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133rd General Assembly

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Sub. H. B. No. 352

Representatives Cross, Lang

**Cosponsors: Representatives Seitz, Carfagna, Stein, Riedel, Becker, Hood, Lipps,
Brinkman, Romanchuk, Baldrige, Wilkin, Hambley, Holmes, A., Merrin, Reineke,
Richardson**

**Senators Antonio, Blessing, Brenner, Burke, Craig, Eklund, Huffman, S., Lehner,
Manning, O'Brien, Rulli, Sykes, Thomas, Yuko**

A BILL

To amend sections 2305.03, 2305.06, 2305.07, 1
2305.11, 2315.18, 2315.21, 4112.01, 4112.02, 2
4112.04, 4112.05, 4112.08, 4112.14, and 4112.99; 3
to amend, for the purpose of adopting new 4
section numbers as indicated in parentheses, 5
sections 4112.051 (4112.055) and 4112.052 6
(4112.056); and to enact new sections 4112.051 7
and 4112.052 and sections 2305.117 and 4112.054 8
of the Revised Code and to amend Section 22 of 9
H.B. 197 of the 133rd General Assembly to modify 10
Ohio civil rights laws related to employment; to 11
modify tolling and time limitations related to 12
criminal, civil, administrative, and other 13
actions; and to declare an emergency. 14

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

Section 1. That sections 2305.03, 2305.06, 2305.07, 15

2305.11, 2315.18, 2315.21, 4112.01, 4112.02, 4112.04, 4112.05, 16
4112.08, 4112.14, and 4112.99 be amended; sections 4112.051 17
(4112.055) and 4112.052 (4112.056) be amended for the purpose of 18
adopting new section numbers as indicated in parentheses; and 19
new sections 4112.051 and 4112.052 and sections 2305.117 and 20
4112.054 of the Revised Code be enacted to read as follows: 21

Sec. 2305.03. (A) Except as provided in division (B) of 22
this section and unless a different limitation is prescribed by 23
statute, a civil action may be commenced only within the period 24
prescribed in sections 2305.04 to 2305.22 of the Revised Code. 25
If interposed by proper plea by a party to an action mentioned 26
in any of those sections, lapse of time shall be a bar to the 27
action. 28

(B) No civil-tort action, as defined in section 2305.236 29
of the Revised Code, that is based upon a cause of action that 30
accrued in any other state, territory, district, or foreign 31
jurisdiction may be commenced and maintained in this state if 32
the period of limitation that applies to that action under the 33
laws of that other state, territory, district, or foreign 34
jurisdiction has expired or the period of limitation that 35
applies to that action under the laws of this state has expired. 36

(C) No action upon a specialty or an agreement, contract, 37
or promise in writing, other than an action described in 38
division (C) of section 2305.07 of the Revised Code, that seeks 39
post-default interest at a rate governed by or provided in the 40
substantive laws of any other state, territory, district, or 41
foreign jurisdiction, and in excess of the rate of interest 42
provided by section 5703.47 of the Revised Code, may be 43
commenced and maintained in this state if the period of 44
limitation that applies to that action under the laws of that 45

other state, territory, district, or foreign jurisdiction has 46
expired or the period of limitation that applies to that action 47
under the laws of this state has expired. 48

(D) No action described in division (C) of section 2305.07 49
of the Revised Code that seeks post charge-off interest at a 50
rate governed by or provided in the substantive laws of any 51
other state, territory, district, or foreign jurisdiction, and 52
in excess of the rate of interest provided by section 5703.47 of 53
the Revised Code, may be commenced and maintained in this state 54
if the period of limitation that applies to that action under 55
the laws of that other state, territory, district, or foreign 56
jurisdiction has expired or the period of limitation that 57
applies to that action under the laws of this state has expired. 58

Sec. 2305.06. Except as provided in sections 126.301 ~~and,~~ 59
1302.98, 1303.16, 1345.10, and 2305.04 of the Revised Code, an 60
action upon a specialty or an agreement, contract, or promise in 61
writing shall be brought within ~~eight~~ six years after the cause 62
of action accrued. 63

Sec. 2305.07. (A) Except as provided in sections 126.301 64
and 1302.98 of the Revised Code, an action upon a contract not 65
in writing, express or implied, ~~or~~ shall be brought within four 66
years after the cause of action accrued. 67

(B) An action upon a liability created by statute other 68
than a forfeiture or penalty, shall be brought within six years 69
after the cause ~~thereof~~ of action accrued. 70

(C) Except as provided in sections 1303.16, 1345.10, and 71
2305.04 of the Revised Code, and notwithstanding divisions (A) 72
and (B) of this section, section 1302.98, and division (B) of 73
section 2305.03 of the Revised Code, an action arising out of a 74

consumer transaction incurred primarily for personal, family, or 75
household purposes, based upon any contract, agreement, 76
obligation, liability, or promise, express or implied, including 77
an account stated, whether or not reduced to writing or signed 78
by the party to be charged by that transaction, shall be 79
commenced within six years after the cause of action accrued. 80

Sec. 2305.11. (A) An action for libel, slander, malicious 81
prosecution, or false imprisonment, an action for malpractice 82
other than an action upon a medical, dental, optometric, or 83
chiropractic claim, an action for legal malpractice against an 84
attorney or a law firm or legal professional association, or an 85
action upon a statute for a penalty or forfeiture shall be 86
commenced within one year after the cause of action accrued, 87
provided that an action by an employee for the payment of unpaid 88
minimum wages, unpaid overtime compensation, or liquidated 89
damages by reason of the nonpayment of minimum wages or overtime 90
compensation shall be commenced within two years after the cause 91
of action accrued. 92

(B) A civil action for unlawful abortion pursuant to 93
section 2919.12 of the Revised Code, a civil action authorized 94
by division (H) of section 2317.56 of the Revised Code, a civil 95
action pursuant to division (B) of section 2307.52 of the 96
Revised Code for terminating or attempting to terminate a human 97
pregnancy after viability in violation of division (A) of 98
section 2919.17 of the Revised Code, and a civil action for 99
terminating or attempting to terminate a human pregnancy of a 100
pain-capable unborn child in violation of division (E) of 101
section 2919.201 of the Revised Code shall be commenced within 102
one year after the performance or inducement of the abortion or 103
within one year after the attempt to perform or induce the 104
abortion in violation of division (A) of section 2919.17 of the 105

Revised Code or division (E) of section 2919.201 of the Revised Code. 106
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(C) As used in this section, "medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code. 108
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Sec. 2305.117. (A) Except as otherwise provided in this section, an action upon a legal malpractice claim against an attorney or a law firm or legal professional association shall be commenced within one year after the cause of action accrued. 111
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(B) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in division (C) of this section, both of the following apply: 115
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(1) No action upon a legal malpractice claim against an attorney or a law firm or legal professional association shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the legal malpractice claim. 119
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(2) If an action upon a legal malpractice claim against an attorney or a law firm or legal professional association is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the claim, then, any action upon that claim is barred. 124
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(C) (1) If a person making a legal malpractice claim against an attorney or a law firm or legal professional association, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in 129
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the exercise of reasonable care and diligence, discovers the 135
injury resulting from that act or omission before the expiration 136
of the four-year period specified in division (B)(1) of this 137
section, the person may commence an action upon the claim not 138
later than one year after the person discovers the injury 139
resulting from that act or omission. 140

(2) A person who commences an action upon a legal 141
malpractice claim under the circumstances described in division 142
(C)(1) of this section has the affirmative burden of proving, by 143
clear and convincing evidence, that the person, with reasonable 144
care and diligence, could not have discovered the injury 145
resulting from the act or omission constituting the alleged 146
basis of the claim within the three-year period described in 147
that division. 148

Sec. 2315.18. (A) As used in this section and in section 149
2315.19 of the Revised Code: 150

(1) "Asbestos claim" has the same meaning as in section 151
2307.91 of the Revised Code. 152

(2) "Economic loss" means any of the following types of 153
pecuniary harm: 154

(a) All wages, salaries, or other compensation lost as a 155
result of an injury or loss to person or property that is a 156
subject of a tort action; 157

(b) All expenditures for medical care or treatment, 158
rehabilitation services, or other care, treatment, services, 159
products, or accommodations as a result of an injury or loss to 160
person or property that is a subject of a tort action; 161

(c) Any other expenditures incurred as a result of an 162
injury or loss to person or property that is a subject of a tort 163

action, other than attorney's fees incurred in connection with that action.	164 165
(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.	166 167 168
(4) "Noneconomic loss" means nonpecuniary harm that results from an injury or loss to person or property that is a subject of a tort action, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.	169 170 171 172 173 174 175
(5) "Occurrence" means all claims resulting from or arising out of any one person's bodily injury.	176 177
(6) "Product liability claim" has the same meaning as in section 2307.71 of the Revised Code.	178 179
(7) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a civil action upon a product liability claim or an asbestos claim, <u>a civil action based on an unlawful discriminatory practice relating to employment brought under section 4112.052 of the Revised Code, and a civil action brought under section 4112.14 of the Revised Code.</u> "Tort action" does not include a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim or a civil action for damages for a breach of contract or another agreement between persons.	180 181 182 183 184 185 186 187 188 189
(8) "Trier of fact" means the jury or, in a nonjury action, the court.	190 191
(B) In a tort action to recover damages for injury or loss	192

to person or property, all of the following apply:	193
(1) There shall not be any limitation on the amount of	194
compensatory damages that represents the economic loss of the	195
person who is awarded the damages in the tort action.	196
(2) Except as otherwise provided in division (B) (3) of	197
this section, the amount of compensatory damages that represents	198
damages for noneconomic loss that is recoverable in a tort	199
action under this section to recover damages for injury or loss	200
to person or property shall not exceed the greater of two	201
hundred fifty thousand dollars or an amount that is equal to	202
three times the economic loss, as determined by the trier of	203
fact, of the plaintiff in that tort action to a maximum of three	204
hundred fifty thousand dollars for each plaintiff in that tort	205
action or a maximum of five hundred thousand dollars for each	206
occurrence that is the basis of that tort action.	207
(3) There shall not be any limitation on the amount of	208
compensatory damages that represents damages for noneconomic	209
loss that is recoverable in a tort action to recover damages for	210
injury or loss to person or property if the noneconomic losses	211
of the plaintiff are for either of the following:	212
(a) Permanent and substantial physical deformity, loss of	213
use of a limb, or loss of a bodily organ system;	214
(b) Permanent physical functional injury that permanently	215
prevents the injured person from being able to independently	216
care for self and perform life-sustaining activities.	217
(C) In determining an award of compensatory damages for	218
noneconomic loss in a tort action, the trier of fact shall not	219
consider any of the following:	220
(1) Evidence of a defendant's alleged wrongdoing,	221

misconduct, or guilt;	222
(2) Evidence of the defendant's wealth or financial resources;	223 224
(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.	225 226 227
(D) If a trial is conducted in a tort action to recover damages for injury or loss to person or property and a plaintiff prevails in that action, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:	228 229 230 231 232 233
(1) The total compensatory damages recoverable by the plaintiff;	234 235
(2) The portion of the total compensatory damages that represents damages for economic loss;	236 237
(3) The portion of the total compensatory damages that represents damages for noneconomic loss.	238 239
(E) (1) After the trier of fact in a tort action to recover damages for injury or loss to person or property complies with division (D) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for economic loss in the amount determined pursuant to division (D) (2) of this section, and, subject to division (F) (1) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for noneconomic loss. Except as provided in division (B) (3) of this section, in no event shall a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount that represents damages for noneconomic loss	240 241 242 243 244 245 246 247 248 249 250

as provided in division (B) (2) of this section. Division (B) of 251
this section shall be applied in a jury trial only after the 252
jury has made its factual findings and determination as to the 253
damages. 254

(2) Prior to the trial in the tort action described in 255
division (D) of this section, any party may seek summary 256
judgment with respect to the nature of the alleged injury or 257
loss to person or property, seeking a determination of the 258
damages as described in division (B) (2) of this section. 259

(F) (1) A court of common pleas has no jurisdiction to 260
enter judgment on an award of compensatory damages for 261
noneconomic loss in excess of the limits set forth in this 262
section. 263

(2) If the trier of fact is a jury, the court shall not 264
instruct the jury with respect to the limit on compensatory 265
damages for noneconomic loss described in division (B) (2) of 266
this section, and neither counsel for any party nor a witness 267
shall inform the jury or potential jurors of that limit. 268

(G) With respect to a tort action to which division (B) (2) 269
of this section applies, any excess amount of compensatory 270
damages for noneconomic loss that is greater than the applicable 271
amount specified in division (B) (2) of this section shall not be 272
reallocated to any other tortfeasor beyond the amount of 273
compensatory damages that the tortfeasor would otherwise be 274
responsible for under the laws of this state. 275

(H) This section does not apply to any of the following: 276

(1) Tort actions that are brought against the state in the 277
court of claims, including, but not limited to, those actions in 278
which a state university or college is a defendant and to which 279

division (B) (3) of section 3345.40 of the Revised Code applies;	280
(2) Tort actions that are brought against political subdivisions of this state and that are commenced under or are subject to Chapter 2744. of the Revised Code. Division (C) of section 2744.05 of the Revised Code applies to recoverable damages in those actions.	281 282 283 284 285
(3) Wrongful death actions brought pursuant to Chapter 2125. of the Revised Code.	286 287
(I) If the provisions regarding the limits on compensatory damages for noneconomic loss set forth in division (B) (2) of this section have been determined to be unconstitutional, then division (C) of this section and section 2315.19 of the Revised Code shall govern the determination of an award of compensatory damages for noneconomic loss in a tort action.	288 289 290 291 292 293
Sec. 2315.21. (A) As used in this section:	294
(1) "Tort action" means a civil action for damages for injury or loss to person or property.	295 296
<u>(a) "Tort action" includes a all of the following:</u>	297
<u>(i) A product liability claim for damages for injury or loss to person or property that is subject to sections 2307.71 to 2307.80 of the Revised Code, but;</u>	298 299 300
<u>(ii) A civil action based on an unlawful discriminatory practice relating to employment brought under section 4112.052 of the Revised Code;</u>	301 302 303
<u>(iii) A civil action brought under section 4112.14 of the Revised Code.</u>	304 305
<u>(b) "Tort action" does not include a civil action for</u>	306

damages for a breach of contract or another agreement between 307
persons. 308

(2) "Trier of fact" means the jury or, in a nonjury 309
action, the court. 310

(3) "Home" has the same meaning as in section 3721.10 of 311
the Revised Code. 312

