

AN ACT

To amend sections 169.02, 2108.75, 2108.77, 2108.81, 2108.82, 3517.152, 3705.20, 4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 4717.10, 4717.13, 4717.14, 4717.24, 4717.28, 4717.30, 4717.35, and 4717.36 and to enact sections 305.43 and 4717.311 of the Revised Code to make changes to the laws that impact funeral homes, funeral professionals, funeral hearses, funeral escort vehicles, preneed funeral contracts, and the parental right of disposition for a deceased adult child, and to require the appointment of alternates to the Ohio Elections Commission.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 169.02, 2108.75, 2108.77, 2108.81, 2108.82, 3517.152, 3705.20, 4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 4717.10, 4717.13, 4717.14, 4717.24, 4717.28, 4717.30, 4717.35, and 4717.36 be amended and sections 305.43 and 4717.311 of the Revised Code be enacted to read as follows:

Sec. 169.02. Subject to division (B) of section 169.01 of the Revised Code, the following constitute unclaimed funds:

(A) Except as provided in division (R) of this section, any demand, savings, or matured time deposit account, or matured certificate of deposit, together with any interest or dividend on it, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(B) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, and any interest or dividends on them, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(C) Except as provided in division (A) of section 3903.45 of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for three years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility

services held or owed by a holder, less any lawful claims, that has remained unclaimed for one year after the termination of the services for which the deposit or advance payment was made or one year from the date the refund was payable, whichever is earlier;

(E) Except as provided in division (R) of this section, any certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes unclaimed funds if such underlying share is unclaimed for five years. In addition, an underlying share constitutes unclaimed funds if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section 1701.24 of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section 1701.34 of the Revised Code. The period of time for which such funds have gone unclaimed specified in section 1701.34 of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would have been payable to the shareholder had such shareholder surrendered the certificates for cancellation and exchange by the date specified in the order relating to them.

Capital credits of a cooperative which after January 1, 1972, have been allocated to members and which by agreement are expressly required to be paid if claimed after death of the owner are deemed payable, for the purpose of this chapter, fifteen years after either the termination of service by the cooperative to the owner or upon the nonactivity as provided in division (B) of section 169.01 of the Revised Code, whichever occurs later, provided that this provision does not apply if the payment is not mandatory.

(F) Any sum payable on certified checks or other written instruments certified or issued and representing funds held or owed by a holder, less any lawful claims, that are unclaimed for five years from the date payable or from the date of issuance if payable on demand; except that the unclaimed period for money orders that are not third party bank checks is seven years, and the unclaimed period for traveler's checks is fifteen years, from the date payable or from the date of issuance if payable on demand.

As used in this division, "written instruments" include, but are not limited to, certified checks, cashier's checks, bills of exchange, letters of credit, drafts, money orders, and traveler's checks.

If there is no address of record for the owner or other person entitled to the funds, such address is presumed to be the address where the instrument was certified or issued.

(G) Except as provided in division (R) of this section, all moneys, rights to moneys, or other intangible property, arising out of the business of engaging in the purchase or sale of securities, or otherwise dealing in intangibles, less any lawful claims, that are held or owed by a holder and are unclaimed for five years from the date of transaction.

(H) Except as provided in division (A) of section 3903.45 of the Revised Code, all moneys, rights to moneys, and other intangible property distributable in the course of dissolution or liquidation of a holder that are unclaimed for one year after the date set by the holder for distribution;

(I) All moneys, rights to moneys, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount arising from the sale of such property, less any lawful claims, that are unclaimed for three years from the date on which the lease or rental period expired;

(J) Subject to division (M)(2) of this section, all moneys, rights to moneys, or other intangible property, and any income or increment on them, held or owed by a holder which is a fiduciary for the benefit of another, or a fiduciary or custodian of a qualified retirement plan or individual retirement arrangement under section 401 or 408 of the Internal Revenue Code, unclaimed for three years after the final date for distribution;

(K) All moneys, rights to moneys, or other intangible property held or owed in this state or held for or owed to an owner whose last known address is within this state, by the United States government or any state, as those terms are described in division (E) of section 169.01 of the Revised Code, unclaimed by the owner for three years, excluding any property in the control of any court in a proceeding in which a final adjudication has not been made;

(L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for three years from the date payable or distributable;

(M)(1) Subject to division (M)(2) of this section, any funds constituting rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for one year;

(2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to division (A)(26) of section 4735.18 of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years.

(N) Any sum greater than fifty dollars payable as wages, any sum payable as salaries or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans, held or owed by any holder unclaimed for one year from date payable or distributable, and all other credits held or owed, or to be refunded to a retail customer, by any holder unclaimed for three years from date payable or distributable;

(O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them;

(P) All moneys, rights to moneys, and other intangible property not otherwise constituted as unclaimed funds by this section, including any income or increment on them, less any lawful claims, which are held or owed by any holder, other than a holder which holds a permit issued pursuant to Chapter 3769. of the Revised Code, and which have remained unclaimed for three years after becoming payable or distributable;

(Q) All moneys that arise out of a sale held pursuant to section 5322.03 of the Revised Code, that are held by a holder for delivery on demand to the appropriate person pursuant to division (I) of that section, and that are unclaimed for two years after the date of the sale.

(R)(1) Any funds that are subject to an agreement between the holder and owner providing for automatic reinvestment and that constitute dividends, distributions, or other sums held or owed by a holder in connection with a security as defined in section 1707.01 of the Revised Code, an ownership interest in an investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate of deposit, unclaimed for a period of five years.

(2) The five-year period under division (R)(1) of this section commences from the date a second shareholder notification or communication mailing to the owner of the funds is returned to the holder as undeliverable by the United States postal service or other carrier. The notification or communication mailing by the holder shall be no less frequent than quarterly.

All moneys in a personal allowance account, as defined by rules adopted by the medicaid director, up to and including the maximum resource limitation, of a medicaid recipient who has died after receiving care in a long-term care facility, and for whom there is no identifiable heir or sponsor, are not subject to this chapter.

(S)(1) Funds held or owed by a holder pursuant to a preneed funeral contract, as defined in section 4717.01 of the Revised Code, unclaimed as of the last day of the calendar year in which the beneficiary turns one hundred five years of age, unless the holder or the seller or successor seller confirms during that calendar year that the beneficiary is still alive;

(2) Funds held or owed by a holder that is the trustee of a preneed funeral contract trust if the trustee was unable to pay the net funds held by the trustee as required by division (J)(2) of section 4717.36 of the Revised Code upon the expiration of the one-hundred-eighty-day period specified in that division.

(3) Funds held or owed by a holder which is a trustee of a preneed funeral contract trust that the trustee was unable to pay as required by division (J)(2) of section 4717.36 of the Revised Code upon the expiration of the one hundred eighty-day-period specified in that division.

Sec. 305.43. If a county commissioner is required by law to serve as an ex officio member on a board, commission, or other body of the county or of another political subdivision, including a joint district, but has or may have a conflict of interest under division (D) of section 102.03 of the Revised Code, or has or may have an unlawful interest in a public contract under section 2921.42 of the Revised Code, regarding the commissioner's membership on that body, the other two county commissioners shall appoint an individual to serve on that body in place of the commissioner who has or may have a conflict or unlawful interest.

Sec. 2108.75. (A) A person shall be disqualified from serving as a representative or successor representative, or from having the right of disposition for a deceased ~~adult~~ person pursuant to section

2108.81 of the Revised Code, if any of the following occurs:

- (1) The person dies.
- (2) A probate court declares or determines that the person is incompetent.
- (3) The person resigns or declines to exercise the right as described in section 2108.88 of the Revised Code.

(4) The person ~~refuses~~ fails to exercise the right within ~~two days~~ forty-eight hours after notification of the declarant's or deceased person's death or, if there is no notification, within seventy-two hours of either of the following, as applicable:

(a) The declarant's or deceased person's death;

(b) The discovery of the declarant's or deceased person's remains, when such discovery occurs more than an hour after the declarant's or deceased person's death.

(5) The person cannot be located with reasonable effort.

(6) The person meets the criteria described in section 2108.76 or 2108.77 of the Revised Code.

(7) The person refuses to assume the liability for the costs of disposition.

(B) No owner, employee, or agent of a funeral home, cemetery, or crematory providing funeral, burial, or cremation services for a declarant shall serve as a representative or successor representative for the declarant unless the owner, employee, or agent is related to the declarant by blood, marriage, or adoption.

(C) Subject to divisions (C)(2) and ~~(D)(2)~~ (D) of section 2108.70 of the Revised Code, if a person is disqualified from serving as the declarant's representative or successor representative, or from having the right of disposition for a deceased ~~adult~~ person pursuant to section 2108.81 of the Revised Code, as described in division (A) of this section, the right is automatically reassigned to, and vests in, the next person who has the right pursuant to the declarant's written declaration or pursuant to the order of priority in section 2108.81 of the Revised Code.

If a right of disposition for a deceased person is assigned to a funeral director under division (B)(9) of section 2108.81 of the Revised Code, the funeral director is not liable for the cost of disposition.

Sec. 2108.77. If the person named as the declarant's representative or successor representative in a written declaration, or the person who has a deceased ~~adult's~~ person's right of disposition pursuant to section 2108.81 of the Revised Code, meets any of the following criteria, the person shall be disqualified from serving as the representative or successor representative, or from having the right:

(A)(1) Subject to division (A)(2) of this section, the person has been charged with murder, aggravated murder, or voluntary manslaughter.

(2) If the charges against the person described in division (A)(1) of this section are dismissed or if the person is acquitted of such charges, the right is restored to the person.

(B)(1) Subject to division (B)(2) of this section, the person has been charged with an act of domestic violence under section 2919.25 of the Revised Code and it has been alleged in the charging instrument or accompanying papers that the act resulted in or contributed to the declarant's death.

