

As Reported by the Senate Veterans and Public Safety Committee

135th General Assembly

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2023-2024

Am. S. B. No. 226

Senator Johnson

Cosponsors: Senators Cirino, Lang, Schaffer

A BILL

To amend sections 319.202, 5301.256, and 5323.02 of 1
the Revised Code to extend the law that 2
prohibits certain governments, businesses, and 3
individuals from acquiring agricultural land to 4
certain other property and to name this act the 5
Ohio Property Protection Act. 6

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

Section 1. That sections 319.202, 5301.256, and 5323.02 of 7
the Revised Code be amended to read as follows: 8

Sec. 319.202. Before the county auditor indorses any real 9
property conveyance or manufactured or mobile home conveyance 10
presented to the auditor pursuant to section 319.20 of the 11
Revised Code or registers any manufactured or mobile home 12
conveyance pursuant to section 4503.061 of the Revised Code, the 13
grantee or the grantee's representative shall submit, either 14
electronically or three written copies of, a statement, in the 15
form prescribed by the tax commissioner, and other information 16
as the county auditor may require, declaring the value of real 17
property or manufactured or mobile home conveyed, except that 18

when the transfer is exempt under division (G) (3) of section 19
319.54 of the Revised Code only a statement of the reason for 20
the exemption and, if the statement involves the transfer of 21
protected property, the affirmations required by division (C) of 22
this section shall be required. Each statement submitted under 23
this section shall contain the information required under 24
divisions (A) and (B) of this section and, if the statement 25
involves the transfer of protected property, the affirmations 26
required by division (C) of this section. 27

(A) Each statement submitted under this section shall 28
either: 29

(1) Contain an affirmation by the grantee that the grantor 30
has been asked by the grantee or the grantee's representative 31
whether to the best of the grantor's knowledge either the 32
preceding or the current year's taxes on the real property or 33
the current or following year's taxes on the manufactured or 34
mobile home conveyed will be reduced under division (A) of 35
section 323.152 or under section 4503.065 of the Revised Code 36
and that the grantor indicated that to the best of the grantor's 37
knowledge the taxes will not be so reduced; or 38

(2) Be accompanied by a sworn or affirmed instrument 39
stating: 40

(a) To the best of the grantor's knowledge the real 41
property or the manufactured or mobile home that is the subject 42
of the conveyance is eligible for and will receive a reduction 43
in taxes for or payable in the current year under division (A) 44
of section 323.152 or under section 4503.065 of the Revised Code 45
and that the reduction or reductions will be reflected in the 46
grantee's taxes; 47

(b) The estimated amount of such reductions that will be reflected in the grantee's taxes;	48 49
(c) That the grantor and the grantee have considered and accounted for the total estimated amount of such reductions to the satisfaction of both the grantee and the grantor. The auditor shall indorse the instrument, return it to the grantee or the grantee's representative, and provide a copy of the indorsed instrument to the grantor or the grantor's representative.	50 51 52 53 54 55 56
(B) Each statement submitted under this section shall either:	57 58
(1) Contain an affirmation by the grantee that the grantor has been asked by the grantee or the grantee's representative whether to the best of the grantor's knowledge the real property conveyed qualified for the current agricultural use valuation under section 5713.30 of the Revised Code either for the preceding or the current year and that the grantor indicated that to the best of the grantor's knowledge the property conveyed was not so qualified; or	59 60 61 62 63 64 65 66
(2) Be accompanied by a sworn or affirmed instrument stating:	67 68
(a) To the best of the grantor's knowledge the real property conveyed was qualified for the current agricultural use valuation under section 5713.30 of the Revised Code either for the preceding or the current year;	69 70 71 72
(b) To the extent that the property will not continue to qualify for the current agricultural use valuation either for the current or the succeeding year, that the property will be subject to a recoupment charge equal to the tax savings in	73 74 75 76

accordance with section 5713.34 of the Revised Code; 77

(c) That the grantor and the grantee have considered and 78
accounted for the total estimated amount of such recoupment, if 79
any, to the satisfaction of both the grantee and the grantor. 80
The auditor shall indorse the instrument, forward it to the 81
grantee or the grantee's representative, and provide a copy of 82
the indorsed instrument to the grantor or the grantor's 83
representative. 84