(4) "Employer" includes, but is not limited to, a parent, 313
subsidiary, affiliate, division, or department of the employer. 314
If the employer is an individual, the individual shall be 315
considered an employer under this section only if the subject of 316
the tort action is related to the individual's capacity as an 317
employer. 318

(5) "Small employer" means an employer who employs not 319
more than one hundred persons on a full-time permanent basis, 320
or, if the employer is classified as being in the manufacturing 321
sector by the North American industrial classification system, 322
"small employer" means an employer who employs not more than 323
five hundred persons on a full-time permanent basis. 324

(B) (1) In a tort action that is tried to a jury and in 325
which a plaintiff makes a claim for compensatory damages and a 326
claim for punitive or exemplary damages, upon the motion of any 327
party, the trial of the tort action shall be bifurcated as 328
follows: 329

(a) The initial stage of the trial shall relate only to 330
the presentation of evidence, and a determination by the jury, 331
with respect to whether the plaintiff is entitled to recover 332
compensatory damages for the injury or loss to person or 333
property from the defendant. During this stage, no party to the 334
tort action shall present, and the court shall not permit a 335

party to present, evidence that relates solely to the issue of 336
whether the plaintiff is entitled to recover punitive or 337
exemplary damages for the injury or loss to person or property 338
from the defendant. 339

(b) If the jury determines in the initial stage of the 340
trial that the plaintiff is entitled to recover compensatory 341
damages for the injury or loss to person or property from the 342
defendant, evidence may be presented in the second stage of the 343
trial, and a determination by that jury shall be made, with 344
respect to whether the plaintiff additionally is entitled to 345
recover punitive or exemplary damages for the injury or loss to 346
person or property from the defendant. 347

(2) In a tort action that is tried to a jury and in which 348
a plaintiff makes a claim for both compensatory damages and 349
punitive or exemplary damages, the court shall instruct the jury 350
to return, and the jury shall return, a general verdict and, if 351
that verdict is in favor of the plaintiff, answers to an 352
interrogatory that specifies the total compensatory damages 353
recoverable by the plaintiff from each defendant. 354

(3) In a tort action that is tried to a court and in which 355
a plaintiff makes a claim for both compensatory damages and 356
punitive or exemplary damages, the court shall make its 357
determination with respect to whether the plaintiff is entitled 358
to recover compensatory damages for the injury or loss to person 359
or property from the defendant and, if that determination is in 360
favor of the plaintiff, shall make findings of fact that specify 361
the total compensatory damages recoverable by the plaintiff from 362
the defendant. 363

(C) Subject to division (E) of this section, punitive or 364
exemplary damages are not recoverable from a defendant in 365

question in a tort action unless both of the following apply: 366

(1) The actions or omissions of that defendant demonstrate 367
malice or aggravated or egregious fraud, or that defendant as 368
principal or master knowingly authorized, participated in, or 369
ratified actions or omissions of an agent or servant that so 370
demonstrate. 371

(2) The trier of fact has returned a verdict or has made a 372
determination pursuant to division (B) (2) or (3) of this section 373
of the total compensatory damages recoverable by the plaintiff 374
from that defendant. 375

(D) (1) In a tort action, the trier of fact shall determine 376
the liability of any defendant for punitive or exemplary damages 377
and the amount of those damages. 378

(2) Except as provided in division (D) (6) of this section, 379
all of the following apply regarding any award of punitive or 380
exemplary damages in a tort action: 381

(a) The court shall not enter judgment for punitive or 382
exemplary damages in excess of two times the amount of the 383
compensatory damages awarded to the plaintiff from that 384
defendant, as determined pursuant to division (B) (2) or (3) of 385
this section. 386

(b) If the defendant is a small employer or individual, 387
the court shall not enter judgment for punitive or exemplary 388
damages in excess of the lesser of two times the amount of the 389
compensatory damages awarded to the plaintiff from the defendant 390
or ten ~~percent~~ per cent of the employer's or individual's net 391
worth when the tort was committed up to a maximum of three 392
hundred fifty thousand dollars, as determined pursuant to 393
division (B) (2) or (3) of this section. 394

(c) Any ~~attorneys~~ attorney's fees awarded as a result of a claim for punitive or exemplary damages shall not be considered for purposes of determining the cap on punitive damages.

(3) No award of prejudgment interest under division (C) (1) of section 1343.03 of the Revised Code shall include any prejudgment interest on punitive or exemplary damages found by the trier of fact.

(4) In a tort action, the burden of proof shall be upon a plaintiff in question, by clear and convincing evidence, to establish that the plaintiff is entitled to recover punitive or exemplary damages.

(5) (a) In any tort action, except as provided in division (D) (5) (b) or (6) of this section, punitive or exemplary damages shall not be awarded against a defendant if that defendant files with the court a certified judgment, judgment entries, or other evidence showing that punitive or exemplary damages have already been awarded and have been collected, in any state or federal court, against that defendant based on the same act or course of conduct that is alleged to have caused the injury or loss to person or property for which the plaintiff seeks compensatory damages and that the aggregate of those previous punitive or exemplary damage awards exceeds the maximum amount of punitive or exemplary damages that may be awarded under division (D) (2) of this section against that defendant in the tort action.

(b) Notwithstanding division (D) (5) (a) of this section and except as provided in division (D) (6) of this section, punitive or exemplary damages may be awarded against a defendant in either of the following types of tort actions:

(i) In subsequent tort actions involving the same act or

course of conduct for which punitive or exemplary damages have 424
already been awarded, if the court determines by clear and 425
convincing evidence that the plaintiff will offer new and 426
substantial evidence of previously undiscovered, additional 427
behavior of a type described in division (C) of this section on 428
the part of that defendant, other than the injury or loss for 429
which the plaintiff seeks compensatory damages. In that case, 430
the court shall make specific findings of fact in the record to 431
support its conclusion. The court shall reduce the amount of any 432
punitive or exemplary damages otherwise awardable pursuant to 433
this section by the sum of the punitive or exemplary damages 434
awards previously rendered against that defendant in any state 435
or federal court. The court shall not inform the jury about the 436
court's determination and action under division (D) (5) (b) (i) of 437
this section. 438

(ii) In subsequent tort actions involving the same act or 439
course of conduct for which punitive or exemplary damages have 440
already been awarded, if the court determines by clear and 441
convincing evidence that the total amount of prior punitive or 442
exemplary damages awards was totally insufficient to punish that 443
defendant's behavior of a type described in division (C) of this 444
section and to deter that defendant and others from similar 445
behavior in the future. In that case, the court shall make 446
specific findings of fact in the record to support its 447
conclusion. The court shall reduce the amount of any punitive or 448
exemplary damages otherwise awardable pursuant to this section 449
by the sum of the punitive or exemplary damages awards 450
previously rendered against that defendant in any state or 451
federal court. The court shall not inform the jury about the 452
court's determination and action under division (D) (5) (b) (ii) of 453
this section. 454

(6) Division (D) (2) of this section does not apply to a 455
tort action where the alleged injury, death, or loss to person 456
or property resulted from the defendant acting with one or more 457
of the culpable mental states of purposely and knowingly as 458
described in section 2901.22 of the Revised Code and when the 459
defendant has been convicted of or pleaded guilty to a criminal 460
offense that is a felony, that had as an element of the offense 461
one or more of the culpable mental states of purposely and 462
knowingly as described in that section, and that is the basis of 463
the tort action. 464

(E) This section does not apply to tort actions against 465
the state in the court of claims, including, but not limited to, 466
tort actions against a state university or college that are 467
subject to division (B) (1) of section 3345.40 of the Revised 468
Code, to tort actions against political subdivisions of this 469
state that are commenced under or are subject to Chapter 2744. 470
of the Revised Code, or to the extent that another section of 471
the Revised Code expressly provides any of the following: 472

(1) Punitive or exemplary damages are recoverable from a 473
defendant in question in a tort action on a basis other than 474
that the actions or omissions of that defendant demonstrate 475
malice or aggravated or egregious fraud or on a basis other than 476
that the defendant in question as principal or master knowingly 477
authorized, participated in, or ratified actions or omissions of 478
an agent or servant that so demonstrate. 479

(2) Punitive or exemplary damages are recoverable from a 480
defendant in question in a tort action irrespective of whether 481
the plaintiff in question has adduced proof of actual damages. 482

(3) The burden of proof upon a plaintiff in question to 483
recover punitive or exemplary damages from a defendant in 484

question in a tort action is one other than clear and convincing 485
evidence. 486

(4) Punitive or exemplary damages are not recoverable from 487
a defendant in question in a tort action. 488

(F) If the trier of fact is a jury, the court shall not 489
instruct the jury with respect to the limits on punitive or 490
exemplary damages pursuant to division (D) of this section, and 491
neither counsel for any party or a witness shall inform the jury 492
or potential jurors of those limits. 493

(G) When determining the amount of an award of punitive or 494
exemplary damages against either a home or a residential 495
facility licensed under section 5123.19 of the Revised Code, the 496
trier of fact shall consider all of the following: 497

(1) The ability of the home or residential facility to pay 498
the award of punitive or exemplary damages based on the home's 499
or residential facility's assets, income, and net worth; 500

(2) Whether the amount of punitive or exemplary damages is 501
sufficient to deter future tortious conduct; 502

(3) The financial ability of the home or residential 503
facility, both currently and in the future, to provide 504
accommodations, personal care services, and skilled nursing 505
care. 506

Sec. 4112.01. (A) As used in this chapter: 507

(1) "Person" includes one or more individuals, 508
partnerships, associations, organizations, corporations, legal 509
representatives, trustees, trustees in bankruptcy, receivers, 510
and other organized groups of persons. "Person" also includes, 511
but is not limited to, any owner, lessor, assignor, builder, 512

manager, broker, salesperson, appraiser, agent, employee, 513
lending institution, and the state and all political 514
subdivisions, authorities, agencies, boards, and commissions of 515
the state. 516

(2) "Employer" ~~includes~~ means the state, any political 517
subdivision of the state, ~~any or a~~ person employing four or more 518
persons within the state, and ~~any person acting directly or~~ 519
~~indirectly in the interest of an employer~~ agent of the state, 520
political subdivision, or person. 521

(3) "Employee" means an individual employed by any 522
employer but does not include any individual employed in the 523
domestic service of any person. 524

(4) "Labor organization" includes any organization that 525
exists, in whole or in part, for the purpose of collective 526
bargaining or of dealing with employers concerning grievances, 527
terms or conditions of employment, or other mutual aid or 528
protection in relation to employment. 529

(5) "Employment agency" includes any person regularly 530
undertaking, with or without compensation, to procure 531
opportunities to work or to procure, recruit, refer, or place 532
employees. 533

(6) "Commission" means the Ohio civil rights commission 534
created by section 4112.03 of the Revised Code. 535

(7) "Discriminate" includes segregate or separate. 536

(8) "Unlawful discriminatory practice" means any act 537
prohibited by section 4112.02, 4112.021, or 4112.022 of the 538
Revised Code. 539

(9) "Place of public accommodation" means any inn, 540

restaurant, eating house, barbershop, public conveyance by air, 541
land, or water, theater, store, other place for the sale of 542
merchandise, or any other place of public accommodation or 543
amusement of which the accommodations, advantages, facilities, 544
or privileges are available to the public. 545

(10) "Housing accommodations" includes any building or 546
structure, or portion of a building or structure, that is used 547
or occupied or is intended, arranged, or designed to be used or 548
occupied as the home residence, dwelling, dwelling unit, or 549
sleeping place of one or more individuals, groups, or families 550
whether or not living independently of each other; and any 551
vacant land offered for sale or lease. "Housing accommodations" 552
also includes any housing accommodations held or offered for 553
sale or rent by a real estate broker, salesperson, or agent, by 554
any other person pursuant to authorization of the owner, by the 555
owner, or by the owner's legal representative. 556

(11) "Restrictive covenant" means any specification 557
limiting the transfer, rental, lease, or other use of any 558
housing accommodations because of race, color, religion, sex, 559
military status, familial status, national origin, disability, 560
or ancestry, or any limitation based upon affiliation with or 561
approval by any person, directly or indirectly, employing race, 562
color, religion, sex, military status, familial status, national 563
origin, disability, or ancestry as a condition of affiliation or 564
approval. 565

(12) "Burial lot" means any lot for the burial of deceased 566
persons within any public burial ground or cemetery, including, 567
but not limited to, cemeteries owned and operated by municipal 568
corporations, townships, or companies or associations 569
incorporated for cemetery purposes. 570

(13) "Disability" means a physical or mental impairment 571
that substantially limits one or more major life activities, 572
including the functions of caring for one's self, performing 573
manual tasks, walking, seeing, hearing, speaking, breathing, 574
learning, and working; a record of a physical or mental 575
impairment; or being regarded as having a physical or mental 576
impairment. 577

(14) Except as otherwise provided in section 4112.021 of 578
the Revised Code, "age" means ~~at least an individual aged forty~~ 579
~~years old or older.~~ 580

(15) "Familial status" means either of the following: 581

(a) One or more individuals who are under eighteen years 582
of age and who are domiciled with a parent or guardian having 583
legal custody of the individual or domiciled, with the written 584
permission of the parent or guardian having legal custody, with 585
a designee of the parent or guardian; 586

(b) Any person who is pregnant or in the process of 587
securing legal custody of any individual who is under eighteen 588
years of age. 589

(16) (a) Except as provided in division (A) (16) (b) of this 590
section, "physical or mental impairment" includes any of the 591
following: 592

(i) Any physiological disorder or condition, cosmetic 593
disfigurement, or anatomical loss affecting one or more of the 594
following body systems: neurological; musculoskeletal; special 595
sense organs; respiratory, including speech organs; 596
cardiovascular; reproductive; digestive; genito-urinary; hemic 597
and lymphatic; skin; and endocrine; 598

(ii) Any mental or psychological disorder, including, but 599

not limited to, intellectual disability, organic brain syndrome, 600
emotional or mental illness, and specific learning disabilities; 601