(2) If the charges against the person described in division (B)(1) of this section are dismissed or if the person is acquitted of such charges, the right is restored to the person.

(C) The person and the declarant or deceased ~~adult-person~~ are spouses and an action to terminate the marriage pursuant to Chapter 3105. of the Revised Code was pending at the time of the declarant's or deceased ~~adult's-person's~~ death.

(D) The person and the declarant or deceased ~~adult-person~~ are spouses and a probate court, on the motion of any other person or its own motion, determines that the declarant's or deceased ~~adult's-person's~~ spouse and the declarant were estranged at the time of the declarant's or deceased ~~adult's-person's~~ death. As used in this division, "estranged" means that a declarant's or a deceased ~~adult's-person's~~ spouse and the declarant or deceased ~~adult-person~~ were physically and emotionally separated from each other, at the time of the declarant's or deceased ~~adult's-person's~~ death, and had been separated for a period of time that clearly demonstrates an absence of due affection, trust, and regard between spouse and the declarant ~~of or deceased adultperson~~.

Sec. 2108.81. (A) If either of the following is true, division (B) of this section shall apply:

(1) ~~An adult~~ A person has not executed a written declaration pursuant to sections 2108.70 to 2108.73 of the Revised Code that remains in force at the time of the ~~adult's-person's~~ death.

(2) Each person to whom the right of disposition has been assigned or reassigned pursuant to a written declaration is disqualified from exercising the right as described in section 2108.75 of the Revised Code.

(B) Subject to division (A) of this section and sections 2108.75 and 2108.79 of the Revised Code, the right of disposition is assigned to the following persons, if mentally competent adults who can be located with reasonable effort, in the order of priority stated:

- (1) The deceased person's surviving spouse;
- (2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;
- (3) The deceased person's surviving parent or parents, subject to division (C) of this section;
- (4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;
- (5) The deceased person's surviving grandparent or grandparents;
- (6) The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren collectively;
- (7) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;
- (8) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;
- (9) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the persons in divisions (B)(1) to (8) of this section.
- (10) If the deceased person was an indigent person or other person the final disposition of whose body is the financial and statutory responsibility of the state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the remains of the deceased person.

(C)(1) If a parent was the residential parent and legal custodian of the deceased person at the time the deceased person reached the age of majority, that parent's right of disposition for the deceased person shall take precedence over the parent who was not the residential parent and legal custodian of the deceased person at that time.

(2) Division (C)(1) of this section shall not apply if the parent with precedence is disqualified from the right of disposition for the deceased person under section 2108.75 of the Revised Code.

(3) Section 2108.79 of the Revised Code shall not affect the precedence under division (C)(1) of this section;

(4) For purposes of this section, a parent's status as a residential parent and legal custodian of a child shall be established by a court order or decree that allocates parental rights and responsibilities for the care of the child and was in effect up to or at the time that the deceased person reached the age of majority, or by other uncontroverted evidence. No funeral director, embalmer, or crematory operator is required to investigate whether or not the person claiming to be the residential parent and legal custodian of a deceased person is in fact the residential parent and legal custodian.

Sec. 2108.82. (A) Notwithstanding section 2108.81 of the Revised Code and in accordance with division (B) of this section, the probate court for the county in which the declarant or deceased person resided at the time of death may, on its own motion or the motion of another person, assign to any person the right of disposition for a declarant or deceased person.

(B) In making a determination for purposes of division (A) of this section and division (C) of section 2108.79 of the Revised Code, the court shall consider the following:

(1) Whether evidence presented to, or in the possession of the court, demonstrates that the person who is the subject of the motion and the declarant or deceased person had a close personal relationship;

(2) The reasonableness and practicality of any plans that the person who is the subject of the motion may have for the declarant's or deceased person's funeral, burial, cremation, or final disposition, including the degree to which such plans allow maximum participation by all persons who wish to pay their final respects to the deceased person;

~~(3) The willingness of the person who is the subject of the motion to assume the responsibility to pay for the declarant's or deceased person's funeral, burial, cremation, or final disposition and the desires of that person;~~

~~(4) The convenience and needs of other families and friends wishing to pay their final respects to the declarant or deceased person;~~

~~(5) (4) The express written desires of the declarant or deceased person.~~

~~(C) Except to the extent considered under division (B)(3) of this section, the following persons do~~ The personal representative of either the declarant or the deceased person does not have a greater claim to the right of disposition than such persons otherwise have pursuant to law:

~~(1) A person who is willing to assume the responsibility to pay for the declarant's or deceased person's funeral, burial, cremation, or final disposition;~~

~~(2) The personal representative of the declarant or deceased person.~~

Sec. 3517.152. (A)(1) There is hereby created the Ohio elections commission consisting of seven members.

Not later than forty-five days after August 24, 1995, the speaker of the house of

representatives and the leader in the senate of the political party of which the speaker is a member shall jointly submit to the governor a list of five persons who are affiliated with that political party. Not later than forty-five days after August 24, 1995, the two legislative leaders in the two houses of the general assembly of the major political party of which the speaker is not a member shall jointly submit to the governor a list of five persons who are affiliated with the major political party of which the speaker is not a member. Not later than fifteen days after receiving each list, the governor shall appoint three persons from each list to the commission. The governor shall appoint one person from each list to a term that ends on December 31, 1996, one person from each list to a term that ends on December 31, 1997, and one person from each list to a term that ends on December 31, 1998.

Not later than thirty days after the governor appoints these six members, they shall, by a majority vote, appoint to the commission a seventh member, who shall not be affiliated with a political party. If the six members fail to appoint the seventh member within this thirty-day period, the chief justice of the supreme court, not later than thirty days after the end of the period during which the six members were required to appoint a member, shall appoint the seventh member, who shall not be affiliated with a political party. The seventh member shall be appointed to a term that ends on December 31, 2001. Terms of the initial members appointed under this division begin on January 1, 1996.

~~(2)(2)(a)~~ If a vacancy occurs in the position of the seventh member, who is not affiliated with a political party, the six remaining members by a majority vote shall appoint, not later than forty-five days after the date of the vacancy, the seventh member of the commission, who shall not be affiliated with a political party. If these members fail to appoint the seventh member within this forty-five-day period, the chief justice of the supreme court, within fifteen days after the end of this period, shall appoint the seventh member, who shall not be affiliated with a political party.

~~(b)~~ If a vacancy occurs in any of the other six positions on the commission, the legislative leaders of the political party from whose list of persons the member being replaced was appointed shall submit to the governor, not later than thirty days after the date of the vacancy, a list of three persons who are affiliated with that political party. Not later than fifteen days after receiving the list, the governor, with the advice and consent of the senate, shall appoint one person from the list to the commission.

~~(3)(3)(a)~~ For the purpose of appointing alternates to the commission, not later than forty-five days after the effective date of this section, the speaker of the house of representatives and the leader in the senate of the political party of which the speaker is a member shall jointly submit to the governor a list of three persons who are affiliated with that political party. Not later than forty-five days after the effective date of this section, the two legislative leaders in the two houses of the general assembly of the major political party of which the speaker is not a member shall jointly submit to the governor a list of three persons who are affiliated with the major political party of which the speaker is not a member. Not later than fifteen days after receiving each list, the governor shall appoint one person from each list as an alternate to the commission to a term that ends on December 31, 2026. The initial term described in this division begins upon appointment by the governor. If a vacancy occurs in the position of alternate under this division, the vacancy shall be filled in the same manner as described in division (A)(2)(b) of this section.

(b) For the purpose of appointing an alternate for the seventh member who is not affiliated

with a political party, the six members who are affiliated with a political party by a majority vote shall appoint, not later than forty-five days after the effective date of this amendment, the alternate for the seventh member of the commission, who shall not be affiliated with a political party. If these members fail to appoint the alternate for the seventh member within this forty-five-day period, the chief justice of the supreme court, within fifteen days after the end of that period, shall appoint the alternate for the seventh member, who shall not be affiliated with a political party. The seventh member shall be appointed to a term that ends on December 31, 2026. The initial term described in this division begins upon the appointment of the alternate. If a vacancy occurs in the position of alternate for the seventh member who is not affiliated with a political party, the vacancy shall be filled in the same manner as described in division (A)(2)(a) of this section.

(4) At no time shall more than six members of the commission be affiliated with a political party, and, of these six members, not more than three shall be affiliated with the same political party.

~~(4)~~(5) In making appointments to the commission, including alternates, the governor shall take into consideration the various geographic areas of this state and shall appoint members and alternates so that those areas are represented on the commission in a balanced manner, to the extent feasible.

~~(5)~~(6) Members and alternates of the commission shall be registered electors and shall be of good moral character.

(7) Alternates shall serve on the commission when a member of the commission is recused from hearing a complaint or is otherwise unable to hear a complaint. Alternates shall serve on the commission during a vacancy until the vacancy is filled. An alternate may only serve in lieu of a member affiliated with the same political party as the alternate. The alternate for the unaffiliated seventh member of the commission may only serve in lieu of the unaffiliated seventh member of the commission. When serving in this capacity, alternates count as members of the commission for the purpose of constituting a quorum under division (G)(3) of this section.

(B) Each member and alternate of the Ohio elections commission shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. After the initial terms of office provided for in ~~division~~ divisions (A)(1) and (3) of this section, terms of office shall be for five years.

(C) A vacancy in the Ohio elections commission may be caused by death, resignation, or three absences from commission meetings in a calendar year if those absences are caused by reasons declared invalid by a vote of five members of the remaining members of the commission.

(D) Each member of the Ohio elections commission while in the performance of the business of the commission shall be entitled to receive compensation at the rate of twenty-five thousand dollars per year. Members shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

Each alternate of the Ohio elections commission, when serving on the commission as described in division (A)(7) of this section, shall be paid at the per diem rate of one hundred fifty

dollars, and shall be reimbursed for expenses actually and necessarily incurred in the performance of the alternate's duties.