(C) Each statement submitted under this section involving 85
the transfer of protected property shall contain both of the 86
following: 87

(1) An affirmation by the grantee as to whether the 88
grantee is prohibited from purchasing or otherwise acquiring 89
protected property in this state under section 5301.256 of the 90
Revised Code; 91

(2) An affirmation by the grantor as to whether the 92
grantor is prohibited from purchasing or otherwise acquiring 93
protected property in this state under section 5301.256 of the 94
Revised Code and, if so, whether the protected property that is 95
the subject of the transfer was acquired before the effective 96
date of this amendment. 97

(D) (1) The grantor shall pay the ~~fee~~ following: 98

(a) The fee required by division (G) (3) of section 319.54 99
of the Revised Code; ~~and, in~~ 100

(b) In the event the board of county commissioners of the 101
county has levied a real property or a manufactured home 102
transfer tax pursuant to Chapter 322. of the Revised Code, the 103
amount required by the real property or manufactured home 104
transfer tax so levied. ~~If~~ 105

(2) ~~If the conveyance is exempt from the fee provided for in division (G) (3) of section 319.54 of the Revised Code and the tax, if any, levied pursuant to Chapter 322. of the Revised Code, the reason for such exemption shall be shown on the statement. "Value" means, in the case of any deed or certificate of title not a gift in whole or part, the amount of the full consideration therefor, paid or to be paid for the real estate or manufactured or mobile home described in the deed or title, including the amount of any mortgage or vendor's lien thereon. If property sold under a land installment contract is conveyed by the seller under such contract to a third party and the contract has been of record at least twelve months prior to the date of conveyance, "value" means the unpaid balance owed to the seller under the contract at the time of the conveyance, but the statement shall set forth the amount paid under such contract prior to the date of conveyance. In the case of a gift in whole or part, "value" means the estimated price the real estate or manufactured or mobile home described in the deed or certificate of title would bring in the open market and under the then-existing and prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.~~

(3) No person shall willfully falsify the value of property conveyed.

~~(D)~~ (E) The auditor shall indorse each conveyance on its face to indicate the amount of the conveyance fee and compliance with this section and if the property is residential rental property include a statement that the grantee shall file with the county auditor the information required under division (A) or (C) of section 5323.02 of the Revised Code. The auditor shall retain the original copy of the statement of value, forward to

the tax commissioner one copy on which shall be noted the most recent assessed value of the property, and furnish one copy to the grantee or the grantee's representative.

~~(E)~~ (F) (1) The auditor shall not indorse a conveyance of protected property if the statement submitted under this section does not include both of the affirmations required by division (C) of this section.

(2) The auditor shall refer information about a conveyance of protected property to the county sheriff for investigation and enforcement under division (G) of section 5301.256 of the Revised Code if either of the following apply:

(a) The grantee affirms, or the auditor has reason to believe, that the grantee is prohibited from purchasing or otherwise acquiring protected property in this state under section 5301.256 of the Revised Code.

(b) The grantor affirms, or the auditor has reason to believe, that the grantor has acquired protected property in violation of section 5301.256 of the Revised Code.

(G) The auditor shall not refuse to indorse a conveyance for either of the reasons specified in division (F) (2) of this section.

(H) In order to achieve uniform administration and collection of the transfer fee required by division (G) (3) of section 319.54 of the Revised Code, the tax commissioner shall adopt ~~and promulgate~~ rules for the administration and enforcement of the levy and collection of such fee.