(iii) Diseases and conditions, including, but not limited 602
to, orthopedic, visual, speech, and hearing impairments, 603
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 604
sclerosis, cancer, heart disease, diabetes, human 605
immunodeficiency virus infection, intellectual disability, 606
emotional illness, drug addiction, and alcoholism. 607

(b) "Physical or mental impairment" does not include any 608
of the following: 609

(i) Homosexuality and bisexuality; 610

(ii) Transvestism, transsexualism, pedophilia, 611
exhibitionism, voyeurism, gender identity disorders not 612
resulting from physical impairments, or other sexual behavior 613
disorders; 614

(iii) Compulsive gambling, kleptomania, or pyromania; 615

(iv) Psychoactive substance use disorders resulting from 616
the current illegal use of a controlled substance or the current 617
use of alcoholic beverages. 618

(17) "Dwelling unit" means a single unit of residence for 619
a family of one or more persons. 620

(18) "Common use areas" means rooms, spaces, or elements 621
inside or outside a building that are made available for the use 622
of residents of the building or their guests, and includes, but 623
is not limited to, hallways, lounges, lobbies, laundry rooms, 624
refuse rooms, mail rooms, recreational areas, and passageways 625
among and between buildings. 626

(19) "Public use areas" means interior or exterior rooms 627

or spaces of a privately or publicly owned building that are 628
made available to the general public. 629

(20) "Controlled substance" has the same meaning as in 630
section 3719.01 of the Revised Code. 631

(21) "Disabled tenant" means a tenant or prospective 632
tenant who is a person with a disability. 633

(22) "Military status" means a person's status in "service 634
in the uniformed services" as defined in section 5923.05 of the 635
Revised Code. 636

(23) "Aggrieved person" includes both of the following: 637

(a) Any person who claims to have been injured by any 638
unlawful discriminatory practice described in division (H) of 639
section 4112.02 of the Revised Code; 640

(b) Any person who believes that the person will be 641
injured by any unlawful discriminatory practice described in 642
division (H) of section 4112.02 of the Revised Code that is 643
about to occur. 644

(24) "Unlawful discriminatory practice relating to 645
employment" means both of the following: 646

(a) An unlawful discriminatory practice that is prohibited 647
by division (A), (B), (C), (D), (E), or (F) of section 4112.02 648
of the Revised Code; 649

(b) An unlawful discriminatory practice that is prohibited 650
by division (I) or (J) of section 4112.02 of the Revised Code 651
that is related to employment. 652

(25) "Notice of right to sue" means a notice sent by the 653
commission to a person who files a charge under section 4112.051 654

of the Revised Code that states that the person who filed the 655
charge may bring a civil action related to the charge pursuant 656
to section 4112.052 or 4112.14 of the Revised Code, in 657
accordance with section 4112.052 of the Revised Code. 658

(B) For the purposes of divisions (A) to (F) of section 659
4112.02 of the Revised Code, the terms "because of sex" and "on 660
the basis of sex" include, but are not limited to, because of or 661
on the basis of pregnancy, any illness arising out of and 662
occurring during the course of a pregnancy, childbirth, or 663
related medical conditions. Women affected by pregnancy, 664
childbirth, or related medical conditions shall be treated the 665
same for all employment-related purposes, including receipt of 666
benefits under fringe benefit programs, as other persons not so 667
affected but similar in their ability or inability to work, and 668
nothing in division (B) of section 4111.17 of the Revised Code 669
shall be interpreted to permit otherwise. This division shall 670
not be construed to require an employer to pay for health 671
insurance benefits for abortion, except where the life of the 672
mother would be endangered if the fetus were carried to term or 673
except where medical complications have arisen from the 674
abortion, provided that nothing in this division precludes an 675
employer from providing abortion benefits or otherwise affects 676
bargaining agreements in regard to abortion. 677

Sec. 4112.02. It shall be an unlawful discriminatory 678
practice: 679

(A) For any employer, because of the race, color, 680
religion, sex, military status, national origin, disability, 681
age, or ancestry of any person, to discharge without just cause, 682
to refuse to hire, or otherwise to discriminate against that 683
person with respect to hire, tenure, terms, conditions, or 684

privileges of employment, or any matter directly or indirectly 685
related to employment. 686

(B) For an employment agency or personnel placement 687
service, because of race, color, religion, sex, military status, 688
national origin, disability, age, or ancestry, to do any of the 689
following: 690

(1) Refuse or fail to accept, register, classify properly, 691
or refer for employment, or otherwise discriminate against any 692
person; 693

(2) Comply with a request from an employer for referral of 694
applicants for employment if the request directly or indirectly 695
indicates that the employer fails to comply with the provisions 696
of sections 4112.01 to 4112.07 of the Revised Code. 697

(C) For any labor organization to do any of the following: 698

(1) Limit or classify its membership on the basis of race, 699
color, religion, sex, military status, national origin, 700
disability, age, or ancestry; 701

(2) Discriminate against, limit the employment 702
opportunities of, or otherwise adversely affect the employment 703
status, wages, hours, or employment conditions of any person as 704
an employee because of race, color, religion, sex, military 705
status, national origin, disability, age, or ancestry. 706

(D) For any employer, labor organization, or joint labor- 707
management committee controlling apprentice training programs to 708
discriminate against any person because of race, color, 709
religion, sex, military status, national origin, disability, or 710
ancestry in admission to, or employment in, any program 711
established to provide apprentice training. 712

(E) Except where based on a bona fide occupational 713
qualification certified in advance by the commission, for any 714
employer, employment agency, personnel placement service, or 715
labor organization, prior to employment or admission to 716
membership, to do any of the following: 717

(1) Elicit or attempt to elicit any information concerning 718
the race, color, religion, sex, military status, national 719
origin, disability, age, or ancestry of an applicant for 720
employment or membership; 721

(2) Make or keep a record of the race, color, religion, 722
sex, military status, national origin, disability, age, or 723
ancestry of any applicant for employment or membership; 724

(3) Use any form of application for employment, or 725
personnel or membership blank, seeking to elicit information 726
regarding race, color, religion, sex, military status, national 727
origin, disability, age, or ancestry; but an employer holding a 728
contract containing a nondiscrimination clause with the 729
government of the United States, or any department or agency of 730
that government, may require an employee or applicant for 731
employment to furnish documentary proof of United States 732
citizenship and may retain that proof in the employer's 733
personnel records and may use photographic or fingerprint 734
identification for security purposes; 735

(4) Print or publish or cause to be printed or published 736
any notice or advertisement relating to employment or membership 737
indicating any preference, limitation, specification, or 738
discrimination, based upon race, color, religion, sex, military 739
status, national origin, disability, age, or ancestry; 740

(5) Announce or follow a policy of denying or limiting, 741

through a quota system or otherwise, employment or membership 742
opportunities of any group because of the race, color, religion, 743
sex, military status, national origin, disability, age, or 744
ancestry of that group; 745

(6) Utilize in the recruitment or hiring of persons any 746
employment agency, personnel placement service, training school 747
or center, labor organization, or any other employee-referring 748
source known to discriminate against persons because of their 749
race, color, religion, sex, military status, national origin, 750
disability, age, or ancestry. 751

(F) For any person seeking employment to publish or cause 752
to be published any advertisement that specifies or in any 753
manner indicates that person's race, color, religion, sex, 754
military status, national origin, disability, age, or ancestry, 755
or expresses a limitation or preference as to the race, color, 756
religion, sex, military status, national origin, disability, 757
age, or ancestry of any prospective employer. 758

(G) For any proprietor or any employee, keeper, or manager 759
of a place of public accommodation to deny to any person, except 760
for reasons applicable alike to all persons regardless of race, 761
color, religion, sex, military status, national origin, 762
disability, age, or ancestry, the full enjoyment of the 763
accommodations, advantages, facilities, or privileges of the 764
place of public accommodation. 765

(H) Subject to section 4112.024 of the Revised Code, for 766
any person to do any of the following: 767

(1) Refuse to sell, transfer, assign, rent, lease, 768
sublease, or finance housing accommodations, refuse to negotiate 769
for the sale or rental of housing accommodations, or otherwise 770

deny or make unavailable housing accommodations because of race, 771
color, religion, sex, military status, familial status, 772
ancestry, disability, or national origin; 773

(2) Represent to any person that housing accommodations 774
are not available for inspection, sale, or rental, when in fact 775
they are available, because of race, color, religion, sex, 776
military status, familial status, ancestry, disability, or 777
national origin; 778

(3) Discriminate against any person in the making or 779
purchasing of loans or the provision of other financial 780
assistance for the acquisition, construction, rehabilitation, 781
repair, or maintenance of housing accommodations, or any person 782
in the making or purchasing of loans or the provision of other 783
financial assistance that is secured by residential real estate, 784
because of race, color, religion, sex, military status, familial 785
status, ancestry, disability, or national origin or because of 786
the racial composition of the neighborhood in which the housing 787
accommodations are located, provided that the person, whether an 788
individual, corporation, or association of any type, lends money 789
as one of the principal aspects or incident to the person's 790
principal business and not only as a part of the purchase price 791
of an owner-occupied residence the person is selling nor merely 792
casually or occasionally to a relative or friend; 793

(4) Discriminate against any person in the terms or 794
conditions of selling, transferring, assigning, renting, 795
leasing, or subleasing any housing accommodations or in 796
furnishing facilities, services, or privileges in connection 797
with the ownership, occupancy, or use of any housing 798
accommodations, including the sale of fire, extended coverage, 799
or homeowners insurance, because of race, color, religion, sex, 800

military status, familial status, ancestry, disability, or 801
national origin or because of the racial composition of the 802
neighborhood in which the housing accommodations are located; 803

(5) Discriminate against any person in the terms or 804
conditions of any loan of money, whether or not secured by 805
mortgage or otherwise, for the acquisition, construction, 806
rehabilitation, repair, or maintenance of housing accommodations 807
because of race, color, religion, sex, military status, familial 808
status, ancestry, disability, or national origin or because of 809
the racial composition of the neighborhood in which the housing 810
accommodations are located; 811

(6) Refuse to consider without prejudice the combined 812
income of both husband and wife for the purpose of extending 813
mortgage credit to a married couple or either member of a 814
married couple; 815

(7) Print, publish, or circulate any statement or 816
advertisement, or make or cause to be made any statement or 817
advertisement, relating to the sale, transfer, assignment, 818
rental, lease, sublease, or acquisition of any housing 819
accommodations, or relating to the loan of money, whether or not 820
secured by mortgage or otherwise, for the acquisition, 821
construction, rehabilitation, repair, or maintenance of housing 822
accommodations, that indicates any preference, limitation, 823
specification, or discrimination based upon race, color, 824
religion, sex, military status, familial status, ancestry, 825
disability, or national origin, or an intention to make any such 826
preference, limitation, specification, or discrimination; 827

(8) Except as otherwise provided in division (H) (8) or 828
(17) of this section, make any inquiry, elicit any information, 829
make or keep any record, or use any form of application 830

containing questions or entries concerning race, color, 831
religion, sex, military status, familial status, ancestry, 832
disability, or national origin in connection with the sale or 833
lease of any housing accommodations or the loan of any money, 834
whether or not secured by mortgage or otherwise, for the 835
acquisition, construction, rehabilitation, repair, or 836
maintenance of housing accommodations. Any person may make 837
inquiries, and make and keep records, concerning race, color, 838
religion, sex, military status, familial status, ancestry, 839
disability, or national origin for the purpose of monitoring 840
compliance with this chapter. 841

(9) Include in any transfer, rental, or lease of housing 842
accommodations any restrictive covenant, or honor or exercise, 843
or attempt to honor or exercise, any restrictive covenant; 844

(10) Induce or solicit, or attempt to induce or solicit, a 845
housing accommodations listing, sale, or transaction by 846
representing that a change has occurred or may occur with 847
respect to the racial, religious, sexual, military status, 848
familial status, or ethnic composition of the block, 849
neighborhood, or other area in which the housing accommodations 850
are located, or induce or solicit, or attempt to induce or 851
solicit, a housing accommodations listing, sale, or transaction 852
by representing that the presence or anticipated presence of 853
persons of any race, color, religion, sex, military status, 854
familial status, ancestry, disability, or national origin, in 855
the block, neighborhood, or other area will or may have results 856
including, but not limited to, the following: 857

(a) The lowering of property values; 858

(b) A change in the racial, religious, sexual, military 859
status, familial status, or ethnic composition of the block, 860

neighborhood, or other area;	861
(c) An increase in criminal or antisocial behavior in the	862
block, neighborhood, or other area;	863
(d) A decline in the quality of the schools serving the	864
block, neighborhood, or other area.	865
(11) Deny any person access to or membership or	866
participation in any multiple-listing service, real estate	867
brokers' organization, or other service, organization, or	868
facility relating to the business of selling or renting housing	869
accommodations, or discriminate against any person in the terms	870
or conditions of that access, membership, or participation, on	871
account of race, color, religion, sex, military status, familial	872
status, national origin, disability, or ancestry;	873
(12) Coerce, intimidate, threaten, or interfere with any	874
person in the exercise or enjoyment of, or on account of that	875
person's having exercised or enjoyed or having aided or	876
encouraged any other person in the exercise or enjoyment of, any	877
right granted or protected by division (H) of this section;	878
(13) Discourage or attempt to discourage the purchase by a	879
prospective purchaser of housing accommodations, by representing	880
that any block, neighborhood, or other area has undergone or	881
might undergo a change with respect to its religious, racial,	882
sexual, military status, familial status, or ethnic composition;	883
(14) Refuse to sell, transfer, assign, rent, lease,	884
sublease, or finance, or otherwise deny or withhold, a burial	885
lot from any person because of the race, color, sex, military	886
status, familial status, age, ancestry, disability, or national	887
origin of any prospective owner or user of the lot;	888
(15) Discriminate in the sale or rental of, or otherwise	889

make unavailable or deny, housing accommodations to any buyer or 890
renter because of a disability of any of the following: 891

(a) The buyer or renter; 892

(b) A person residing in or intending to reside in the 893
housing accommodations after they are sold, rented, or made 894
available; 895

(c) Any individual associated with the person described in 896
division (H) (15) (b) of this section. 897

(16) Discriminate in the terms, conditions, or privileges 898
of the sale or rental of housing accommodations to any person or 899
in the provision of services or facilities to any person in 900
connection with the housing accommodations because of a 901
disability of any of the following: 902