(E) No member of the Ohio elections commission shall serve more than one full term unless the terms served are served nonconsecutively.

(F)(1) No member or alternate of the Ohio elections commission shall do or be any of the following:

(a) Hold, or be a candidate for, a public office;

(b) Serve on a committee supporting or opposing a candidate or ballot question or issue;

(c) Be an officer of the state central committee, a county central committee, or a district, city, township, or other committee of a political party or an officer of the executive committee of the state central committee, a county central committee, or a district, city, township, or other committee of a political party;

(d) Be a legislative agent as defined in section 101.70 of the Revised Code or an executive agency lobbyist as defined in section 121.60 of the Revised Code;

(e) Solicit or be involved in soliciting contributions on behalf of a candidate, campaign committee, political party, political action committee, or political contributing entity;

(f) Be in the unclassified service under section 124.11 of the Revised Code;

(g) Be a person or employee who is excluded from the definition of public employee pursuant to division (C) of section 4117.01 of the Revised Code.

(2) No member, alternate, or employee of the commission shall make a contribution to, or for the benefit of, a campaign committee or committee in support of or opposition to a ballot question or issue, a political party, a legislative campaign fund, a political action committee, or a political contributing entity.

(G)(1) The members of the Ohio elections commission shall elect a chairperson and a vice-chairperson. At no time shall the chairperson and vice-chairperson be affiliated with the same political party. The chairperson shall serve in that capacity for one year and shall not serve as chairperson more than twice during a term as a member of the commission. No two successive chairpersons shall be affiliated with the same political party.

(2) The commission shall meet at the call of the chairperson or upon the written request of a majority of the members. The meetings and hearings of the commission or a panel of the commission under sections 3517.153 to 3517.157 of the Revised Code are subject to section 121.22 of the Revised Code.

(3) The commission shall adopt rules for its procedures in accordance with Chapter 119. of the Revised Code. Five of the seven members constitute a quorum. Except as otherwise provided in this section and in sections 3517.154 to 3517.157 of the Revised Code, no action shall be taken without the concurrence of a majority of the members.

(H)(1) The Ohio elections commission shall employ the technical, professional, and clerical employees that are necessary for it to carry out its duties.

(2)(a) Notwithstanding section 109.02 of the Revised Code, the commission shall employ a full-time attorney, and, as needed, one or more investigatory attorneys to conduct investigations for the commission or a panel of the commission. The commission may employ or contract for the services of additional attorneys, as needed. The full-time attorney shall do all of the following:

(i) Serve as the commission's attorney in regard to all legal matters, including representing the commission at appeals from a final determination of the commission, except that the full-time attorney shall not perform the duties that an investigatory attorney is required or requested to perform or that another attorney the commission employs or contracts with for services is required or requested to perform, and shall not represent the commission in any legal proceeding in which the commission is a named party;

(ii) At the request of the commission or a panel of the commission, be present at a hearing held under sections 3517.154 to 3517.156 of the Revised Code to rule on the admissibility of evidence and to advise on the conduct of procedure;

(iii) Perform other duties as required by rule of the commission.

(b) An attorney employed by or under contract with the commission shall be licensed to practice law in this state.

(3)(a) Except as otherwise provided in division (H)(3)(b) of this section, at least five members of the commission shall agree on the employment of a person, a majority of the members shall agree on the discharge of an employee, and a person employed by the commission shall serve at the pleasure of the commission.

(b) At least five of the seven members shall agree on the discharge of an investigatory attorney.

(I) There is hereby created in the state treasury the Ohio elections commission fund. All moneys credited to the fund shall be used solely for the purpose of paying expenses related to the operation of the Ohio elections commission.

Sec. 3705.20. (A) The fetal death of the product of human conception of at least twenty weeks of gestation shall be registered on a fetal death certificate.

On application of the funeral director or either parent, the fetal death of the product of human conception prior to twenty weeks of gestation shall be registered on a fetal death certificate, except that the fetal death certificate shall not list the cause of death.

The funeral director or the parent shall include with the application a copy of the statement required by division (B)(1) of section 3727.16 or division (B)(1) of section 4731.82 of the Revised Code. If the father submits the application, he shall also include with it a signed and notarized document from the mother attesting that she voluntarily provided the father with a copy of the statement.

A fetal death certificate for the product of human conception prior to twenty weeks gestation is not proof of a live birth for purposes of federal, state, and local taxes.

(B) The product of human conception of at least twenty weeks of gestation that suffers a fetal death occurring in Ohio shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of by a funeral director or other person until a fetal death certificate or provisional death certificate has been filed with and a burial permit is issued by the local registrar of vital statistics of the registration district in which the fetal death occurs, or the body is found.

A burial permit for the product of human conception that suffers a fetal death prior to twenty weeks of gestation shall be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs if the funeral director or either parent files a fetal death certificate with that registrar.

(C)(1) The department of health and the local registrar shall keep a separate record and index record of fetal death certificates.

(2) The personal or statistical information on the fetal death certificate shall be obtained by the funeral director or other person in charge of interment or cremation from the best qualified persons or sources available.

(D) When a burial permit is issued under division (B) of this section for the product of human conception of at least twenty weeks of gestation that suffers a fetal death, the local registrar shall inform the parent or parents listed on the fetal death certificate or provisional death certificate of the option of applying for a certificate that is issued under division (B)(3) of section 3705.23 of the Revised Code.

Sec. 4513.17. (A) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than three hundred candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(B) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, that projects a beam of light of an intensity greater than three hundred candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(C)(1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. ~~This-~~

(2) The prohibition in division (C)(1) of this section does not apply to emergency-any of the following:

(a) Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in section 4513.182 of the Revised Code, highway maintenance vehicles, funeral hearses, funeral escort vehicles, and similar equipment operated by the department or local authorities, which shall be provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light, but shall not display a flashing, oscillating, or rotating light of any other color, nor to vehicles;

(b) Vehicles or machinery permitted by section 4513.11 of the Revised Code to have a flashing red light-

(2) When used on a street or highway, farm;

(c) Farm machinery and vehicles escorting farm machinery may be, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light, and the prohibition contained in division (C)(1) of this section does not apply to such machinery or vehicles. Farm machinery also may display the lights described in section 4513.11 of the Revised Code.

(d) A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special

purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

(D)(1) Except a person operating a public safety vehicle, as defined in division (E) of section 4511.01 of the Revised Code, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light, ~~and~~ except.

(2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(E) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(F) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4717.04. (A) The board of embalmers and funeral directors shall adopt rules in accordance with Chapter 119. of the Revised Code for the government, transaction of the business, and the management of the affairs of the board of embalmers and funeral directors and the crematory review board, and for the administration and enforcement of this chapter. These rules shall include all of the following:

(1) The nature, scope, content, and form of the application that must be completed and license examination that must be passed in order to receive an embalmer's license or a funeral director's license under section 4717.05 of the Revised Code. The rules shall ensure both of the following:

(a) That the embalmer's license examination tests the applicant's knowledge through at least a comprehensive section and an Ohio laws section;

(b) That the funeral director's license examination tests the applicant's knowledge through at least a comprehensive section, an Ohio laws section, and a sanitation section.

(2) The minimum license examination score necessary to be licensed under section 4717.05 of the Revised Code as an embalmer or as a funeral director;

(3) Procedures for determining the dates of the embalmer's and funeral director's license examinations, which shall be administered at least once each year, the time and place of each examination, and the supervision required for each examination;

(4) Procedures for determining whether the board shall accept an applicant's compliance with the licensure, registration, or certification requirements of another state as grounds for granting the applicant a license under this chapter;

(5) A determination of whether completion of a nationally recognized embalmer's or funeral director's examination sufficiently meets the license requirements for the comprehensive section of

either the embalmer's or the funeral director's license examination administered under this chapter;

- (6) Continuing education requirements for licensed embalmers and funeral directors;
- (7) Requirements for the licensing and operation of funeral homes;
- (8) Requirements for the licensing and operation of embalming facilities;
- (9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A)(9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:

(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;

(b) Purposely violating any provision of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code;

(c) Committing unprofessional conduct;

(d) Knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;

(e) Refusing to promptly submit the custody of a dead human body or cremated remains upon the express order of the person legally entitled to the body;

(f) Transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board and following the requirements of section 4717.11 of the Revised Code;

(g) Misleading the public using false or deceptive advertising;

(h) Failing to forward to the board on or before its due date the annual report of preneed funeral sales required by division (J) of section 4717.31 of the Revised Code. If the annual report is sent to the board by United States mail, it shall be postmarked on or before the due date for the submission of the annual report in order to be timely filed with the board. Mail that is not postmarked shall be considered filed on the date it is received by the board.

Each instance of the commission of any of the types of conduct described in division (A)(9) of this section is a separate violation. The rules adopted under division (A)(9) of this section shall establish the amount of the forfeiture for a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. The amount of the forfeiture may differ among the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the board to take possession of and to arrange the lawful disposition of unclaimed cremated remains that were held or stored at a funeral home or crematory that has been closed;

(12) Procedures for the issuance of duplicate licenses;

(13) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(14) The amount and content of corrective action courses required by the board under section

4717.14 of the Revised Code.

(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director, or obtaining a permit to be a crematory operator, and the standards of service and practice to be followed in embalming, funeral directing, and cremation, and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.

(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate funeral homes, embalming facilities, and crematory facilities located at cemeteries in accordance with this chapter.

(D) If the executive director of the board has knowledge or notice of a violation of division (A)(1), (3), (5), or (6) of section 4717.13 of the Revised Code or that a person is engaging in the business or profession of funeral directing in violation of division (A)(14) of that section, the executive director shall investigate the matter, and, upon probable cause appearing, cause an attorney employed by or contracting with the board to file a complaint and prosecute the offender. When requested by the executive director, the prosecuting attorney of the proper county or the attorney general shall take charge of and conduct such prosecution.

Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age.

(2) The applicant holds at least a bachelor's degree from a college or university authorized to confer degrees by the department of higher education or the comparable legal agency of another state in which the college or university is located and submits an official transcript from that college or university with the application.

(3) The applicant has satisfactorily completed at least twelve months of instruction in a prescribed course in mortuary science as approved by the board and has presented to the board a certificate showing successful completion of the course. The course of mortuary science college training may be completed either before or after the completion of the educational standard set forth in division (A)(2) of this section.

(4) The applicant has been certified by the board prior to beginning an embalmer apprenticeship.

(5) The applicant has satisfactorily completed at least one year of apprenticeship under an embalmer licensed in this state and has participated in embalming at least twenty-five dead human bodies.

(6) The applicant, upon meeting the educational standards provided for in divisions (A)(2) and (3) of this section and completing the apprenticeship required in division (A)(5) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form prescribed by the board. The application shall include an initial license fee as set forth in section

4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A)(1) to (3) of this section.

(2) The applicant has been certified by the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A)(3) of this section, has satisfactorily completed a one-year apprenticeship under a licensed funeral director in this state and has participated in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the examination for a funeral director's license as required by the board.

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license.

(F) A funeral director or embalmer may request the funeral director's or embalmer's license be placed on inactive status by submitting to the board a form prescribed by the board and such other information as the board may request. A funeral director or embalmer may not place the funeral director's or embalmer's license on inactive status unless the funeral director or embalmer is in good standing with the board and is in compliance with applicable continuing education requirements. A funeral director or embalmer who is granted inactive status is prohibited from participating in any activity for which a funeral director's or embalmer's license is required in this state. A funeral director or embalmer who has been granted inactive status is exempt from the continuing education requirements under section 4717.09 of the Revised Code during the period of the inactive status.

(G) A funeral director or embalmer who has been granted inactive status may not return to active status for at least two years following the date that the inactive status was granted. Following a period of at least two years of inactive status, the funeral director or embalmer may apply to return to active status upon completion of all of the following conditions:

(1) The funeral director or embalmer files with the board a form prescribed by the board seeking active status and provides any other information as the board may request;

(2) The funeral director or embalmer takes and passes the Ohio laws examination for each license being activated;

(3) The funeral director or embalmer pays ~~a reactivation fee to the board in the amount of one hundred forty dollars for each license being reactivated~~ the reactivation fee described in division (A) (1) of section 4717.07 of the Revised Code.

Sec. 4717.06. (A)(1) A licensed funeral director who desires to obtain a license to operate a funeral home, a licensed embalmer who desires to obtain a license to operate an embalming facility, or a holder of a crematory operator permit who desires to obtain a license to operate a crematory facility shall apply to the board of embalmers and funeral directors on a form prescribed by the

board. The application shall include the initial license application fee set forth in section 4717.07 of the Revised Code and proof satisfactory to the board that the funeral home, embalming facility, or crematory facility is in compliance with rules adopted by the board under section 4717.04 of the Revised Code, rules adopted by the board of building standards under Chapter 3781. of the Revised Code, and all other federal, state, and local requirements relating to the safety of the premises.

(2) If the funeral home, embalming facility, or crematory facility to which the license application pertains is owned by a corporation or limited liability company, the application shall include the name and address of the corporation's or limited liability company's statutory agent appointed under section 1701.07 of the Revised Code, former section 1705.06 of the Revised Code as that section existed prior to February 11, 2022, or section 1706.09 of the Revised Code or, in the case of a foreign corporation, the corporation's designated agent appointed under section 1703.041 of the Revised Code. If the funeral home, embalming facility, or crematory facility to which the application pertains is owned by a partnership, the application shall include the name and address of each of the partners. If, at any time after the submission of a license application or issuance of a license, the statutory or designated agent of a corporation or limited liability company owning a funeral home, embalming facility, or crematory facility or the address of the statutory or designated agent changes or, in the case of a partnership, any of the partners of the funeral home, embalming facility, or crematory facility or the address of any of the partners changes, the applicant for or holder of the license to operate the funeral home, embalming facility, or crematory facility shall submit written notice to the board, within thirty days after the change, informing the board of the change and of any name or address of a statutory or designated agent or partner that has changed from that contained in the application for the license or the most recent notice submitted under division (A)(2) of this section.

(B)(1) The board of embalmers and funeral directors shall issue a license to operate a funeral home only to a licensed funeral director who is named in the application as the funeral director actually in charge and ultimately responsible for the funeral home. The board shall issue the license only for the address at which the funeral home is physically located and operated. The funeral home license and licenses of the embalmers and funeral directors employed by the funeral home shall be displayed in a conspicuous place within the funeral home. ~~The name of the funeral director to whom the funeral home license has been issued shall be conspicuously displayed immediately on the outside or the inside of the primary entrance to the funeral home that is used by the public.~~

(2) The funeral home shall have on the premises one of the following:

(a) If embalming will take place at the funeral home, an embalming room that is adequately equipped and maintained. The embalming room shall be kept in a clean and sanitary manner and used only for the embalming, preparation, or holding of dead human bodies. The embalming room shall contain only the articles, facilities, and instruments necessary for those purposes.

(b) If embalming will not take place at the funeral home, a holding room that is adequately equipped and maintained. The holding room shall be kept in a clean and sanitary manner and used only for the preparation, other than embalming, and holding of dead human bodies. The holding room shall contain only the articles and facilities necessary for those purposes.

(3) Each funeral home shall be directly supervised by a funeral director licensed under this chapter, who may supervise more than one funeral home.

(C)(1) The board shall issue a license to operate an embalming facility only to a licensed embalmer who is actually in charge of and ultimately responsible for the embalming facility. The board shall issue the license only for the address at which the embalming facility is physically located and operated. The license shall be displayed in a conspicuous place within the facility. ~~The name of the embalmer to whom the embalming facility license has been issued shall be conspicuously displayed on the outside or inside of the primary entrance to the embalming facility.~~

(2) The embalming facility shall be adequately equipped and maintained in a sanitary manner. The embalming room at such a facility shall contain only the articles, facilities, and instruments necessary for its stated purpose. The embalming room shall be kept in a clean and sanitary condition and used only for the care and preparation of dead human bodies.

(D)(1) The board shall issue a license to operate a crematory facility only to a crematory operator who is actually in charge and ultimately responsible for the crematory facility. The board shall issue the license only for the address at which the crematory facility is physically located and operated. The license shall be displayed in a conspicuous place within the crematory facility. ~~The name of the crematory operator to whom the crematory facility license has been issued shall be conspicuously displayed on the outside or inside of the primary entrance to the crematory facility.~~

(2) The crematory facility shall be adequately equipped and maintained in a clean and sanitary manner. The crematory facility may be located in a funeral home, embalming facility, cemetery building, or other building in which the crematory facility may lawfully operate. If a crematory facility engages in the cremation of animals, the crematory facility shall cremate animals in a cremation chamber that also is not used to cremate dead human bodies or human body parts and shall not cremate animals in a cremation chamber used for the cremation of dead human bodies and human body parts. Cremation chambers that are used for the cremation of dead human bodies or human body parts and cremation chambers used for the cremation of animals may be located in the same area. Cremation chambers used for the cremation of animals shall have conspicuously displayed on the unit a notice that the unit is to be used for animals only.

(3) A license to operate a crematory facility shall be issued to the person actually in charge of the crematory facility. This section does not require the individual who is actually in charge of the crematory facility to be an embalmer or funeral director licensed under this chapter.

(4) Nothing in this section or rules adopted under section 4717.04 of the Revised Code precludes the establishment and operation of a crematory facility on or adjacent to the property on which a cemetery, funeral home, or embalming facility is located.

Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:

(1) For applying for an initial or biennial renewal of an embalmer's or funeral director's license, or a reactivation of a license as described in division (G) of section 4717.05 of the Revised Code, two hundred dollars;

(2) For applying for an embalmer or funeral director certificate of apprenticeship, thirty-five dollars;

(3) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;

(4) For applying for an initial license to operate a funeral home, four hundred dollars and

biennial renewal of a license to operate a funeral home, four hundred dollars;

(5) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(1) of this section plus fifty dollars for each month or portion of a month the license is lapsed, but not more than one thousand dollars;

(6) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(4) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than one thousand dollars;

(7) For applying for a license to operate an embalming facility, four hundred dollars and biennial renewal of a license to operate an embalming facility, four hundred dollars;

(8) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(7) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than one thousand dollars;

(9) For applying for a license to operate a crematory facility, four hundred dollars and biennial renewal of a license to operate a crematory facility, four hundred dollars;

(10) For the reinstatement of a lapsed license to operate a crematory facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than five hundred dollars;

(11) For applying for the initial or biennial renewal of a crematory operator permit, one hundred fifty dollars;

(12) For the reinstatement of a lapsed crematory operator permit, the renewal fee prescribed in division (A)(11) of this section plus fifty dollars for each month or portion of a month the permit is lapsed, but not more than five hundred dollars;

(13) For the issuance of a duplicate of a license issued under this chapter, ten dollars;

(14) For each preneed funeral contract sold in the state other than those funded by the assignment of an existing insurance policy, ten dollars.

(B) In addition to the fees set forth in division (A) of this section, an applicant shall pay the examination fee assessed by any examining agency the board uses for any section of an examination required under this chapter.

(C) Subject to the approval of the controlling board, the board of embalmers and funeral directors may establish fees in excess of the amounts set forth in this section, provided that these fees do not exceed the amounts set forth in this section by more than fifty per cent.