~~(F)~~ (I) As used in this section, "residential":

(1) "Agricultural land" and "protected property" have the

same meanings as in section 5301.256 of the Revised Code. 165

(2) "Residential rental property" has the same meaning as 166
in section 5323.01 of the Revised Code. 167

(3) (a) "Value" means, in the case of any deed or 168
certificate of title not a gift in whole or part, the amount of 169
the full consideration therefor, paid or to be paid for the real 170
estate or manufactured or mobile home described in the deed or 171
title, including the amount of any mortgage or vendor's lien 172
thereon. 173

(b) If property sold under a land installment contract is 174
conveyed by the seller under such contract to a third party and 175
the contract has been of record at least twelve months prior to 176
the date of conveyance, "value" means the unpaid balance owed to 177
the seller under the contract at the time of the conveyance, but 178
the statement shall set forth the amount paid under such 179
contract prior to the date of conveyance. 180

(c) In the case of a gift in whole or part, "value" means 181
the estimated price the real estate or manufactured or mobile 182
home described in the deed or certificate of title would bring 183
in the open market and under the then existing and prevailing 184
market conditions in a sale between a willing seller and a 185
willing buyer, both conversant with the property and with 186
prevailing general price levels. 187

Sec. 5301.256. (A) As used in this section: 188

(1) "Agriculture" has the same meaning as in section 1.61 189
of the Revised Code. 190

(2) "Agricultural land" means land suitable for use in 191
agriculture and includes water on and upon and air space over 192
and above the land and natural products and deposits that are 193

unsevered from the land.	194
(3) "Person" includes all of the following:	195
(a) Individuals;	196
(b) Firms <u>individuals, businesses, countries, criminal enterprises, gangs, cartels, organizations, and governments.</u>	197 198
(4) <u>"Business" includes firms, companies, business trusts, estates, trusts, sole proprietorships, partnerships, general partnerships, limited liability companies, associations, corporations, and any other legal, business, or commercial entities;</u>	199 200 201 202 203
(c) Governments.	204
(5) <u>"Government" means a government other than the government of the United States, its states, subdivisions, territories, or possessions;</u>	205 206 207
(d) Legal or commercial entities, organizations, joint ventures, and nonprofits.	208 209
(6) <u>"Real property" means land and improvements to land and includes water on and upon and air space over and above the land and natural products and deposits that are unsevered from the land.</u>	210 211 212 213
(7) <u>"Protected property" means real property in this state that is any of the following:</u>	214 215
<u>(a) Agricultural land;</u>	216
<u>(b) Located within a twenty-five mile radius of any installation under the jurisdiction of the armed forces, as defined in section 5903.01 of the Revised Code, such as a military base, a camp, or an airport;</u>	217 218 219 220

(c) Located within a twenty-five mile radius of a critical 221
infrastructure facility, as defined in section 2911.21 of the 222
Revised Code. 223

(8) "Control" means the authority, by contract or by law, 224
to direct the affairs and day-to-day operations of a business 225
without the consent of any other person. 226

(9) "Own" means possession of more than fifty per cent of 227
the stock, equity, or other ownership interest of a business. 228

(10) "Foreign adversary" means a country listed on the 229
registry published by the secretary of state under division (H) 230
of this section. 231

~~(B)(1)~~ (B) On or after the effective date of this section, 232
~~no person listed in the registry published by the secretary of~~ 233
~~state under division (G) of this section, and no agent, trustee,~~ 234
~~or fiduciary of such a person~~ amendment, none of the following 235
persons shall, directly or indirectly, purchase or otherwise 236
acquire agricultural land in this state protected property: 237

(1) A person listed on the registry published by the 238
secretary of state under division (H) of this section; 239

(2) A government of a foreign adversary; 240

(3) An individual who is a citizen of a foreign adversary, 241
regardless of whether that same individual is also a citizen or 242
national of one or more other countries, other than the United 243
States, that are not foreign adversaries; 244

(4) A business that is headquartered in a foreign 245
adversary; 246

(5) A business that is directly or indirectly owned or 247
controlled by one or more persons described in divisions (B)(1) 248

to (4) of this section, or an agent, fiduciary, or trustee of 249
such persons; 250

(6) Except as otherwise provided in division (D)(3) of 251
this section, an agent, fiduciary, or trustee of a person 252
described in divisions (B)(1) to (5) of this section. 253

~~(2)(C)~~ A person, agent, trustee or fiduciary subject to 254
division ~~(B)(1)~~ (B) of this section that directly or indirectly 255
owns or holds ~~agricultural land in this state as described in~~ 256
~~division (B)(1) of this section~~ protected property before the 257
effective date of this ~~section amendment,~~ may continue to own or 258
hold the ~~agricultural land~~ protected property, but shall not 259
purchase or otherwise acquire, directly or indirectly, 260
additional ~~agricultural land in this state that is subject to~~ 261
~~the restriction in division (B)(1) of this section~~ protected 262
property, unless an exception described in division ~~(C)~~ (D) of 263
this section applies. 264

