pay the penalties provided by law for 10792
failure to make and file such reports or returns for a period of 10793
ninety days after the time prescribed by this chapter, the 10794

attorney general, on the request of the tax commissioner, shall 10795
commence an action in quo warranto in the court of appeals of 10796
the county in which that entity has its principal place of 10797
business to forfeit and annul its privileges and franchises. If 10798
the court is satisfied that any such entity is in default, it 10799
shall render judgment ousting such entity from the exercise of 10800
its privileges and franchises within this state, and shall 10801
otherwise proceed as provided in sections 2733.02 to 2733.39 of 10802
the Revised Code. 10803

Sec. 5815.26. (A) As used in this section: 10804

(1) "Fiduciary" means a trustee under any testamentary, 10805
inter vivos, or other trust, an executor or administrator, or 10806
any other person who is acting in a fiduciary capacity for a 10807
person, trust, or estate. 10808

(2) "Short term trust-quality investment fund" means a 10809
short term investment fund that meets both of the following 10810
conditions: 10811

(a) The fund may be either a collective investment fund 10812
established pursuant to section 1111.14 of the Revised Code or a 10813
registered investment company, including any affiliated 10814
investment company whether or not the fiduciary has invested 10815
other funds held by it in an agency or other nonfiduciary 10816
capacity in the securities of the same registered investment 10817
company or affiliated investment company. 10818

(b) The fund is invested in any one or more of the 10819
following manners: 10820

(i) In obligations of the United States or of its 10821
agencies; 10822

(ii) In obligations of one or more of the states of the 10823

United States or their political subdivisions;	10824
(iii) In variable demand notes, corporate money market instruments including, but not limited to, commercial paper rated at the time of purchase in either of the two highest classifications established by at least one nationally recognized standard - <u>statistical</u> rating service <u>organization</u> ;	10825 10826 10827 10828 10829
(iv) In deposits in banks or savings and loan associations whose deposits are insured by the federal deposit insurance corporation, if the rate of interest paid on such deposits is at least equal to the rate of interest generally paid by such banks or savings and loan associations on deposits of similar terms or amounts;	10830 10831 10832 10833 10834 10835
(v) In fully collateralized repurchase agreements or other evidences of indebtedness that are of trust quality and are payable on demand or have a maturity date consistent with the purpose of the fund and the duty of fiduciary prudence.	10836 10837 10838 10839
(3) "Registered investment company" means any investment company that is defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8.	10840 10841 10842 10843
(4) "Affiliated investment company" has the same meaning as in division (E) (1) of section 1111.10 of the Revised Code.	10844 10845
(B) A fiduciary is not required to invest cash that belongs to the trust and may hold that cash for the period prior to distribution if either of the following applies:	10846 10847 10848
(1) The fiduciary reasonably expects to do either of the following:	10849 10850
(a) Distribute the cash to beneficiaries of the trust on a	10851

quarterly or more frequent basis; 10852

(b) Use the cash for the payment of debts, taxes, or 10853
expenses of administration within the ninety-day period 10854
following the receipt of the cash by the fiduciary. 10855

(2) Determined on the basis of the facilities available to 10856
the fiduciary and the amount of the income that reasonably could 10857
be earned by the investment of the cash, the amount of the cash 10858
does not justify the administrative burden or expense associated 10859
with its investment. 10860

(C) If a fiduciary wishes to hold funds that belong to the 10861
trust in liquid form and division (B) of this section does not 10862
apply, the fiduciary may so hold the funds as long as they are 10863
temporarily invested as described in division (D) of this 10864
section. 10865

(D) (1) A fiduciary may make a temporary investment of cash 10866
that may be held uninvested in accordance with division (B) of 10867
this section, and shall make a temporary investment of funds 10868
held in liquid form pursuant to division (C) of this section, in 10869
any of the following investments, unless the governing 10870
instrument provides for other investments in which the temporary 10871
investment of cash or funds is permitted: 10872