Sec. 4717.10. (A) ~~The board of embalmers and funeral directors may recognize licenses—a license issued to embalmers and an embalmer or a funeral directors—director by other states, and upon another state. Upon presentation of such licenses—license and evidence satisfactory to the board showing such embalmer or funeral director meets all requirements of this division and is in good standing in that other state, may the board shall issue to the holder an embalmer's or funeral director's license under this chapter. The board shall charge the same fee as prescribed in section 4717.07 of the Revised Code to issue or renew such an embalmer's or funeral director's license. Such licenses shall be renewed biennially as provided in section 4717.08 of the Revised Code. The board shall not issue a license to any person under this division (A) of this section—unless the applicant proves that the applicant, in the state in which the applicant is licensed, has complied with requirements substantially equal to those established in section 4717.05 of the Revised Code.~~

(B) The board of embalmers and funeral directors may issue courtesy card permits. A courtesy card permit holder shall be authorized to undertake both the following acts in this state:

(1) Prepare and complete those sections of a death certificate and other permits needed for disposition of deceased human remains in this state and sign and file such death certificates and permits;

(2) Supervise and conduct funeral ceremonies, interments, and entombments in this state.

(C) The board of embalmers and funeral directors ~~may~~shall determine under what conditions a courtesy card permit ~~may~~shall be issued to funeral directors in bordering states after taking into account whether and under what conditions and fees such border states issue similar courtesy card permits to funeral directors licensed in this state. A courtesy card permit holder shall comply with all applicable laws and rules of this state while engaged in any acts of funeral directing in this state. The board may revoke or suspend a courtesy card permit or subject a courtesy card permit holder to discipline in accordance with the laws, rules, and procedures applicable to funeral directors under this chapter. Applicants for courtesy card permits shall apply on forms prescribed by the board, pay a biennial fee set by the board for initial applications and renewals, and adhere to such other requirements imposed by the board on courtesy card permit holders.

(D) No courtesy card permit holder shall be authorized to undertake any of the following activities in this state:

(1) Arranging funerals or disposition services with members of the public in this state;

(2) Be employed by or under contract to a funeral home licensed in this state to perform funeral services in this state;

(3) Advertise funeral or disposition services in this state;

(4) Enter into or execute funeral or disposition contracts in this state;

(5) Prepare or embalm deceased human remains in this state;

(6) Arrange for or carry out the disinterment of human remains in this state.

(E) As used in this section, "courtesy card permit" means a special permit that may be issued to a funeral director licensed in a state that borders this state and who does not hold a funeral director's license under this chapter.

Sec. 4717.13. (A) No person shall do any of the following:

(1) Engage in the business or profession of funeral directing unless the person is licensed as a funeral director under this chapter, is certified as an apprentice funeral director in accordance with rules adopted under section 4717.04 of the Revised Code and under the supervision of a funeral director licensed under this chapter, or is a student in a college of mortuary sciences approved by the board of embalmers and funeral directors and is under the direct supervision of a funeral director licensed by the board;

(2) Engage in embalming unless the person is licensed as an embalmer under this chapter, is certified as an apprentice embalmer in accordance with rules adopted under section 4717.04 of the Revised Code and is under the supervision of an embalmer licensed under this chapter, or is a student in a college of mortuary science approved by the board and is under the direct supervision of an embalmer licensed by the board;

(3) Advertise or otherwise offer to provide or convey the impression that the person provides funeral directing services unless the person is licensed as a funeral director under this chapter and is

employed by or under contract to a licensed funeral home and performs funeral directing services for that funeral home in a manner consistent with the advertisement, offering, or conveyance;

(4) Advertise or otherwise offer to provide or convey the impression that the person provides embalming services unless the person is licensed as an embalmer under this chapter and is employed by or under contract to a licensed funeral home or a licensed embalming facility and performs embalming services for the funeral home or embalming facility in a manner consistent with the advertisement, offering, or conveyance;

(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;

(6) Practice the business or profession of funeral directing from any place except from a funeral home that a person is licensed to operate under this chapter;

(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;

(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;

(9) Cremate animals in a cremation chamber in which dead human bodies or body parts are cremated or cremate dead human bodies or human body parts in a cremation chamber in which animals are cremated;

(10) Hold a dead human body, before final disposition, for more than forty-eight hours after the time of death unless the dead human body is embalmed or placed into refrigeration and maintained at a constant temperature of less than forty degrees;

(11) Knowingly refuse to promptly submit the custody of a dead human body or cremated remains upon the oral or written order of the person legally entitled to the body or cremated remains;

(12) Except as ordered by the coroner or the person holding the right of disposition under section 2108.70 or 2108.81 of the Revised Code, knowingly fail to carry out the final disposition of a dead human body within thirty days after taking custody of the body;

(13) Engage in cremation as defined in section 4717.01 of the Revised Code unless the person holds a crematory operator permit under this chapter;

(14) Engage in the business or profession of funeral directing, engage in embalming, or operate a crematory or perform cremation with a lapsed license as defined under section 4717.01 of the Revised Code.

(B) No funeral director or other person in charge of the final disposition of a dead human body shall fail to do one of the following prior to the interment of the body:

(1) Affix to the ankle or wrist of the deceased a tag encased in a durable and long-lasting material that contains the name, date of birth, date of death, and social security number of the deceased;

(2) Place in the casket a capsule containing a tag bearing the information described in division (B)(1) of this section;

(3) If the body was cremated, place ~~in the vessel containing the cremated remains~~ a tag bearing the information described in division (B)(1) of this section in any vessel containing either of the following:

(a) All the cremated remains;

(b) More than ten cubic inches of the cremated remains.

(C) No person who holds a funeral home license for a funeral home that is closed, or that is owned by a funeral business in which changes in the ownership of the funeral business result in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership, shall fail to submit to the board within thirty days after the closing or such change of ownership of the funeral business owning the funeral home, a clearly enumerated account of all of the following from which the licensee, at the time of the closing or change of ownership of the funeral business and in connection with the funeral home, was to receive payment for providing the funeral services, funeral goods, or any combination of those in connection with the funeral or final disposition of a dead human body:

(1) Preneed funeral contracts governed by sections 4717.31 to 4717.38 of the Revised Code;

(2) Life insurance policies or annuities the benefits of which are payable to the provider of funeral or burial goods or services;

(3) Accounts at banks or savings banks insured by the federal deposit insurance corporation, savings and loan associations insured by the federal savings and loan insurance corporation or the Ohio deposit guarantee fund, or credit unions insured by the national credit union administration or a credit union share guaranty corporation organized under Chapter 1761. of the Revised Code that are payable upon the death of the person for whose benefit deposits into the accounts were made.

(D)(1) No person who holds a funeral home license for a funeral home that is closed shall negligently fail to send written notice to the purchaser of every preneed funeral contract to which the funeral business is a party via first class United States mail. Such notice shall be addressed to the purchaser's last known address and shall explain that the funeral business is being closed and the name of any funeral business that has been designated to assume the obligations of the preneed contract.

(2) Within thirty days of the closing of a funeral home, no person who held the funeral home license for the closed funeral home shall negligently fail to transfer all preneed contracts to the funeral home or funeral homes that have been designated to assume the obligation of the preneed contracts. If the person who holds a funeral home license for a funeral home that is closed fails to designate a successor funeral home or funeral homes to assume the obligations of the preneed funeral contracts, the board shall make such designations and order the transfer of the preneed funeral contracts to the designated funeral home or funeral homes.

(E) No person who holds a license under this chapter for a facility that is going out of business and that is in possession of unclaimed cremated remains shall fail to submit to the board, within thirty days prior to the closing, a copy of the written notice required in division (F) of this section and a clearly enumerated account of all unclaimed cremated remains in possession of the facility.

(F) Within thirty days prior to the closing of a facility that is going out of business and that is in possession of unclaimed cremated remains, the person who is actually in charge of and ultimately responsible for the facility shall send written notice via first-class mail to the last known address of the authorizing agent who executed the cremation authorization form or the person designated on the cremation authorization form to receive the cremated remains. Such notice shall include the

following:

(1) A statement that the funeral business is going out of business and will close;

(2) The expected date of closure;

(3) The manner in which the unclaimed cremated remains will be disposed and, if applicable, the location from which the cremated remains can be retrieved.

(G) If the person who is actually in charge of and ultimately responsible for the facility is unable to comply with divisions (F)(1) to (3) of this section and cannot locate the last known address of the authorizing agent who executed the cremation authorization form or the person designated on the cremation authorization form to receive the cremated remains, the person who is actually in charge of and ultimately responsible for the facility may seek a declaratory judgment to dispose of the unclaimed cremated remains from the probate court in the county in which the facility is located.

(H) Within thirty days prior to the closing of a facility that is going out of business, no person who held the license for the facility shall negligently fail to dispose of all unclaimed cremated remains as designated in the written notice or, if unclaimed in excess of sixty days, in a manner consistent with section 4717.27 of the Revised Code.

Sec. 4717.14. (A) The board of embalmers and funeral directors may, except as provided in division (G) of this section, refuse to grant or renew, or may suspend or revoke, any license or permit issued under this chapter or may require the holder of a license or permit to take corrective action courses for any of the following reasons:

(1) The holder of a license or permit obtained the license or permit by fraud or misrepresentation either in the application or in passing the examination.

(2) The licensee or permit holder has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude.

(3) The applicant, licensee, or permit holder has recklessly violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code; or any provisions of sections 4717.31 to 4717.38 of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The licensee or permit holder has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant, licensee, or permit holder has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant, licensee, or permit holder has refused to promptly submit the custody of a dead human body or cremated remains upon the express order of the person legally entitled to the body or cremated remains.

(8) The licensee or permit holder loaned the licensee's own license or the permit holder's own permit, or the applicant, licensee, or permit holder borrowed or used the license or permit of another person, or knowingly aided or abetted the granting of an improper license or permit.