~~(C)(D)~~ The restriction on acquiring agricultural land 265
restrictions set forth in division ~~(B)(1)~~ (B) of this section 266
~~does do not~~ apply to any of the following: 267

(1) ~~Agricultural land~~ Protected property acquired by 268
devise or descent. ~~However~~ Except as otherwise provided in 269
division (C) of this section, a person ~~listed in the registry~~ 270
~~published by the secretary of state under division (G)~~ subject 271
to division (B) of this section, ~~or an agent, trustee, or~~ 272
~~fiduciary thereof,~~ that directly or indirectly acquires ~~the~~ 273
~~agricultural land~~ protected property, or ~~an a~~ a direct or indirect 274
interest in ~~agricultural land,~~ protected property by devise or 275
descent ~~on or after the effective date of this section~~ shall 276
divest itself of all right, title, and interest in the 277
~~agricultural land~~ protected property, whether direct or 278

indirect, within two years ~~from~~ after the date of acquisition. 279

(2) ~~Agricultural land~~ Protected property that is acquired, 280
directly or indirectly, by a process of law in the collection of 281
debts, by a deed in lieu of foreclosure, pursuant to a 282
forfeiture of a contract for deed, or by any procedure for the 283
enforcement of a lien or claim on the ~~agricultural land~~ protected 284
property, whether created by mortgage or otherwise. ~~Agricultural~~ 285
~~land~~ Except as otherwise provided in division (C) of this 286
section, protected property so acquired shall be sold or 287
otherwise disposed of within two years after title is 288
transferred. ~~Agricultural~~ If the protected property is 289
agricultural land, pending the sale or disposition, the land 290
shall not be used for any purpose other than agriculture, and 291
the land shall not be used for agriculture under lease to an 292
individual, trust, corporation, partnership, or other business 293
entity subject to the restrictions under division ~~(B)(1)~~ (B) of 294
this section. 295

~~(D)~~ (3) Protected property directly or indirectly acquired 296
by agent, fiduciary, or trustee of a person described in 297
divisions (B)(1) to (5) of this section acting in the agent's, 298
fiduciary's, or trustee's personal capacity, if both of the 299
following apply: 300

(a) The agent, fiduciary, or trustee is not a person 301
described in divisions (B)(1) to (5) of this section; 302

(b) The agent, fiduciary, or trustee is not purchasing or 303
otherwise acquiring the property to circumvent the restrictions 304
prescribed by this section. 305

(4) Protected property directly or indirectly acquired by 306
an individual who is a United States citizen or national, 307

unless that individual is purchasing or otherwise acquiring the 308
property as an agent, fiduciary, or trustee of a person 309
described in divisions (B) (1) to (5) of this section. 310

~~(E) A person listed in the registry published by the~~ 311
~~secretary of state under subject to division (G) (B) of this~~ 312
~~section, or an agent, trustee, or fiduciary of such a person,~~ 313
shall not directly or indirectly transfer title to or an 314
interest in agricultural land protected property to another 315
person listed in that registry, or an agent, trustee, or 316
~~fiduciary thereof~~ subject to that division, except by devise or 317
~~descent~~ unless an exception described in division (D) of this 318
section applies. 319

~~(E) A~~ ~~(F)~~ Except as otherwise provided in divisions (C) 320
and (D) of this section, a person or an agent, trustee, or 321
fiduciary that directly or indirectly purchases or otherwise 322
acquires ~~agricultural land in this state described in division~~ 323
~~(B) (1) of this section, other than by devise or descent, after~~ 324
~~the effective date of this section~~ protected property, and that 325
~~is~~ subsequently added to the registry published by the secretary 326
~~of state under~~ becomes subject to division (G) (B) of this 327
section, shall divest itself of all right, title, and interest, 328
whether direct or indirect, in the agricultural land protected 329
property within two years from after the date the person is 330
added to the registry, agent, trustee, or fiduciary becomes 331
subject to division (B) of this section. 332