(a) That person; 903

(b) A person residing in or intending to reside in the 904
housing accommodations after they are sold, rented, or made 905
available; 906

(c) Any individual associated with the person described in 907
division (H) (16) (b) of this section. 908

(17) Except as otherwise provided in division (H) (17) of 909
this section, make an inquiry to determine whether an applicant 910
for the sale or rental of housing accommodations, a person 911
residing in or intending to reside in the housing accommodations 912
after they are sold, rented, or made available, or any 913
individual associated with that person has a disability, or make 914
an inquiry to determine the nature or severity of a disability 915
of the applicant or such a person or individual. The following 916
inquiries may be made of all applicants for the sale or rental 917

of housing accommodations, regardless of whether they have	918
disabilities:	919
(a) An inquiry into an applicant's ability to meet the	920
requirements of ownership or tenancy;	921
(b) An inquiry to determine whether an applicant is	922
qualified for housing accommodations available only to persons	923
with disabilities or persons with a particular type of	924
disability;	925
(c) An inquiry to determine whether an applicant is	926
qualified for a priority available to persons with disabilities	927
or persons with a particular type of disability;	928
(d) An inquiry to determine whether an applicant currently	929
uses a controlled substance in violation of section 2925.11 of	930
the Revised Code or a substantively comparable municipal	931
ordinance;	932
(e) An inquiry to determine whether an applicant at any	933
time has been convicted of or pleaded guilty to any offense, an	934
element of which is the illegal sale, offer to sell,	935
cultivation, manufacture, other production, shipment,	936
transportation, delivery, or other distribution of a controlled	937
substance.	938
(18) (a) Refuse to permit, at the expense of a person with	939
a disability, reasonable modifications of existing housing	940
accommodations that are occupied or to be occupied by the person	941
with a disability, if the modifications may be necessary to	942
afford the person with a disability full enjoyment of the	943
housing accommodations. This division does not preclude a	944
landlord of housing accommodations that are rented or to be	945
rented to a disabled tenant from conditioning permission for a	946

proposed modification upon the disabled tenant's doing one or 947
more of the following: 948

(i) Providing a reasonable description of the proposed 949
modification and reasonable assurances that the proposed 950
modification will be made in a workerlike manner and that any 951
required building permits will be obtained prior to the 952
commencement of the proposed modification; 953

(ii) Agreeing to restore at the end of the tenancy the 954
interior of the housing accommodations to the condition they 955
were in prior to the proposed modification, but subject to 956
reasonable wear and tear during the period of occupancy, if it 957
is reasonable for the landlord to condition permission for the 958
proposed modification upon the agreement; 959

(iii) Paying into an interest-bearing escrow account that 960
is in the landlord's name, over a reasonable period of time, a 961
reasonable amount of money not to exceed the projected costs at 962
the end of the tenancy of the restoration of the interior of the 963
housing accommodations to the condition they were in prior to 964
the proposed modification, but subject to reasonable wear and 965
tear during the period of occupancy, if the landlord finds the 966
account reasonably necessary to ensure the availability of funds 967
for the restoration work. The interest earned in connection with 968
an escrow account described in this division shall accrue to the 969
benefit of the disabled tenant who makes payments into the 970
account. 971

(b) A landlord shall not condition permission for a 972
proposed modification upon a disabled tenant's payment of a 973
security deposit that exceeds the customarily required security 974
deposit of all tenants of the particular housing accommodations. 975

(19) Refuse to make reasonable accommodations in rules,	976
policies, practices, or services when necessary to afford a	977
person with a disability equal opportunity to use and enjoy a	978
dwelling unit, including associated public and common use areas;	979
(20) Fail to comply with the standards and rules adopted	980
under division (A) of section 3781.111 of the Revised Code;	981
(21) Discriminate against any person in the selling,	982
brokering, or appraising of real property because of race,	983
color, religion, sex, military status, familial status,	984
ancestry, disability, or national origin;	985
(22) Fail to design and construct covered multifamily	986
dwellings for first occupancy on or after June 30, 1992, in	987
accordance with the following conditions:	988
(a) The dwellings shall have at least one building	989
entrance on an accessible route, unless it is impractical to do	990
so because of the terrain or unusual characteristics of the	991
site.	992
(b) With respect to dwellings that have a building	993
entrance on an accessible route, all of the following apply:	994
(i) The public use areas and common use areas of the	995
dwellings shall be readily accessible to and usable by persons	996
with a disability.	997
(ii) All the doors designed to allow passage into and	998
within all premises shall be sufficiently wide to allow passage	999
by persons with a disability who are in wheelchairs.	1000
(iii) All premises within covered multifamily dwelling	1001
units shall contain an accessible route into and through the	1002
dwelling; all light switches, electrical outlets, thermostats,	1003

and other environmental controls within such units shall be in 1004
accessible locations; the bathroom walls within such units shall 1005
contain reinforcements to allow later installation of grab bars; 1006
and the kitchens and bathrooms within such units shall be 1007
designed and constructed in a manner that enables an individual 1008
in a wheelchair to maneuver about such rooms. 1009

For purposes of division (H) (22) of this section, "covered 1010
multifamily dwellings" means buildings consisting of four or 1011
more units if such buildings have one or more elevators and 1012
ground floor units in other buildings consisting of four or more 1013
units. 1014

(I) For any person to discriminate in any manner against 1015
any other person because that person has opposed any unlawful 1016
discriminatory practice defined in this section or because that 1017
person has made a charge, testified, assisted, or participated 1018
in any manner in any investigation, proceeding, or hearing under 1019
sections 4112.01 to 4112.07 of the Revised Code. 1020

(J) For any person to aid, abet, incite, compel, or coerce 1021
the doing of any act declared by this section to be an unlawful 1022
discriminatory practice, to obstruct or prevent any person from 1023
complying with this chapter or any order issued under it, or to 1024
attempt directly or indirectly to commit any act declared by 1025
this section to be an unlawful discriminatory practice. 1026

(K) Nothing in divisions (A) to (E) of this section shall 1027
be construed to require a person with a disability to be 1028
employed or trained under circumstances that would significantly 1029
increase the occupational hazards affecting either the person 1030
with a disability, other employees, the general public, or the 1031
facilities in which the work is to be performed, or to require 1032
the employment or training of a person with a disability in a 1033

job that requires the person with a disability routinely to 1034
undertake any task, the performance of which is substantially 1035
and inherently impaired by the person's disability. 1036

~~(L) An aggrieved individual may enforce the individual's 1037
rights relative to discrimination on the basis of age as 1038
provided for in this section by instituting a civil action, 1039
within one hundred eighty days after the alleged unlawful 1040
discriminatory practice occurred, in any court with jurisdiction 1041
for any legal or equitable relief that will effectuate the 1042
individual's rights. 1043~~

~~A person who files a civil action under this division is 1044
barred, with respect to the practices complained of, from 1045
instituting a civil action under section 4112.14 of the Revised 1046
Code and from filing a charge with the commission under section 1047
4112.05 of the Revised Code. 1048~~

~~(M) With regard to age, it shall not be an unlawful 1049
discriminatory practice and it shall not constitute a violation 1050
of division (A) of section 4112.14 of the Revised Code for any 1051
employer, employment agency, joint labor-management committee 1052
controlling apprenticeship training programs, or labor 1053
organization to do any of the following: 1054~~

~~(1) Establish bona fide employment qualifications 1055
reasonably related to the particular business or occupation that 1056
may include standards for skill, aptitude, physical capability, 1057
intelligence, education, maturation, and experience; 1058~~

~~(2) Observe the terms of a bona fide seniority system or 1059
any bona fide employee benefit plan, including, but not limited 1060
to, a retirement, pension, or insurance plan, that is not a 1061
subterfuge to evade the purposes of this section. However, no 1062~~

such employee benefit plan shall excuse the failure to hire any 1063
individual, and no such seniority system or employee benefit 1064
plan shall require or permit the involuntary retirement of any 1065
individual, because of the individual's age except as provided 1066
for in the "Age Discrimination in Employment Act Amendment of 1067
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 1068
Discrimination in Employment Act Amendments of 1986," 100 Stat. 1069
3342, 29 U.S.C.A. 623, as amended. 1070

(3) Retire an employee who has attained sixty-five years 1071
of age who, for the two-year period immediately before 1072
retirement, is employed in a bona fide executive or a high 1073
policymaking position, if the employee is entitled to an 1074
immediate nonforfeitable annual retirement benefit from a 1075
pension, profit-sharing, savings, or deferred compensation plan, 1076
or any combination of those plans, of the employer of the 1077
employee, which equals, in the aggregate, at least forty-four 1078
thousand dollars, in accordance with the conditions of the "Age 1079
Discrimination in Employment Act Amendment of 1978," 92 Stat. 1080
189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 1081
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 1082
631, as amended; 1083

(4) Observe the terms of any bona fide apprenticeship 1084
program if the program is registered with the Ohio 1085
apprenticeship council pursuant to sections 4139.01 to 4139.06 1086
of the Revised Code and is approved by the federal committee on 1087
apprenticeship of the United States department of labor. 1088

~~(N)~~ (M) Nothing in this chapter prohibiting age 1089
discrimination and nothing in division (A) of section 4112.14 of 1090
the Revised Code shall be construed to prohibit the following: 1091

(1) The designation of uniform age the attainment of which 1092

is necessary for public employees to receive pension or other 1093
retirement benefits pursuant to Chapter 145., 742., 3307., 1094
3309., or 5505. of the Revised Code; 1095

(2) The mandatory retirement of uniformed patrol officers 1096
of the state highway patrol as provided in section 5505.16 of 1097
the Revised Code; 1098

(3) The maximum age requirements for appointment as a 1099
patrol officer in the state highway patrol established by 1100
section 5503.01 of the Revised Code; 1101

(4) The maximum age requirements established for original 1102
appointment to a police department or fire department in 1103
sections 124.41 and 124.42 of the Revised Code; 1104

(5) Any maximum age not in conflict with federal law that 1105
may be established by a municipal charter, municipal ordinance, 1106
or resolution of a board of township trustees for original 1107
appointment as a police officer or firefighter; 1108

(6) Any mandatory retirement provision not in conflict 1109
with federal law of a municipal charter, municipal ordinance, or 1110
resolution of a board of township trustees pertaining to police 1111
officers and firefighters; 1112

(7) Until January 1, 1994, the mandatory retirement of any 1113
employee who has attained seventy years of age and who is 1114
serving under a contract of unlimited tenure, or similar 1115
arrangement providing for unlimited tenure, at an institution of 1116
higher education as defined in the "Education Amendments of 1117
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 1118

~~(N)~~(1) (a) Except as provided in division ~~(N)~~(1) (b) 1119
of this section, for purposes of divisions (A) to (E) of this 1120
section, a disability does not include any physiological 1121

disorder or condition, mental or psychological disorder, or 1122
disease or condition caused by an illegal use of any controlled 1123
substance by an employee, applicant, or other person, if an 1124
employer, employment agency, personnel placement service, labor 1125
organization, or joint labor-management committee acts on the 1126
basis of that illegal use. 1127

(b) Division ~~(O)~~(N)(1)(a) of this section does not apply 1128
to an employee, applicant, or other person who satisfies any of 1129
the following: 1130

(i) The employee, applicant, or other person has 1131
successfully completed a supervised drug rehabilitation program 1132
and no longer is engaging in the illegal use of any controlled 1133
substance, or the employee, applicant, or other person otherwise 1134
successfully has been rehabilitated and no longer is engaging in 1135
that illegal use. 1136

(ii) The employee, applicant, or other person is 1137
participating in a supervised drug rehabilitation program and no 1138
longer is engaging in the illegal use of any controlled 1139
substance. 1140

(iii) The employee, applicant, or other person is 1141
erroneously regarded as engaging in the illegal use of any 1142
controlled substance, but the employee, applicant, or other 1143
person is not engaging in that illegal use. 1144

(2) Divisions (A) to (E) of this section do not prohibit 1145
an employer, employment agency, personnel placement service, 1146
labor organization, or joint labor-management committee from 1147
doing any of the following: 1148

(a) Adopting or administering reasonable policies or 1149
procedures, including, but not limited to, testing for the 1150

illegal use of any controlled substance, that are designed to 1151
ensure that an individual described in division ~~(O)~~(N) (1) (b) (i) 1152
or (ii) of this section no longer is engaging in the illegal use 1153
of any controlled substance; 1154

(b) Prohibiting the illegal use of controlled substances 1155
and the use of alcohol at the workplace by all employees; 1156

(c) Requiring that employees not be under the influence of 1157
alcohol or not be engaged in the illegal use of any controlled 1158
substance at the workplace; 1159

(d) Requiring that employees behave in conformance with 1160
the requirements established under "The Drug-Free Workplace Act 1161
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 1162

(e) Holding an employee who engages in the illegal use of 1163
any controlled substance or who is an alcoholic to the same 1164
qualification standards for employment or job performance, and 1165
the same behavior, to which the employer, employment agency, 1166
personnel placement service, labor organization, or joint labor- 1167
management committee holds other employees, even if any 1168
unsatisfactory performance or behavior is related to an 1169
employee's illegal use of a controlled substance or alcoholism; 1170

(f) Exercising other authority recognized in the 1171
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 1172
U.S.C.A. 12101, as amended, including, but not limited to, 1173
requiring employees to comply with any applicable federal 1174
standards. 1175

(3) For purposes of this chapter, a test to determine the 1176
illegal use of any controlled substance does not include a 1177
medical examination. 1178

(4) Division ~~(O)~~(N) of this section does not encourage, 1179

prohibit, or authorize, and shall not be construed as 1180
encouraging, prohibiting, or authorizing, the conduct of testing 1181
for the illegal use of any controlled substance by employees, 1182
applicants, or other persons, or the making of employment 1183
decisions based on the results of that type of testing. 1184

~~(P)~~(O) This section does not apply to a religious 1185
corporation, association, educational institution, or society 1186
with respect to the employment of an individual of a particular 1187
religion to perform work connected with the carrying on by that 1188
religious corporation, association, educational institution, or 1189
society of its activities. 1190