(a) A short term trust-quality investment fund; 10873

(b) Direct obligations of the United States or of its 10874
agencies; 10875

(c) A deposit with a bank or savings and loan association, 10876
including a deposit with the fiduciary itself or any bank 10877
subsidiary corporation owned or controlled by the bank holding 10878
company that owns or controls the fiduciary, whose deposits are 10879
insured by the federal deposit insurance corporation, if the 10880

rate of interest paid on that deposit is at least equal to the 10881
rate of interest generally paid by that bank or savings and loan 10882
association on deposits of similar terms or amounts. 10883

(2) A fiduciary that makes a temporary investment of cash 10884
or funds pursuant to division (D)(1) of this section may charge 10885
a reasonable fee for the services associated with that 10886
investment. The fee shall be in addition to the compensation to 10887
which the fiduciary is entitled for his ordinary fiduciary 10888
services. 10889

(3) Fiduciaries that make one or more temporary 10890
investments of cash or funds pursuant to division (D)(1) of this 10891
section shall provide to the beneficiaries of the trusts 10892
involved, that are currently receiving income or have a right to 10893
receive income, a written disclosure of their temporary 10894
investment practices and, if applicable, the method of computing 10895
reasonable fees for their temporary investment services pursuant 10896
to division (D)(2) of this section. Fiduciaries may comply with 10897
this requirement in any appropriate written document, including, 10898
but not limited to, any periodic statement or account. 10899

(4) A fiduciary that makes a temporary investment of cash 10900
or funds in an affiliated investment company pursuant to 10901
division (D)(1)(a) of this section shall, when providing any 10902
periodic account statements of its temporary investment 10903
practices, report the net asset value of the shares comprising 10904
the investment in the affiliated investment company. 10905

(5) If a fiduciary that makes a temporary investment of 10906
cash or funds in an affiliated investment company pursuant to 10907
division (D)(1)(a) of this section invests in any mutual fund, 10908
the fiduciary shall provide to the beneficiaries of the trust 10909
involved, that are currently receiving income or have a right to 10910

receive income, a written disclosure, in at least ten-point boldface type, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government agency or government-sponsored agency of the federal government or of this state.

Sec. 5815.37. (A) If any interest in real property held by any trustee of an express trust that is wholly or partially governed by a law of this state or any interest in real property located in this state that is held by the trustee of a trust wholly governed by the law of one or more jurisdictions other than this state is temporarily conveyed to any beneficiary of that trust and reconveyed back to any trustee of that trust, the interest in the real property shall be subject to divisions (B) and (C) of this section if all of the following apply:

(1) That temporary conveyance is for the principal purpose of enabling some or all of that interest in the real property to be used as collateral in a loan transaction.

(2) The loan proceeds will be delivered to the trustee of the trust or will otherwise be principally used for the benefit of one or more beneficiaries of the trust.

(3) The interest in the real property is reconveyed back to one or more trustees of the trust within a reasonable time after the reconveying beneficiary acquired actual notice that the lender has perfected the lender's collateral rights in and to the interest in the real property.

(4) The lender in question is any of the following:

(a) A bank, thrift, savings bank, savings and loan association, credit union, or any other similar financial institution if the activities of the other similar financial

institution are subject to supervision by the Ohio 10940
superintendent of financial institutions, the federal deposit 10941
insurance corporation, the comptroller of the currency, ~~the~~ 10942
~~office of thrift supervision,~~ any other comparable state or 10943
federal regulatory agency or entity, or a successor of any of 10944
them; 10945

(b) An insurance company subject to supervision by the 10946
Ohio department of insurance or any comparable agency 10947
established by the law of any other jurisdiction; 10948

(c) Any other corporation, limited liability company, 10949
partnership, or other similar or comparable entity the routine 10950
and regular business activities of which commonly include the 10951
making of commercial or residential loans that are wholly or 10952
partially secured by real property. 10953