~~(F) (1) (G) (1)~~ If the secretary of state a county auditor 333
finds or has reason to believe that a person listed on the 334
registry published under division (G) of this section, or an 335
agent, trustee, or fiduciary ~~thereof,~~ subject to division (B) of 336
this section has acquired, or holds title to, or interest in, 337

~~agricultural land-protected property~~ in this state in violation 338
of this section, the ~~secretary of state-auditor~~ shall ~~report the-~~ 339
~~violation to the attorney general~~notify the county sheriff of 340
each county in which the protected property is located. The 341
county sheriff shall investigate the allegation, and may, in 342
conducting the investigation, issue subpoenas to compel 343
witnesses to appear to provide testimony or produce records. If 344
the protected property is located in more than one county, the 345
county sheriffs of those counties may investigate the allegation 346
collaboratively. 347

(2) Upon ~~receipt of the report from the secretary of-~~ 348
~~state, the attorney general~~ concluding the investigation, if the 349
county sheriff determines that a violation has occurred, the 350
county sheriff shall refer the violation to the county 351
prosecutor. Upon receiving such a referral, the county 352
prosecutor shall initiate-commence an action in the court of 353
common pleas of ~~any-the county in which the agricultural land is-~~ 354
~~located seeking relief in accordance with this section.~~ If the 355
~~agricultural land-protected property~~ is located in more than one 356
county, ~~or adjoining tracts of agricultural land are located in-~~ 357
~~more than one county,~~ rather than commencing a separate action 358
in each such county, the county prosecutors may commence one 359
consolidated action the county in which the majority of the 360
~~agricultural land-territory of the protected property is located~~ 361
~~shall have.~~ In a consolidated action, the court of common pleas 362
of the county in which the majority of the territory of the 363
protected property is located has territorial jurisdiction over 364
~~agricultural land-all protected property~~ that is the subject of 365
the action. ~~The attorney general may initiate an action in the-~~ 366
~~court of common pleas of more than one county, if necessary, in-~~ 367
~~which case, the court of common pleas in that county shall have-~~ 368

~~jurisdiction over the action in matters as it relates to the~~ 369
~~portion of the agricultural land that is located in that county.~~ 370

(3) ~~The attorney general~~ Once the action is commenced, the 371
county prosecutor shall file a notice of the pendency of the 372
action with the county recorder of each county in which ~~any of~~ 373
~~the agricultural land~~ protected property subject to the action 374
is located. 375

(4) If the court finds that the ~~agricultural land~~ 376
protected property in question has been acquired or held in 377
violation of this section, it shall do all of the following: 378

(a) Enter an order so declaring; 379

(b) File a copy of the order with the county recorder of 380
each county in which ~~any portion of the agricultural land~~ 381
protected property is located; 382

(c) ~~Declare the agricultural land escheated to the state;~~ 383

~~(d) Order that the escheated agricultural land~~ protected 384
property be sold pursuant to Chapter 2329. of the Revised Code 385
in the same manner as a foreclosure on a mortgage, except that 386
there shall be no opportunity for redemption under section 387
2329.33 of the Revised Code. 388

(5) Upon receiving an order under division ~~(F) (4)~~ (G) (4) 389
of this section, the clerk of the court shall notify the 390
governor that the ~~title to the agricultural land~~ protected 391
property is ~~vested in the state to be sold~~ by decree of the 392
court. After the sale, the proceeds ~~of the sale~~ shall be paid as 393
follows: 394

(a) ~~The proceeds shall first be used~~ First, to pay court 395
costs related to the action or actions ~~initiated pursuant to~~ 396