(9) The applicant, licensee, or permit holder misled the public by using false or deceptive advertising. As used in this division, "false and deceptive advertising" includes, but is not limited to, any of the following:

(a) Using the names of persons who are not licensed to practice funeral directing in a way that leads the public to believe that such persons are engaging in funeral directing;

(b) Using any name for the funeral home other than the name under which the funeral home is licensed;

(c) Using in the funeral home's name the surname of an individual who is not directly, actively, or presently associated with the funeral home, unless such surname has been previously and continuously used by the funeral home.

(10) The licensee or permit holder provided services to a person knowing that those services were sold to that person by another person who lacked a license or permit under this chapter to perform the services.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke a license or permit only in accordance with Chapter 119. of the Revised Code.

(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or proposes to suspend or revoke, a license to operate a crematory facility. If, after the conclusion of the adjudicatory hearing on the matter conducted under division (F) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that any of the circumstances described in divisions (A)(1) to (9) of this section apply to the person named in its proposed action, the board may issue a final order under division (F) of section 4717.03 of the Revised Code refusing to issue or renew, or suspending or revoking, the person's license to operate a crematory facility.

(C) If the board of embalmers and funeral directors determines that there is clear and convincing evidence that any of the circumstances described in divisions (A)(1) to (9) of this section apply to the holder of a license or permit issued under this chapter and that the licensee's or permit holder's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the licensee's license or permit holder's permit without a prior adjudicatory hearing. The executive director of the board shall prepare written allegations for consideration by the board.

The board, after reviewing the written allegations, may suspend a license or permit without a prior hearing.

Notwithstanding section 121.22 of the Revised Code, the board may suspend a license or permit under this division by utilizing a telephone conference call to review the allegations and to take a vote.

The board shall issue a written order of suspension by a delivery system or in person in accordance with section 119.07 of the Revised Code. Such an order is not subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the licensee or permit holder requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the licensee or permit holder has requested a hearing, unless the board and the licensee or permit holder agree to a different time for holding the hearing.

Upon issuing a written order of suspension to the holder of a license to operate a crematory

facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (F) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (F) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) If the board of embalmers and funeral directors suspends or revokes a funeral director's license or a license to operate a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court of common pleas in the county where the violation occurred requesting appointment of a receiver and the sequestration of the assets of the funeral home that held the suspended or revoked license or the licensed funeral home that employs the funeral director that held the suspended or revoked license. If the court of common pleas is satisfied with the application for a receivership, the court may appoint a receiver.

The board or a receiver may employ and procure whatever assistance or advice is necessary in the receivership or liquidation and distribution of the assets of the funeral home, and, for that purpose, may retain officers or employees of the funeral home as needed. All expenses of the receivership or liquidation shall be paid from the assets of the funeral home and shall be a lien on those assets, and that lien shall be a priority to any other lien.

(E) Any holder of a license or permit issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license or permit issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. The board shall notify the suspended individual of the suspension of the individual's license or permit by the operation of this division by a delivery system or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

(F) No person whose license or permit has been suspended or revoked under or by the operation of this section shall knowingly practice embalming, funeral directing, or cremation, or operate a funeral home, embalming facility, or crematory facility until the board has reinstated the person's license or permit.

(G) The board shall not refuse to issue a license or permit to an applicant because of a conviction of or plea of guilty to a criminal offense unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 4717.24. (A) A cremation authorization form authorizing the cremation of a dead human body, other than one that was donated to science for purposes of medical education or research, shall include at least all of the following information and statements:

(1) A statement that the decedent has been identified in accordance with division (B) of this section;

(2) The name of the funeral director or other individual who obtained the burial or burial-transit permit authorizing the cremation of the decedent;

(3) The name of the authorizing agent and the relationship of the authorizing agent to the decedent;

(4) A statement that the authorizing agent in fact has the right to authorize cremation of the decedent and that the authorizing agent does not have actual knowledge of the existence of any living person who has a superior priority right to act as the authorizing agent under section 4717.22 of the Revised Code. If the person executing the cremation authorization form knows of another living person who has such a superior priority right, the authorization form shall include a statement indicating that the person executing the authorization form has made reasonable efforts to contact the person having the superior priority right and has been unable to do so and that the person executing the authorization form has no reason to believe that the person having the superior priority right would object to the cremation of the decedent.

(5) A statement of whether the authorizing agent has actual knowledge of the presence in the decedent of a pacemaker, defibrillator, or any other mechanical or radioactive device or implant that poses a hazard to the health or safety of personnel performing the cremation;

(6) A statement indicating the crematory facility is to cremate the casket or alternative container in which the decedent was delivered to or accepted by the crematory facility;

(7) A statement of whether the crematory facility is authorized to simultaneously cremate the decedent in the same cremation chamber with one or more other decedents who were related to the decedent named in the cremation authorization form by consanguinity or affinity or who, at any time during the one-year period preceding the decedent's death, lived with the decedent in a common law marital relationship or otherwise cohabited with the decedent. A cremation authorization form executed under this section shall not authorize the simultaneous cremation of a decedent in the same cremation chamber with one or more other decedents except under the circumstances described in the immediately preceding sentence.

(8) The names of any persons designated by the authorizing agent to be present in the holding facility or cremation room prior to or during the cremation of the decedent or during the removal of the cremated remains from the cremation chamber;

(9) The authorization for the crematory facility to cremate the decedent and to process or

pulverize the cremated remains as is the practice at the particular crematory facility;

(10) A statement of whether it is the crematory facility's practice to return all of the residue removed from the cremation chamber following the cremation or to separate and remove foreign matter from the residue before returning the cremated remains to the authorizing agent or the person designated on the authorization form to receive the cremated remains pursuant to division (A)(11) of this section;

(11) The name of the person who is to receive the cremated remains of the decedent from the crematory facility;

(12) The manner in which the final disposition of the cremated remains of the decedent is to occur, if known. If the cremation authorization form does not specify the manner of the final disposition of the cremated remains, it shall indicate that the cremated remains will be held by the crematory facility for thirty days after the cremation, unless, prior to the end of that period, they are picked up from the crematory facility by the person designated on the cremation authorization form to receive them, the authorizing agent, or, if applicable, the funeral director who obtained the burial or burial-transit permit for the decedent, or are delivered or shipped by the crematory facility to one of those persons. The authorization form shall indicate that if no instructions for the final disposition are provided on the authorization form and that if no arrangements for final disposition have been made within the thirty-day period, the crematory facility may return the cremated remains to the authorizing agent. The authorization form shall further indicate that if no arrangements for the final disposition of the cremated remains have been made within sixty days after the completion of the cremation and if the authorizing agent has not picked them up or caused them to be picked up within that period, the crematory operator or crematory facility may dispose of them in accordance with division (C) of section 4717.27 of the Revised Code.

(13) A listing of the items of value to be delivered to the crematory facility along with the dead human body, if any, and instructions regarding how those items are to be handled;

(14) A statement of whether the authorizing agent has made arrangements for any type of viewing of the decedent or for a service with the decedent present prior to the cremation and, if so, the date, time, and place of the service;

(15) A statement of whether the crematory facility may proceed with the cremation at any time after the conditions set forth in division (A) of section 4717.23 of the Revised Code have been met and the decedent has been received at the facility;

(16) The certification of the authorizing agent to the effect that all of the information and statements contained in the authorization form are accurate;

(17) The signature of the authorizing agent and the signature of at least one witness who observed the authorizing agent execute the cremation authorization form.

(B) In making the identification of the decedent required by division (A)(1) of this section, the funeral home arranging the cremation shall require the authorizing agent or the agent's appointed representative to visually identify the decedent's remains or a photograph or other visual image of the remains. If identification is by photograph or other visual image, the authorizing agent or representative shall sign the photograph or other visual image. If visual identification is not feasible, other positive identification of the decedent may be used including, but not limited to, reliance upon an identification made through the coroner's office or identification of photographs or other visual

images of scars, tattoos, or physical deformities taken from the decedent's remains.

(C) An authorizing agent who is not available to execute a cremation authorization form in person may designate another individual to serve as the authorizing agent by providing to the crematory facility where the cremation is to occur a written designation, ~~acknowledged before a notary public or other person authorized to administer oaths, signed by the authorizing agent and by a witness who observed the authorizing agent execute the designation,~~ authorizing that other individual to serve as the authorizing agent. Any such written designation shall contain the name of the decedent, the name and address of the authorizing agent, the relationship of the authorizing agent to the decedent, and the name and address of the individual who is being designated to serve as the authorizing agent. Upon receiving such a written designation, the operator shall permit the individual named in the written designation to serve as the authorizing agent and to execute the cremation authorization form authorizing the cremation of the decedent named in the written designation.

(D) An authorizing agent who signs a cremation authorization form under this section is hereby deemed to warrant the accuracy of the information and statements contained in such authorization form, including the identification of the decedent and the agent's authority to authorize the cremation. A funeral home and its employees are not responsible for verifying the accuracy of any information or statements the authorizing agent made on the authorization form, unless the funeral home or its employees have actual knowledge to the contrary regarding any such information or statement. When delivering the decedent's remains to a crematory facility or in carrying out the disposition in its own facility, the funeral home is responsible for having the decedent identified pursuant to division (B) of this section and carrying out the obligations imposed on the funeral home by division (B) of section 4717.29 of the Revised Code.

(E) At any time after executing a cremation authorization form and prior to the beginning of the cremation process, the authorizing agent who executed the cremation authorization form under division (A) or (C) of this section may, in writing, modify the arrangements for the final disposition of the cremated remains of the decedent set forth in the authorization form or may, in writing, revoke the authorization, cancel the cremation, and claim the decedent's body for purposes of making alternative arrangements for the final disposition of the decedent's body. The crematory facility shall cancel the cremation if the crematory facility receives such a revocation before beginning the cremation.