The unlawful discriminatory practices defined in this 1191
section do not make it unlawful for a person or an appointing 1192
authority administering an examination under section 124.23 of 1193
the Revised Code to obtain information about an applicant's 1194
military status for the purpose of determining if the applicant 1195
is eligible for the additional credit that is available under 1196
that section. 1197

Sec. 4112.04. (A) The commission shall do all of the 1198
following: 1199

(1) Establish and maintain a principal office in the city 1200
of Columbus and any other offices within the state that it 1201
considers necessary; 1202

(2) Appoint an executive director who shall serve at the 1203
pleasure of the commission and be its principal administrative 1204
officer. The executive director shall be paid a salary fixed 1205
pursuant to Chapter 124. of the Revised Code. 1206

(3) Appoint hearing examiners and other employees and 1207
agents who it considers necessary and prescribe their duties 1208

subject to Chapter 124. of the Revised Code;	1209
(4) Adopt, promulgate, amend, and rescind rules to	1210
effectuate the provisions of this chapter and the policies and	1211
practice of the commission in connection with this chapter;	1212
(5) Formulate policies to effectuate the purposes of this	1213
chapter and make recommendations to agencies and officers of the	1214
state or political subdivisions to effectuate the policies;	1215
(6) Receive, investigate, and pass upon written charges	1216
made under oath of unlawful discriminatory practices;	1217
(7) Make periodic surveys of the existence and effect of	1218
discrimination because of race, color, religion, sex, military	1219
status, familial status, national origin, disability, age, or	1220
ancestry on the enjoyment of civil rights by persons within the	1221
state;	1222
(8) Report, from time to time, but not less than once a	1223
year, to the general assembly and the governor, describing in	1224
detail the investigations, proceedings, and hearings it has	1225
conducted and their outcome, the decisions it has rendered, and	1226
the other work performed by it, which report shall include a	1227
copy of any surveys prepared pursuant to division (A) (7) of this	1228
section and shall include the recommendations of the commission	1229
as to legislative or other remedial action;	1230
(9) Prepare a comprehensive educational program, in	1231
cooperation with the department of education, for the students	1232
of the public schools of this state and for all other residents	1233
of this state that is designed to eliminate prejudice on the	1234
basis of race, color, religion, sex, military status, familial	1235
status, national origin, disability, age, or ancestry in this	1236
state, to further good will among those groups, and to emphasize	1237

the origin of prejudice against those groups, its harmful 1238
effects, and its incompatibility with American principles of 1239
equality and fair play; 1240

(10) Receive progress reports from agencies, 1241
instrumentalities, institutions, boards, commissions, and other 1242
entities of this state or any of its political subdivisions and 1243
their agencies, instrumentalities, institutions, boards, 1244
commissions, and other entities regarding affirmative action 1245
programs for the employment of persons against whom 1246
discrimination is prohibited by this chapter, or regarding any 1247
affirmative housing accommodations programs developed to 1248
eliminate or reduce an imbalance of race, color, religion, sex, 1249
military status, familial status, national origin, disability, 1250
or ancestry. All agencies, instrumentalities, institutions, 1251
boards, commissions, and other entities of this state or its 1252
political subdivisions, and all political subdivisions, that 1253
have undertaken affirmative action programs pursuant to a 1254
conciliation agreement with the commission, an executive order 1255
of the governor, any federal statute or rule, or an executive 1256
order of the president of the United States shall file progress 1257
reports with the commission annually on or before the first day 1258
of November. The commission shall analyze and evaluate the 1259
progress reports and report its findings annually to the general 1260
assembly on or before the thirtieth day of January of the year 1261
immediately following the receipt of the reports. 1262

(11) Notify a person who files a charge pursuant to 1263
section 4112.051 of the Revised Code that under division (A) of 1264
section 4112.052 of the Revised Code, the person is prohibited 1265
from bringing a civil action under this chapter unless one of 1266
the following applies: 1267

<u>(a) The conditions stated in division (B) (1) of section</u>	1268
<u>4112.052 of the Revised Code are satisfied;</u>	1269
<u>(b) An exception specified in division (B) (2) of section</u>	1270
<u>4112.052 of the Revised Code applies.</u>	1271
(B) The commission may do any of the following:	1272
(1) Meet and function at any place within the state;	1273
(2) Initiate and undertake on its own motion	1274
investigations of problems of employment or housing	1275
accommodations discrimination;	1276
(3) Hold hearings, subpoena witnesses, compel their	1277
attendance, administer oaths, take the testimony of any person	1278
under oath, require the production for examination of any books	1279
and papers relating to any matter under investigation or in	1280
question before the commission, and make rules as to the	1281
issuance of subpoenas by individual commissioners.	1282
(a) In conducting a hearing or investigation, the	1283
commission shall have access at all reasonable times to	1284
premises, records, documents, individuals, and other evidence or	1285
possible sources of evidence and may examine, record, and copy	1286
the premises, records, documents, and other evidence or possible	1287
sources of evidence and take and record the testimony or	1288
statements of the individuals as reasonably necessary for the	1289
furtherance of the hearing or investigation. In investigations,	1290
the commission shall comply with the fourth amendment to the	1291
United States Constitution relating to unreasonable searches and	1292
seizures. The commission or a member of the commission may issue	1293
subpoenas to compel access to or the production of premises,	1294
records, documents, and other evidence or possible sources of	1295
evidence or the appearance of individuals, and may issue	1296

interrogatories to a respondent, to the same extent and subject 1297
to the same limitations as would apply if the subpoenas or 1298
interrogatories were issued or served in aid of a civil action 1299
in a court of common pleas. 1300

(b) Upon written application by a party to a hearing under 1301
division (B) of section 4112.05 or division (G) of section 1302
4112.051 of the Revised Code, the commission shall issue 1303
subpoenas in its name to the same extent and subject to the same 1304
limitations as subpoenas issued by the commission. Subpoenas 1305
issued at the request of a party shall show on their face the 1306
name and address of the party and shall state that they were 1307
issued at the party's request. 1308

(c) Witnesses summoned by subpoena of the commission are 1309
entitled to the witness and mileage fees provided for under 1310
section 119.094 of the Revised Code. 1311

(d) Within five days after service of a subpoena upon any 1312
person, the person may petition the commission to revoke or 1313
modify the subpoena. The commission shall grant the petition if 1314
it finds that the subpoena requires an appearance or attendance 1315
at an unreasonable time or place, that it requires production of 1316
evidence that does not relate to any matter before the 1317
commission, that it does not describe with sufficient 1318
particularity the evidence to be produced, that compliance would 1319
be unduly onerous, or for other good reason. 1320

(e) In case of contumacy or refusal to obey a subpoena, 1321
the commission or person at whose request it was issued may 1322
petition for its enforcement in the court of common pleas in the 1323
county in which the person to whom the subpoena was addressed 1324
resides, was served, or transacts business. 1325

(4) Create local or statewide advisory agencies and 1326
conciliation councils to aid in effectuating the purposes of 1327
this chapter. The commission may itself, or it may empower these 1328
agencies and councils to, do either or both of the following: 1329

(a) Study the problems of discrimination in all or 1330
specific fields of human relationships when based on race, 1331
color, religion, sex, military status, familial status, national 1332
origin, disability, age, or ancestry; 1333

(b) Foster through community effort, or otherwise, good 1334
will among the groups and elements of the population of the 1335
state. 1336

The agencies and councils may make recommendations to the 1337
commission for the development of policies and procedures in 1338
general. They shall be composed of representative citizens who 1339
shall serve without pay, except that reimbursement for actual 1340
and necessary traveling expenses shall be made to citizens who 1341
serve on a statewide agency or council. 1342

(5) Issue any publications and the results of 1343
investigations and research that in its judgment will tend to 1344
promote good will and minimize or eliminate discrimination 1345
because of race, color, religion, sex, military status, familial 1346
status, national origin, disability, age, or ancestry. 1347

Sec. 4112.05. (A) (1) ~~The~~ With the exception of unlawful 1348
discriminatory practices relating to employment, the commission, 1349
as provided in this section, shall prevent any person from 1350
engaging in unlawful discriminatory practices. 1351

(2) The commission may at any time attempt to resolve 1352
allegations of unlawful discriminatory practices other than 1353
allegations concerning unlawful discriminatory practices 1354

relating to employment by the use of alternative dispute 1355
resolution, provided that, before instituting the formal hearing 1356
authorized by division (B) of this section, it shall attempt, by 1357
informal methods of conference, conciliation, and persuasion, to 1358
induce compliance with this chapter. 1359

(B) (1) Any person may file a charge with the commission 1360
alleging that another person has engaged or is engaging in an 1361
unlawful discriminatory practice. In the case of a charge 1362
alleging an unlawful discriminatory practice that is not an 1363
unlawful discriminatory practice relating to employment and that 1364
is described in division ~~(A), (B), (C), (D), (E), (F), (G), (I),~~ 1365
or (J) of section 4112.02 or in section 4112.021 or 4112.022 of 1366
the Revised Code, the charge shall be in writing and under oath 1367
and shall be filed with the commission within six months after 1368
the alleged unlawful discriminatory practice was committed. In 1369
the case of a charge alleging an unlawful discriminatory 1370
practice described in division (H) of section 4112.02 of the 1371
Revised Code, the charge shall be in writing and under oath and 1372
shall be filed with the commission within one year after the 1373
alleged unlawful discriminatory practice was committed. 1374

(a) An oath under this ~~chapter~~ section may be made in any 1375
form of affirmation the person deems binding on the person's 1376
conscience. Acceptable forms include, but are not limited to, 1377
declarations made under penalty of perjury. 1378

(b) Any charge timely received, via facsimile, postal 1379
mail, electronic mail, or otherwise, may be signed under oath 1380
after the limitations period for filing set forth under division 1381
(B) (1) of this section and will relate back to the original 1382
filing date. 1383

(2) Upon receiving a charge other than a charge concerning 1384

unlawful discriminatory practices relating to employment, the 1385
commission may initiate a preliminary investigation to determine 1386
whether it is probable that an unlawful discriminatory practice 1387
has been or is being engaged in. The commission also may 1388
conduct, upon its own initiative and independent of the filing 1389
of any charges, a preliminary investigation relating to any of 1390
the unlawful discriminatory practices that are not unlawful 1391
discriminatory practices relating to employment and that are 1392
described in division ~~(A), (B), (C), (D), (E), (F), (I),~~ or (J) 1393
of section 4112.02 or in section 4112.021 or 4112.022 of the 1394
Revised Code. Prior to a notification of a complainant under 1395
division (B) (4) of this section or prior to the commencement of 1396
informal methods of conference, conciliation, and persuasion, or 1397
alternative dispute resolution, under that division, the members 1398
of the commission and the officers and employees of the 1399
commission shall not make public in any manner and shall retain 1400
as confidential all information that was obtained as a result of 1401
or that otherwise pertains to a preliminary investigation other 1402
than one described in division (B) (3) of this section. 1403

(3) (a) Unless it is impracticable to do so and subject to 1404
its authority under division (B) (3) (d) of this section, the 1405
commission shall complete a preliminary investigation of a 1406
charge filed pursuant to division (B) (1) of this section that 1407
alleges an unlawful discriminatory practice described in 1408
division (H) of section 4112.02 of the Revised Code, and shall 1409
take one of the following actions, within one hundred days after 1410
the filing of the charge: 1411

(i) Notify the complainant and the respondent that it is 1412
not probable that an unlawful discriminatory practice described 1413
in division (H) of section 4112.02 of the Revised Code has been 1414
or is being engaged in and that the commission will not issue a 1415

complaint in the matter; 1416

(ii) Initiate a complaint and schedule it for informal 1417
methods of conference, conciliation, and persuasion, or 1418
alternative dispute resolution; 1419

(iii) Initiate a complaint and refer it to the attorney 1420
general with a recommendation to seek a temporary or permanent 1421
injunction or a temporary restraining order. If this action is 1422
taken, the attorney general shall apply, as expeditiously as 1423
possible after receipt of the complaint, to the court of common 1424
pleas of the county in which the unlawful discriminatory 1425
practice allegedly occurred for the appropriate injunction or 1426
order, and the court shall hear and determine the application as 1427
expeditiously as possible. 1428

(b) If it is not practicable to comply with the 1429
requirements of division (B) (3) (a) of this section within the 1430
one-hundred-day period described in that division, the 1431
commission shall notify the complainant and the respondent in 1432
writing of the reasons for the noncompliance. 1433

(c) Prior to the issuance of a complaint under division 1434
(B) (3) (a) (ii) or (iii) of this section or prior to a 1435
notification of the complainant and the respondent under 1436
division (B) (3) (a) (i) of this section, the members of the 1437
commission and the officers and employees of the commission 1438
shall not make public in any manner and shall retain as 1439
confidential all information that was obtained as a result of or 1440
that otherwise pertains to a preliminary investigation of a 1441
charge filed pursuant to division (B) (1) of this section that 1442
alleges an unlawful discriminatory practice described in 1443
division (H) of section 4112.02 of the Revised Code. 1444

(d) Notwithstanding the types of action described in 1445
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 1446
issuance of a complaint or the referral of a complaint to the 1447
attorney general and prior to endeavoring to eliminate an 1448
unlawful discriminatory practice described in division (H) of 1449
section 4112.02 of the Revised Code by informal methods of 1450
conference, conciliation, and persuasion, or by alternative 1451
dispute resolution, the commission may seek a temporary or 1452
permanent injunction or a temporary restraining order in the 1453
court of common pleas of the county in which the unlawful 1454
discriminatory practice allegedly occurred. 1455

(4) If the commission determines after a preliminary 1456
investigation other than one concerning an alleged unlawful 1457
discriminatory practice relating to employment or one described 1458
in division (B) (3) of this section that it is not probable that 1459
an unlawful discriminatory practice has been or is being engaged 1460
in, it shall notify any complainant under division (B) (1) of 1461
this section that it has so determined and that it will not 1462
issue a complaint in the matter. If the commission determines 1463
after a preliminary investigation other than ~~the one~~ concerning 1464
an alleged unlawful discriminatory practice relating to 1465
employment or one described in division (B) (3) of this section 1466
that it is probable that an unlawful discriminatory practice has 1467
been or is being engaged in, it shall endeavor to eliminate the 1468
practice by informal methods of conference, conciliation, and 1469
persuasion, or by alternative dispute resolution. 1470