~~division (F) (2) of this section;~~ 397

~~(b) The remaining proceeds, if any, shall be paid Second,
to bona fide lien holders, in their order of priority, except
for liens that under the terms of the sale are to remain on the
property;~~ 398
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~~(c) Third, to the person whose agricultural land
escheated, but only in an amount not exceeding the actual cost
paid by the person for that agricultural land;~~ 402
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~~(e) The proceeds remaining after payments have been made
pursuant to divisions (F) (5) (a) and (b) of this section shall be
paid to the general fund of each county in which the
agricultural land protected property is located, proportionally,
based on the percentage of the territory located in each county.~~ 405
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~~(G) (H) The secretary of state shall compile and
periodically update at least one time every six months a
registry of foreign adversaries and other persons that, based on
the best information available to the secretary of state,
constitute a threat to the agricultural production, critical
infrastructure, security, or military defense of this state, or
the United States, ~~if permitted to acquire agricultural land
described in division (B) (1) of this section.~~ The registry shall
be published on the secretary of state's web site. The secretary
of state shall consult all of the following in compiling the
registry:~~ 410
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(1) The list of persons determined to be foreign
adversaries by the secretary of commerce of the United States
under 15 C.F.R. 7.4; 421
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(2) The terrorist exclusion list compiled by the secretary
of state of the United States in consultation with the attorney 424
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general of the United States under 8 U.S.C. 1182; 426

(3) The list of countries determined by the secretary of 427
state of the United States that have repeatedly provided support 428
for acts of international terrorism under 50 U.S.C. 4813(c) and 429
22 U.S.C. 2780(d); 430

(4) The list of individual and entities designated by, or 431
in accordance with Executive Order 13224, issued by the 432
president of the United States on September 23, ~~2021~~2001, or 433
Executive Order 13268, issued by the president of the United 434
States on July 2, 2002. 435

~~(H)~~ (I) (1) No person is required to determine or inquire 436
whether another person is or may be subject to division (B) of 437
this section unless the person is either: 438

(a) Subject to division (B) of this section; 439

(b) A county auditor, county sheriff, county prosecutor, 440
or trier of fact of a court of common pleas acting in the 441
person's official capacity as provided in this section or 442
section 319.302 of the Revised Code; 443

(2) A person that is not subject to division (B) of this 444
section bears no liability under this section. 445

(3) No title to an interest in real property is invalid or 446
subject to divestment by reason of a violation of this section 447
by any former owner or other person holding or owning a former 448
interest in such real property. 449

(J) The purpose of establishing the restrictions as set 450
forth in this section is to recognize that the state has a 451
substantial and compelling interest in protecting its 452
agricultural production, critical infrastructure, security, and 453

<u>military defense.</u>	454
Sec. 5323.02. (A) An owner of residential rental property	455
shall file with the county auditor of the county in which the	456
property is located the following information:	457
(1) The name, address, and telephone number of the owner;	458
(2) If the residential rental property is owned by a	459
trust, business trust, estate, partnership, limited partnership,	460
limited liability company, association, corporation, or any	461
other business entity, the name, address, and telephone number	462
of the following:	463
(a) A trustee, in the case of a trust or business trust;	464
(b) The executor or administrator, in the case of an	465
estate;	466
(c) A general partner, in the case of a partnership or a	467
limited partnership;	468
(d) A member, manager, or officer, in the case of a	469
limited liability company;	470
(e) An associate, in the case of an association;	471
(f) An officer, in the case of a corporation;	472
(g) A member, manager, or officer, in the case of any	473
other business entity.	474
(3) The street address and permanent parcel number of the	475
residential rental property.	476
(B) The information required under division (A) of this	477
section shall be filed and maintained on the tax list or the	478
real property record.	479

(C) An owner of residential rental property shall update 480
the information required under division (A) of this section 481
within sixty days after any change in the information occurs. 482

(D) The county auditor shall provide an owner of 483
residential rental property located in a county that has a 484
population of more than two hundred thousand according to the 485
most recent decennial census with notice pursuant to division 486
(B) of section 323.131 of the Revised Code of the requirement to 487
file the information required under division (A) of this section 488
and the requirement to update that information under division 489
(C) of this section. 490

(E) The owner of residential real property shall comply 491
with the requirements under divisions (A) and (C) of this 492
section within sixty days after receiving the notice provided 493
under division (D) of this section, division ~~(D)~~(E) of section 494
319.202, or division (B) of section 323.131 of the Revised Code. 495

Section 2. That existing sections 319.202, 5301.256, and 496
5323.02 of the Revised Code are hereby repealed. 497

Section 3. This act shall be known as the Ohio Property 498
Protection Act. 499