(B) If a temporary conveyance and reconveyance of an 10954
interest in real property is made for the principal purpose of 10955
allowing a lender to acquire, perfect, foreclose on, or exercise 10956
collateral rights in and to the real property interest in 10957
question, the temporary conveyance to a beneficiary shall be 10958
disregarded for all other purposes, and the reconveyance back to 10959
a trustee shall relate back to the date immediately preceding 10960
that reconveyance on which the interest in the real property was 10961
transferred to any trustee of the trust in a transaction other 10962
than a loan transaction described in division (A)(1) of this 10963
section. 10964

(C) In connection with any temporary conveyance and 10965
reconveyance of an interest in real property pursuant to 10966
division (A) of this section, the following shall survive 10967
unimpaired after any reconveyance back to a trustee made 10968
pursuant to division (A)(3) of this section: 10969

(1) The rights, duties, and obligations of a lender under the documents governing the loan transaction, including, but not limited to, any of the following to the extent they are provided for in those documents:

(a) A lender's collateral rights in and to any interest in real property that is reconveyed to a trustee;

(b) The lender's rights under any mortgage, deed of trust, lien, encumbrance, or any other similar or comparable instrument or arrangement used to give the lender collateral rights in and to the interest being reconveyed, including, but not limited to, a lender's right to foreclose on that interest in real property;

(c) The lender's obligations to make loans or advances or to provide any person with any notice called for by the documents governing the loan transaction.

(2) The rights, duties, and obligations of any debtor under any documents governing the loan transaction, including, but not limited to, the following to the extent they are provided for in those documents:

(a) The duty to repay the lender or any other person who is entitled to receive payments under the documents governing the loan transaction;

(b) The duty to honor any agreements or covenants made by the debtor in the documents governing the loan transaction;

(c) The right to receive any advances, loans, notices, or other benefits called for by the documents governing the loan transaction.

(D) The following apply for purposes of division (A) (1) of this section:

(1) A court shall liberally construe the temporary conveyance to a beneficiary of the trust in question in determining whether the principal purpose of the temporary conveyance is to enable some or all of the interest in the real property to be used as collateral in a loan transaction.

(2) An interest in real property shall be considered to be used as collateral if, as part of a lending transaction, that interest is wholly or partially made subject to a mortgage, deed of trust, lien, encumbrance, or any other similar or comparable instrument or arrangement used to give the lender collateral rights in and to that interest.

(E) A court shall liberally construe division (A) (2) of this section in determining whether the loan proceeds referred to in that division will be principally used for the benefit of one or more beneficiaries of the trust in question.

(F) For purposes of division (A) (3) of this section, any reconveyance to a trustee shall be considered to have occurred within a reasonable time if it is made within one hundred twenty days of the date on which the reconveying beneficiary acquired actual notice that the lender has perfected the lender's collateral rights in and to the interest in the real property. In all other cases, a court shall consider all relevant facts and circumstances in determining whether a beneficiary has reconveyed the interest in the real property back to a trustee within a reasonable time after the reconveying beneficiary acquired that actual notice.

(G) (1) A court shall liberally construe division (A) (4) of this section in determining whether a corporation, limited liability company, partnership, or other similar or comparable entity qualifies as a lender within the meaning of that

division. 11028

(2) Subject to the rule of liberal interpretation set 11029
forth in division (G)(1) of this section, the Ohio 11030
superintendent of financial institutions may from time to time 11031
issue regulations setting forth a nonexhaustive list of entities 11032
that qualify as a lender within the meaning of division (A)(4) 11033
of this section and also may from time to time issue regulations 11034
setting forth specific entities or classes of entities that do 11035
not qualify as a lender within the meaning of that division. 11036

(H) An interest in real property may be subject to or 11037
involved in more than one loan transaction undertaken pursuant 11038
to this section. 11039