(5) Nothing said or done during informal methods of 1471
conference, conciliation, and persuasion, or during alternative 1472
dispute resolution, under this section shall be disclosed by any 1473
member of the commission or its staff or be used as evidence in 1474
any subsequent hearing or other proceeding. If, after a 1475

preliminary investigation and the use of informal methods of 1476
conference, conciliation, and persuasion, or alternative dispute 1477
resolution, under this section, the commission is satisfied that 1478
any unlawful discriminatory practice will be eliminated, it may 1479
treat the charge involved as being conciliated and enter that 1480
disposition on the records of the commission. If the commission 1481
fails to effect the elimination of an unlawful discriminatory 1482
practice by informal methods of conference, conciliation, and 1483
persuasion, or by alternative dispute resolution under this 1484
section and to obtain voluntary compliance with this chapter, 1485
the commission shall issue and cause to be served upon any 1486
person, including the respondent against whom a complainant has 1487
filed a charge pursuant to division (B) (1) of this section, a 1488
complaint stating the charges involved and containing a notice 1489
of an opportunity for a hearing before the commission, a member 1490
of the commission, or a hearing examiner at a place that is 1491
stated in the notice and that is located within the county in 1492
which the alleged unlawful discriminatory practice has occurred 1493
or is occurring or in which the respondent resides or transacts 1494
business. The hearing shall be held not less than thirty days 1495
after the service of the complaint upon the complainant, the 1496
aggrieved persons other than the complainant on whose behalf the 1497
complaint is issued, and the respondent, unless the complainant, 1498
an aggrieved person, or the respondent elects to proceed under 1499
division (A) (2) of section ~~4112.051~~4112.055 of the Revised Code 1500
when that division is applicable. If a complaint pertains to an 1501
alleged unlawful discriminatory practice described in division 1502
(H) of section 4112.02 of the Revised Code, the complaint shall 1503
notify the complainant, an aggrieved person, and the respondent 1504
of the right of the complainant, an aggrieved person, or the 1505
respondent to elect to proceed with the administrative hearing 1506
process under this section or to proceed under division (A) (2) 1507

of section ~~4112.051~~4112.055 of the Revised Code. 1508

(6) The attorney general shall represent the commission at 1509
any hearing held pursuant to division (B)(5) of this section and 1510
shall present the evidence in support of the complaint. 1511

(7) Any complaint issued pursuant to division (B)(5) of 1512
this section after the filing of a charge under division (B)(1) 1513
of this section shall be so issued within one year after the 1514
complainant filed the charge with respect to an alleged unlawful 1515
discriminatory practice. 1516

(C)(1) Any complaint issued pursuant to division (B) of 1517
this section may be amended by the commission, a member of the 1518
commission, or the hearing examiner conducting a hearing under 1519
division (B) of this section. 1520

(a) Except as provided in division (C)(1)(b) of this 1521
section, a complaint issued pursuant to division (B) of this 1522
section may be amended at any time prior to or during the 1523
hearing. 1524

(b) If a complaint issued pursuant to division (B) of this 1525
section alleges an unlawful discriminatory practice described in 1526
division (H) of section 4112.02 of the Revised Code, the 1527
complaint may be amended at any time up to seven days prior to 1528
the hearing and not thereafter. 1529

(2) The respondent has the right to file an answer or an 1530
amended answer to the original and amended complaints and to 1531
appear at the hearing in person, by attorney, or otherwise to 1532
examine and cross-examine witnesses. 1533

(D) The complainant shall be a party to a hearing under 1534
division (B) of this section, and any person who is an 1535
indispensable party to a complete determination or settlement of 1536

a question involved in the hearing shall be joined. Any 1537
aggrieved person who has or claims an interest in the subject of 1538
the hearing and in obtaining or preventing relief against the 1539
unlawful discriminatory practices complained of shall be 1540
permitted to appear only for the presentation of oral or written 1541
arguments, to present evidence, perform direct and cross- 1542
examination, and be represented by counsel. The commission shall 1543
adopt rules, in accordance with Chapter 119. of the Revised Code 1544
governing the authority granted under this division. 1545

(E) In any hearing under division (B) of this section, the 1546
commission, a member of the commission, or the hearing examiner 1547
shall not be bound by the Rules of Evidence but, in ascertaining 1548
the practices followed by the respondent, shall take into 1549
account all reliable, probative, and substantial statistical or 1550
other evidence produced at the hearing that may tend to prove 1551
the existence of a predetermined pattern of employment or 1552
membership, provided that nothing contained in this section 1553
shall be construed to authorize or require any person to observe 1554
the proportion that persons of any race, color, religion, sex, 1555
military status, familial status, national origin, disability, 1556
age, or ancestry bear to the total population or in accordance 1557
with any criterion other than the individual qualifications of 1558
the applicant. 1559

(F) The testimony taken at a hearing under division (B) of 1560
this section shall be under oath and shall be reduced to writing 1561
and filed with the commission. Thereafter, in its discretion, 1562
the commission, upon the service of a notice upon the 1563
complainant and the respondent that indicates an opportunity to 1564
be present, may take further testimony or hear argument. 1565

(G) (1) (a) If, upon all reliable, probative, and 1566

substantial evidence presented at a hearing under division (B) 1567
of this section, the commission determines that the respondent 1568
has engaged in, or is engaging in, any unlawful discriminatory 1569
practice, whether against the complainant or others, the 1570
commission shall state its findings of fact and conclusions of 1571
law and shall issue and, subject to the provisions of Chapter 1572
119. of the Revised Code, cause to be served on the respondent 1573
an order requiring the respondent to do all of the following: 1574

(i) Cease and desist from the unlawful discriminatory 1575
practice; 1576

(ii) Take any further affirmative or other action that 1577
will effectuate the purposes of this chapter, including, but not 1578
limited to, hiring, reinstatement, or upgrading of employees 1579
with or without back pay, or admission or restoration to union 1580
membership; 1581

(iii) Report to the commission the manner of compliance. 1582

If the commission directs payment of back pay, it shall 1583
make allowance for interim earnings. 1584

(b) If the commission finds a violation of division (H) of 1585
section 4112.02 of the Revised Code, in addition to the action 1586
described in division (G) (1) (a) of this section, the commission 1587
additionally may require the respondent to undergo remediation 1588
in the form of a class, seminar, or any other type of 1589
remediation approved by the commission, may require the 1590
respondent to pay actual damages and reasonable attorney's fees, 1591
and may, to vindicate the public interest, assess a civil 1592
penalty against the respondent as follows: 1593

(i) If division (G) (1) (b) (ii) or (iii) of this section 1594
does not apply, a civil penalty in an amount not to exceed ten 1595

thousand dollars; 1596

(ii) If division (G) (1) (b) (iii) of this section does not 1597
apply and if the respondent has been determined by a final order 1598
of the commission or by a final judgment of a court to have 1599
committed one violation of division (H) of section 4112.02 of 1600
the Revised Code during the five-year period immediately 1601
preceding the date on which a complaint was issued pursuant to 1602
division (B) of this section, a civil penalty in an amount not 1603
to exceed twenty-five thousand dollars; 1604

(iii) If the respondent has been determined by a final 1605
order of the commission or by a final judgment of a court to 1606
have committed two or more violations of division (H) of section 1607
4112.02 of the Revised Code during the seven-year period 1608
immediately preceding the date on which a complaint was issued 1609
pursuant to division (B) of this section, a civil penalty 1610
damages in an amount not to exceed fifty thousand dollars. 1611

(2) Upon the submission of reports of compliance, the 1612
commission may issue a declaratory order stating that the 1613
respondent has ceased to engage in particular unlawful 1614
discriminatory practices. 1615

(H) If the commission finds that no probable cause exists 1616
for crediting charges of unlawful discriminatory practices or 1617
if, upon all the evidence presented at a hearing under division 1618
(B) of this section on a charge, the commission finds that a 1619
respondent has not engaged in any unlawful discriminatory 1620
practice against the complainant or others, it shall state its 1621
findings of fact and shall issue and cause to be served on the 1622
complainant an order dismissing the complaint as to the 1623
respondent. A copy of the order shall be delivered in all cases 1624
to the attorney general and any other public officers whom the 1625

commission considers proper. 1626

If, upon all the evidence presented at a hearing under 1627
division (B) of this section on a charge, the commission finds 1628
that a respondent has not engaged in any unlawful discriminatory 1629
practice against the complainant or others, it may award to the 1630
respondent reasonable attorney's fees to the extent provided in 1631
5 U.S.C. 504 and accompanying regulations. 1632

(I) Until the time period for appeal set forth in division 1633
(H) of section 4112.06 of the Revised Code expires, the 1634
commission, subject to the provisions of Chapter 119. of the 1635
Revised Code, at any time, upon reasonable notice, and in the 1636
manner it considers proper, may modify or set aside, in whole or 1637
in part, any finding or order made by it under this section. 1638

Sec. 4112.051. (A) As used in this section: 1639

(1) "Complainant" means a person who files a charge under 1640
this section. 1641

(2) "Respondent" means a person who is the subject of a 1642
charge filed under this section. 1643

(B) The Ohio civil rights commission, as provided in this 1644
section, shall prevent any person from engaging in unlawful 1645
discriminatory practices relating to employment. The commission 1646
may at any time attempt to resolve allegations of unlawful 1647
discriminatory practices relating to employment by the use of 1648
alternative dispute resolution, provided that, before 1649
instituting the formal hearing authorized by this section, it 1650
shall attempt, by informal methods of conference, conciliation, 1651
and persuasion, to induce compliance with this chapter. 1652

(C) (1) Any person who believes that a person has been the 1653
subject of an unlawful discriminatory practice relating to 1654

employment may file a charge with the commission alleging either 1655
or both of the following: 1656

(a) That an employer, employment agency, personnel 1657
placement service, or labor organization has engaged or is 1658
engaging in an unlawful discriminatory practice relating to 1659
employment; 1660

(b) That a person has engaged in an unlawful 1661
discriminatory practice relating to employment described in 1662
division (A) (24) (b) of section 4112.01 of the Revised Code. 1663

(2) A charge under this section shall be in writing, under 1664
oath, and shall be filed with the commission within two years 1665
after the alleged unlawful discriminatory practice was 1666
committed. 1667

(3) An oath under this section may be made in any form of 1668
affirmation the person considers binding on the person's 1669
conscience. Acceptable forms include, but are not limited to, 1670
declarations made under penalty of perjury. 1671

(4) Any charge timely received, via facsimile, postal 1672
mail, electronic mail, or otherwise, may be signed under oath 1673
after the limitations period for filing set forth under division 1674
(C) of this section and will relate back to the original filing 1675
date. 1676

(D) (1) Upon receiving a charge under this section, the 1677
commission may initiate a preliminary investigation to determine 1678
whether it is probable that an alleged unlawful discriminatory 1679
practice relating to employment has occurred or is occurring. 1680
The commission also may conduct, on its own initiative and 1681
independent of the filing of any charge, a preliminary 1682
investigation relating to any alleged unlawful discriminatory 1683

practice relating to employment. Before a notification of a 1684
complainant under division (E) of this section or before the 1685
commencement of informal methods of conference, conciliation, 1686
and persuasion, or alternative dispute resolution, under 1687
division (F) of this section, the members of the commission and 1688
the officers and employees of the commission shall not make 1689
public in any manner and shall retain as confidential all 1690
information that was obtained as a result of or that otherwise 1691
pertains to a preliminary investigation. 1692

(2) With respect to a charge filed under division (C) of 1693
this section that alleges an unlawful discriminatory practice 1694
relating to employment, the complainant may request in writing 1695
that the commission cease its preliminary investigation and 1696
issue a notice of right to sue to the complainant. If the 1697
commission ceases its preliminary investigation, it shall issue 1698
a notice of right to sue to the complainant. The complainant is 1699
prohibited from refileing the charge with the commission. 1700

(E) If, after a preliminary investigation, the commission 1701
determines that it is not probable that an unlawful 1702
discriminatory practice relating to employment has occurred or 1703
is occurring, the commission shall notify the complainant of its 1704
determination and that it will not issue a complaint in the 1705
matter. The commission shall include a notice of right to sue in 1706
the notice. 1707

(F) (1) If, after a preliminary investigation, the 1708
commission determines that it is probable that an unlawful 1709
discriminatory practice relating to employment has occurred or 1710
is occurring, the commission shall notify the complainant and 1711
the respondent of its determination and, in the notice the 1712
commission issues to the complainant, inform the complainant 1713

that the complainant may withdraw the charge and file a civil 1714
action under this chapter. If the complainant does not withdraw 1715
the charge, the commission shall endeavor to eliminate the 1716
alleged unlawful discriminatory practice relating to employment 1717
by informal methods of conference, conciliation, and persuasion, 1718
or by alternative dispute resolution. 1719

(2) If, after the use of the informal methods of 1720
conference, conciliation, and persuasion, or alternative dispute 1721
resolution, the commission is satisfied that the unlawful 1722
discriminatory practice in question will be eliminated, the 1723
commission may treat the charge as being conciliated and enter 1724
that disposition on the records of the commission. 1725

(3) Nothing said or done during informal methods of 1726
conference, conciliation, or persuasion, or during alternative 1727
dispute resolution, under this section shall be disclosed by any 1728
member of the commission or its staff or be used as evidence in 1729
any subsequent hearing or other proceeding. 1730

(G) If the commission fails to effect the elimination of 1731
the alleged unlawful discriminatory practice relating to 1732
employment and is unable to obtain voluntary compliance with 1733
this chapter through informal methods of conference, 1734
conciliation, and persuasion, or by alternative dispute 1735
resolution under this section, the commission shall issue and 1736
cause to be served upon any person, including the respondent, a 1737
complaint. 1738

(1) The complaint shall state the charges involved and 1739
shall contain a notice of a hearing before the commission, a 1740
member of the commission, or a hearing examiner, as well as the 1741
hearing's location. Any such hearing shall be held in the county 1742
in which the alleged unlawful discriminatory practice occurred 1743

or is occurring or in which the respondent transacts business, 1744
and shall be held not less than thirty days after service of the 1745
complaint. After issuing a complaint, the commission may do any 1746
of the following: 1747

(a) Upon the request of a complainant that the commission 1748
receives not later than thirty days before the date of the 1749
hearing, dismiss the complaint; 1750