(F) A cremation authorization form executed under this section does not constitute a contract for conducting the cremation of the decedent named in the authorization form or for the final disposition of the cremated remains of the decedent. The revocation of a cremation authorization form or modification of the arrangements for the final disposition of the cremated remains of the decedent pursuant to division (E) of this section does not affect the validity or enforceability of any contract for the cremation of the decedent named in the authorization form or for the final disposition of the cremated remains of the decedent.

Sec. 4717.28. (A) No crematory facility shall fail to ensure that a written receipt is provided to the person who delivers a dead human body or body parts to the facility for cremation. If the dead human body is other than one that was donated to science for purposes of medical education or research, the receipt shall be signed by both a representative of the crematory facility and the person who delivered the decedent to the crematory facility and shall indicate the name of the decedent; the

date and time of delivery; the type of casket or alternative container in which the decedent was delivered to the facility; the name of the person who delivered the decedent to the facility; if applicable, the name of the funeral home or other establishment with whom the delivery person is affiliated; and the name of the person who received the decedent on behalf of the facility. If the dead human body was donated to science for purposes of medical education or research, the receipt shall consist of a copy of the cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code that authorizes the cremation of the decedent or body parts that has been signed by both a representative of the crematory facility and the person who delivered the decedent or body parts to the crematory facility and that indicates the date and time of the delivery. The operator may provide the copy of the receipt to the person who delivered the decedent or body parts to the facility either in person or by certified mail, return receipt requested.

(B) No crematory facility shall fail to ensure at the time of releasing cremated remains that a written receipt signed by both a representative of the crematory facility and the person who received the cremated remains is provided to the person who received the cremated remains. Unless the cremated remains are those of a dead human body that was donated to science for purposes of medical education or research or are those of body parts, the receipt shall indicate the name of the decedent; the date and time of the release; the name of the person to whom the cremated remains were released; if applicable, the name of the funeral home, cemetery, or other entity to whom the cremated remains were released; and the name of the person who released the cremated remains on behalf of the crematory facility. If the cremated remains are those of a dead human body that was donated to science for purposes of medical education or research or are those of body parts, the receipt shall consist of a copy of the cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code that authorizes the cremation of the decedent or body parts that has been signed by both a representative of the crematory facility and the person who received the cremated remains and that indicates the date and time of the release. If the cremated remains were delivered to the authorizing agent or other individual designated on the cremation authorization form by a method described in division (I) of section 4717.26 of the Revised Code that is acceptable under that division, the receipt required by this division shall accompany the cremated remains, and the signature of the authorizing agent or other designated individual on the delivery receipt meets the requirement of this division that the person receiving the cremated remains sign the receipt provided by the crematory facility.

(C) ~~No~~ For each cremation carried out at a crematory facility shall fail to make or keep on file during the time that the crematory facility remains engaged in the business of cremating dead human bodies or body parts, all of shall make and keep on file the following records and documents for the time period described in division (E) of this section:

(1) A copy of each receipt issued upon acceptance by or delivery to the crematory facility of a dead human body under division (A) of this section;

(2) A copy of each delivery receipt issued under division (B) of this section;

(3) A record of each cremation conducted at the facility, containing at least the name of the decedent or, in the case of body parts, the name of the decedent or living person from whom the body parts were removed, the date and time of the cremation, and the final disposition made of the cremated remains;

~~(3) A copy of each delivery receipt issued under division (B) of this section;~~

(4) A separate record of the cremated remains of each decedent or the body parts removed from each decedent or living person that were disposed of in accordance with division (C)(1) or (2) of section 4717.27 of the Revised Code, containing at least the name of the decedent, the date and time of the cremation, and the location, date, and manner of final disposition of the cremated remains.

(D) All records required to be maintained under sections 4717.21 to 4717.30 of the Revised Code are subject to inspection by the board of embalmers and funeral directors or an authorized representative of the board, upon reasonable notice, at any reasonable time.

(E) The documents listed in divisions (C)(1) and (2) of this section shall be retained for the shorter of the time that the crematory facility remains engaged in the business of cremating dead human bodies or body parts or ten years following the date of the cremation. The documents listed in divisions (C)(3) and (4) of this section shall be retained during the time that the crematory facility remains engaged in the business of cremating dead human bodies or body parts.

Sec. 4717.30. (A) A crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action for any of the following actions or omissions, unless the actions or omissions were made with malicious purpose, in bad faith, or in a wanton or reckless manner or unless any of the conditions set forth in divisions (B)(1) to (3) of this section apply:

(1)(a) For having arranged or performed the cremation of the decedent, or having released or disposed of the cremated remains, in accordance with the instructions set forth in the cremation authorization form executed by the decedent on an antemortem basis under section 4717.21 of the Revised Code;

(b) For having arranged or performed the cremation of the decedent or body parts removed from the decedent or living person or having released or disposed of the cremated remains in accordance with section 4717.27 of the Revised Code or the instructions set forth in a cremation authorization form executed by the person authorized to serve as the authorizing agent for the cremation of the decedent or for the cremation of body parts of the decedent or living person, named in the cremation authorization form executed under section 4717.24 or 4717.25 of the Revised Code.

(2) For having arranged or performed the cremation of the decedent, or having released or disposed of the cremated remains, in accordance with section 4717.27 of the Revised Code or the instructions set forth in the cremation authorization form executed by a designated agent under division (C) of section 4717.24 of the Revised Code.

(B) The crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action for refusing to accept a dead human body or body parts or to perform a cremation under any of the following circumstances, unless the refusal was made with malicious purpose, in bad faith, or in a wanton or reckless manner:

(1) The crematory operator, crematory facility, funeral director, or funeral home has actual knowledge that there is a dispute regarding the cremation of the decedent or body parts, until such time as the crematory operator, crematory facility, funeral director, or funeral home receives an order of the probate court having jurisdiction ordering the cremation of the decedent or body parts or until the crematory operator, crematory facility, funeral director, or funeral home receives from the parties to the dispute a copy of a written agreement resolving the dispute and authorizing the cremation to be

performed.

(2) The crematory operator, crematory facility, funeral director, or funeral home has a reasonable basis for questioning the accuracy of any of the information or statements contained in a cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, that authorizes the cremation of the decedent or body parts.

(3) The crematory operator, crematory facility, funeral director, or funeral home has any other lawful reason for refusing to accept the dead human body or body parts or to perform the cremation.

(C) A crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action for refusing to release or dispose of the cremated remains of a decedent or body parts when the crematory operator, crematory facility, funeral director, or funeral home has actual knowledge that there is a dispute regarding the release or final disposition of the cremated remains in connection with any damages sustained, prior to the time the crematory operator, crematory facility, funeral home, or funeral director receives an order of the probate court having jurisdiction ordering the release or final disposition of the cremated remains, or prior to the time the crematory operator, crematory facility, funeral director, or funeral home receives from the parties to the dispute a copy of a written agreement resolving the dispute and authorizing the cremation to be performed.

(D) A crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action in connection with the cremation of, or disposition of the cremated remains of, any dental gold, jewelry, or other items of value delivered to the crematory facility or funeral home with a dead human body or body parts, unless either or both of the following apply:

(1) The cremation authorization form authorizing the cremation of the decedent or body parts executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, contains specific instructions for the removal or recovery and disposition of any such dental gold, jewelry, or other items of value prior to the cremation, and the crematory operator, crematory facility, funeral director, or funeral home has failed to comply with the written instructions.

(2) The actions or omissions of the crematory operator, crematory facility, funeral director, or funeral home were made with malicious purpose, in bad faith, or in a wanton or reckless manner.

(E)(1) This section does not create a new cause of action against or substantive legal right against a crematory operator, crematory facility, funeral director, or funeral home.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a crematory operator, crematory facility, funeral director, or funeral home may be entitled under circumstances not covered by this section.

Sec. 4717.311. (A) The holder of funds for a preneed funeral contract shall, in the calendar year in which the beneficiary of that contract reaches one hundred five years of age, contact the seller or successor seller to inform the seller or successor seller of the beneficiary's one hundred fifth birthday in that calendar year.

(B) The holder and the seller or successor seller shall agree to one of the following:

(1) That the holder shall make a reasonable attempt to confirm that the beneficiary is still alive. If the holder cannot confirm that the beneficiary is still alive during that calendar year, then, within one hundred eighty days of the end of that calendar year, the holder shall report and remit the

funds to the director of commerce pursuant to Chapter 169. of the Revised Code.

(2) That the seller or successor seller shall make a reasonable attempt to confirm that the beneficiary is still alive. If the seller or successor seller cannot confirm that the beneficiary is still alive during that calendar year, then, within thirty days of the end of the calendar year, the seller or successor seller shall notify the holder. Within one hundred eighty days of receiving the notification, the holder shall report and remit the funds to the director of commerce pursuant to Chapter 169. of the Revised Code.

Sec. 4717.35. If a preneed funeral contract contains a provision stating that the preneed funeral contract will be funded by the purchase of an insurance policy, the insurance agent who sold the policy that will fund that preneed funeral contract shall require that any payment made by the purchaser be made in the form of a check, cashier's check, money order, or debit or credit card, payable only to the insurance company. The insurance agent shall remit the application for insurance and the premium paid to the insurance company designated in the preneed funeral contract within the time period specified in division (B)(15) of section 3905.14 of the Revised Code, unless the purchaser rescinds the preneed funeral contract in accordance with division (A) of section 4717.34 of the Revised Code. If the purchaser made payment in the form of a check made payable to the seller, the seller may, within five business days of receiving the check, sign over and forward the check to the insurance company designated in the preneed funeral contract.

If the purchaser of a preneed funeral contract that is revocable and that is funded by an insurance policy or annuity elects to cancel the preneed funeral contract, the purchaser shall provide a written notice to the seller and the insurance company designated in the contract stating that the purchaser intends to cancel that contract. Fifteen days after the purchaser provides the notice to the seller of the contract and the insurance company, the purchaser may cancel the preneed funeral contract and change the beneficiary of the insurance policy or annuity or reassign the benefits under the policy or annuity.