Section 2. That existing sections 113.05, 113.11, 113.12, 11040
113.40, 113.41, 113.60, 125.30, 125.901, 126.06, 127.14, 129.06, 11041
129.09, 131.01, 135.01, 135.02, 135.04, 135.05, 135.06, 135.08, 11042
135.10, 135.12, 135.14, 135.142, 135.143, 135.15, 135.182, 11043
135.31, 135.35, 135.45, 135.46, 135.47, 718.01, 1111.04, 11044
1112.12, 1315.54, 1345.01, 1501.10, 1503.05, 1509.07, 1509.225, 11045
1514.04, 1514.05, 1521.061, 1548.06, 1733.04, 1733.24, 1735.03, 11046
2109.37, 2109.372, 2109.44, 3314.50, 3366.05, 3737.945, 3903.73, 11047
3905.32, 3916.01, 3925.26, 4141.241, 4505.06, 4509.101, 4509.45, 11048
4509.62, 4509.63, 4509.65, 4509.67, 4710.03, 4749.01, 4763.13, 11049
5725.17, 5725.22, 5727.25, 5727.31, 5727.311, 5727.42, 5727.47, 11050
5727.53, 5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.03, 11051
5735.062, 5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 11052
5743.15, 5745.03, 5745.04, 5745.041, 5747.059, 5747.07, 11053
5747.072, 5747.42, 5747.44, 5747.451, 5815.26, and 5815.37 of 11054
the Revised Code are hereby repealed. 11055

Section 3. That sections 113.061, 113.07, 129.02, 129.03, 11056
129.08, 129.10, 129.11, 129.12, 129.13, 129.14, 129.15, 129.16, 11057

129.18, 129.19, 129.20, 129.72, 129.73, 129.74, 129.75, 129.76, 11058
135.101, 135.102, 135.103, 135.104, 135.105, 135.106, 135.61, 11059
135.62, 135.63, 135.64, 135.65, 135.66, 135.67, 135.68, 135.69, 11060
135.70, 135.71, 135.72, 135.73, 135.74, 135.75, 135.76, 135.77, 11061
135.771, 135.772, 135.773, 135.774, 135.78, 135.79, 135.791, 11062
135.792, 135.793, 135.794, 135.795, 135.796, 135.81, 135.82, 11063
135.83, 135.84, 135.85, 135.86, 135.87, 135.91, 135.92, 135.93, 11064
135.94, 135.95, 135.96, 135.97, 144.01, 144.02, 144.03, 144.04, 11065
144.05, 144.06, and 144.07 of the Revised Code are hereby 11066
repealed. 11067

Section 4. Notwithstanding any other provision of the 11068
Revised Code to the contrary, the public depositories designated 11069
and awarded the public moneys of the state under division (A) of 11070
section 135.12 of the Revised Code for the period commencing on 11071
or around July 4, 2022, shall be the designated public 11072
depositories for a total of three years commencing from that 11073
applicable date. 11074

Section 5. Notwithstanding section 5743.15 of the Revised 11075
Code, any license issued under division (B), (C), or (F) of that 11076
section that is active on the effective date of the amendment by 11077
this act of that section remains valid until June 1, 2024, 11078
rather than May 27, 2024. 11079

Section 6. The amendment by this act of division (E) of 11080
section 5747.07 of the Revised Code applies to filings and 11081
payments due on or after January 1, 2024. 11082

Section 7. The General Assembly, applying the principle 11083
stated in division (B) of section 1.52 of the Revised Code that 11084
amendments are to be harmonized if reasonably capable of 11085
simultaneous operation, finds that the following sections, 11086
presented in this act as composites of the sections as amended 11087

by the acts indicated, are the resulting versions of the 11088
sections in effect prior to the effective date of the sections 11089
as presented in this act: 11090

Section 135.142 of the Revised Code as amended by both 11091
H.B. 197 and S.B. 276 of the 133rd General Assembly. 11092

Section 718.01 of the Revised Code as amended by both H.B. 11093
228 and S.B. 217 of the 134th General Assembly and both H.B. 197 11094
and S.B. 276 of the 133rd General Assembly. 11095

Section 4509.101 of the Revised Code as amended by both 11096
H.B. 62 and H.B. 158 of the 133rd General Assembly. 11097