(b) Eliminate the alleged unlawful discriminatory practice 1751
relating to employment by the informal methods described in 1752
division (F) (1) of this section and treat the charge as being 1753
conciliated as provided in division (F) (2) of this section; 1754

(c) Continue with the hearing process as provided in this 1755
section. 1756

(2) The attorney general shall represent the commission at 1757
any such hearing and shall present the evidence in support of 1758
the complaint. 1759

(3) Any complaint issued pursuant to this division after 1760
the filing of a charge under this section shall be issued within 1761
one year after the complainant filed the charge with respect to 1762
an alleged unlawful discriminatory practice relating to 1763
employment. 1764

(4) Any such complaint may be amended by the commission, a 1765
member of the commission, or the commission's legal counsel at 1766
any time prior to the hearing if the respondent is given 1767
sufficient and reasonable notice. The respondent shall have the 1768
right to file an answer or an amended answer to the original, 1769
and any amended, complaints. 1770

(5) The respondent shall have the right to appear at the 1771
hearing in person, by attorney, or otherwise to examine and 1772

cross-examine witnesses. 1773

(6) The complainant shall be a party to a hearing under this section. Any person who is an indispensable party to a complete determination or settlement of the complaint central to the hearing shall be joined. 1774
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(7) For any hearing initiated under this section, the commission, a member of the commission, or a hearing officer is not bound by the Rules of Evidence, but shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may prove the existence of a predetermined pattern of employment or membership. 1778
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(8) (a) The testimony provided during a hearing under this section shall be under oath and shall be transcribed in writing and filed with the commission. 1784
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(b) The commission, at its discretion, may hear further testimony or argument after the initial hearing if notice, that indicates an opportunity to be present, is provided to the complainant and the respondent. 1787
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(H) If, after a hearing carried out under division (G) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice relating to employment, whether against the complainant or others adversely affected by the allegations in the complaint, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served to the respondent, subject to the provisions of Chapter 119. of the Revised Code, an order to cease and desist from the unlawful discriminatory practice. 1791
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(1) The order shall require the respondent to take 1801

affirmative or other action necessary to effectuate the purposes 1802
of this chapter, including hiring, reinstating, or promoting the 1803
complainant or others adversely affected by the unlawful 1804
discriminatory practice and shall require the respondent to 1805
report to the commission the manner of compliance. 1806

(2) (a) The order may require back pay or admission or 1807
restoration to union membership. 1808

(b) If the order requires back pay, the commission shall 1809
take into account earnings collected during the resolution of 1810
the complaint. 1811

(3) Upon receipt of the report of compliance required 1812
under this division, the commission may issue a declaratory 1813
order stating that the respondent has ceased to engage in the 1814
unlawful discriminatory practices that were the subject of the 1815
complaint. 1816

(I) If, after a hearing carried out under division (G) of 1817
this section, the commission finds that a respondent has not 1818
engaged in any unlawful discriminatory practice relating to 1819
employment against the complainant or others, it shall issue an 1820
order stating its findings of fact and dismissing the complaint 1821
to the complainant, respondent, and any other affected party. A 1822
copy of the order shall also be delivered to the attorney 1823
general and any other public officer the commission considers 1824
appropriate. 1825

(J) The commission, subject to Chapter 119. of the Revised 1826
Code, upon reasonable notice to the respondent and claimant and 1827
in the manner it considers proper, may modify or set aside, in 1828
whole or in part, any finding or order made under this section 1829
until the time period for appeal set forth in section 4112.06 of 1830

the Revised Code has passed. 1831

(K) The commission shall adopt rules, in accordance with 1832
Chapter 119. of the Revised Code, to carry out this section. 1833

(L) Nothing in this section requires any person to observe 1834
in hiring the proportion that persons of any race, color, 1835
religion, sex, military status, familial status, national 1836
origin, disability, age, or ancestry bear to the total 1837
population or in accordance with any other criteria than the 1838
qualifications of applicants. 1839

(M) The issuance of a notice of right to sue by the 1840
commission under this section does not prohibit the commission 1841
from offering assistance to the person to whom the notice was 1842
issued. 1843

(N) If a complainant requests a notice of right to sue 1844
under this section less than sixty days after filing a charge 1845
pursuant to division (C) of this section, the commission shall 1846
not grant the request until at least sixty days after the 1847
complainant filed the charge. If a complainant requests a notice 1848
of right to sue under this section sixty or more days after 1849
filing a charge, the commission may immediately grant the 1850
request. 1851

Sec. 4112.052. (A) Subject to division (B) of this 1852
section, and except as provided in division (D)(2) of section 1853
4112.14 of the Revised Code, a person alleging an unlawful 1854
discriminatory practice relating to employment in violation of 1855
section 4112.02 of the Revised Code may bring a civil action in 1856
a court of competent jurisdiction. 1857

(B) (1) Except as otherwise provided in division (B) (2) of 1858
this section, a person may file a civil action under this 1859

section alleging an unlawful discriminatory practice relating to 1860
employment or a violation of division (A) of section 4112.14 of 1861
the Revised Code only if the person satisfies both of the 1862
following conditions: 1863

(a) The person has first filed a charge with the Ohio 1864
civil rights commission under section 4112.051 of the Revised 1865
Code with respect to the practice complained of in the complaint 1866
for the civil action within the time period required under that 1867
section. 1868

(b) One of the following occurs: 1869

(i) The person receives a notice of right to sue from the 1870
Ohio civil rights commission pursuant to section 4112.051 of the 1871
Revised Code. 1872

(ii) The person has requested a notice of right to sue 1873
from the Ohio civil rights commission, and the commission fails 1874
to issue the notice of right to sue within forty-five days after 1875
the date the commission is permitted to grant the request under 1876
division (N) of section 4112.051 of the Revised Code. 1877

(iii) The Ohio civil rights commission, after a 1878
preliminary investigation conducted pursuant to a charge filed 1879
under section 4112.051 of the Revised Code, determines that it 1880
is probable that an unlawful discriminatory practice relating to 1881
employment has occurred or is occurring and the complainant, 1882
after being informed by the commission of the right to file a 1883
civil action under this chapter, elects to file a civil action 1884
and notifies the commission of that fact. 1885

(2) A person may file a civil action under this section 1886
alleging an unlawful discriminatory practice relating to 1887
employment or a violation of division (A) of section 4112.14 of 1888

the Revised Code without satisfying the conditions of division 1889
(B) (1) of this section if either of the following apply: 1890

(a) The person seeks only injunctive relief. 1891

(b) All of the following occur: 1892

(i) The person has filed a charge with the Ohio civil 1893
rights commission under section 4112.051 of the Revised Code 1894
with respect to the practice complained of in the complaint for 1895
the civil action within the time period required under that 1896
section. 1897

(ii) The person has filed a charge with the equal 1898
employment opportunity commission or its successor organization 1899
with respect to the practice complained of in the complaint for 1900
the civil action within the time period required under federal 1901
law. 1902

(iii) The person has received a notice from the equal 1903
employment opportunity commission or its successor organization 1904
that states that the person may bring a civil action against the 1905
employer and the notice was sent in connection with the charge 1906
filed with the equal employment opportunity commission or its 1907
successor organization. 1908

(3) With respect to an action described in division (B) (2) 1909
(a) of this section, the person may amend the complaint to 1910
include damages, but the amendment will relate back to the 1911
original filing date of the complaint in the action only after 1912
one of the following occurs: 1913

(a) The person receives a notice of right to sue from the 1914
Ohio civil rights commission pursuant to section 4112.051 of the 1915
Revised Code. 1916

(b) The person has requested a notice of right to sue from 1917
the Ohio civil rights commission, and the commission fails to 1918
issue the notice of right to sue within forty-five days after 1919
the date the commission is permitted to grant the request under 1920
division (N) of section 4112.051 of the Revised Code. 1921

(c) The Ohio civil rights commission, after a preliminary 1922
investigation conducted pursuant to a charge filed under section 1923
4112.051 of the Revised Code, determines that it is probable 1924
that an unlawful discriminatory practice relating to employment 1925
has occurred or is occurring and the complainant, after being 1926
informed by the commission of the right to file a civil action 1927
under this chapter, elects to file a civil action and notifies 1928
the commission of that fact. 1929

(4) With respect to an unlawful discriminatory practice 1930
relating to employment described in division (A)(24)(b) of 1931
section 4112.01 of the Revised Code, a charge filed with the 1932
Ohio civil rights commission or the equal employment opportunity 1933
commission satisfies division (B)(1)(a) or divisions (B)(2)(b) 1934
(i) and (ii) of this section if both of the following apply: 1935

(a) The charge is related to the conduct alleged in the 1936
complaint for the civil action; 1937

(b) The charge is filed against the person who committed 1938
the unlawful discriminatory practice, the employer of the person 1939
who committed the unlawful discriminatory practice, or both the 1940
person who committed the unlawful discriminatory practice and 1941
the person's employer. 1942

(C)(1) Except as provided in division (C)(2) of this 1943
section, a civil action brought under this section shall be 1944
filed within two years after the alleged unlawful discriminatory 1945

practice was committed. 1946

(2) The time period to file a civil action shall be tolled 1947
for one of the following periods, as applicable: 1948

(a) If a charge that is based, in whole or in part, on the 1949
same allegations and practices was filed under section 4112.051 1950
of the Revised Code less than sixty days before the time period 1951
specified under that section expires, the time period to file a 1952
civil action is tolled for the period beginning on the date the 1953
charge was filed and ending on the date that is sixty days after 1954
the charge is no longer pending with the commission. 1955

(b) If a charge that is based, in whole or in part, on the 1956
same allegations and practices was filed under section 4112.051 1957
of the Revised Code sixty or more days before the time period 1958
specified under that section expires, the time period to file a 1959
civil action is tolled for the period beginning on the date the 1960
charge was filed and ending on the date the charge is no longer 1961
pending with the commission. 1962

(D) A civil action based on 42 U.S.C. 1981a, 42 U.S.C. 1963
1983, and 42 U.S.C. 1985 shall be brought within two years after 1964
the cause of action accrues. The period of limitations set forth 1965
in this division does not apply to causes of action based on 42 1966
U.S.C. 1981 as amended by the "Civil Rights Act of 1991," Pub. 1967
L. No. 102-166. 1968

(E) The Ohio civil rights commission may intervene in a 1969
civil action if the commission determines that the case is of 1970
public importance. 1971

Sec. 4112.054. (A) As used in this section: 1972

(1) "Tangible employment action" means an action resulting 1973
in a significant change in employment status, such as hiring, 1974

firing, failing to promote, reassignment with significantly 1975
different responsibilities, or a decision causing a significant 1976
change in benefits. 1977

(2) "Hostile work environment sexual harassment claim" 1978
means a charge filed pursuant to section 4112.051 of the Revised 1979
Code or a civil action filed pursuant to section 4112.052 of the 1980
Revised Code that alleges an unlawful discriminatory practice 1981
relating to employment because of sex on the basis of sexually 1982
harassing behavior that did not result in a tangible employment 1983
action. 1984

(B) An employer may raise an affirmative defense to 1985
vicarious liability to an employee resulting from a hostile work 1986
environment sexual harassment claim in which the hostile work 1987
environment was created by a supervisor with immediate or 1988
successively higher authority over the employee, if the employer 1989
proves both of the following by a preponderance of the evidence: 1990

(1) The employer exercised reasonable care to prevent or 1991
promptly correct any sexually harassing behavior. 1992

(2) The employee alleging the hostile work environment 1993
unreasonably failed to take advantage of any preventive or 1994
corrective opportunities provided by the employer or to avoid 1995
harm otherwise. 1996

(C) The affirmative defense set forth in this section is 1997
not available to an employer if the supervisor's harassment 1998
resulted in a tangible employment action against the employee. 1999

Sec. ~~4112.051~~ 4112.055. (A) (1) Aggrieved persons may 2000
enforce the rights granted by division (H) of section 4112.02 of 2001
the Revised Code by filing a civil action in the court of common 2002
pleas of the county in which the alleged unlawful discriminatory 2003

practice occurred within one year after it allegedly occurred. 2004
Upon application by an aggrieved person, upon a proper showing, 2005
and under circumstances that it considers just, a court of 2006
common pleas may appoint an attorney for the aggrieved person 2007
and authorize the commencement of a civil action under this 2008
division without the payment of costs. 2009

Each party to a civil action under this division has the 2010
right to a jury trial of the action. To assert the right, a 2011
party shall demand a jury trial in the manner prescribed in the 2012
Rules of Civil Procedure. If a party demands a jury trial in 2013
that manner, the civil action shall be tried to a jury. 2014

(2) (a) If a complaint is issued by the commission under 2015
division (B) (5) of section 4112.05 of the Revised Code for one 2016
or more alleged unlawful discriminatory practices described in 2017
division (H) of section 4112.02 of the Revised Code, the 2018
complainant, any aggrieved person on whose behalf the complaint 2019
is issued, or the respondent may elect, following receipt of the 2020
relevant notice described in division (B) (5) of section 4112.05 2021
of the Revised Code, to proceed with the administrative hearing 2022
process under that section or to have the alleged unlawful 2023
discriminatory practices covered by the complaint addressed in a 2024
civil action commenced in accordance with divisions (A) (1) and 2025
(2) (b) of this section. An election to have the alleged unlawful 2026
discriminatory practices so addressed shall be made in a writing 2027
that is sent by certified mail, return receipt requested, to the 2028
commission, to the civil rights section of the office of the 2029
attorney general, and to the other parties to the pending 2030
administrative process within thirty days after the electing 2031
complainant, aggrieved person, or respondent received the 2032
relevant notice described in division (B) (5) of section 4112.05 2033
of the Revised Code. 2034

(b) Upon receipt of a timely mailed election to have the
alleged unlawful discriminatory practices addressed in a civil
action, the commission shall authorize the office of the
attorney general to commence and maintain the civil action in
the court of common pleas of the county in which the alleged
unlawful discriminatory practices occurred. Notwithstanding the
period of limitations specified in division (A)(1) of this
section, the office of the attorney general shall commence the
civil action within thirty days after the receipt of the
commission's authorization to commence the civil action.

(c) Upon commencement of the civil action in accordance
with division (A)(2)(b) of this section, the commission shall
prepare an order dismissing the complaint in the pending
administrative matter and serve a copy of the order upon the
complainant, each aggrieved person on whose behalf the complaint
was issued, and the respondent.