The purchaser of a preneed funeral contract that is irrevocable and that is funded by an insurance policy or annuity may transfer the preneed funeral contract to a successor seller by notifying the original seller of the designation of a successor seller. Within fifteen days after receiving the written notice of the designation of the successor seller from the purchaser, the original seller shall assign the seller's rights to the proceeds of the policy to the successor seller. The insurance company shall confirm the change of assignment by providing written notice to the policyholder.

If, after a preneed funeral contract has been performed and paid for by the proceeds of an insurance policy or annuity, there are excess funds that the purchaser previously assigned by a written contract to the seller to pay for preneed funeral services or funeral goods for other individuals, the insurance company or annuity company holding such excess funds shall pay those funds directly to the seller, and the seller shall deposit the funds into a trust or purchase insurance or annuity policies to fund additional preneed funeral contracts.

Sec. 4717.36. (A) This section applies only to preneed funeral contracts that are funded by any means other than an insurance policy or policies, or an annuity or annuities.

No money in a preneed funeral contract trust shall be distributed from the trust except as provided in this section.

(B) A seller of a preneed funeral contract that stipulates a fixed or firm or guaranteed price for

funeral services and funeral goods to be provided under a preneed funeral contract may charge an initial service fee not to exceed ten per cent of the total amount of all payments to be paid under the preneed funeral contract for such guaranteed price funeral services and funeral goods. If the amount to be paid by the purchaser is to be paid in installments, the seller may collect the initial service fee only after all of the installments have been paid.

~~(C) All~~ (1) Except for the following, all payments made by the purchaser of a preneed funeral contract, ~~except for the initial service fee permitted by division (B) of this section and any applicable sales tax,~~ shall be made in the form of a check, cashier's check, money order, or debit or credit card, payable only to the trustee of the preneed funeral contract trust or to the trustee's designated depository:

(a) The initial service fee permitted by division (B) of this section;

(b) The fee collected under division (A)(14) of section 4717.07 of the Revised Code;

(c) Any applicable sales tax.

(2) If the purchaser makes payment in the form of a check made payable to the seller, the seller may, within five business days of receiving the check, sign over and forward the check to the trustee or the trustee's designated depository.

(3) Within thirty days of the seller receiving any form of payment made payable to the trustee or the trustee's designee, the seller shall remit the payment to the trustee or the trustee's designee unless the purchaser rescinds the preneed funeral contract in accordance with division (A) of section 4717.34 of the Revised Code. The funds deposited with the trustee shall remain intact and held in trust for the contract beneficiary.

(D) The seller shall establish a preneed funeral contract trust at one of the following types of institutions and shall designate that institution as the trustee of the preneed funeral contract trust:

(1) A trust company licensed under Chapter 1111. of the Revised Code;

(2) A national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code;

(3) A credit union authorized to conduct business in this state pursuant to Chapter 1733. of the Revised Code.

(E) Moneys deposited in a preneed funeral contract trust fund shall be held and invested in the manner in which trust funds are permitted to be held and invested pursuant to Chapter 1111. of the Revised Code.

(F) The seller shall establish a separate preneed funeral contract trust for the moneys paid under each preneed funeral contract, unless the purchaser or purchasers of a preneed funeral contract or contracts authorize the seller to place the moneys paid for that contract or those contracts in a combined preneed funeral contract trust. The trustee of a combined preneed funeral contract trust shall keep exact records of the corpus, income, expenses, and disbursements with regard to each purchaser and contract beneficiary for whom moneys are held in the trust. The terms of a preneed funeral contract trust are governed by this section and the payments from that trust are governed by Chapter 1111. of the Revised Code, except as otherwise provided in this section.

A trustee of a preneed funeral contract trust may pay taxes and expenses for a preneed funeral contract trust and may charge a fee for managing a preneed funeral contract trust. The fee shall not exceed the amount regularly or usually charged for similar services rendered by the institutions

described in division (D) of this section when serving as a trustee.

(G) If the purchaser of a preneed funeral contract that is revocable elects to cancel the contract, the purchaser shall provide a written notice to the seller of the contract and the trustee of the preneed funeral contract trust stating that the purchaser intends to cancel the contract. Fifteen days after the purchaser provides that notice to the seller and trustee, the purchaser may cancel the contract. Upon canceling a preneed funeral contract pursuant to this division, one of the following shall occur, as applicable:

(1) If the preneed funeral contract does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, the trustee shall give to the purchaser all of the assets of the trust that exist at the time of cancellation, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section.

(2) If the preneed funeral contract does stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the contract, the purchaser may request and receive from the trustee all of the assets of the trust at the time of cancellation, less a cancellation fee that the original seller may collect from the trustee that is equal to or less than ten per cent of the value of the assets of the trust on the date the trust is cancelled, provided, however, that to the extent the original seller took an initial service fee as permitted by division (B) of this section, the aggregate amount of the cancellation fee and the initial service fee may not exceed ten per cent of the value of those assets. In addition to any cancellation fee, there may also be deducted any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section.

If more than one purchaser enters into the contract, all of those purchasers must request cancellation of the contract for it to be effective under this division, and the trustee shall refund to each purchaser only those funds that purchaser has paid under the contract and any income earned on those funds in an amount that is in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments deposited in that trust, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section, the amount of which are in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments deposited in that trust.

(H) The purchaser of a preneed funeral contract that is irrevocable may transfer the preneed funeral contract to a successor seller. A purchaser who elects to make such a transfer shall provide a written notice of the designation of a successor seller to the trustee and the original seller. Within fifteen days after receiving the written notice of the new designation from the purchaser, the trustee shall list the successor seller as the seller of the preneed funeral contract and the original seller shall relinquish and transfer all rights under the preneed funeral contract to the successor seller. The trustee shall confirm the transfer by providing written notice of the transfer to the original seller, the successor seller, and the purchaser. If the preneed funeral contract stipulates a firm or fixed or guaranteed price for the funeral goods and funeral services to be provided under the preneed funeral contract, the original seller may collect from the trustee a transfer fee from the trust that equals up to ten per cent of the value of the assets of the trust on the date the trust is transferred, provided, however, that to the extent the original seller took an initial service fee as permitted by division (B) of this section, the aggregate amount of the transfer fee and the initial service fee may not exceed ten

per cent of the value of those assets. If the preneed funeral contract does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no transfer fee shall be collected by the original seller.

(I) If a seller of a preneed funeral contract elects to transfer a preneed funeral contract trust from an institution listed in divisions (D)(1) to (3) of this section to a different institution, the trustee of the original trust shall notify the purchaser of the preneed funeral contract of that transfer in writing within thirty days after the transfer occurred and shall provide the purchaser with the name of and the contact information for the institution where the new trust is maintained. Upon receipt of the trust, the trustee of the transferred trust shall notify the purchaser of the receipt of the trusts in accordance with division (A) of section 4717.33 of the Revised Code.

(J)(1) If a seller receives a notice that the contract beneficiary has died and that funeral goods and funeral services have been provided by a provider other than the seller, ~~except as otherwise specified in this section,~~ the seller shall direct the trustee, within thirty days after receiving that notice, to pay to the provider that provided the funeral goods and services, if still unpaid, ~~or the estate of the contract beneficiary~~ all funds held by the trustee, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section.

(2) If the provider has already been paid for providing the funeral goods and funeral services to the contract beneficiary, the seller shall direct the trustee to pay to the estate of the contract beneficiary or, if no estate has been opened, to any person with the right of disposition under section 2108.81 of the Revised Code all funds held by the trustee, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section. The trustee shall make a reasonable attempt to pay the estate or person with the right of disposition within one hundred eighty days of receipt of notice that the contract beneficiary has died. If the trustee is unable to make payment within one hundred eighty days, the trustee shall report and remit the funds to the director of commerce pursuant to Chapter 169. of the Revised Code.

(3) In the event the preneed funeral contract stipulates a firm or fixed or guaranteed price for funeral goods and funeral services that were to be provided under the preneed funeral contract, the seller may collect from the trustee a cancellation fee not exceeding ten per cent of the value of the assets of the trust on the date the trust is transferred, provided, however, that to the extent the original seller took an initial service fee as permitted by division (B) of this section, the aggregate amount of the transfer fee and the initial service fee shall not exceed ten per cent of the value of those assets. If the preneed funeral trust does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no cancellation fees shall be collected by the original seller.

(K) A certified copy of the certificate of death or other evidence of death satisfactory to the trustee shall be furnished to the trustee as evidence of death, and the trustee shall promptly pay the accumulated payments and income, if any, according to the preneed funeral contract. Such payment of the accumulated payments and income pursuant to this section and, when applicable, the preneed funeral contract, relieves the trustee of any further liability on the accumulated payments and income.

If, after a preneed funeral contract has been performed and paid for by the proceeds of a preneed trust fund, there are excess funds that the purchaser previously assigned by a written contract to the seller to pay for preneed funeral services or funeral goods for other individuals, the trustee

holding such excess funds shall pay those funds directly to the seller, and the seller shall deposit the funds into a trust or purchase insurance or annuity policies to fund additional preneed funeral contracts.

SECTION 2. That existing sections 169.02, 2108.75, 2108.77, 2108.81, 2108.82, 3517.152, 3705.20, 4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 4717.10, 4717.13, 4717.14, 4717.24, 4717.28, 4717.30, 4717.35, and 4717.36 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly intends to review and consider changes to the statutory provisions governing preneed funeral contracts and preneed cemetery merchandise and services contracts in order to clarify the trusting requirements for caskets purchased on a preneed basis. To further this intent, the State Board of Embalmers and Funeral Directors shall study such trusting requirements as they exist in other states and submit a report of its findings to the General Assembly not later than three months after the effective date of this section.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 224

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____