(d) If an election to have the alleged unlawful
discriminatory practices addressed in a civil action is not
filed in accordance with division (A)(2)(a) of this section, the
commission shall continue with the administrative hearing
process described in section 4112.05 of the Revised Code.

(e) With respect to the issues to be determined in a civil
action commenced in accordance with division (A)(2)(b) of this
section, any aggrieved person may intervene as a matter of right
in that civil action.

(B) If the court or the jury in a civil action under this
section finds that a violation of division (H) of section
4112.02 of the Revised Code is about to occur, the court may
order any affirmative action it considers appropriate, including
a permanent or temporary injunction or temporary restraining

order. 2065

(C) Any sale, encumbrance, or rental consummated prior to 2066
the issuance of any court order under the authority of this 2067
section and involving a bona fide purchaser, encumbrancer, or 2068
tenant without actual notice of the existence of a charge under 2069
division (H) of section 4112.02 of the Revised Code or a civil 2070
action under this section is not affected by the court order. 2071

(D) If the court or the jury in a civil action under this 2072
section finds that a violation of division (H) of section 2073
4112.02 of the Revised Code has occurred, the court shall award 2074
to the plaintiff or to the complainant or aggrieved person on 2075
whose behalf the office of the attorney general commenced or 2076
maintained the civil action, whichever is applicable, actual 2077
damages, reasonable attorney's fees, court costs incurred in the 2078
prosecution of the action, expert witness fees, and other 2079
litigation expenses, and may grant other relief that it 2080
considers appropriate, including a permanent or temporary 2081
injunction, a temporary restraining order, or other order and 2082
punitive damages. 2083

(E) Any civil action brought under this section shall be 2084
heard and determined as expeditiously as possible. 2085

(F) The court in a civil action under this section shall 2086
notify the commission of any finding pertaining to 2087
discriminatory housing practices within fifteen days after the 2088
entry of the finding. 2089

Sec. ~~4112.052~~ 4112.056. Whenever the Ohio civil rights 2090
commission has reasonable cause to believe that any person or 2091
persons are engaged in a pattern or practice of resistance to a 2092
person or persons' full enjoyment of the rights granted by 2093

division (H) of section 4112.02 of the Revised Code, or that any
group of persons has been denied any of the rights granted by
that division and the denial raises an issue of public
importance, the commission may refer the matter to the attorney
general for commencement of a civil action in a court of common
pleas. The attorney general may seek any preventive relief
considered necessary to ensure the full enjoyment of the rights
granted by that division, including a permanent or temporary
injunction or temporary restraining order.

Sec. 4112.08. (A) This chapter shall be construed
liberally for the accomplishment of its purposes, and any law
inconsistent with any provision of this chapter shall not apply.
Nothing contained in this chapter shall be considered to repeal
any of the provisions of any law of this state relating to
discrimination because of race, color, religion, sex, military
status, familial status, disability, national origin, age, or
ancestry, ~~except that any person filing a charge under division~~
~~(B) (1) of section 4112.05 of the Revised Code, with respect to~~
~~the unlawful discriminatory practices complained of, is barred~~
~~from instituting a civil action under section 4112.14 or~~
~~division (L) of section 4112.02 of the Revised Code.~~

However, no person has a cause of action or claim based on
an unlawful discriminatory practice relating to employment
described in division (A) (24) (a) of section 4112.01 of the
Revised Code against a supervisor, manager, or other employee of
an employer unless that supervisor, manager, or other employee
is the employer. Nothing in this division abrogates statutory
claims outside this chapter or any claims of liability that
exist against an individual at common law.

(B) The procedures and remedies for unlawful

discriminatory practices relating to employment in this chapter 2124
are the sole and exclusive procedures and remedies available to 2125
a person who alleges such discrimination actionable under this 2126
chapter. 2127

Sec. 4112.14. (A) No employer shall discriminate in any 2128
job opening against any applicant or discharge without just 2129
cause any employee aged forty or older who is physically able to 2130
perform the duties and otherwise meets the established 2131
requirements of the job and laws pertaining to the relationship 2132
between employer and employee. 2133

(B) ~~Any~~ Except as otherwise provided in section 4112.052 2134
of the Revised Code and this section, a person aged forty or 2135
older who is discriminated against in any job opening or 2136
discharged without just cause by an employer in violation of 2137
division (A) of this section may institute a civil action 2138
against the employer in a court of competent jurisdiction. If 2139
the court finds that an employer has discriminated on the basis 2140
of age, the court shall order an appropriate remedy which shall 2141
include reimbursement to the applicant or employee for the 2142
costs, including reasonable attorney's fees, of the action, or 2143
to reinstate the employee in the employee's former position with 2144
compensation for lost wages and any lost fringe benefits from 2145
the date of the illegal discharge and to reimburse the employee 2146
for the costs, including reasonable attorney's fees, of the 2147
action. ~~The~~ Except as otherwise provided in this section, the 2148
remedies available under this section are coexistent with 2149
remedies available pursuant to sections 4112.01 to 4112.11 of 2150
the Revised Code; ~~except that any person instituting a civil-~~ 2151
~~action under this section is, with respect to the practices-~~ 2152
~~complained of, thereby barred from instituting a civil action-~~ 2153
~~under division (L) of section 4112.02 of the Revised Code or~~ 2154

~~from filing a charge with the Ohio civil rights commission under~~ 2155
~~section 4112.05 of the Revised Code.~~ 2156

(C) The cause of action described in division (B) of this 2157
section and any remedies available pursuant to sections 4112.01- 2158
to 4112.11 of the Revised Code shall not be available in the 2159
case of discharges where the employee has available to the 2160
employee the opportunity to arbitrate the discharge or where a 2161
discharge has been arbitrated and has been found to be for just 2162
cause. 2163

(D) (1) A person is prohibited from bringing a civil action 2164
under division (B) of this section if the person brought a civil 2165
action under section 4112.052 of the Revised Code that is based, 2166
in whole or in part, on the same allegations and practices. 2167

(2) A person is prohibited from bringing a civil action 2168
under section 4112.052 of the Revised Code if the person brought 2169
a civil action under division (B) of this section that is based, 2170
in whole or in part, on the same allegations and practices. 2171

(E) (1) Except as provided in division (E) (2) of this 2172
section, a civil action brought under division (B) of this 2173
section shall be filed within two years after the alleged 2174
discrimination occurred. 2175

(2) The time period to file a civil action shall be tolled 2176
for one of the following periods, as applicable: 2177

(a) If a charge that is based, in whole or in part, on the 2178
same allegations was filed under section 4112.051 of the Revised 2179
Code less than sixty days before the time period specified under 2180
that section expires, the time period to file a civil action is 2181
tolled for the period beginning on the date the charge was filed 2182
and ending on the date that is sixty days after the charge is no 2183

longer pending with the commission. 2184

(b) If a charge that is based, in whole or in part, on the 2185
same allegations and practices was filed under section 4112.051 2186
of the Revised Code sixty or more days before the time period 2187
specified under that section expires, the time period to file a 2188
civil action is tolled for the period beginning on the date the 2189
charge was filed and ending on the date the charge is no longer 2190
pending with the commission. 2191

Sec. 4112.99. (A) Whoever violates this chapter is subject 2192
to a civil action for damages, injunctive relief, or any other 2193
appropriate relief. Except as otherwise provided in division (B) 2194
of this section, a person may bring such a civil action in a 2195
court of competent jurisdiction. 2196

(B) A person is prohibited from bringing a civil action 2197
for employment discrimination under this section. 2198

Section 2. That existing sections 2305.03, 2305.06, 2199
2305.07, 2305.11, 2315.18, 2315.21, 4112.01, 4112.02, 4112.04, 2200
4112.05, 4112.051, 4112.052, 4112.08, 4112.14, and 4112.99 of 2201
the Revised Code are hereby repealed. 2202

Section 3. The General Assembly, in amending section 2203
4112.01 and division (A) of section 4112.08 of the Revised Code 2204
pursuant to this act, hereby declares its intent to supersede 2205
the effect of the holding of the Ohio Supreme Court in *Genaro* 2206
v. Central Transport, Inc., 84 Ohio St.3d 293 (1999) and to 2207
follow the holding in *Wathen v. General Electric Co.*, 115 F.3d 2208
400 (1997) regarding the definition of "employer" for purposes 2209
of Chapter 4112. of the Revised Code. The General Assembly 2210
further declares its intent that individual supervisors, 2211
managers, or employees not be held liable under Chapter 4112. of 2212

the Revised Code for unlawful discriminatory practices relating 2213
to employment that are described in division (A) (24) (a) of 2214
section 4112.01 of the Revised Code, as amended by this act. The 2215
General Assembly does not intend this act to abrogate the 2216
imposition at common law of vicarious liability on employers for 2217
the unlawful discriminatory practices of their employees or 2218
agents or to abrogate any other statutory claims that exist 2219
outside of Chapter 4112. of the Revised Code or claims existing 2220
at common law that may be made against an individual. 2221

It is the intent of the General Assembly that common law 2222
claims for wrongful discharge are not available for actions 2223
maintainable under Chapter 4112. of the Revised Code and that 2224
the procedures and remedies set forth in Chapter 4112. of the 2225
Revised Code are the sole and exclusive procedures and remedies 2226
available under state law for claims of unlawful discriminatory 2227
practice relating to employment that are governed by that 2228
chapter. The General Assembly declares its intent in amending 2229
division (B) of section 4112.08 of the Revised Code to conform 2230
to, and not to overturn, the holding of the Ohio Supreme Court 2231
in *Collins v. Rizkana*, 73 Ohio St.3d 65, 73 (1995). 2232

The General Assembly declares its intent in enacting 2233
section 4112.054 of the Revised Code pursuant to this act that 2234
employers will be encouraged to implement meaningful 2235
antidiscrimination policies and foster a work environment that 2236
is fair and tolerant. The General Assembly further declares its 2237
intent that human resource professionals should have the first 2238
opportunity to resolve personnel complaints and rectify 2239
detrimental workplace behavior before such issues result in 2240
costly litigation. 2241

Section 4. (A) Subject to Sections 5 and 6 of this act, 2242

sections 2305.06 and 2305.07 of the Revised Code, as amended by 2243
this act, apply to an action in which the cause of action 2244
accrues on or after the effective date of this section. 2245

(B) Division (B) of section 2305.03 of the Revised Code, 2246
as amended by this act, applies retroactively to April 7, 2005, 2247
the effective date of S.B. 80 of the 125th General Assembly. 2248

Section 5. For causes of action that are governed by 2249
section 2305.06 of the Revised Code and that accrued prior to 2250
the effective date of this section, the period of limitations 2251
shall be six years from the effective date of this section or 2252
the expiration of the period of limitations in effect prior to 2253
the effective date of this section, whichever occurs first. 2254

Section 6. (A) For causes of action that are governed by 2255
division (A) of section 2305.07 of the Revised Code that accrued 2256
prior to the effective date of this section, the period of 2257
limitations shall be four years from the effective date of this 2258
section or the expiration of the period of limitations in effect 2259
prior to the effective date of this section, whichever occurs 2260
first. 2261

(B) For causes of action that are governed by division (C) 2262
of section 2305.07 of the Revised Code that accrued prior to the 2263
effective date of this section, the period of limitations shall 2264
be six years from the effective date of this section or the 2265
expiration of the period of limitations in effect prior to the 2266
effective date of this section, whichever occurs first. 2267

Section 7. That Section 22 of H.B. 197 of the 133rd 2268
General Assembly be amended to read as follows: 2269

Sec. 22. (A) The following that are set to expire between 2270
March 9, 2020, and July 30, 2020, shall be tolled: 2271

(1) A statute of limitation, as follows:	2272
(a) For any criminal offense, notwithstanding any other provision of law to the contrary, the applicable period of limitation set forth in section 2901.13 of the Revised Code for the criminal offense;	2273 2274 2275 2276
(b) When a civil cause of action accrues against a person, notwithstanding any other provision of law to the contrary, the period of limitation for commencement of the action as provided under any section in Chapter 2305. of the Revised Code, or under any other provision of the Revised Code that applies to the cause of action;	2277 2278 2279 2280 2281 2282
(c) For any administrative action or proceeding, the period of limitation for the action or proceeding as provided under the Revised Code or the Administrative Code, if applicable.	2283 2284 2285 2286
(2) The time within which a bill of indictment or an accusation must be returned or the time within which a matter must be brought before a grand jury;	2287 2288 2289
(3) The time within which an accused person must be brought to trial or, in the case of a felony, to a preliminary hearing and trial;	2290 2291 2292
(4) Time deadlines and other schedule requirements regarding a juvenile, including detaining a juvenile;	2293 2294
(5) The time within which a commitment hearing must be held;	2295 2296
(6) The time by which a warrant must be issued;	2297
(7) The time within which discovery or any aspect of discovery must be completed;	2298 2299

(8) The time within which a party must be served;	2300
(9) The time within which an appearance regarding a dissolution of marriage must occur pursuant to section 3105.64 of the Revised Code;	2301 2302 2303
(10) Any other criminal, civil, or administrative time limitation under the Revised Code.	2304 2305
(B) This section applies retroactively to the date of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020.	2306 2307 2308
(C) Division (A) of this section expires on the date the period of emergency ends or July 30, 2020, whichever is sooner.	2309 2310
<u>(D) The time period from March 9, 2020, to July 30, 2020,</u> <u>shall not be computed as part of the periods of limitation and</u> <u>time limitations described in division (A) of this section.</u>	2311 2312 2313
Section 8. That existing Section 22 of H.B. 197 of the 133rd General Assembly is hereby repealed.	2314 2315
Section 9. Section 4112.04 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 525 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.	2316 2317 2318 2319 2320 2321 2322 2323 2324 2325
Section 10. The amendments to Section 22 of H.B. 197 of the 133rd General Assembly are hereby declared to be an	2326 2327

emergency measure necessary for the immediate preservation of	2328
the public peace, health, and safety. The reason for such	2329
necessity is to ensure that the tolling of the criminal, civil,	2330
and administrative statutes of limitations and other time	2331
limitations runs until July 30, 2020. Therefore, those	2332
provisions of this act shall go into immediate effect.	2333